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**Developing Standards in Justice  
and Home Affairs Statistics**

*International and EU Acquis*



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**Developing Standards in Justice and Home Affairs  
Statistics**

**International and EU Acquis**

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# 1. Introduction

## 1.1. Background - Work on justice and home affairs statistics at the international and EU level

The objective of this study is to identify a core set of standards and indicators relevant to statistics in the area of justice and home affairs at the European level. As the study explores, some progress has been made in this area by European institutions. However, the study is not limited to work at the European level alone. Rather, the study aims to provide a broader context – particularly in the area of crime and criminal justice statistics – through discussion on relevant standards developed at the international level, including by the United Nations.

For the purposes of this study, 'justice and home affairs statistics', include: (i) 'conventional' crime statistics, organized crime (including trafficking in persons, smuggling of migrants and money laundering) and corruption-related statistics generated by law enforcement, prosecution and court systems; (ii) crime victimisation statistics derived from population-based surveys; and (iii) asylum, visa, and migration-related statistics generated by government institutions.

Chapters 2 (General principles) and 3 (Crime definitions) of the Study concern mainly crime and criminal justice statistics. The other components of a system of justice and home affairs statistics – survey-based statistics (including for the measurement of corruption) and asylum, visa and migration statistics – are addressed primarily in Chapter 4 of the Study, alongside the separate consideration of police, prosecution and court statistics.

The Study begins, however, with an overview of the nature of sources for standards at the international and European level. It should be noted that such standards may concern either or both of the underlying systems at *national* level and those statistics that should eventually be reported in the regional or international context. Whilst the primary aim of country justice and home affairs statistics systems is to provide data for operational management and policy making at the national level, standards at the regional and international level aim to assist in this process and – in many instances – to increase the cross-national comparability of selected key indicators.

### International level

At the international level, crime and criminal justice statistics in particular have been an area of focus of the United Nations for some considerable time. A "Mixed Committee for the comparative study of criminal statistics in the various countries"

was established in 1930 by the International Statistical Institute and the International Penal and Penitentiary Commission.<sup>1</sup> In 1939, the work of the Committee concluded with the production of guidelines in view of “a gradual harmonization of criminal statistics”. In 1948, the Social Affairs Committee of the United Nations started collecting crime statistics as a basis for its work on the prevention of crime and treatment of offenders, which resulted in the “Statistical Report on the State of Crime 1937-1946”.<sup>2</sup> The regular UN collection of information on crime trends and the operations of criminal justice systems started in the 1970s in pursuance to a request from the General Assembly (GA Res. 3021, XXVII, 1972). A resolution of the United Nations Economic and Social Council (ECOSOC) in 1984 requested the United Nations to maintain and develop a crime-related database by conducting surveys of crime trends and operations of criminal justice systems.<sup>3</sup>

The importance of complementing administrative statistics with information from victimization surveys was recognized by the United Nations in the 1990s. More recently, in 2009, ECOSOC recognized the urgent need to improve the quality, scope and completeness of data concerning international crime trends, and highlighted the importance of relevant United Nations indicators and instruments for the collection and analysis of accurate, reliable and comparable data on specific crime issues.<sup>4</sup>

Pursuant to such resolutions, the United Nations regularly undertakes the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (the ‘UN-CTS’)<sup>5</sup> and has developed a number of relevant publications, setting out models and good practice for the measurement of crime and criminal justice. These include the United Nations *Manual for the Development of a System of Criminal Justice Statistics*, the United Nations Office on Drugs and Crime (UNODC) – United Nations Children’s Fund (UNICEF) *Manual for the Measurement of Juvenile Justice Indicators*, the UNODC *Criminal Justice Assessment Toolkit*, and the UNODC – United Nations Economic Commission for Europe (UNECE) *Manual on Victimization Surveys*.<sup>6</sup>

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<sup>1</sup> See “The Rules for Drawing up Criminal Statistics, 1937”, Bulletin of the International Penal and Penitentiary Commission, XII, 3-4, March 1947, pp. 253-270.

<sup>2</sup> United Nations Social Commission, Economic and Social Council, Statistical Report on the State of Crime 1937-46, E/CN.5/204 (1950).

<sup>3</sup> United Nations Economic and Social Council Resolution 1984/48 of 25 May 1984 on Crime Prevention and Criminal Justice in the Context of Development.

<sup>4</sup> United Nations Economic and Social Council Resolution on improving the collection, reporting and analysis of data to enhance knowledge on trends in specific areas of crime, adopted on 30 July 2009. UN Doc. E/CN.15/2009/L.12/Rev.1. Available at: <http://www.unodc.org/unodc/en/commissions/CCPCJ/session/18-DraftResolutions.html>

<sup>5</sup> The UN-CTS was initially carried out at five year intervals. Since 1999 it was repeated every two years. Annual surveys are planned starting in 2009.

<sup>6</sup> See <http://www.unodc.org/unodc/en/data-and-analysis/Crime-Monitoring-Surveys.html>

The Council of Europe was also involved in the collection of crime and criminal justice data. In 1993, a Committee of Experts was charged with the preparation of a feasibility study on collecting data on offences and offenders recorded by the police, prosecutions, convictions and corrections in European countries, which resulted in the first edition of the European Sourcebook of Crime and Criminal Justice Statistics, published by the Council of Europe in 1999 and covering 36 countries.<sup>7</sup> After the first edition, the initiative was continued by the Home Office of the UK, the Dutch Ministry of Justice Research and Documentation Centre (WODC) and the Swiss Universities of Lausanne and Zurich, with assistance from the Department of Foreign Affairs.

## EU level

'Justice and home affairs' is an area of competence of the European Union (EU) under the Treaty on European Union, as amended by the Treaty of Lisbon, and the Treaty on the Functioning of the European Union. The Treaty on European Union provides that one of the objectives of the EU shall be to maintain and develop the Union as an area of freedom, security and justice, with appropriate measures with respect to *external border controls, asylum, immigration* and the *prevention and combating of crime*.<sup>8</sup>

The Treaty on the Functioning of the European Union explains that the European Parliament and the Council may, by means of directives, establish minimum rules concerning the *definition* of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension, including terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.<sup>9</sup> In the area of movement of persons, the Treaty states that the European Parliament and the Council shall adopt measures on the conditions of entry and residence, on the issuances of visas and residence permits, and common standards procedures and standards on asylum.<sup>10</sup>

As such, although the threat of *all* crime types is recognised as a challenge to freedom and security, the Treaties are clear that the EU has a particular role to play in the fight against organised crime. The Tampere Meeting of the European Council (1999) on freedom, security and justice, for example, stated both that an area of freedom, security and justice presupposed an efficient and comprehensive approach in the fight

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<sup>7</sup> See [www.europeansourcebook.org](http://www.europeansourcebook.org)

<sup>8</sup> Article 3, Consolidated version of the Treaty on European Union, 9 May 2008, OJ C 115/12. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF>

<sup>9</sup> Article 83, Consolidated version of the Treaty on the Functioning of the European Union, 9 May 2008, OJ C115/47. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:EN:PDF>

<sup>10</sup> *Ibid.* Articles 78 and 79.



against *all forms of crime*, and that the European Council was deeply committed to reinforcing the fight against serious organised and transnational crime.<sup>11</sup>

The importance of data and statistics in this task has been recognised by the EU for some years. The European Union Millennium Strategy for the Prevention and Control of Organised Crime (1999) included a chapter on strengthening the collection and analysis of data on organised crime.<sup>12</sup> The Dublin Declaration of 2003 further recognised the importance of statistics on all forms of crime, and recommended that “a comprehensive system of European crime statistics should be elaborated and a co-ordinated EU crime statistics strategy be developed.”<sup>13</sup> Subsequent work by the European Commission on European instruments for collecting, analysing and comparing information on crime was welcomed by the Hague Programme of the European Council in November 2004. The Programme also recommended that Eurostat (the Statistical Office of the European Union) should be tasked with the definition of such data and its collection from Member States.<sup>14</sup>

In response to these priorities, and recognising that one of the main deficiencies in the area of justice, freedom and security was a lack of reliable and comparable statistical information, the European Commission developed a *comprehensive and coherent EU strategy to measure crime and criminal justice: an EU Action Plan 2006 – 2010*.<sup>15</sup> The Action Plan included detailed provisions on developing a common methodology for regular data collection on common crime indicators and establishing an expert group on the policy needs for data on crime and criminal justice to advise the European Commission Directorate for Justice, Freedom and Security (DG-JLS). The Plan and the work of the expert group are discussed in detail in Chapter 2 of this study.

Looking to the future, the European Council has recently adopted the Stockholm Programme, *‘An open and secure Europe serving and protecting the citizen’*, for the period 2010 to 2014.<sup>16</sup> The Stockholm Programme recognises that adequate, reliable and comparable statistics (both over time and between Member States and regions) are a necessary prerequisite for evidence-based decisions. The Programme invites the

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<sup>11</sup> [http://www.europarl.europa.eu/summits/tam\\_en.htm](http://www.europarl.europa.eu/summits/tam_en.htm)

<sup>12</sup> The prevention and control of organised crime: A European Union strategy for the beginning of the new Millennium. 2000/C 124/01, Chapter 2.1, OJ C 124/1. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2000:124:0001:0033:EN:PDF>

<sup>13</sup> Tackling organised crime in partnership, The Dublin Declaration, 21 November 2003, Recommendation 6. Available at: <http://www.tocpartnership.org/orgcrime2003/website.asp?page=dublin>

<sup>14</sup> Council of the European Union. The Hague Programme: strengthening freedom, security and justice in the European Union. Available at: [http://ec.europa.eu/justice\\_home/doc\\_centre/doc/hague\\_programme\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf)

<sup>15</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006- 2010. 7 August 2006, COM (2006) 437 final. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0437:FIN:EN:PDF>

<sup>16</sup> Council of the European Union, The Stockholm Programme, Note from the Presidency to the General Affairs Council/European Council, 2 December 2009. Available at: [http://ec.europa.eu/justice\\_home/news/intro/doc/stockholm\\_program\\_en.pdf](http://ec.europa.eu/justice_home/news/intro/doc/stockholm_program_en.pdf)

Commission to continue developing statistical tools to measure crime and criminal activities in view of the increased need for such statistics in a number of areas within the field of freedom, security and justice.

## 1.2. The nature of international standards and EU ‘*Acquis*’

The term *acquis communautaire* (‘acquired by the community’) refers in a technical sense to binding legislation adopted by European Union. In the area of justice, freedom and security, this body of law corresponds to acts adopted by the EU based on Title IV (*visas, asylum, immigration and other policies related to free movement of persons*) of the Treaty on the European Communities and Title VI (*police and judicial cooperation in criminal matters*) of the Treaty on European Union. A consolidated list of *acquis* of the EU under these Titles is available on the website of DG-JLS.<sup>17</sup>

The list is arranged by the areas of, *inter alia*: asylum, external borders, visas, immigration, citizenship, organised crime, fraud and corruption, drugs, terrorism, police cooperation, and judicial cooperation. As the term *acquis* refers strictly to acts having the force of law at the EU level, the consolidated justice and home affairs *acquis* only includes acts such as; Council Directives, Decisions, Framework Decisions, Resolutions, Recommendations, Joint Actions and Joint Positions, Regulations, Directives and Decisions of the European Parliament and Council, and Commission Decisions.<sup>18</sup> The *acquis* also includes indicative lists of agreements, conventions and protocols at the European or international level for which either explicit obligations to accede exist, or where obligations result from the binding force of the EU Treaty itself or from secondary legislation or Council Conclusions. European Council Decision 2008/801/EC of 25 September 2008, for example, recently approved the United Nations Convention against Corruption on behalf of the European Community.

Whilst EU *acquis* is already extensive, the fact that it is limited to legislative acts means that the *acquis* body of law does not reflect the whole range of actions at the European level. For example, the most recent available update (2009) to the justice and home affairs EU *acquis* does not include the 2006 EU Action Plan on developing a comprehensive and coherent EU strategy to measure crime and criminal justice.<sup>19</sup>

As a significant proportion of work at the EU level related to justice and home affairs statistics has been completed outside of the formal *acquis*, this study takes a broader approach to defining relevant EU standards. In addition to formal *acquis*, the study includes and considers work of a non-binding nature on standards for justice and home

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<sup>17</sup> [http://ec.europa.eu/justice\\_home/doc\\_centre/intro/doc\\_intro\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/intro/doc_intro_en.htm)

<sup>18</sup> See for example, the October 2009 update of JAI-*Acquis*  
[http://ec.europa.eu/justice\\_home/doc\\_centre/intro/docs/jha\\_acquis\\_1009\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/intro/docs/jha_acquis_1009_en.pdf)

<sup>19</sup> The EU Action Plan was contained within a communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee.

affairs statistics carried out, in particular, by the European Commission DG-JLS. It also examines the relevant actions of other EU organisations such as Eurostat and compares this to developments outside of the European institutions, including work carried out in the academic community by *The European Sourcebook on Crime and Criminal Justice Statistics* group.<sup>20</sup>

Whilst such work cannot be taken as having the force of law in the European Union, and is not a requirement for accession to the Union, it nonetheless provides a strong indication of the direction in which binding EU law may eventually move. Work on the development of standards for justice and home affairs statistics at EU level is progressing fast, but much of it remains in its infancy, especially because of the complexity of reaching comparability. A strict interpretation of *acquis* at present would leave very little in terms of concrete guidance for the development of crime, criminal justice, asylum, visa and migration indicators and standards for statistic systems development. Consideration of non-binding work, on the other hand can offer some insight into 'soft law' standards that may, in future, form part of EU legislation or at the least, accepted good practice amongst Member States.

Whilst this approach enables a greater body of work to be considered, it must be remembered that standards in the area of justice and home affairs statistics at EU level remain very much under development and not all work discussed in this Study will eventually be adopted in law or practice. As such, it is necessary to distinguish carefully between binding and non-binding standards and to take into account where work is incomplete or subject to final adoption or promulgation.

Similarly, at the international level, a strict approach to binding standards would leave rather little in terms of requirements for crime and criminal justice statistics. States parties to the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption commit in general terms, for example, to develop "common definitions, standards and methodologies" in the fight against organised crime and corruption.<sup>21</sup> Resolutions of the United Nations Economic and Social Council invite Member States to "strengthen their efforts to review and improve data collection tools" and highlight the need for "accurate, reliable and internationally comparable data on all relevant aspects of specific crime issues."<sup>22</sup>

Whilst such instruments provide the foundation for cross-national work on crime and criminal justice statistics, they do not provide the level of detail required for selecting effective indicators or for the practical operation of statistics systems. Rather, the body of United Nations work in this area is to be found in non-binding manuals that

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<sup>20</sup> See [www.europeansourcebook.org](http://www.europeansourcebook.org)

<sup>21</sup> United Nations Convention against Corruption, Article 61; United Nations Convention against Transnational Organized Crime, Article 28

<sup>22</sup> United Nations Economic and Social Council Resolution on improving the collection, reporting and analysis of data to enhance knowledge on trends in specific areas of crime, adopted on 30 July 2009. UN Doc. E/CN.15/2009/L.12/Rev.1

recommend good practice, together with the practice of the United Nations itself in crime and criminal justice data collection through the UN-CTS.

Taken together, careful consideration of the body of work at both EU and international level can begin to provide a framework within which commonly agreed indicators and standards for justice and home affairs statistics systems can begin to be developed.



## 2. General principles for a system of justice and home affairs statistics

### 2.1. The nature of justice and home affairs statistics

An important starting point for consideration of justice and home affairs statistics is to recognise that data produced by government institutions in this area are recorded and collected by institutions largely for the purposes of their own operational management. The design of data forms, computer databases, and the frequency and mode of data recording are usually optimised for operational needs rather than with a view to ultimately producing statistics. As such, the statistics that are eventually generated from operational files, provide *direct* information about the *activity* of the institution – whether police, prosecution or courts – and only *indirect* information about the underlying phenomenon, such as the number of actual crime events. Nonetheless, published statistics are often used as proxies or indicators for actual crime levels.

The challenges are compounded by the fact that each justice and home affairs institution usually develops its own reporting routines that are unlikely to be shared by other justice and home affairs actors. At the cross-national level, equivalent institutions such as the national police, also adopt different systems, particularly with respect to offence classification and offence counting rules.

Two broad approaches exist with respect to meeting the challenge of meaningful comparability of crime and criminal justice statistics. The first approach is to understand the basics of the different operational file systems from which national statistics are eventually generated, with a view to providing extensive metadata that can help the user in understanding differences between data sets. This approach is adopted by the European Sourcebook of Crime and Criminal Justice Statistics, an academic publication of police, conviction and correctional statistics from European countries. In addition to the statistical tables, the Sourcebook includes extensive tables with metadata covering such points (for police statistics) as:<sup>23</sup>

- When are data collected for statistics?  
(1) When the offence is reported to the police, (2) Subsequently, (3) After investigation
- What is the counting unit used?  
(1) Offence, (2) Case, (3) Decision, (4) Other
- Is a principal offence rule applied?  
(1) Yes, (2) No
- How are multiple offences counted?

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<sup>23</sup> See European Sourcebook of Crime and Criminal Justice Statistics – 2006, Third Edition, At p.76. Available at: [www.europeansourcebook.org](http://www.europeansourcebook.org)

- (1) As one offence, (2) As two or more offences, (3) Uncertain
- How is an offence committed by more than one person counted?
  - (1) As one offence, (2) As two or more offences

The introductory text to the EU Action Plan on measuring crime and criminal justice recognises the validity of this approach, but notes that “national statistics differ on so many factors that comparisons between countries, even with extensive efforts to make them comparable are almost impossible.” As a result, the Action Plan commends the second possible approach – the possibility of developing a framework to produce comparable statistics at the EU level based on harmonised definitions and collection procedures.<sup>24</sup> At its logical conclusion, this would involve encouraging all law enforcement and criminal justice actors to adopt a uniform crime reporting system, including uniform categorisations, classifications, variables, and counting and recording rules. The extent to which this is feasible in practice, particularly with respect to crime definitions – which usually stem from national criminal codes – is examined in this study. As will be discussed, whilst a number of organised and complex crime definitions have already been developed at the EU level, the bulk of criminal law and procedural law remains a prerogative of individual Member States.

Crime victimisation surveys are increasingly used for measuring the extent of victimisation and as an important complement to administrative data generated by justice and home affairs institutions. Survey-based statistics provide estimates of several types of crimes, details on circumstances surrounding victimisation (who are the victims, where, when and how do crimes occur) as well as information on crimes not reported to the police. Victimisation surveys may further provide an important measure of public attitudes towards crime and crime prevention, as well as an assessment of perceptions of the performance of the criminal justice system, including perceptions of ease of access and information on satisfaction with criminal justice agencies and system fairness.

Being based on a dedicated survey instrument, population-based surveys offer a highly controllable route to cross-nationally comparable information on crime and criminal justice. Careful questionnaire design combined with equivalent survey methodology and sample design can give rise to results that, in principle, should show a higher degree of comparability than (for example) police-recorded data. Initiatives for establishing common approaches to the conduct of victimisation surveys exist both at international and EU-level. The 2006 EU Action Plan on measuring crime and criminal justice called for the establishment of a methodology for a common survey (module) on victimisation. This has since been developed and is currently undergoing translation and testing in a number of European countries.

At the international level, the International Crime Victim Survey (ICVS), carried out in the period 1989-2005 with the involvement of the United Nations (UNICRI-UNODC),

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<sup>24</sup> See EU Action Plan on developing a comprehensive and coherent EU strategy to measure crime and criminal justice. COM (2006) 437 final, p.4

represented an important vehicle for raising awareness on the usefulness of victimization surveys for crime prevention. ECOSOC resolution 1997/27 urged Member States to provide support to the participation in international surveys on victims of crime. More recently, The UNODC-UNECE *Manual on Victimization Surveys* offers good practice approaches to the design and implementation of victimization surveys, including suggested core survey-based indicators.<sup>25</sup> Standards for survey methodology are examined in Chapter 4 of this study.

A third, emerging type of data source for crime and criminal justice statistics are provided by 'Special Rapporteurs' appointed to monitor specific crime issues. Rapporteurs typically combine multiple information sources using a range of methodologies to arrive at a more comprehensive assessment of the specific crime type than could be achieved by relying on traditional administrative data alone. The most advanced examples of this approach are National Rapporteurs on Trafficking in Human Beings, established already in many EU Member States.<sup>26</sup>

With respect to these underlying data sources, the stated objective of the European Commission – as set out in the EU Action Plan on measuring crime and criminal justice – is to develop statistics that will, in the longer term, make comparisons possible regarding the structure, levels and trends of crime, as well as on criminal justice measures between Member States and regions within Member States. The Action Plan aims to achieve this through the definition of harmonised methodologies and data collection methods for Community statistics.<sup>27</sup>

In light of the fact that work at the EU level has only recently commenced in this direction, it is instructive to first examine existing standards and guidelines at the international level.

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<sup>25</sup> See <http://www.unece.org/stats/documents/ece/ces/2009/12.add.1.e.pdf>

<sup>26</sup> See for example National Rapporteur on Trafficking in Human Beings in the Netherlands at <http://english.bnrm.nl/>

<sup>27</sup> See EU Action Plan on developing a comprehensive and coherent EU strategy to measure crime and criminal justice. COM (2006) 437 final, p.3



## 2.2. International guidelines for the development of crime and criminal justice statistics systems

### The United Nations Manual for the Development of a System of Criminal Justice Statistics

The key United Nations publication in this area is the United Nations Manual for the Development of a System of Criminal Justice Statistics (2003).<sup>28</sup> The Manual provides an introduction to the general requirements of a system of criminal justice statistics and discusses organisational models for a national system of criminal justice statistics. It discusses the scope and content of a national system of criminal justice statistics and comments on the collection, processing, analysis, evaluation and dissemination of criminal justice statistics. The Manual also deals with victimisation surveys and other data sources.

The Manual sets out a number of key principles for national crime and criminal justice statistics systems.<sup>29</sup> These principles can be considered as a backbone for international 'guidelines' on the development of such systems:

- The 'criminal event' is identified as the most basic category for any criminal justice statistics system. The event includes data on the 'criminal act', the 'offender' and the 'victim'.
- A crime and criminal justice statistics programme should focus on the following key areas:
  - Measuring the 'amount' of crime, including the prevalence and severity of criminal offences
  - Information on offender characteristics
  - The movement of offenders and cases through the system
- Crime and criminal justice statistics systems should make use of a classification of criminal offences. All criminal offences that can result in a formal charge against an accused must be classified by some type of consistently applied coding system that identifies each offence uniquely.
- 'Caseload data' should be considered the basic building block in developing a national system of criminal justice statistics. It may include measures such as the number of incidents reported to the police, the number of charges filed by the police, the number of persons charged, the number of persons appearing in court, the number of court appearances and the number of admissions to correctional facilities.
- In addition to counting units such as incidents, charges, and decisions, designers of criminal justice statistical systems should consider including a

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<sup>28</sup> See: [http://unstats.un.org/unsd/publication/SeriesF/SeriesF\\_89E.pdf](http://unstats.un.org/unsd/publication/SeriesF/SeriesF_89E.pdf)

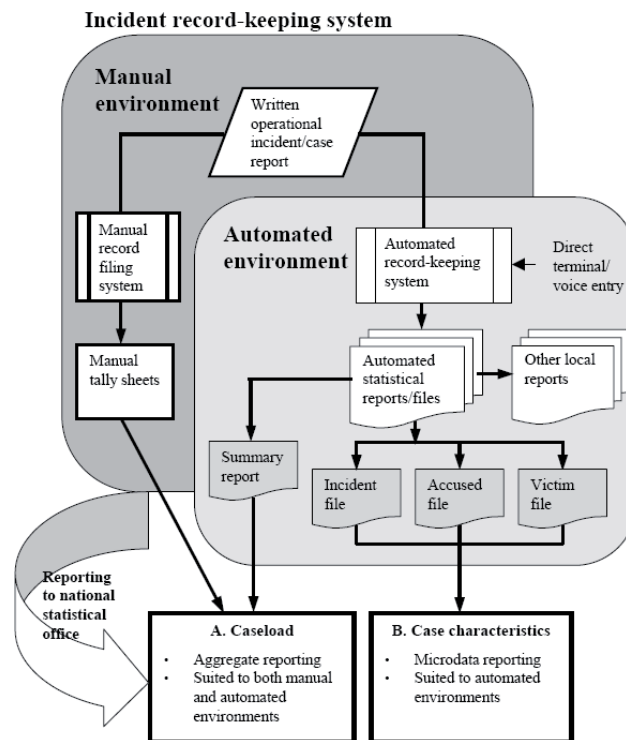
<sup>29</sup> United Nations. Manual for the Development of a System of Criminal Justice Statistics, pp. 12-25.

person-based unit of count for each component, since the 'person' is the only unit of count that has continuity throughout the criminal justice system.

- Information on accused persons should ideally include details of the offence, sex, age, national or ethnic origin, and geographical area of residence.
- At the local, operational level, it is good practice to use standardised forms for data recording. A standard 'incident information form', for example, may be used by the police to record information about the crime incident, the victim and any suspected/identified offender is entered. A new form is used for each incident reported.
- To the extent that the components of criminal justice constitute a system, the output of one agency is the input to another. For example, cases filed by the police with the prosecutor should represent output statistics for the police and input statistics for the prosecutor.
- A system should be developed for the aggregation and central reporting of unit records. The system may be manual (paper based) or computerised, but should enable transfer of information from the local, operational level to a central data collection point, such as the national statistical office. Aggregation of individual case recording forms can form the basis of overall system statistics.

The principles presented in the Manual suggest a system of crime and criminal justice statistics that is based on the careful, systematic creation of unit records by the police, prosecution and courts. These records may have different counting units – incident, case or person – but should share a number of common features, including a common offence classification and, ideally, a unique identifier code that enables persons and cases to be followed throughout the system. Whether individual records are maintained manually or in an automated environment, they should be capable of being aggregated and reported to a central level, such that overall statistics can be regularly produced. These statistics should contain details of crime incidents, offenders, and the movement of cases through the system.

**Figure 1: Information flow in a criminal justice statistics system (adapted from Manual for the Development of a System of Criminal Justice Statistics)**



## UNODC Criminal Justice Assessment Toolkit

The UNODC Criminal Justice Assessment Toolkit (2006) builds upon the guidelines set out in the Manual on Criminal Justice Statistics, through its inclusion of a 'cross-cutting issues' module on criminal justice information.<sup>30</sup> The Toolkit emphasizes the importance of the availability of both administrative statistics and population-based survey statistics for the effective measurement of crime and criminal justice in a country.

The Toolkit proposes a number of selected indicators that should be measurable by the police, prosecution and court systems. As with the Manual on Criminal Justice Statistics, the majority of these indicators are 'caseload-based'; such as the 'number of cases, by type of offence, prosecuted'.<sup>31</sup> The indicators proposed by the Toolkit are discussed in this study in Chapter 4 on the different components of a justice and home affairs statistics system.

<sup>30</sup> See: [http://www.unodc.org/documents/justice-and-prison-reform/cjat\\_eng/1\\_Criminal\\_Justice\\_Information.pdf](http://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/1_Criminal_Justice_Information.pdf)

<sup>31</sup> UNODC Criminal Justice Assessment Toolkit, module on Criminal Justice Information, p.7.

The toolkit adds some important general principles to those highlighted above:

- A national organization should be responsible for collecting crime statistics.
- Crime statistics should be timely (with respect to periodicity, time lag before publication, and year of most recent statistics).
- Crime statistics should cover the whole country or territory.
- Criminal justice systems should put in place performance-based indicators that focus on case outcomes (such as 'percentage of reported crimes solved by police').
- Information on law enforcement and criminal justice system resource use should be available, including numbers of staff, budget and actual expenditure.

The focus of the Toolkit on performance and resource indicators, in addition to basic 'caseload' indicators, is an important feature of standards on justice and home affairs statistics at the international level. The Toolkit cautions, however, that the primary aim of performance indicators is for measuring the specific performance and accountability of each individual criminal justice agency. Comparisons of performance indicators between police departments, or between prosecution services, or between courts are likely to be of limited usefulness and should be made with caution.

For the police, prosecution and court systems, respectively, the Toolkit suggests *inter alia* the following performance indicators:

- The percentage of crimes solved (police)
- Case burden: the number of criminal offences (excluding traffic) per police officer (police)
- The proportion of crimes resulting in charges (police)
- Average number of cases per prosecutor (prosecution)
- Timeliness of prosecution decisions and actions (prosecution)
- Average number of cases per judge (court)
- Average length of a trial (court)
- Average time spent in pre-trial detention (court)

In addition to performance indicators derived from administrative data, the Toolkit also highlights the importance of linking this data with population-based survey data. The role of surveys in providing important crime, criminal justice, and perception-based indicators is discussed in Chapter 4 of this Study.

The principles for a system of crime and criminal justice statistics proposed by the United Nations are non-binding for Member States. They nonetheless represent an important starting point for this Study. Given the complexity of an effective statistics system, it is likely that not all EU Member States are currently able to produce all the data proposed by such guidelines. Furthermore, data formulated using national criminal codes as starting point, with various counting units and counting rules, are hardly comparable across countries.

## 2.3. EU work on measuring crime and criminal justice

### Hague Programme on Freedom, Security and Justice

The Hague Programme on freedom, security and justice in the European Union was adopted by the European Council in 2004. The Programme set out ten priorities for the EU with the aim of strengthening the European Union as an area of freedom, security and justice.<sup>32</sup> As noted in the introduction to this Study, in terms of crime statistics, the Hague Programme welcomed the European Commission's initiative to "establish European instruments for collecting, analysing and comparing information on crime and victimisation and their respective trends in Member States, using national statistics and other sources of information as agreed indicators". The Programme also tasked Eurostat with the definition of such data and its collection from the Member States. The Stockholm Programme, as successor to the Hague Programme, indicates that such work is to continue for the period 2010 to 2014. The Stockholm Programme invites the Commission to "continue developing statistical tools to measure crime and criminal activities and reflect on how to further develop, after 2010, the actions outlined and partly implemented in the EU Action plan 2006-2010 on developing a comprehensive and coherent EU strategy to measure crime and criminal justice, in view of the increased need for such statistics in a number of areas within the field of freedom, security and justice"<sup>33</sup>.

### EU Action Plan on Measuring Crime and Criminal Justice

The 2006 European Commission Action Plan on measuring crime and criminal justice proceeded to set out seven overall objectives concerning data collection, coordination and standardisation. The third, fourth and fifth objectives – (iii) stock-taking and development of knowledge, (iv) identification of policy needs, development and implementation of general tools, and (v) development of specific indicators – focus particularly on the development of definitions, standards and norms relevant to justice and home affairs statistics in the European Union.

The relevant specific actions included in the Action Plan were:<sup>34</sup>

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<sup>32</sup> Council of the European Union. The Hague Programme: strengthening freedom, security and justice in the European Union. Available at:  
[http://ec.europa.eu/justice\\_home/doc\\_centre/doc/hague\\_programme\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf)

<sup>33</sup> Council of the European Union, The Stockholm Programme, Note from the Presidency to the General Affairs Council/European Council, 2 December 2009. Available at:  
[http://ec.europa.eu/justice\\_home/news/intro/doc/stockholm\\_program\\_en.pdf](http://ec.europa.eu/justice_home/news/intro/doc/stockholm_program_en.pdf)

<sup>34</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010. 7 August 2006, COM (2006) 437 final.

- The establishment of an inventory of EU harmonised definitions of crime types.
- Identify available data and establish common indicators.
- Establish and implement a common questionnaire for annual collection of data and metadata for the common indicators.
- Establish a methodology for a common survey (module) on victimisation.
- Examine possibilities for regular data collection on five types of serious and cross-border crime (corruption, fraud, illicit trafficking in cultural goods, counterfeiting and piracy of products, sexual exploitation of children and child pornography).
- Examine possibilities for regular data collection on money-laundering and terrorist financing.
- Developing guidelines for measuring trafficking in human beings.<sup>35</sup>
- Developing indicators for measuring juvenile crime and juvenile justice.
- Developing a common definition of drug-related crime.
- Developing common survey-based indicators for violence against women, domestic violence and the extent and structure of victimisation in the business sector.
- Developing common indicators for measuring environmental crime.

In-line with the EU Tampere priorities, the Action Plan focused particularly on developing definitions and indicators for complex, organised, and cross-border crime types. Indeed, the Interim Implementation Report of the EU Action Plan for 2008 noted that information on traditional forms of crime, *considered to lie outside of EU competency*, was more comparable and generally of better quality than in the area of cross-border crime.

## EU Group of Experts on the Policy Needs for Data on Crime and Criminal Justice

Implementation of the Action Plan has been pursued, for the most part, through the work of an Expert Group established by the European Commission DG-JLS.<sup>36</sup> Subsequently, a Working group of producers of crime statistics was established by Eurostat, and a number of Expert sub-groups have been established to examine particular Action Plan tasks. As stated in the interim report on the work of the Group, "It remains however true that information on traditional forms of crime – considered to lie outside EU competency – is more robust, more comparable and generally of better quality than in the area of cross-border organised crime – relating more closely to EU

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<sup>35</sup> A good example of the ongoing work for developing standards and instruments for crime data collection at the EU level is the field of trafficking in persons. The European Commission is currently in the process of developing a proposal for a new EU Directive on trafficking in persons that will make the establishment of National Rapporteurs on Trafficking in Persons mandatory for EU Member States. Among other tasks, these rapporteurs will have the specific task to collect and regularly report on a standardized set of crime and criminal justice data on trafficking in persons for their countries.

<sup>36</sup> See Commission Decision 2006/581/EC of 7 August 2006 setting up a group of experts on the policy needs for data on crime and criminal justice. OJ L 234/29. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:234:0029:0032:EN:PDF>

policy needs." It was noted that the Group made some progress, particularly with respect to developing specific definitions of indicators for trafficking in persons, money laundering, and in establishing an inventory of EU harmonised definitions of crime types. The outcomes of these particular tasks are discussed in this study in Chapter 3 on crime definitions.

With respect to general principles, the work of the Expert Group suggests a number of points that should be taken into account in the development of crime and criminal justice statistics systems. As discussed in the introduction to this Study, such recommendations are not binding on EU Member States *per se*. They may, however, be taken as a good indication of areas on which the EU may place formal (legislative) priority in future years.

In particular, the Expert Group considered:

- That a 'criminal justice system' could be defined as: "*The institutional response of law enforcement authorities to an act defined in law as criminal. Such authorities include police and customs authorities, financial intelligence units, the courts and public prosecution services, and all other public bodies that participate in the process spanning preventative and diversionary measures to crime, early detection of criminal offences, and onto the conviction and punishment of perpetrators.*"
- That it was important to promote the development of criminal justice system 'response/attrition' rates in Member States as a means of developing criminal justice system performance indicators. Such measures should begin with major crime types that present the least difficulty in terms of definitional non-comparability (for example, intentional homicide). Measures should focus on the 'output' from each identified criminal justice system stage.
- That particular focus should be placed on the measurement of juvenile offending and the response of the criminal justice system to juvenile offenders. The Group recommended six specific indicators, building on the work of the UNODC-UNICEF Manual for the Measurement of Juvenile Justice Indicators:
  - The number of children in detention per 100,000 child population (specific day).
  - The number of children in pre-sentence detention per 100,000 child population (specific day).
  - The number of children brought into initial formal contact with the police and/or criminal justice system during a 12 month period per 100,000 child population.
  - The percentage of children diverted or sentenced during a 12 month period (assigned) who enter a pre-sentence diversion scheme.
  - The percentage of children convicted during a 12 month period receiving a custodial sentence.
  - The percentage of children released from detention during a 12 month period receiving structured aftercare.

The definition of a criminal justice system proposed by the Expert Group is important insofar as it explains the extent of the institutions which should be involved in a system of crime and criminal justice statistics. Importantly, in addition to police, prosecution and court systems, the definition includes wider justice and home affairs institutions – such as customs authorities and financial intelligence units – which may play a role in combating specific forms of crime. The Expert Group definition also includes institutions for the ‘punishment of perpetrators’ and would therefore include prison statistics. Whilst recognising the importance of a connected system of criminal justice statistics in this respect, for reasons of space, the scope of this Study presently excludes systems for correctional statistics.

The fact that the EU Expert Group further highlights the importance of performance indicators in the form of ‘response/attrition’ rates is also significant. This recommendation is in-line with guidelines at the international level, as set out in the United Nations Manual for Criminal Justice Statistics and the UNODC Criminal Justice Assessment Toolkit. The practical consequences of this recommendation are that criminal justice statistics systems in EU Member States should be capable of a certain degree of interconnectivity between institutions. The most effective measure of a response/attrition rate is likely to be that based on records which are capable of following an individual through the system. For example, calculation of the ‘percentage of persons arrested for intentional homicide who are ultimately convicted’ would require a unique ‘person-based’ record identifier common to both police and court statistical systems.

The identification of juveniles as a priority group for crime and criminal justice statistics by the EU Expert Group is also important. As set out in the UNODC-UNICEF Manual for the Measurement of Juvenile Justice Indicators, when government officials and the institutions making up the justice system do not have information either about the functioning of the system or the children who are in contact with it, the experience of the child is unlikely to be in his or her best interests and abuse, violence, and exploitation can occur with impunity.<sup>37</sup> The adoption of a number of the juvenile justice indicators presented in the UNODC-UNICEF Manual by the EU Expert Group is significant and represents a good example of the influence of international standards on the development of standards at the European level.

## An EU- level crime report?

In addition to indications on the direction of future EU standards provided by the DG-JLS Expert Group, one further useful piece of guidance can be found in a recently

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<sup>37</sup> UNODC-UNICEF Manual for the Measurement of Juvenile Justice Indicators, p.2. Available at: [http://www.unodc.org/pdf/criminal\\_justice/06-55616\\_ebook.pdf](http://www.unodc.org/pdf/criminal_justice/06-55616_ebook.pdf)



published call for proposals by the European Commission, seeking the development of a 'European crime report'.<sup>38</sup>

A 'European Crime Report' was first proposed by the European Commission in the Council and Commission Action Plan implementing the Hague Programme in 2005.<sup>39</sup> The call for proposals for the development of the report was subsequently developed by the European Commission DG-JLS Expert Group. The report concept is still under development as at the time of writing (February 2010). However, the published terms of reference for the report, specified by the European Commission, nonetheless provide a good indication of current and future priorities for crime and criminal justice statistics at the EU level.

The starting point for the terms of reference is the existing collection of crime and criminal justice data by Eurostat. Data for a limited set of crime and criminal justice indicators are presently collected from EU Member States and disseminated by Eurostat in a short publication '*Statistics in focus: Crime and Criminal Justice*' on an annual basis.<sup>40</sup> The specific crimes included in the Eurostat publication, and the definitions used, are considered further by this Study in Chapter 3 on crime definitions.

The European Crime Report terms of reference, however, make clear that the purpose of a European Crime Report is to move from the collection and analysis of available national data (as presently carried out by Eurostat) to *convergence* of comparable crime and criminal justice data through the development of a common analytical framework.<sup>41</sup> In this respect, the terms of reference promote the Uniform Crime Report (UCR) of the United States as a relevant model for a European Crime Report. The strengths of the UCR are stated to be that it focuses on incident-based reporting and discourages ranking through cautions relating to the comparability of data from different states. The terms of reference also highlight the benefits of including crime survey data in a complementary fashion with more traditional crime data. Information is envisaged to be presented in country 'profiles' that place crime data within a wider narrative and can be viewed as moving in the direction of applying explanations to events as opposed to producing a series of fact-based statements.

With respect to the identification of evolving standards for crime and criminal justice statistics at the EU level, such considerations do make sense. The aspirations of the

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<sup>38</sup> Public open tender JLS/2009/F2/001: The development of a European crime report. [http://ec.europa.eu/justice\\_home/funding/tenders/2009\\_S080\\_114484/invitation\\_tender\\_en.pdf](http://ec.europa.eu/justice_home/funding/tenders/2009_S080_114484/invitation_tender_en.pdf)

<sup>39</sup> See Council and Commission Action Plan implementing the Hague Programme on strengthening freedom, security and justice in the European Union. 9778/2/05, Rev 2, p. 15. Available at: [http://ec.europa.eu/justice\\_home/doc\\_centre/doc/action\\_plan\\_jai\\_207\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/doc/action_plan_jai_207_en.pdf)

<sup>40</sup> See, for example: [http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-SF-09-036/EN/KS-SF-09-036-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-09-036/EN/KS-SF-09-036-EN.PDF)

<sup>41</sup> See Tender No. JLS/2009/F2/001, Annex 1, at p.3. Available at: [http://ec.europa.eu/justice\\_home/funding/tenders/2009\\_S080\\_114484/annex\\_1\\_en.pdf](http://ec.europa.eu/justice_home/funding/tenders/2009_S080_114484/annex_1_en.pdf)

European Crime Report (as set out in the terms of reference) are, however, very far reaching and would require significant work on standardisation of data collection and reporting mechanisms at national level if convergence of crime and criminal justice data is to be achieved between EU Member States.

From the point of view of evolving EU standards, the principle of 'convergence' in crime and criminal justice statistics systems is significant. At present, however, whilst work on crime definitions and final indicators is reasonably advanced (as discussed in Chapter 3 of this Study), very little exists in respect of detailed standards for underlying systems. Where relevant guidelines or standards can be identified, these are discussed in Chapter 4 of this Study in the context of the individual systems themselves – police, prosecution, and court, and those for survey-based statistics and asylum, visa and migration statistics.

### Summary – General principles for crime and criminal justice statistics

A review of both binding and non-binding standards and guidelines at the international and EU level reveals a wide range of initiatives in the area of crime and criminal justice statistics. Whilst this combined body of work still has a significant number of gaps to fill, a number of principles can nonetheless be identified. Developing standards recognise, for example, that national law enforcement and criminal justice systems will contain inherent differences at the operational level and in terms of the collection and use of statistics. Whilst cross-national comparability of data is desirable, criminal justice statistics systems should first and foremost be capable of providing accurate, relevant and timely statistics that can inform national policy making for crime prevention and response. The United Nations Manual for the Development of a System of Criminal Justice Statistics, for example, sets out core indicators, such as counts of police-recorded crime incidents and suspects, numbers of persons prosecuted and number of convictions that should be available at the national level.

Such statistics should be generated by local police, prosecution and court institutions and, ideally, a national organization should be responsible for collation and dissemination. Statistics should be timely, cover the whole country or territory and should, where possible, include performance-based indicators.

At the international and regional level, the challenge is to identify selected indicators where a degree of cross-national comparability can be achieved. Comparability derives both from the underlying recording system, and counting rules and definitions applied. Significant work at the EU and international level had been carried out on standard definitions for the purposes of international and regional reporting of statistics. Chapter 3 of this Study continues to examine this area.



## 3. Crime definitions

### 3.1. A survey of relevant instruments and initiatives

#### Introduction to work at the EU- level

Work on crime definitions at the EU level can be traced back at least to the Tampere European Council Meeting of October 1999 on the creation of an area of freedom, security and justice in the European Union. Whilst recognising the threat of all crime types, the Tampere Meeting concluded that, with regard to national criminal law, efforts to agree on *common definitions* should be focused in the first instance on a limited number of sectors of particular relevance, such as financial crime (money laundering, corruption, Euro counterfeiting), drugs trafficking, trafficking in human beings, particularly exploitation of women, sexual exploitation of children, high tech crime and environmental crime.<sup>42</sup> Prior to Tampere, the Treaty of Amsterdam had also amended the Treaty on European Union to include the progressive adoption of measures establishing *minimum rules relating to the constituent elements of criminal acts* in the fields of organised crime, terrorism and illicit drug trafficking.<sup>43</sup>

The focus on complex, organised crime types at EU level has the result that two streams of work feed into the current position on EU-level crime definitions. On the one hand, binding EU *acquis* in the form of Council Directives and other legislative acts set out reasonably clear definitions for complex forms of crime. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, for example, requires Member States to take the necessary measures to ensure the criminal punishment of “conduct by any person who... actively takes part in the organisation’s criminal activities.” The Decision contains a careful definition of the offence and of the meaning of ‘criminal organisation’ and ‘structured association’. Such *acquis* represents a clear European-level offence definition. Definitions for at least some twelve offence types can be identified within the binding *acquis*.

Definitions for ‘conventional’ (or non-complex, in contrast to organised or cross-border) crime are not, however, a focus of the European treaties and are not at present set out in any form of binding EU *acquis*. Nonetheless, a number of initiatives at EU level can be used to inform a putative (non-binding) list of conventional crime definitions.

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<sup>42</sup> Presidency Conclusions of the Tampere European Council Meeting, 15 and 16 October 1999, Para 48. Available at: [http://www.europarl.europa.eu/summits/tam\\_en.htm#intro](http://www.europarl.europa.eu/summits/tam_en.htm#intro)

<sup>43</sup> Treaty on European Union, Title VI, Article 31(e).

## The European Criminal Records Information System and European Arrest Warrant

At the operational-level, information on criminal convictions has been exchanged between member States for many years pursuant to the European Convention on Mutual Assistance in Criminal Matters of 1959.<sup>44</sup> By European Council Decision in 2005, Member States agreed to a standardised form for information requests on criminal records.<sup>45</sup> On 6 April 2009, the European Council adopted a Decision on the establishment of the European Criminal Records Information System (ECRIS).<sup>46</sup> The Decision provided that “when transmitting information [on criminal records]... Member States shall refer to the corresponding code for each of the offences referred to in the transmission.”

Annex A to the Decision included a list of offences including both ‘conventional’ and complex, transnational or cross-border offences, organised by top-level category and sub-categories. The Annex also provided for a coding system according to whether the offence had been completed, or was attempted or under preparation, and whether the individual concerned was the perpetrator or aider and abettor or instigator/organiser or conspirator. Member States must take the necessary measures to comply with the provisions of the Decision by 7 April 2012. In practice, this means that Member States must review their national criminal codes and/or the categorisation of offences used in criminal convictions, with a view to identifying which national offences fall under which code for the purposes of criminal record exchange.

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<sup>44</sup> Council of Europe. European Convention on Mutual Assistance in Criminal Matters (ETS No.30), 20 April 1959. Available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/030.htm>

<sup>45</sup> Council Decision 2005/876/JHA on the exchange of information extracted from the criminal record. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:322:0033:0037:EN:PDF>

<sup>46</sup> Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:093:0033:0048:EN:PDF>

**Figure 2: Extract from Annex A to the ECRIS Council Decision (2009)**

0800 00 open category	Crimes against the person
0801 00	Intentional killing
0802 00	Aggravated cases of intentional killing (*)
0803 00	Unintentional killing
0804 00	Intentional killing of a new-born by his/her mother
0805 00	Illegal abortion
0806 00	Illegal euthanasia
0807 00	Offences related to committing suicide

In addition to the list of offences identified for the purposes of ECRIS, European actions in respect of the 'European Arrest Warrant' also include limited work on the definition of offences at the European level. Article 7 of Council Decision Framework Decision 2008/909/JHA on the application of the principle of mutual recognition to judgements in criminal matters, contains a list of offences for which judgement and enforcement of the sentence may be imposed without verification of double criminality.<sup>47</sup> Whilst this list includes crime classically within EU competence, such as trafficking in persons and participation in a criminal organisation, it also includes serious 'conventional' crimes, including 'murder', 'grievous bodily injury', 'rape', 'arson', and 'armed robbery'. The Framework Decision does not, however, provide detailed definitions for these offences.

## The European- level Offence Classification System

Building on preparatory work for the ECRIS model, in March 2007, the European Commission DG-JLS launched a call for tender for a "*Study on the development of an EU-level offence classification system and an assessment of its feasibility to support the implementation of the EU Action Plan to develop an EU strategy to measure crime and criminal justice.*" The purpose of the study was to create an EU-level offence classification system for the purpose of exchanging comparable statistical information on offences throughout the EU ("EULOCS"). As such, the system is aimed at a wider audience than the ECRIS Annex of coded offences used solely for the exchange of criminal records. Rather, EULOCS is envisaged to function as a common offence classification for any form of communication and data exchange on crime and criminal

<sup>47</sup> Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union. OJ L 327/27. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:327:0027:0046:EN:PDF>

justice between EU Member States. In principle, this would include reporting of data for the current Eurostat publication 'crime and criminal justice'.

The EULOCS study was completed and published in 2009.<sup>48</sup> The final report includes an offence classification table, presented in a similar form to that used in the ECRIS Council Decision. Unlike, ECRIS which offers relatively broad, non-exclusive, behaviour-based categories, however, EULOCS is structured around specific offences. Each (mutually exclusive) offence is accompanied by a definition and relevant source material. The EULOCS offence classification table contains sixteen top-level categories: (1) crimes within the jurisdiction of the international criminal court, (2) participation in a criminal organisation, (3) offences linked to terrorism, (4) trafficking in human beings, (5) sexual offences, (6) offences related to drugs or precursors, (7) firearms, their parts and components, ammunition and explosives, (8) harming the environment and/or public health, (9) offences against property, (10) offences against life, limb and personal freedom, (11) offences against the state, public order, course of justice or public officials, (12) offences against labour law, (13) motor vehicle crime and offences against traffic regulations, (14) offences against migration law, (15) offences related to family law, and (16) offences against military obligations.

Each EULOCS top-level category contains multiple sub-categories of more detailed offences. The top-level category 0500 00 'Sexual offences', for example, includes a number of sub-categories, which themselves contain lower level categories:

**Figure 3: Extract from EULOCS offence classification system**

0500 00 Open Category	SEXUAL OFFENCES
0501 00	SEXUAL ASSAULT
0501 01	Rape
0501 01 01	of an adult
0501 01 02	of a child
0501 02	Sexual Harassment
0501 02 01	of an adult
0501 02 02	of a child
0501 03	Indecent Exposure
0501 04	Other forms of sexual assault

Whilst EULOCS represents a valuable step in the development of common EU crime definitions, the system has also been the subject of some degree of criticism, including with respect to the placement of certain categories of sub-offences. EULOCS represents a mix of both crime categories defined in criminal law and (generally criminal) event descriptions. As such, its direct use at national level for original data recording (for example, at the time a person is arrested and charged with a criminal act) may represent a particularly heavy burden on Member States in terms of system adjustment. Nonetheless, where Member States are able to undertake a process of 'translation' of national offence definitions into the EULOCS coding system, EULOCS

<sup>48</sup> See Mennens, A., De Wever, W., Dalamanga, A., Kalamara, A., Kazlauskaitė, G., Vermeulen, G., De Bondt, W. Developing an EU level offence classification system. EU study to implement the Action Plan to measure crime and criminal justice. Maklu: Antwerpen. (2009).

has the potential to offer a valuable tool for standardised information exchange at the EU-level. Further details on the EULOCS crime definitions are set out in Table 2 below.

In order to further assist in the process of implementation of a crime classification system for statistical reporting, the Conference of European Statisticians (CES) (consisting *inter alia* of heads of statistical organizations of United Nations Economic Commission for Europe (UNECE) and Organisation for Economic Co-operation and Development (OECD) member countries) in June 2009 requested the CES Bureau<sup>49</sup> and the UNECE Secretariat to establish a Task Force under the CES to work on the issue of crime classification. The objectives of the Task Force include: (a) developing a set of principles on international crime classification systems for statistical use, in particular to improve consistency and international comparability of crime statistics; (b) undertaking a case study of defining and classifying selected offences; and (c) collaborating with the European Commission (DG-JLS and Eurostat) on the development of an EU level classification. The work of the Task Force is due for completion by the end of 2010. Its contribution to use in practice of a crime classification system should include the development of a set of principles on international crime classification systems for statistical use.

## Eurostat and the European Sourcebook of Crime and Criminal Justice Statistics

As noted in the introduction to this Study, the Hague Programme of the European Council recommended that Eurostat (the Statistical Office of the European Union) should be tasked with the definition of crime data and its collection from Member States.<sup>50</sup> The results of work carried out by Eurostat in this area are disseminated on an annual basis in the publication '*Statistics in focus – Crime and Criminal Justice*'.<sup>51</sup>

This publication presents police recorded crime in the EU Member States, EU Candidate countries, EU Potential candidate countries, and the EFTA/EEA countries for seven types of police-recorded crime ('total crime', 'homicide', 'violent crime', 'robbery', 'domestic burglary', 'theft of a motor vehicle', and 'drug trafficking') in addition to prison population, and the number of police officers. Whilst Eurostat provide a relatively detailed definition for each of the seven crime types, as set out on the Eurostat website the limitations of the publication reflect the fact that the methods and definitions used in the Member States differ considerably.<sup>52</sup> Most of the data are taken

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<sup>49</sup> Details of membership of the Bureau of the Conference of European Statisticians are available at: <http://www.unece.org/stats/documents/3000.00.bureau.e.htm>

<sup>50</sup> Council of the European Union. The Hague Programme: strengthening freedom, security and justice in the European Union. Available at: [http://ec.europa.eu/justice\\_home/doc\\_centre/doc/hague\\_programme\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf)

<sup>51</sup> See <http://epp.eurostat.ec.europa.eu/portal/page/portal/crime/introduction>

<sup>52</sup> *Ibid.*



from information recorded or reported by police. Eurostat caution that comparisons of crime levels based on the absolute figures reported would be misleading, since they are affected by many factors, including; different legal and criminal justice systems, rates at which crimes are reported to the police and recorded by them, differences in the point at which crime is measured (for example, report to the police, identification of suspect), differences in the rules by which multiple offences are counted, and differences in the list of offences that are included in the overall crime figures.<sup>53</sup>

**Figure 4: Extract from Eurostat crime and criminal justice statistics (Statistics in focus 36/2009)**

#### Crimes recorded by the police

**Table 1 Crimes recorded by the police: Total crime**

These figures include offences against the penal (or criminal) code. Less serious crimes (misdemeanours) are generally excluded. For exceptions to the standard definition, see the metadata files on the website.

Country	1998	2002	2003	2004	2005	2006	2007	General trend		
								available years	annual change	tendency
Belgium	1 008 384	1 000 906	1 005 435	989 691	1 009 668	1 002 552	8	:	AA	
Bulgaria	163 988	146 929	143 921	142 093	137 800	136 410	134 685	8	-2%	↓
Czech Republic	425 930	372 341	357 740	351 629	344 060	336 446	357 391	10	-2%	↓
Denmark	499 167	491 511	486 174	474 419	432 704	425 093	445 271	10	-2%	↓
Germany	6 456 996	6 507 394	6 572 135	6 633 156	6 391 715	6 304 223	6 284 661	10	:	AA
Estonia	45 721	53 299	53 595	53 048	52 916	51 834	50 375	2	:	:
Ireland	85 627	106 415	103 462	99 244	102 206	103 178	:	0	:	:
Greece	385 681	441 138	441 839	405 627	455 952	463 750	423 422	10	2%	↑

With reference to the EU Action Plan, the Eurostat data collection represents 'collection and analysis of available national data' rather than work on *convergence* of crime and criminal justice data. In addition, whereas the collection of statistics on crime are mandated by the Community Statistical Programme 2008 to 2012<sup>54</sup>, crime definitions employed by Eurostat do not have the status of formal *acquis* in the same way as definitions of organized and cross-border crime included in EU legislation. Nonetheless, the crime definitions used by Eurostat do represent an important standard 'in practice' at the EU-level. Whilst the data is subject to a number of limitations, the fact that EU Member States, Candidate, Potential candidate and EFTA/EEA countries are able to consistently report time series data (together with relevant metadata) is indicative of an emerging standard for conventional crime statistics at the EU-level.

Eurostat report that the methodology used in the report draws upon that from a number of sources, including the European Sourcebook of Crime and Criminal Justice Statistics and the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems.<sup>55</sup> The European Sourcebook – insofar as it is produced by an academic consortium rather than the European institutions – cannot strictly be taken

<sup>53</sup> See for example, Eurostat, statistics in focus 36/2009, Crime and Criminal Justice, p.11.

<sup>54</sup> Decision No 1578/2007/EC of the European Parliament and of the Council on 11 December 2007 on the Community Statistical Programme 2008 to 2012. OJ L 344/15. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:344:0015:0043:EN:PDF>

<sup>55</sup> See for example, Eurostat, statistics in focus 36/2009, Crime and Criminal Justice, p.11.

as a European 'standard'. Nonetheless, its approach in terms of crime definitions and metadata is a useful model of rigorousness in crime data collection.

The European Sourcebook uses relatively general high-level definitions for forms of 'conventional' crime, supplemented by extensive metadata on acts that may be included or excluded in the overall crime type. As such, it represents one of the most detailed approaches to understanding the underlying differences between national crime data systems with a view to achieving comparability. As noted earlier in the Study, this is in contrast to the *convergence* approach of national data collection system development in order to record information through originally comparable definitions and counting rules.

**Figure 5: Extract from European Sourcebook data collection instrument**

Intentional homicide: intentional killing of a person	Indicate whether included or excluded:			
	in police statistics		in conviction statistics	
	incl.	excl.	incl.	excl.
<b>Include</b> the following:				
• assault leading to death	x		x	
• euthanasia	x		x	
• infanticide	x		x	
• attempts	x		x	
<b>Exclude</b> the following:				
• assistance with suicide		x		x

## Crime definitions at the international level

In addition to work at the European level, the United Nations has carried out collection of data on crime and criminal justice since the 1970s. The primary data collection instrument employed is the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS).<sup>56</sup> The UN-CTS requests information from the police, prosecution, courts and prison components of the criminal justice system. The questionnaire provides definitions of both 'conventional' and complex crimes.

The crime definitions employed in the questionnaire have been developed over a number of years, including through a wide process of expert consultation.<sup>57</sup> The definitions cannot be said to be binding in any form, but do represent the combined

<sup>56</sup> See: <http://www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html>

<sup>57</sup> See for example, United Nations, Economic and Social Council. Results of the meeting of the open-ended expert group on ways and means of improving data collection, research and analysis with a view to enhancing the work of the United Nations Office on Drugs and Crime and other relevant international entities. UN Doc. E/CN.15/2006/4

experience of the international community in the collection and analysis of crime and criminal justice data. From the European perspective, close cooperation between the United Nations and Eurostat has resulted in the use of equivalent questionnaire definitions for many crimes and a move towards joint data collection for countries of the European Union. The most recent, Eleventh, UN-CTS questionnaire highlights the importance of establishing reliable *trend* data. The questionnaire provides previous data reported by countries for checking and correction where necessary.

**Figure 6: Extract from the Eleventh UN-CTS Questionnaire, covering the years 2007 and 2008**

2. Intentional Homicide		Country: <input type="text"/>							
		Review data for previous years. If new or revised data is available, enter in the 'New Value' columns.						Enter data for 2007 and 2008	
		2003		2004		2005		2006	
Variable		Reported	New Value	Reported	New Value	Reported	New Value	Reported	New Value
<b>COMPLETED Intentional Homicide (excluding attempts)</b>									
21	COMPLETED Intentional Homicide at the national level, number of offences	n/a		n/a		n/a		n/a	
22	COMPLETED Intentional Homicide in the largest city, number of offences	n/a		n/a		n/a		n/a	
23	COMPLETED Intentional Homicide committed with firearm at the national level, number of offences	n/a		n/a		n/a		n/a	
24	Number of persons killed at the national level								
If the number of offences of COMPLETED Intentional Homicide (excluding attempts), is not available in your country, please complete TOTAL Intentional Homicide (completed and attempted) below:									
<b>TOTAL Intentional Homicide (completed and attempted)</b>									
25	Total Intentional Homicide at the national level, number of offences								
26	Total Intentional Homicide in the largest city, number of offences								
27	Total Intentional Homicide committed with firearm at the national level, number of offences								

## 3.2. Crime definitions – putting the pieces together

### Summary of crime definition sources

The brief survey above of relevant data collection instruments and initiatives reveals the range of approaches to crime definition at the EU and international level. Definitions of crimes may be found both in binding instruments (in the form of EU *acquis*) and in non-binding instruments such as cross-national data collection forms and European Commission initiatives to develop a common crime classification system for statistical purposes.

A consolidated picture of crime definitions at the EU level requires an attempt to bring this range of different definition sources together. This is no simple task however. The *context* in which crime definitions may be found varies considerably. Whilst EU Directives may define crimes such as 'trafficking in persons', 'organized crime' or 'corruption', this is *not* with a view to collection of data on these crimes. Rather, the primary purpose of the legislative Directive or Decision is almost always to ensure that the defined crime type is a criminal offence in the national law of Member States.

One of the very few examples where a requirement in relation to statistics is included in EU legislation in such a context is Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering (2005). This Directive includes the requirement that "Member States shall ensure that they are able to

review the effectiveness of their systems to combat money laundering or terrorist financing by maintaining comprehensive statistics on matters relevant to the effectiveness of such systems."<sup>58</sup> The Directive continues by specifying a number of minimum items on which statistics should be available: (i) the number of suspicious transaction reports made to the financial intelligence unit, (ii) the follow-up given to these reports, (iii) the number of cases investigated on an annual basis, (iv) the number of persons prosecuted and convicted for money laundering or terrorist financing offences, and (v) how much property has been frozen, seized or confiscated.<sup>59</sup>

Similarly, although by far less detailed than the money laundering Directive, Council Directive 2004/81/EC on the issuance of residence permits to third-country nationals who are victims of trafficking provides, in general terms, that: "*Member States should provide the Commission, with respect to the implementation of this Directive, with the information which has been identified in the framework of the activities developed with regard to the collection and treatment of statistical data concerning matters falling within the area of Justice and Home Affairs.*"<sup>60</sup>

The inclusion of such requirements directly in EU *acquis* represents one of the first steps towards establishing clear binding requirements for crime and criminal justice statistics at EU-level. Even in the case of the 2005 money laundering Directive, however, there are no concrete guidelines or reporting instructions which may assist in the collection and reporting of data in a harmonised and comparable way at EU-level. The definition of money laundering 'cases investigated', for example, may vary between Member States depending upon the approach taken to recording this indicator – whether at the stage of preliminary enquiries, file opening, or formal investigation. In the particular case of money laundering, further (non-binding) work on definitions and indicators has also been carried out by the Expert Group established by the European Commission DG-JLS. These developments are discussed in Chapter 4 of this Study.

Where EU *acquis* does not contain specific requirements for data collection *per se*, it is nonetheless legitimate to rely on such legislative acts for the purposes of crime definitions. Insofar as the purpose of the act is to ensure that all Member States of the EU adopt a common approach to criminalisation of complex, organised and cross-border crimes, it is likely – indeed, *envisaged*, by the EU Action Plan – that data should, in the future, be collected and reported on these specific crime types at the EU

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<sup>58</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, Article 33(1), OJ L 309/15. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:309:0015:0036:EN:PDF>

<sup>59</sup> *Ibid.* Article 33(2).

<sup>60</sup> Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

level. With respect to the identification of common EU standards for data collection, it makes sense therefore to rely on the underlying crime definition provided in EU legislation.

Whereas EU *acquis* is binding but not usually related directly to data, the other source of crime definitions at the EU and international level – crime questionnaires and classification systems – do relate directly to data collection, but do not generally have a binding nature. Further, whereas, the definition of a specific (usually organised or cross-border) crime type is normally found in one or very few EU legislative acts, definitions of ‘conventional’ crime types may be found in a large number of data collection initiatives, often with differing definitions. As described above, these include Eurostat, the European Sourcebook, and the UN-CTS. The challenge in respect of these data collections is to identify commonalities between offence definitions in order to identify a core European standard.

Table 1 below summarizes the current situation with respect to the definition of crime types at international and EU level.

**Table 1: Summary of primary crime definition sources**

Crime type	Source of definitions	Nature of definitions	Provisions on data collection
<b>Complex, transnational or cross-border crime</b>	Definitions found in (binding) international conventions and EU legislation	Usually only one definition in relevant legislation at international or EU level per crime type	Instruments do not usually contain specific detailed provisions on data collection
<b>‘Conventional’ crime</b>	Definitions found in (non-binding) data collection questionnaires at international and EU-level	Different questionnaires frequently apply different definitions leading to multiple definitions per crime type	Instrument usually focused specifically on data collection

Finally, a third possible source of definitions, not yet discussed in this Study, derives from crime victimisation surveys. Crime victimisation surveys contain quite extensive definitions of crime, with a view to identifying the prevalence of specifically defined acts in a particular country (or city). As crime surveys ask persons who may have been victims of crime about their experience, however, definitions are related closely to the nature of the act in practice. For example, the prevalence of ‘identity fraud’ is investigated using the question *“has anyone pretended to be you or used your personal details without your permission?”*<sup>61</sup> As such, definitions from victimisation surveys may not always correspond easily with criminal law definitions. For this reason, in the tables that follow, definitions from victimisation surveys are excluded. The Study considers victimisation surveys as a source of crime and criminal justice statistics in Chapter 4.

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<sup>61</sup> EU draft victimisation survey module.

## Crime definition tables

Table 2 below sets out a comparison of the crime definitions employed for 'conventional' crime by four initiatives reviewed in this Chapter to collect crime and criminal justice data at the international or EU-level; the work of Eurostat for 'Statistics in focus', the UN-CTS, the European Sourcebook, and the EULOCS offence classification system.<sup>62</sup>

The Table contains definitions for a number of main forms of 'conventional' crime – being crimes that are generally accepted to fall (to date at least) outside of the legislative competence of the European Union.<sup>63</sup> Complex, organised and cross-border crimes, for which specific EU legislation exists, are addressed in Table 3 below. Some overlap does exist however. Drug-trafficking, for example, is included both in Table 2 and Table 3, insofar as different definitions may be found in crime data collection questionnaires and EU *acquis*.

It should be noted that whereas the definitions from Eurostat, the UN-CTS and the European Sourcebook represent crime definitions used in practice in data collection questionnaires, the work of EULOCS is largely theoretical and has not been employed either for data recording or collection to date. Some difficulties exist in matching categories found in EULOCS with the definitions found in the other sources, and an indicative selection of EULOCS categories is therefore presented for the purposes of broad comparison only. The Table is not intended to represent a definitive 'mapping' between the different crime definition approaches and should be used for illustrative purposes only.

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<sup>62</sup> See: <http://epp.eurostat.ec.europa.eu/portal/page/portal/crime/introduction>  
[http://www.unodc.org/unodc/en/crime\\_survey\\_eleventh.html](http://www.unodc.org/unodc/en/crime_survey_eleventh.html)  
[www.europeansourcebook.org](http://www.europeansourcebook.org)  
<http://www.maklu.be/MakluEnGarant/en/BookDetails.aspx?ID=9789046602652>

<sup>63</sup> European Commission DG-JLS, Interim Implementation Report for the EU Action Plan (COM (2006) 437).

**Table 2: Comparison of definitions for 'conventional' crime employed by international and EU crime data collection initiatives<sup>64</sup>**

	<b>Eurostat</b> (Statistics in Focus 2009)	<b>UN-CTS</b> (11th Survey)	<b>European Sourcebook</b> (4th Edition)	<b>EULOCs</b> (indicative selection of categories)
<b>Total crime</b>	Offences against the penal code or criminal code. Less serious crimes (misdemeanours) are generally excluded.	The number of penal code offences or their equivalent but excluding minor road traffic offences and other petty offences.	All offences as defined by law should be included. Some countries exclude minor offences however.	All categories
<b>Intentional homicide*</b>	Intentional killing of a person, including murder, manslaughter, euthanasia and infanticide. Causing death by dangerous driving is excluded, as are abortion and help with suicide. Attempted (uncompleted) homicide is excluded. The counting unit for homicide is normally the victim.	Death deliberately inflicted on a person by another person, including infanticide. Total (completed and attempted) and completed (excluding attempts) are asked separately.	Intentional killing of a person. Assault leading to death, euthanasia, infanticide, attempts should be included. Assistance with suicide should be excluded.	1001 01 Intentional homicide Sub-categories: 01: not further specified 02: causing death at the request of the victim 03: causing death of own child during or immediately after birth 04: offences related to suicide 05: illegal abortion
<b>Violent crime</b>	Violence against the person (such as physical assault), robbery (stealing by force or by threat of force), and sexual offences (including rape and sexual assault).	n/a  (Although could be constructed from the sum of assault, robbery, and sexual assault/sexual violence).	n/a  (Although could be constructed from the sum of assault, robbery, rape, sexual assault, and sexual offences against children).	n/a  (Although could be constructed from: 1002 02 01: Causing grievous bodily injury 1002 02 02: Causing minor bodily injury 0901 01: Theft with violence or intimidation 0501 00: Sexual assault)
<b>Assault</b>	Included in violent crime	Physical attack against the body of another person resulting in serious bodily injury, excluding indecent/sexual assault, threats and slapping/punching. Assault leading to death is also excluded.	Inflicting bodily injury on another person with intent. Minor bodily injury, aggravated bodily injury, bodily injury of a public official, domestic violence and attempts should be included. Assault leading to death, threats, assault only, causing pain, slapping or punching and sexual assault should be excluded.	1002 02: Causing psychological and bodily injury, other than torture

<sup>64</sup> Adapted from Tavares, C., 'Comparison of European collections of crime and criminal justice data', prepared for the Third meeting of the European Commission DG-JLS Expert Group on the policy needs for data on crime and criminal justice, February 2009.

\* Although not a binding standard at the EU level, work at the international level is well progressed on the issue of 'femicide': the gender-based killing of women. The Special Rapporteur of the United Nations Human Rights Council on violence against women, its causes and consequences has proposed femicide as an important indicator of violence against women. In addition, femicide has been recognised as one of the forms of violence against women that is under-documented. As such, data on femicide could be collected through police administrative data supplemented by detailed information on cause of death from medical records, including information on relationship to perpetrator and circumstances of death. See Human Rights Council. Report of the Special Rapporteur on violence against women its causes and consequences: Indicators on violence against women and State response. UN Doc. A/HRC/76, 29 January 2008 and United Nations General Assembly, In-depth study on all forms of violence against women: Report of the Secretary-General. UN Doc. A/61/122/Add.1, 6 July 2006.

<b>Rape</b>	Included in violent crime	Sexual intercourse without valid consent.	Sexual intercourse with a person against her/his will ( <i>per vaginam</i> or other).	0501 01: Rape
<b>Sexual Assault/Sexual violence</b>	Included in violent crime	Rape and sexual assault including sexual offences against children	Physical sexual contact with a person against her/his will.	0501 04: Other forms of sexual assault (0501 02: Sexual harassment) (0501 03: Indecent exposure)
<b>Sexual offences against children/ Sexual abuse of a minor</b>	n/a	Crimes of a sexual nature against minors (of age as defined by the country).	Sexual intercourse, or any other form of physical sexual contact, with a person below the age of consent.	0501 01 01: Rape of a child 0501 02 02: Sexual harassment of a child 0502 01 02: Offences identified as sexual exploitation of a child 0502 04: Producing child pornography
<b>Robbery</b>	Stealing from a person with force or threat of force, including muggings (bag snatching) and theft with violence. Pick-pocketing, extortion and blackmailing are generally not included.	Theft of property from a person, overcoming resistance by force or threat of force. Includes muggings (bag-snatching) and theft with violence. Excludes pick-pocketing and extortion.	Stealing from a person with force or threat of force. Muggings, theft immediately followed by force or threat of force used to keep hold of the stolen goods should be included. Pick-pocketing, extortion and blackmailing should be excluded.	0901 01: Theft with violence of intimidation
<b>Theft</b>	n/a	Depriving a person or organisation of property without force with the intent to keep it. Excludes burglary, housebreaking, robbery and theft of a motor vehicle.	Depriving a person or organisation of property without force with the intent to keep it. Minor theft, burglary, theft of motor vehicles, theft of other items and attempts should be included. Embezzlement, robbery and receiving/handling stolen goods should be excluded.	0901 02: Theft without violence or intimidation
<b>Burglary</b>	n/a	Gaining unauthorised access to a part of a building/dwelling or other premises, including by use of force, with the intent to steal goods (breaking and entering). Includes theft from a house, apartment or other dwelling place, factory, shop or office, from a military establishment or by using false keys. Excludes theft from a car, container, vending machine, parking meter, and fenced meadow/compound.	Gaining access to a closed part of a building or other premises by use of force with the objective to steal goods. Theft from factory, shop, office, military establishment, using false keys and attempts should be included. Theft from a car, container, vending machine, parking meter, and fenced meadow/compound should be excluded.	n/a
<b>Domestic burglary</b>	Gaining access to a dwelling by the use of force to steal goods.	Theft from a house, apartment or other dwelling place.	Gaining access to private premises by use of force with the objective to steal goods.	n/a
<b>Motor vehicle theft</b>	Motor vehicles include all land vehicles with an engine that run on the road which are used to carry people (including cars, motorcycles, buses, lorries, construction and agricultural vehicles).	Removal of a motor vehicle without the consent of the owner of the vehicle. Motor vehicles includes all land vehicles with an engine that run on the road, including cars, motorcycles, buses, lorries, construction and agricultural vehicles.	Depriving a person or organisation of a motor vehicle with the intent to keep it or use it. Joyriding and attempts should be included. Theft of motor boats and receiving/handling a stolen vehicle should be excluded.	n/a



<b>Fraud/ economic fraud</b>	n/a	n/a	Deceiving someone or taking advantage of someone's error with the intent to unlawfully gain financial benefits, thereby causing the deceived person to enter any operation that will be damaging to his or a third person's financial interests. Minor fraud and attempts should be included.	0908 00: Fraud and swindling
<b>Drug-related crime</b>		All intentional acts that involve the cultivation, production, manufacture, extraction, preparation, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation, exportation, possession or trafficking of internationally controlled drugs.	Definition as applied by international conventions. Cultivation, production, sale, supplying, transportation, importation, exportation, financing of drug operations, consumption, possession of larger quantities, possession of smaller quantities should be included.	0600 00: Offences related to drugs and precursors  Sub-categories: 01 01: Cultivation 01 02: Manufacturing 01 03: Trafficking 01 04: Dealing 01 05: Acquisition and possession 01 05: Consumption 01 07 Other offences related to drugs
<b>Drug possession/ use</b>	n/a	Drug offences related to drug use or possession for use.	n/a	0600 01 06: Consumption of drugs (0600 01 05: Acquisition and possession of drugs)
<b>Drug- trafficking</b>	Illegal possession, cultivation, production, supplying, transportation, importing, exporting, financing etc. of drug operations which are not solely in connection with personal use.	Drug offences, which are not in connection with personal use.	Aggravated drug offences, not in connection with personal use.	0600 01 03: Trafficking of drugs
<b>Kidnapping</b>	n/a	Unlawfully detaining a person against their will (including through the use of force, threat, fraud or enticement) for the purpose of demanding for their liberation an illicit gain or any other economic gain or other material benefit, or in order to oblige someone to do or not to do something. Excludes disputes over child custody.	n/a	1005 00: Kidnapping, illegal restraint and hostage-taking

Table 2 demonstrates the complexity involved in reaching common definitions of 'conventional' crime. Whilst some crime types, such as intentional homicide have almost identical definitions across the data collection initiatives, others, particularly burglary and domestic burglary, have highly variable definitions. This is due, in the most part, to an attempt to reconcile different national criminal law systems that take different definitional approaches to such crimes. Nonetheless, Table 2 represents a starting point for the identification of broad common 'conventional' crime definitions for the purposes of data collection, informed both by initiatives at the international

and European level. The work in Table 2 is developed further by this study in Chapter 5, which presents a first draft core proposal for common indicators.

Table 3 sets out definitions for twelve complex, organised or cross-border crime types, as found in binding EU *acquis*. As discussed above, the legislative acts that contain such definitions do not deal with data collection *per se*, but nonetheless may be employed as the definitional basis for these crime types at EU-level. For each crime type, Table 3 sets out the core instruments in which the crime definition may be found, the offence definition, and the definition of any supporting terms, such as the meaning of 'criminal organisation' or 'exploitation'.

**Table 3: Crime definitions for complex, organised or cross-border crime types in EU *acquis***

Participation in organized criminal groups		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ Accession to UN Convention against Transnational Organized crime mandatory. Approved on behalf of the European Community by Council Decision (2004).<sup>65</sup></li> <li>▪ Council Framework Decision on the fight against organised crime (2008).<sup>66</sup></li> </ul>	
<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>▪ [With intent and with knowledge] actively taking part in the organisation's criminal activities (including planning such activities).</li> </ul>	Council Framework Decision (2008), Art 2
<b>Additional definitions</b>	<ul style="list-style-type: none"> <li>▪ 'Criminal organisation' means a structured association, established over a period of time, of more than two persons acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit.</li> <li>▪ 'Structured association' means an association that is not randomly formed for the immediate commission of an offence, nor does it need to have formally defined roles for its members, continuity of its membership, or a developed structure.</li> </ul>	
Money Laundering		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation of the proceeds from crime<sup>67</sup> (1990).</li> <li>▪ Council of Europe Convention on laundering, seizure and confiscation of the proceeds from crime and financing of terrorism<sup>68</sup> (2005).</li> <li>▪ Council Framework Decision on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (2001).<sup>69</sup></li> <li>▪ Directive of the European Parliament and the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (2005).<sup>70</sup></li> </ul>	

<sup>65</sup> Council Decision 2004/579/EC of 29 April 2004, OJ L 261/69. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:261:0069:0115:EN:PDF>

<sup>66</sup> Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime. OJ L 300/42. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:300:0042:0045:EN:PDF>

<sup>67</sup> Council of Europe Convention ETS No. 141 of 8 November 1990 on Money Laundering, Search, Seizure and Confiscation of the proceeds from crime. Available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/141.htm>

<sup>68</sup> Council of Europe Convention ETS No. 198 of 16 May 2005 on laundering, seizure and confiscation of the proceeds from crime and financing of terrorism. Available at: <http://conventions.coe.int/Treaty/EN/Treaties/Html/198.htm>

<sup>69</sup> Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime, OJ L 182/1. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001F0500:EN:HTML>

<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>▪ Conversion or transfer of property, knowing that such property is [proceeds], for the purpose of concealing or disguising the illicit origin of the property.</li> <li>▪ Concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is [proceeds].</li> <li>▪ Acquisition, possession or use of property, knowing, at the time of receipt, that such property was [proceeds].</li> <li>▪ (Including participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences).</li> </ul>	Directive of the European Parliament and the Council (2005), Art 1
<b>Additional Definitions</b>	<ul style="list-style-type: none"> <li>▪ [proceeds] means property derived from criminal activity or from an act of participation in such activity.</li> </ul>	Directive of the European Parliament and the Council (2005), Art 1
<b>Corruption</b>		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ UN Convention against Corruption. Approved on behalf of the European Community by Council Decision of 25 September 2008.<sup>71</sup></li> <li>▪ Convention on the fight against corruption involving officials of the European Communities of officials of Member States of the European Union (1997).<sup>72</sup></li> <li>▪ Council Framework Decision on combating corruption in the private sector (2003).<sup>73</sup></li> </ul>	
<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>▪ (<i>'Passive' corruption</i>): The deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties.</li> <li>▪ (<i>'Active' corruption</i>): The deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties.</li> </ul>	Convention on the fight against corruption involving officials of the European Communities (1997), Arts 2(1) and 3(1)
	<ul style="list-style-type: none"> <li>▪ (<i>Active and passive corruption in the private sector</i>): (a) promising, offering or giving, directly or through an intermediary, to a person who in any capacity directs or works for a private-sector entity an undue advantage of any kind, for that person or for a third party, in order that that person should perform or refrain from performing any act, in breach of that person's duties; (b) directly or through an intermediary, requesting or receiving an undue advantage of any kind, or accepting the promise of such an advantage, for oneself or for a third party, while in any capacity directing or working for a private-sector entity, in order to perform or refrain from performing any act, in breach of one's duties.</li> </ul>	Council Framework Decision (2003), Art 2(1)
<b>Trafficking in human beings</b>		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ UN Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime. Approved on behalf of European Community by Council Decision of 24 July 2006.<sup>74</sup></li> </ul>	

<sup>70</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, OJ L 309/15. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:309:0015:0036:EN:PDF>

<sup>71</sup> Council Decision 2008/801/EC of 25 September 2008, OJ L 287/1. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:287:0001:0110:EN:PDF>

<sup>72</sup> Convention of 26 May 1997 on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union OJ C 195 of 25 June 1997, p.2. Available at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:41997A0625\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:41997A0625(01):EN:HTML)

<sup>73</sup> Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector OJ L 192/54. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:192:0054:0056:EN:PDF>

<sup>74</sup> Council Decision 2006/618/EC of 24 July 2006 on the conclusion, on behalf of the European Community, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of this Protocol fall within the scope of Articles 179

<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>The recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.</li> </ul>	UN Protocol, Art 3(a)
<b>Additional Definitions</b>	<ul style="list-style-type: none"> <li>'Exploitation' shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.</li> </ul>	UN Protocol, Art 3(b)
<b>Smuggling of migrants</b>		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>UN Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organized Crime.</li> <li>Council Directive defining the facilitation of unauthorised entry, transit and residence (2002).<sup>75</sup></li> </ul>	
<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.</li> </ul>	UN Protocol, Art 3(a)
	<ul style="list-style-type: none"> <li>Intentionally assisting a person who is not a national of a Member State to enter, or transit across, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens.</li> <li>For financial gain, intentionally assists a person who is not a national of a Member State to reside within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens.</li> <li>(Including instigating, accomplices and attempts)</li> </ul>	Council Directive (2002), Arts 1 and 2
<b>Additional Definitions</b>	<ul style="list-style-type: none"> <li>'Illegal entry' shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State.</li> </ul>	UN Protocol
<b>Sexual exploitation of children and child pornography</b>		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>Council Framework Decision on combating the sexual exploitation of children and child pornography (2004)<sup>76</sup>.</li> </ul>	
<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>Coercing a child into prostitution or into participating in pornographic performances, or profiting from or otherwise exploiting a child for such purposes.</li> <li>Recruiting a child into prostitution or into participating in pornographic performances.</li> <li>Engaging in sexual activities with a child, where (i) use is made of coercion, force or threats; (ii) money or other forms of remuneration or consideration is given as payment in exchange for the child engaging in sexual activities; or (iii) abuse is made of a recognised position of trust, authority or influence over the child.</li> <li>Production, distribution, dissemination, transmission, supplying, making available, acquisition, or possession of child pornography.</li> <li>(Including instigating, aiding or abetting)</li> </ul>	Council Framework Decision (2004), Arts 2, 3 and 4
<b>Additional Definitions</b>	<ul style="list-style-type: none"> <li>'Child' shall mean any person below the age of 18 years.</li> </ul>	Council Framework Decision (2004), Art 1
<b>Fraud, counterfeiting and piracy of products</b>		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>Council Framework Decision on combating fraud and counterfeiting of non-cash means of payment (2001).<sup>77</sup></li> <li>Council Framework Decision on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the Euro (2000).<sup>78</sup></li> </ul>	

and 181a of the Treaty establishing the European Community OJ L 262/44. Available at: <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=3581>

<sup>75</sup> Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence OJ L 328/17. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:328:0017:0017:EN:PDF>

<sup>76</sup> Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography, OJ L13/44. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:013:0044:0048:EN:PDF>

<b>Offence Definitions</b>	<ul style="list-style-type: none"> <li>▪ Theft or other unlawful appropriation of a payment instrument.</li> <li>▪ Counterfeiting or falsification of a payment instrument in order for it to be used fraudulently.</li> <li>▪ Receiving, obtaining, transporting, sale or transfer to another person or possession of a stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument in order for it to be used fraudulently.</li> <li>▪ Fraudulent use of a stolen or otherwise unlawfully appropriated, or of a counterfeited or falsified payment instrument.</li> <li>▪ Performing or causing a transfer of money or monetary value and thereby causing an unauthorised loss of property by another person... without right introducing, altering, deleting, or suppressing computer data, or without right interfering with the functioning of a computer programme or system.</li> <li>▪ Fraudulent making, receiving, obtaining, sale or transfer to another person or possession of instruments, articles, computer programmes... [adapted for counterfeiting or falsification of a payment instrument in order for it to be used fraudulently].</li> </ul>	Council Framework Decision (2001), Arts 2, 3 and 4
	<ul style="list-style-type: none"> <li>▪ Any fraudulent making or altering of currency, whatever means are employed.</li> <li>▪ The fraudulent uttering of counterfeit currency.</li> <li>▪ The import, export, transport, receiving, or obtaining of counterfeit currency (with knowledge).</li> <li>▪ The fraudulent, making, receiving, obtaining or possession of instruments, articles, computer programs and any other means peculiarly adapted for the counterfeiting or altering of currency or holograms or other components of currency which serve to protect against counterfeiting.</li> </ul>	Council Framework Decision (2000), Art 3
<b>Additional Definitions</b>	<ul style="list-style-type: none"> <li>▪ 'Payment instrument' shall mean a corporeal instrument, <i>other</i> than legal tender (bank notes or coins), enabling... the holder or user to transfer money or monetary value.</li> </ul>	Council Framework Decision (2001), Art 1
	<ul style="list-style-type: none"> <li>▪ 'Counterfeit notes' and 'counterfeit coins' shall mean notes and coins denominated in euro or which have the appearance of euro notes or coins and which have been fraudulently made or altered.</li> </ul>	Council Regulation (2001) <sup>79</sup> , Art 2
<b>Drug-trafficking</b>		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (2004).<sup>80</sup></li> </ul>	
<b>Offences</b>	<ul style="list-style-type: none"> <li>▪ Production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of drugs.</li> <li>▪ Cultivation of opium poppy, coca bush or cannabis plant.</li> <li>▪ Possession or purchase of drugs with a view to conducting one of the activities listed above.</li> </ul>	Council Framework Decision (2004), Art 2
<b>Key Definitions</b>	<ul style="list-style-type: none"> <li>▪ 'Drugs' shall mean any of the substances covered by the following United Nations Conventions: (a) the 1961 Single Convention on Narcotic Drugs (as amended by the 1972 Protocol); (b) the 1971 Vienna Convention on Psychotropic Substances. It shall also include the substances subject to controls under Joint Action 97/396/JHA of 16 June 1997.</li> </ul>	Council Framework Decision (2004), Art 1

<sup>77</sup> Council Framework Decision 2001/413/JHA of 28 May 2001 on combating fraud and counterfeiting of non-cash means of payment, OJ L 149/1. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:149:0001:0004:EN:PDF>

<sup>78</sup> Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, OJ L 140/1. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:140:0001:0001:EN:PDF>

<sup>79</sup> Council Regulation 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, OJ L 181/6. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:181:0006:0010:EN:PDF>

<sup>80</sup> Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, OJ L 335/8. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004F0757:EN:HTML>

Cybercrime		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ Council of Europe Convention on Cybercrime (2001).<sup>81</sup></li> <li>▪ Council Framework Decision on attacks against information systems (2005).<sup>82</sup></li> </ul>	
<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>▪ Intentional access without right to the whole or any part of an information system.</li> <li>▪ Intentional serious hindering or interruption of the functioning of an information system by inputting, transmitting, damaging, deleting, deteriorating, altering, suppressing or rendering inaccessible computer data (including on an information system).</li> <li>▪ (Including instigating, aiding, abetting and attempts).</li> </ul>	Council Framework Decision (2005), Arts 3, 4 and 5
<b>Additional Definitions</b>	<ul style="list-style-type: none"> <li>▪ 'Information system' means any device or group of inter-connected or related devices, one or more of which, pursuant to a program, performs automatic processing of computer data stored, processed, retrieved or transmitted by them for the purposes of their operation, use, protection and maintenance.</li> <li>▪ 'Computer data' means any representation of facts, information or concepts in a form suitable for processing in an information system, including a program suitable for causing an information system to perform a function.</li> </ul>	Council Framework Decision (2005), Art 1
Illicit Trafficking in Cultural Property		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ Council Regulation on the export of cultural goods (2008).<sup>83</sup></li> </ul>	
<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>▪ [The Regulation makes export of cultural goods outside the customs territory of the Community subject to the presentation of an export licence. Member States shall lay down penalties applicable to infringements of the Regulation. The penalties provided for must be effective, proportionate and dissuasive.]</li> </ul>	Council Regulation (2008), Arts 2 and 9
<b>Additional Definitions</b>	<ul style="list-style-type: none"> <li>▪ 'Cultural goods' shall refer [<i>inter alia</i>] to archaeological objects more than 100 years old, elements forming an integral part of artistic, historical or religious monuments, pictures and paintings, watercolours, gouaches and pastels executed entirely by hand, mosaics, original engravings, prints, serigraphs, lithographs, original sculptures, photographs, films, incunabula and manuscripts, including maps and musical scores, books more than 100 years old, printed maps more than 200 years old, archives more than 50 years old, collections and specimens, and means of transport more than 75 years old.</li> </ul>	Council Regulation (2008), Annex
Racism and Xenophobia		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law (2008).<sup>84</sup></li> </ul>	
<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>▪ Publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin.</li> <li>▪ The commission of such an act by public dissemination or distribution of tracts, pictures or other material.</li> <li>▪ Publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group.</li> <li>▪ Publicly condoning, denying or grossly trivialising the crimes defined in Article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8</li> </ul>	Council Framework Decision (2008), Arts 1, 2 and 4.

<sup>81</sup> Council of Europe Convention ETS No. 185 of 23 November 2001 on Cybercrime. Available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/185.htm>

<sup>82</sup> Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems, OJ L 69/67. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:069:0067:0071:EN:PDF>

<sup>83</sup> Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods, OJ L 39/1. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:039:0001:0007:EN:PDF>

<sup>84</sup> Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328/55. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:328:0055:0058:EN:PDF>

	<p>August 1945, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence.</p> <ul style="list-style-type: none"> <li>▪ (Including instigation, aiding and abetting)</li> <li>▪ Member States shall also take the necessary measures to ensure that racist and xenophobic motivation is considered an aggravating circumstance, or, alternatively that such motivation may be taken into consideration by the courts in the determination of penalties.</li> </ul>	
<b>Additional Definitions</b>	<ul style="list-style-type: none"> <li>▪ 'Descent' should be understood as referring mainly to persons or groups of persons who descend from persons who could be identified by certain characteristics (such as race or colour) but not necessarily all of these characteristics still exist. In spite of that, because of their descent, such persons or groups of persons may be subject to hatred or violence.</li> <li>▪ 'Religion' should be understood as broadly referring to persons defined by reference to their religious convictions or beliefs.</li> <li>▪ 'Hatred' should be understood as referring to hatred based on race, colour, religion, descent or national or ethnic origin.</li> </ul>	Council Framework Decision (2008), preamble
<b>Environmental Crime</b>		
<b>Core Instruments</b>	<ul style="list-style-type: none"> <li>▪ Council of Europe Convention on the Protection of the Environment through Criminal Law (1998).<sup>85</sup></li> <li>▪ Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law.<sup>86</sup></li> </ul>	
<b>Offence Definition</b>	<ul style="list-style-type: none"> <li>▪ The discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.</li> <li>▪ The collection, transport, recovery or disposal of waste, including the supervision of such operations and the aftercare of disposal sites, and including action taken as a dealer or a broker (waste management), which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.</li> <li>▪ The operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used and which, outside the plant, causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.</li> </ul>	Directive of the European Parliament and Council (2008), Art 3

Table 3 demonstrates that, whilst EU definitions of organised and cross-border crime types may be relatively complex, they are also detailed and specific, with little overlap between specific offences. The fact that EU Member States are obliged to create national criminal offences in-line with EU legislation creates a strong opportunity for the development of comparable statistics for these specific crime types. A number of the EU crime definitions are further informed by relevant international standards, increasing the possibility for cross-national comparability outside of the region.

Nonetheless, a significant number of challenges remain. For the tightly defined offence of 'trafficking in persons', for example, UNODC research demonstrates significant differences in national legislation. Many countries in Western and Central Europe, for instance, are reported to aggregate figures for trafficking in persons together with those for other offences. National criminal codes may make trafficking in person an offence only in respect of certain types of exploitation, or may even use other offences

<sup>85</sup> Council of Europe Convention ETS No. 172 of 4 November 1998 on the Protection of Environment through Criminal Law. Available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/172.htm>

<sup>86</sup> Council Framework Decision 2003/80/JHA of 27 January 2003 on the protection of the environment through criminal law. OJ L 29/55. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:029:0055:0055:EN:PDF>

– such as facilitation of prostitution – to prosecute what are, in practice, acts of trafficking.<sup>87</sup> Such experience shows that it is important for crimes contained in EU *acquis* and other international instruments to be carefully incorporated in national laws. Coding systems used for the generation of statistics must, in addition, be updated to include a specific statistical category based on the new offence type.

Indeed, with respect both to organized and ‘conventional’ crime definitions, it must also be remembered that identification of common definitions is only *one* component of achieving a framework to produce comparable statistics at the EU level. In addition to harmonised definitions (whether at the level of original recording of data (such as upon arrest) or at a later stage through clear ‘translation’ of national criminal code definition to an EU standard definition), cross-nationally comparable data also requires harmonised data collection *procedures*.

As set out in Chapter 4 of this Study, the United Nations Manual for the Development of a System of Criminal Justice Statistics makes some proposals in this respect, including the use of comparable ‘person’-based counts. Further guidelines for common data collection procedures, based on common definitions, for each institution (police, prosecution and courts) are discussed in Chapter 4 of this Study.

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<sup>87</sup> See, for example, United Nations Office on Drugs and Crime. Global Report on Trafficking in Persons, February 2009. Available at: [http://www.unodc.org/documents/human-trafficking/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf)





## 4. Statistics systems at the institutional level

As emphasized throughout this Study, a framework for comparable crime and criminal justice statistics at EU level requires *both* comparable crime definitions *and* comparable recording methodologies. This Chapter of the Study examines the (limited) available guidance at international and EU level on methodological aspects of data generation, by criminal justice system institution; law enforcement, prosecution and court.

### 4.1. Law enforcement statistics systems

#### Methodologies for incident and suspect recording

Police-recorded statistics usually represent the first stage in a system of crime and criminal justice statistics. Persons suspected of, arrested or cautioned for a criminal offence ('brought into formal contact') almost always have first contact with the law enforcement authorities in a country. As discussed, whilst an imperfect proxy, police-recorded crime events are also often used as a measure of crime rates within the country.

Although very little exists in this area at European level, at international level the (non-binding) United Nations Manual for Criminal Justice Statistics proposes details of a system that could be used for the effective collection and generation of police statistics. In order to generate coherent national statistics, the system would need to be implemented in the same manner in all local police stations.

The system proposed by the Manual is based on *unit record* generation, followed by *aggregation* of data for indicator calculation. The proposed unit record form envisages the recording of information on: (i) the 'incident' (or crime), (ii) the 'victim', and (iii) the 'offender'. The unit record form is of a generic nature and is designed to be used for all incidents (that is, all (potential) crimes) reported to the police. As such, the approach adopted by the Manual can be taken as a general guideline for record generation in local police stations. In principle, the system could be paper-based or computerised, although computerisation has the advantage of significantly easier aggregation of records for eventual generation of statistics. Equally, the system could be used both for 'conventional' crime incidents and for complex, organised or cross-border crime. As discussed below, however, particular law enforcement indicators for these latter crime types have been developed at EU level, and may require more specialised recording systems.

**Figure 7: Sample form for unit record crime data collection (reproduced from the United Nations Manual for the Development of a System of Criminal Justice Statistics)**

CRIME DATA COLLECTION FORM									
INCIDENT INFORMATION									
Name of police force		Location			Incident Number			Page ___ of ___	
Type of offence reported		Date of incident Day Month Year			Date incident reported Day Month Year				
Incident clearance status <input type="checkbox"/> Unfounded <input type="checkbox"/> Cleared by charge <input type="checkbox"/> Not cleared <input type="checkbox"/> Cleared otherwise		Date incident cleared Day Month Year			Total number of offenders		Total number of victims		
Weapon(s) present <input type="checkbox"/> Firearm <input type="checkbox"/> Knife <input type="checkbox"/> Club <input type="checkbox"/> Explosive <input type="checkbox"/> Fire <input type="checkbox"/> Other-specify ( )		Location of incident <input type="checkbox"/> House <input type="checkbox"/> Business <input type="checkbox"/> Parking lot <input type="checkbox"/> School <input type="checkbox"/> Street <input type="checkbox"/> Other-specify ( )		Property stolen <input type="checkbox"/> Vehicle <input type="checkbox"/> Boat <input type="checkbox"/> Money <input type="checkbox"/> Jewelry <input type="checkbox"/> Office equipment <input type="checkbox"/> Household item <input type="checkbox"/> Other-specify ( )			Target of incident <input type="checkbox"/> Person <input type="checkbox"/> House <input type="checkbox"/> Vehicle <input type="checkbox"/> Bank <input type="checkbox"/> Gas station <input type="checkbox"/> Convenience store <input type="checkbox"/> Other-specify ( )		
VICTIM INFORMATION									
No.	Name	Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Relation to offender <input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Business relation <input type="checkbox"/> Ex-spouse <input type="checkbox"/> Other family <input type="checkbox"/> Acquaintance <input type="checkbox"/> Stranger <input type="checkbox"/> Friend <input type="checkbox"/> Other			Level of injury <input type="checkbox"/> No injury <input type="checkbox"/> Major injury <input type="checkbox"/> Minor injury <input type="checkbox"/> Death		

The Manual proposes a number of principles for completion of unit records:

- A separate form should be used for each 'incident' and each incident should be assigned an 'incident number'.
- The description of the incident should be linked to a standard crime classification scheme.
- Where there is more than one person accused in an incident, a separate form must be completed for each person, and each person should be assigned a unique 'integrated file number' (IFN).
- Individual persons should be linked to a specific incident(s) through the IFN and incident number.
- For each individual person, each criminal charge filed should be set out separately, with reference to the relevant section of the criminal code.

These recording principles have a number of features that represent good practice in crime data recording. Firstly, they allow maximum flexibility in the later calculation of crime statistics. The separate recording of each crime incident, each person and each charge filed allows specific counting rules (such as the counting of one crime incident committed by two persons as 'one offence') to be applied at a later stage, whilst retaining the original information in a complete form.

Secondly, the description of the crime incident using a standard crime classification scheme ensures that, so far as possible, all events are classified in an equivalent way by each local police station; at least with reference to the facts as known at the time of recording. Finally, the use of individual file numbers (IFN) that can be applied throughout the system (by police, prosecution and court systems) allows calculation of criminal justice system performance information, such as the percentage of persons arrested who are eventually convicted.

The system also, however, leaves a few questions open. In particular, the Manual provides no indication as to the point in time at which information on the unit record should be captured for statistical purposes. For example, the classification of the crime may change between the initial recording of the event and subsequent in-depth investigation. If data are collected for statistics at the point of initial incident recording

then different crime numbers would be reported compared to a situation where data are collected after investigation.

Similarly, the Manual provides no guidance on the definition of 'offender'. Depending upon the nature of the criminal justice system, persons may be subject to preliminary interviewing prior to determination of 'suspect' status, and may or may not receive a formal criminal 'charge' from the police. Different national procedures will result in different thresholds for entry of the details of an individual on the unit record.

Further, the Manual makes no comment on the relationship between the crime classification system used to classify the crime incident (and subsequent reported crime statistics) and the charge assigned to the offender (under the criminal code). Depending upon the national system, these two categories may or may not be equivalent. A country may, for example, use broad descriptive codes for classifying the crime event, but a technical, detailed list of legal offences for the charge procedure. Where this is the case, work is required to carefully 'translate' legal charges as they correspond to each crime classification.<sup>88</sup>

Based on this system and recording principles, the United Nations Manual proposes a number of indicators that could be derived from the aggregate unit records:

**Table 4: Police indicators proposed by the United Nations Manual for the Development of a System of Criminal Justice Statistics**

	Proposed Indicators	Disaggregation
<b>Reported crimes</b>	<ul style="list-style-type: none"> <li>▪ Number of calls to the police</li> <li>▪ Number of incidents reported</li> <li>▪ Number of incidents investigated</li> </ul>	<ul style="list-style-type: none"> <li>▪ By crime type (most serious offence)</li> </ul>
<b>Suspects</b>	<ul style="list-style-type: none"> <li>▪ Number of person cases initiated</li> <li>▪ Number of persons charged</li> </ul>	<ul style="list-style-type: none"> <li>▪ By type of charge (by criminal code section)</li> <li>▪ By age, sex, ethnicity, offender-victim relationship, national or ethnic origin, geographical area of residence</li> </ul>
<b>Performance</b>	<ul style="list-style-type: none"> <li>▪ Number of crimes cleared</li> <li>▪ Number of crimes cleared otherwise</li> <li>▪ Recidivism rate</li> </ul>	<ul style="list-style-type: none"> <li>▪ By charge</li> </ul>

Two or three of these indicators may be viewed as particularly important for core standards on crime and criminal justice statistics. Whilst not phrased in exactly the same language, the indicators '*number of incidents reported, by crime type*' and '*number of person cases initiated, by type of charge*' are broadly equivalent to key indicators contained in the UN-CTS questionnaire: the 'total number of recorded offences, by crime type' and 'persons brought into formal contact, by crime type',

<sup>88</sup> The Australian Standard Offence Classification (ASOC), for example, encompasses legal definitions and criminal codes in use across Australian jurisdictions.  
[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/181552DD634CCCCCA2574970016EE08/\\$File/12340\\_2008%20\(second%20edition\).pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/181552DD634CCCCCA2574970016EE08/$File/12340_2008%20(second%20edition).pdf)

respectively.<sup>89</sup> The recommendation in the Manual for disaggregation of offender data by age, sex, ethnicity, offender-victim relationship, national or ethnic origin, and geographical area of residence is particularly valuable for the formulation of crime prevention policy, and represents an important international guideline for police record keeping.

Overall, these two indicators ('number of incidents/crimes', and 'number of offenders') can be considered as basic minimum statistics that law enforcement authorities should be capable of producing for the whole of the territory under jurisdiction.

In addition to incident/crime and offender-based indicators, the inclusion of a performance indicator of 'police cases cleared' is also an important recommendation. Cross-national comparisons of police 'clearance' data are recognised to be extremely complex, due to different national criteria for solving crimes, different counting units for recorded crime, differing obligations to prosecute, and different degrees of police discretion in case handling.<sup>90</sup> Nonetheless, measures of cases solved or cleared (according to the national definition) are crucial for the measurement of police effectiveness within the national context.

The indicators proposed by the United Nations Manual also go some way towards providing a (non-binding) standard on police counting rules. As discussed in the introduction to this Study (see page 13), the 'nuts and bolts' of data collection are key to comparable statistics. The guidelines in the United Nations Manual suggest, for example, that a 'principal offence' rule may be applied when counting and reporting persons. Under the 'principal offence' rule, a person suspected of multiple offences is counted only once. In this respect, the United Nations Manual states: "in situations where a person is charged with more than one offence, cases must be reported against the most serious offence."<sup>91</sup> This position agrees well with the guidance provided in the European Sourcebook questionnaire: "As a rule, a person suspected of more than one offence in a year will be counted more than once. In the case of multiple offences, a suspect will be counted only once under the principal offence."<sup>92</sup>

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<sup>89</sup> Whilst, as discussed above, the United Nations Manual does not provide a clear definition of 'offender', the UN-CTS recognises that the point of 'formal contact' may vary, and states that data on persons provided by the police may include "persons suspected, arrested or cautioned. See Eleventh UN-CTS. Available at: [http://www.unodc.org/unodc/en/crime\\_survey\\_eleventh.html](http://www.unodc.org/unodc/en/crime_survey_eleventh.html)

<sup>90</sup> See for example, Smit, P.R., Meijer, R. F., Groen, P-P. J. Detection rates, an international comparison. *European Journal on Criminal Policy and Research* 10: 225-253 (2004).

<sup>91</sup> United Nations Manual for the Development of a System of Criminal Justice Statistics, p. 62.

<sup>92</sup> European Sourcebook of Crime and Criminal Justice Statistics. Questionnaire covering the years 2003-2007.

## Specific indicators at European level

The methodology discussed above can be applied to the development of police record systems in general. Irrespective of the type of crime involved, the same basic principles apply to effective recording of the incident or identified suspects in the local police station. As set out above, these recommendations for police data recording are contained in general guidelines and Manuals at the international level and are therefore of a non-binding nature.

In addition to international recommendations however, it is also possible to identify within EU standards a number of specific information items that should be recorded by law enforcement authorities. These information items (or 'indicators') can be found within a range of standard-setting activities at EU level, including the work of the European Commission and Eurostat. As might be expected from the areas of justice and home affairs that are a focus of the EU, the indicators concern highly specific crime types. In particular, standards can be found in the area of data recording by the police for crimes involving:

- Racism and xenophobia;
- Money laundering; and
- Trafficking in persons.

Table 5 sets out information items that should be collected by law enforcement authorities on these particular crime types together with details of the source of the standard at EU level. It should be noted that the proposed indicators for these three crime types are non-binding but nonetheless provide importance guidance as to evolving priorities for crime data within the European Union.

**Table 5: Indicators for specific crime types proposed at EU level**

Specific crime type	Information items to be collected by police	Reference and Comments
Crime involving racism and xenophobia	<ul style="list-style-type: none"> <li>▪ Annual number of 'racist crimes'<sup>93</sup></li> <li>▪ Annual number of 'anti-Semitic crimes'</li> <li>▪ Annual number of crimes with 'extremist right-wing motive'<sup>94</sup></li> </ul>	Member States must take the necessary measures to comply with European Council Framework Decision on combating racism and xenophobia by means of criminal law by 28 November 2010. <sup>95</sup> In the meantime, national criminal law on crimes involving racism and xenophobia remains diverse. <sup>96</sup>

<sup>93</sup> The 2007 FRA Annual Report states that "racist crime can range from anything from incitement to racial hatred through to murder." See [http://fra.europa.eu/fraWebsite/attachments/ar07p2\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/ar07p2_en.pdf) at p.114.

<sup>94</sup> The 2007 FRA Annual Report states that "due consideration should be given to the fact that the categories 'right-wing extremist' or 'white power' can include offences that are not specifically 'racist' in nature." See [http://fra.europa.eu/fraWebsite/attachments/ar07p2\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/ar07p2_en.pdf) at p.124.

<sup>95</sup> See Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328/55. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:328:0055:0058:EN:PDF>

<sup>96</sup> The Council Framework Decision covers publicly inciting to violence, public dissemination or distribution of tracts, pictures or other material, and publicly condoning, denying or grossly trivialising specific crimes under the Statute of the International Criminal Court or the Charter of the International Military

		<p>For some years, data on police-recorded racist crime, anti-Semitic crime and crimes with extremist right wing motive have been collected and reported by the European Union Agency for Fundamental Rights (FRA).<sup>97</sup></p> <p>The FRA does not provide a clear definition of the three crime types on which data is collected, due mainly to the diversity of national definitions. In practice, it appears that, for 'racist crimes', Member States report – where available – both specific acts of incitement, and criminal incidents with a suspected racist motive (including, for example, arson, harassment, vandalism, propaganda, threats, assault/physical attack, and criminal damage).<sup>98</sup> Data reported for anti-Semitic crimes and crimes with an extremist right wing motive is dependant upon the identification and classification of such motives by the police.</p> <p>Whilst non-binding, the reporting of police-recorded data by the FRA on these three broad crime types suggests a developing standard at EU-level in respect of data for crime involving racism and xenophobia.</p> <p>Effective reporting on these crime types requires clear police protocols for the identification of racist and xenophobic motivation.</p>
<p><b>Crime involving money laundering</b></p>	<ul style="list-style-type: none"> <li>■ Number of Suspicious Transaction Reports (STRs) filed by each category of obligated entities.</li> <li>■ Number of Cash Transaction Reports (CTRs) filed by each category of obligated entities.</li> <li>■ Number of postponement orders adopted on reported transactions.</li> <li>■ Number of money laundering investigations carried out independently by law enforcement agencies (without a prior STR).</li> <li>■ Number of declarations made in application to the EU Cash Control Regulation.</li> <li>■ Number of cash smuggling operations detected in the EU at external borders.</li> <li>■ Number of suspicious cash activities at the EU borders reported to the FIU (including those based on declarations and smuggling).</li> <li>■ Number of STRs sent to law enforcement.</li> </ul>	<p>As noted in this Study, Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering (2005) contains a number of minimum items on which statistics should be available.<sup>99</sup></p> <p>Based on the requirements of Directive 2005/60/EC, a financial crime sub-group of the EC DG-JLS Expert Group on the Policy Needs for Data on Crime and Criminal Justice proposed a set of indicators for statistical reporting on money laundering. The indicators were endorsed by the DG-JLS Expert Group and a Eurostat working group in February 2008 agreed on pilot-collection of money-laundering data. The indicators relevant to law enforcement data are reproduced in this table. Data on selected indicators is due for publication by Eurostat in the course of 2010.</p> <p>The primary source of the data is envisaged to be a Financial Intelligence Unit (FIU) within law enforcement authorities. Under the provisions of the Directive, FIUs are responsible for receiving</p>

Tribunal appended to the London Agreement of 8 August 1945. In addition, the Framework Decision provides that racist and xenophobic motivation is to be considered an aggravating circumstance in other crimes, or taken into consideration by courts in the the determination of penalties. Analysis of national legislation of EU Member States demonstrates that, whilst exact wordings differ, national criminal law typically makes 'incitement to [discrimination], [hate], or [violence] on the grounds of [race], [colour], [national or ethnic origin]' an offence. In addition, some national laws identify racist, xenophobic, or anti-Semitic motivations as an aggravating factor in other offences. See, for example, European Monitoring Centre on Racism and Xenophobia. *Racist Violence in 15 EU Member States – A Comparative Overview of Findings from the RAXEN NFP Reports 2001-2004*. p.44. Available at: <http://infoportal.fra.europa.eu/InfoPortal/publicationsDownloadFile.do?id=317>.

<sup>97</sup> Data are collected by the FRA pursuant to Article 4(1)(a) of Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights. See [http://fra.europa.eu/fraWebsite/material/pub/FRA/reg\\_168-2007\\_en.pdf](http://fra.europa.eu/fraWebsite/material/pub/FRA/reg_168-2007_en.pdf). See also European Union Agency for Fundamental Rights, Annual Report, 2009. Available at: [http://fra.europa.eu/fraWebsite/attachments/FRA-AnnualReport09\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/FRA-AnnualReport09_en.pdf)

<sup>98</sup> See, for example, FRA, *A Comparative Overview of Findings from the RAXEN National Focal Points Reports 2001-2004*, Summary Report, at p.27. Available at: <http://fra.europa.eu/fraWebsite/material/pub/comparativestudy/CS-RV-05-SUM.pdf>

<sup>99</sup> See page 34 of this Study.

	<ul style="list-style-type: none"> <li>■ Number of staff dedicated full time (or full time equivalent) to money laundering in the FIU.</li> <li>■ Number of cases initiated by law enforcement agencies on the basis of STRs sent by the FIU.</li> <li>■ Number of staff dedicated full time (or full time equivalent) to money laundering in law enforcement agencies.</li> <li>■ Number of cases brought to prosecution: originating from STRs, CTRs and independent law enforcement investigation.</li> </ul>	<p>suspicious transaction reports and typically for coordinating follow-up and investigation.</p> <p>The set of indicators proposed by DG-JLS and piloted by Eurostat do not represent binding EU standards. Nonetheless, they provide a strong indication of examples of data items that Member States may be required to collect under the statistics provisions of Directive 2005/60/EC.</p>
<p><b>Trafficking in persons</b></p>	<ul style="list-style-type: none"> <li>■ Data on total number of identified victims per country per year, disaggregated by: <ul style="list-style-type: none"> <li>• Gender,</li> <li>• Age,</li> <li>• Nationality,</li> <li>• Country of birth, and</li> <li>• Type of exploitation.</li> </ul> </li> <li>■ Total number of victims per country per year cooperating with law enforcement.</li> <li>■ The total number of traffickers per country per year, by: <ul style="list-style-type: none"> <li>• persons arrested,</li> <li>• persons charged (under which charges),</li> <li>• number of investigations started, and</li> <li>• number of investigations successfully completed.</li> </ul> <p>(disaggregated by gender, age, nationality, country of birth and type of exploitation)</p> </li> </ul>	<p>Neither the United Nations Protocol to prevent, suppress and punish trafficking in person nor Council Framework Decisions and Council Directives on trafficking in persons clearly define which data items should be collected by law enforcement authorities.</p> <p>However, among other initiatives<sup>100</sup> the European Commission DG-JLS has commissioned an expert report entitled <i>Development of Guidelines for the Collection of Data on Trafficking in Human Beings, Including Comparable Indicators</i>.</p> <p>These guidelines were published by the International Organization for Migration and the Austrian Ministry of the Interior in February 2009. The report contains recommendations for standardized, comparable data on victims, traffickers, the trafficking process and the criminal justice response to trafficking.<sup>101</sup></p> <p>As with the other crime types, the recommendations are non-binding but represent a good starting point for the eventual development of EU standards on specific crime and criminal justice statistics on trafficking in persons.</p>

In addition to the specific items above, data requested by Eurostat for the purposes of the publication 'Statistics in Focus – Crime and Criminal Justice' also provide a good (non-binding) indication of the nature of information that should be collected by law enforcement authorities and reported at EU level. All law enforcement data reported to Eurostat concern the number of *recorded offences*. The publication includes these data for total crime, homicide, violent crime, robbery, domestic burglary, theft of a motor vehicle, and drug trafficking. The definitions applied by Eurostat for each of these offences are set out in Table 2 of this Study on page 40.

<sup>100</sup> See, for example: Dottridge, Mike (2007). *Measuring Responses to Trafficking in Human Beings in the European Union: an Assessment Manual*, Consultancy for DG-JLS, and DG-JLS, *Recommendations on Identification and referral to Services of Victims of Trafficking in Human Beings*; both available at [http://ec.europa.eu/justice\\_home/fsj/crime/trafficking/fsj\\_crime\\_human\\_trafficking\\_en.htm](http://ec.europa.eu/justice_home/fsj/crime/trafficking/fsj_crime_human_trafficking_en.htm), 11 August 2009. See also FN 35 concerning the ongoing work of the European Commission on a proposal for an EU Directive on establishing National Rapporteurs on Trafficking in Persons in EU Member States.

<sup>101</sup> Republic of Austria, Federal Ministry of the Interior and IOM International Organization for Migration. *Guidelines for the collection of data on trafficking in human beings, including comparable indicators*. February 2009. Available at: [http://www.emn.at/modules/typetool/pnincludes/uploads/IOM\\_Vienna\\_AT\\_MoI\\_Guidelines%20for%20the%20Collection%20of%20Data%20on%20THB.pdf](http://www.emn.at/modules/typetool/pnincludes/uploads/IOM_Vienna_AT_MoI_Guidelines%20for%20the%20Collection%20of%20Data%20on%20THB.pdf)



## Summary - law enforcement statistics systems

In summary, international and EU level standards suggest that law enforcement authorities should make use of a unit record-based system that contains details of each individual incident and person accused (or brought into initial formal contact with the police). Records should be based on a standard offence classification system which should have a clearly defined relationship with the 'charge' assigned to a suspected offender. It is good practice for a system to assign an 'incident number' to reported events, and an 'integrated file number' to persons suspected of having committed a crime. These underlying data, when aggregated, should be capable of producing core indicators on the '*number of incidents reported, by crime type*' and the '*number of person cases initiated, by type of charge*'. Offender data should, ideally, be further disaggregated by age, sex, ethnicity, offender-victim relationship, citizenship, and geographic area of residence. Guidelines at the international level suggest that it may be appropriate to apply a 'principal offence' rule when counting and reporting persons. At the EU level, basic crime types on which data should be reported include total crime, homicide, violent crime, robbery, domestic burglary, theft of a motor vehicle, and drug trafficking. In addition, specific indicators on crime involving racism and xenophobia, money laundering and trafficking in persons are under development at the European level.

## 4.2. Prosecution statistics systems

### Methodologies for recording

In most criminal justice systems, the second stage is usually 'prosecution'. This stage may take many forms, and may be conducted by different individuals depending upon the structure of the criminal justice system. In essence, however, prosecution involves the initiation or confirmation of a 'formal criminal charge' against an individual.

Work by the European Commission DG-JLS Expert Group on the policy needs of data on crime and criminal justice recognises the range of prosecution functions and the difficulties in identifying 'prosecution actors' for the purposes of crime and criminal justice statistics. In order to clarify the institutions involved, the Expert Group has developed the following 'working definition':

*'Public prosecutors' could be defined as "public authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system. In all criminal justice systems, public prosecutors: decide whether to initiate or continue prosecutions; conduct prosecutions before the courts; may appeal or conduct appeals concerning all or some court decisions. In certain criminal justice systems, public prosecutors also: implement national crime policies while*

*adapting them, where appropriate, to regional and local circumstances; conduct, direct or supervise investigations; ensure that victims are effectively assisted; decide on alternatives to prosecution; supervise the execution of court decisions."*<sup>102</sup>

The general principles for a crime and criminal justice statistics system presented in the United Nations Manual for the Development of a System of Criminal Justice Statistics focus on the generation of *individual unit records* as a good practice. This principle applies to prosecution records in the same way as it does to police records. Whereas the police however, are required to deal with both incident (reported crime) and suspect (person) records, the prosecutor is usually concerned primarily with a *case against an individual person*. As such, prosecution records may typically be organised according to cases against individual persons accused.

The United Nations Manual recommends that person-based prosecution records should ideally be linked to police records through the use of a unique 'integrated file number' (IFN) assigned to the individual.<sup>103</sup> The consistent identification of individuals across different components of the system through an IFN should facilitate the analysis of the flow from one component of the justice system to another.

In addition to linking police and prosecution case files on the individual however, criminal justice case recording systems should also pay careful attention to the relationship between the crime incident as classified by the police and the charge assigned to the prosecuted person. Depending upon the national system, these two categories may or may not be equivalent. A country may, for example, use broad descriptive codes for classifying the crime event, but a technical, detailed list of legal offences for the charge procedure. Where this is the case, work is required to carefully 'translate' legal charges as they correspond to each crime classification.

When it comes to the aggregation of prosecution records for the purposes of prosecution statistics, a number of difficulties may be encountered. Even where IFNs are employed, counting problems emerge as suspects are transferred from the police level to the prosecution. One suspect, for example, may be accused of many (police-recorded) crimes. On transfer to the prosecution, the case/person-based record may list all of the crimes for which the individual is accused, or only the most serious. Further, the same individual may be separately prosecuted on different occasions within the same year for different crimes.

At the European and international level, a number of approaches to such problems can be identified.

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<sup>102</sup> European Commission DG-JLS Expert Group on the policy needs of data on crime and criminal justice, Sub-group on criminal justice systems. Deliverables document, February 2009.

<sup>103</sup> See United Nations Manual for the Development of a System of Criminal Justice Statistics, at p.51.

In its cross-national data collection questionnaire, the European Sourcebook on Crime and Criminal Justice Statistics states that the prosecution statistics should refer to the 'case', in the sense of '*proceedings relating to one person only.*' The questionnaire notes that 'one case may combine several offences and that one offence may lead to several cases.'<sup>104</sup> The questionnaire continues by asking respondents to specify:

- Whether individual proceedings involving more than one person are counted as one case, or as two or more cases;
- Whether multiple offences are counted as one case or as two or more cases; and
- Whether a person who is subject to two or more proceedings in one year is counted as one case or as two or more cases.

Whilst it does make conceptual sense, the use of 'case' as a counting unit by the European Sourcebook can be difficult to apply in a uniform way. Different criminal justice systems may organise proceedings against individuals in different ways. It may not always be possible to clearly identify discrete 'proceedings against one person only'.

At the international level, the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS) uses the *person* as the counting unit. The UN-CTS requests details of persons prosecuted for specific crimes. It defines 'persons prosecuted' as '*alleged offenders prosecuted by means of an official charge, initiated by the public prosecutor or the law enforcement agency responsible for prosecution.*'<sup>105</sup>

The United Nations Manual for the Development of a System of Criminal Justice Statistics recognises that different prosecutorial systems will generate different data depending upon the structure of the file recording system. As a result, the Manual proposes a number of potential indicators that could be derived from individual unit records. These are set out in Table 6.<sup>106</sup>

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<sup>104</sup> European Sourcebook of Crime and Criminal Justice Statistics 2008, Questionnaire covering the years 2003-2007.

<sup>105</sup> Eleventh United Nations Survey of Crime Trends and Operations of Criminal Justice Systems Questionnaire, covering the years 2007-2008.

<sup>106</sup> See United Nations Manual for the Development of a System of Criminal Justice Statistics, at p.17.

**Table 6: Prosecution indicators proposed by the United Nations Manual for the Development of a System of Criminal Justice Statistics**

	Proposed Indicators	Disaggregation
<b>Cases</b>	<ul style="list-style-type: none"> <li>▪ Charges initiated</li> </ul>	<ul style="list-style-type: none"> <li>▪ By offence type</li> </ul>
<b>Persons</b>	<ul style="list-style-type: none"> <li>▪ Person cases initiated</li> </ul>	<ul style="list-style-type: none"> <li>▪ By charge (section of Criminal Code)</li> <li>▪ By age, sex, ethnicity, offender-victim relationship, national or ethnic origin, geographical area of residence</li> </ul>
<b>Performance</b>	<ul style="list-style-type: none"> <li>▪ Court appearances</li> <li>▪ Case convictions</li> <li>▪ Cases disposed of</li> </ul>	<ul style="list-style-type: none"> <li>▪ Type of appearances</li> <li>▪ Type of disposition</li> </ul>

As with law enforcement statistics, one or two of these indicators may be viewed as particularly important for core standards on crime and criminal justice statistics. The indicator '*person cases initiated, by crime type*', for example, is broadly equivalent to the indicator contained in the UN-CTS questionnaire: the 'number of persons prosecuted for [crime type].'<sup>107</sup> This indicator should be considered as a basic minimum statistic that prosecution authorities should be capable of producing for the whole of the territory under jurisdiction.

The Manual further distinguishes between input, process and output prosecutorial statistics. Under this typology, 'person-cases initiated' and 'charges initiated' are input statistics, 'court appearances' are process statistics, and 'person-cases disposed, by type of disposition' are output statistics. Clear identification of prosecution statistics according to input/process/output is particularly important for the purposes of effective cross-national comparison of data.

Even this seemingly straightforward classification hides a number of difficulties however. Disposition of cases by prosecutors is itself a highly complex area. Cases may be disposed of by prosecutors in a wide range of ways, including: by being brought before a court, through the imposition of sanctions by the prosecutor (which may or may not lead to a formal verdict and count as a conviction), by conditional disposal, or by the dropping of proceedings (conditionally or unconditionally). As such, increased cross-national comparison of prosecution data requires a good understanding of the underlying criminal justice system.

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<sup>107</sup> Whilst, as discussed above, the United Nations Manual does not provide a clear definition of 'offender', the UN-CTS recognises that the point of 'formal contact' may vary, and states that data on persons provided by the police may include "persons suspected, arrested or cautioned. See Eleventh UN-CTS. Available at: [http://www.unodc.org/unodc/en/crime\\_survey\\_eleventh.html](http://www.unodc.org/unodc/en/crime_survey_eleventh.html)

## Prosecution statistics as a system performance measurement

In so far as the prosecutor represents one step or link in the criminal justice system, a particular value of statistics generated by the prosecutor can relate to criminal justice system *workload* and *performance*.

The DG-JLS Expert Group for example, has highlighted the importance of promoting the development of criminal justice system 'response/attrition' rates in Member States as a means of developing criminal justice system performance indicators.

The calculation of a system 'response/attrition' rate can be carried out – in broad terms – in one of two ways:

- Where IFNs are employed, a 'cohort' of individuals may be followed directly through the system, from arrest to prosecution to acquittal/conviction. The 'attrition rate' then consists of the percentage of [x] persons arrested who were prosecuted and the percentage who were convicted.
- Where it is not possible to follow a cohort of individuals through the system, an estimated 'attrition rate' may be calculated using the total number of persons arrested in (for example) one year, compared with the total number of persons prosecuted and acquitted/convicted in the same year. This calculation would not involve the same individuals at each stage and cannot take account of delays in the process. Nonetheless, it may be carried out with a basic level of criminal justice statistics.

Whilst both the United Nations Manual and the DG-JLS Expert Group recognise the importance of 'response/attrition' measures, methodologies for the calculation of such measures remain very much under development. From the point of view of identifying international or EU-level standards, the core minimum in this respect is probably limited to the recommendation that criminal justice statistics systems are able to identify and generate input and output statistics at each individual stage of the system. For prosecution systems, this means the capacity to provide data on the number of person cases or charges initiated, and data on person cases disposed of, by type of disposition.

### Specific indicators at European level

As with police statistics, it is also possible to identify within EU standards a number of specific information items that should be recorded by prosecution systems. These items involve the same crime types as those identified for police statistics in this Study; racism and xenophobia, money laundering, and trafficking in persons. It should be noted that the proposed indicators for these three crime types are non-binding but nonetheless provide important guidance as to evolving priorities for crime data within the European Union.

Table 7 sets out the specific information items to be collected by prosecution authorities for these three crime types. Table 5 on page 53 of this Study should be

consulted for further details of the source and comments on these standards at EU level.

**Table 7: Indicators for specific crime types proposed at EU level**

Specific crime type	Information items to be collected by prosecution
<b>Crime involving racism and xenophobia</b> <sup>108</sup>	<ul style="list-style-type: none"> <li>▪ Annual number of person prosecuted for 'racist crimes'.</li> <li>▪ Charges initiated for racist crimes.</li> <li>▪ Annual number of persons prosecuted for 'anti-Semitic crimes'.</li> <li>▪ Charges initiated for anti-Semitic crimes.</li> <li>▪ Annual number of persons prosecuted for crimes with 'extremist right-wing motive'.</li> <li>▪ Charges initiated for crimes with extremist right-wing motive.</li> </ul>
<b>Crime involving money laundering</b> <sup>109</sup>	<ul style="list-style-type: none"> <li>▪ Number of cases brought to prosecution: originating from Suspicious Transaction Reports, Cash Transaction Reports and independent law enforcement investigation.</li> </ul>
<b>Trafficking in persons</b> <sup>110</sup>	<ul style="list-style-type: none"> <li>▪ Number of prosecuted traffickers per year, by:             <ul style="list-style-type: none"> <li>• Charge (disaggregated by gender, age, nationality, country of birth and type of exploitation)</li> </ul> </li> </ul>

## Summary – prosecution statistics systems

In summary, international and EU level standards suggest that prosecution authorities should make use of a unit record-based system that contains details of person-cases prosecuted. Records should clearly contain details of the charge or charges assigned to each person prosecuted and, where possible, this should be linked in some manner to the crime type initially recorded by the police. It is good practice for a system to assign an 'integrated file number' to prosecution files, in order to link files with police-recorded suspect files. These underlying data, when aggregated, should be capable of producing core indicators on the '*person cases initiated, by crime type*'. Offender data should, ideally, be further disaggregated by age, sex, ethnicity, offender-victim relationship, national or ethnic origin, and geographic area of residence. At the EU level, specific indicators on crime involving racism and xenophobia, money laundering and trafficking in persons are under development at the European level.

<sup>108</sup> FRA Annual Report See [http://fra.europa.eu/fraWebsite/attachments/ar07p2\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/ar07p2_en.pdf).

<sup>109</sup> Based on the requirements of Directive 2005/60/EC, a financial crime sub-group of the EC DG-JLS Expert Group of Experts on the Policy Needs for Data on Crime and Criminal Justice proposed a set of indicators for statistical reporting on money laundering. The indicators were endorsed by the DG-JLS Expert Group and a Eurostat working group in February 2008 agreed on pilot-collection of money-laundering data.

<sup>110</sup> Republic of Austria, Federal Ministry of the Interior and IOM International Organization for Migration. Guidelines for the collection of data on trafficking in human beings, including comparable indicators. February 2009. Available at: [http://www.emn.at/modules/typetool/pnincludes/uploads/IOM\\_Vienna\\_AT\\_MoI\\_Guidelines%20for%20the%20Collection%20of%20Data%20on%20THB.pdf](http://www.emn.at/modules/typetool/pnincludes/uploads/IOM_Vienna_AT_MoI_Guidelines%20for%20the%20Collection%20of%20Data%20on%20THB.pdf)  
See also FN 35 concerning the ongoing work of the European Commission on a proposal for an EU Directive on establishing National Rapporteurs on Trafficking in Persons in EU Member States.

## 4.3. Court statistics systems

### Methodologies for recording

As with police and prosecution systems, the United Nations Manual for the Development of a System of Criminal Justice Statistics places the emphasis for court statistics systems on the operation of unit records. The Manual notes that data-collection systems for court statistics are generally designed with the local court as the basic reporting institution. The counting process is initiated when an individual enters the court to have one or several charges dealt with. Court staff should ideally open a new file for each new case initiated. The information contained in each case file forms the basis of data collection. Ideally court files should contain information on:<sup>111</sup>

- The number of charges (by type of offence) for each offender;
- The date the court file was opened;
- The first court appearance date;
- The date of each subsequent court appearance;
- The date on which the case was disposed of;
- The type of disposition;
- The type of sentence given and its magnitude;
- A unique case identifier for each offender; and
- The basic characteristics of each offender (age and sex)

The United Nations Manual provides a sample form for the collection of such unit record criminal court data. Since a court 'case' is usually defined as all of the charges against one offender, a separate form should be filled out for each offender who enters the court system, regardless of the number of persons who might be involved in the same criminal incident. Defining 'cases' in this way allows the creation of a person-based statistics programme that can be used to track the flow of persons through the justice system.

As with the unit record form proposed by the United Nations Manual for use by law enforcement authorities, the court case record form is of a generic nature and is designed to be used for recording of all types of cases, regardless of the crime involved. As such, the approach adopted by the Manual can be taken as a general guideline for record generation in local courts. In principle, the system could be paper-based or computerised, although computerisation has the advantage of significantly easier aggregation of records for eventual generation of statistics. Equally, the system could be used both for 'conventional' crime incidents and for complex, organised or cross-border crime. As discussed below, however, particular court indicators for these latter crime types have been developed at EU level, and may require more specialised recording systems.

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<sup>111</sup> United Nations Manual for the Development of a System of Criminal Justice Statistics, at p.62.

**Figure 8: Sample form for unit record crime data collection (reproduced from the United Nations Manual for the Development of a System of Criminal Justice Statistics)**

CRIMINAL COURT DATA COLLECTION FORM											
CASE INFORMATION											
Date file opened	Day	Month	Year	Court location	Court type	Court file number	Page ___ of ___				
Offender's last name				Offender's first name							
Offender's date of birth	Day	Month	Year	Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female	Date of first court appearance	Day	Month	Year		
Representation by counsel (at any appearance) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown				Integrated file number			Number of court appearances				
CHARGE INFORMATION				CHARGE INFORMATION				CHARGE INFORMATION			
Charge No.	Date of offence Day Month Year			Charge No.	Date of offence Day Month Year			Charge No.	Date of offence Day Month Year		
Description of offence				Description of offence				Description of offence			
Statute violated <input type="checkbox"/> Criminal code <input type="checkbox"/> Other-specify <input type="checkbox"/> Drug statutes (_____)				Statute violated <input type="checkbox"/> Criminal code <input type="checkbox"/> Other-specify <input type="checkbox"/> Drug statutes (_____)				Statute violated <input type="checkbox"/> Criminal code <input type="checkbox"/> Other-specify <input type="checkbox"/> Drug statutes (_____)			
Section	Subsection	Paragraph		Section	Subsection	Paragraph		Section	Subsection	Paragraph	
Plea <input type="checkbox"/> Guilty <input type="checkbox"/> Not guilty <input type="checkbox"/> Guilty of lesser offence <input type="checkbox"/> No plea Trial ordered <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Jury				Plea <input type="checkbox"/> Guilty <input type="checkbox"/> Not guilty <input type="checkbox"/> Guilty of lesser offence <input type="checkbox"/> No plea Trial ordered <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Jury				Plea <input type="checkbox"/> Guilty <input type="checkbox"/> Not guilty <input type="checkbox"/> Guilty of lesser offence <input type="checkbox"/> No plea Trial ordered <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Jury			
COURT PROCEEDINGS				COURT PROCEEDINGS				COURT PROCEEDINGS			
Decision on charge <input type="checkbox"/> Guilty <input type="checkbox"/> Not guilty <input type="checkbox"/> Guilty of a lesser offence <input type="checkbox"/> Proceedings stayed <input type="checkbox"/> Charges withdrawn <input type="checkbox"/> Other-specify (_____)				Decision on charge <input type="checkbox"/> Guilty <input type="checkbox"/> Not guilty <input type="checkbox"/> Guilty of a lesser offence <input type="checkbox"/> Proceedings stayed <input type="checkbox"/> Charges withdrawn <input type="checkbox"/> Other-specify (_____)				Decision on charge <input type="checkbox"/> Guilty <input type="checkbox"/> Not guilty <input type="checkbox"/> Guilty of a lesser offence <input type="checkbox"/> Proceedings stayed <input type="checkbox"/> Charges withdrawn <input type="checkbox"/> Other-specify (_____)			
Date of decision Day Month Year				Date of decision Day Month Year				Date of decision Day Month Year			
Sentence given Days Months <input type="checkbox"/> Prison <input type="checkbox"/> [ ] [ ] [ ] or <input type="checkbox"/> [ ] [ ] Concurrent <input type="checkbox"/> Yes <input type="checkbox"/> No				Sentence given Days Months <input type="checkbox"/> Prison <input type="checkbox"/> [ ] [ ] [ ] or <input type="checkbox"/> [ ] [ ] Concurrent <input type="checkbox"/> Yes <input type="checkbox"/> No				Sentence given Days Months <input type="checkbox"/> Prison <input type="checkbox"/> [ ] [ ] [ ] or <input type="checkbox"/> [ ] [ ] Concurrent <input type="checkbox"/> Yes <input type="checkbox"/> No			

Whilst national court statistics systems do not necessarily need to follow this exact structure, and will need to be tailored to local needs and the particular criminal justice system, the proposals nonetheless contain some core points that can be considered as (non-binding) international standards:

- A separate form should be used for each case and each case should be assigned a 'court file number'.
- The form should clearly contain information on the final decision of the court (acquittal/conviction) and information on the sentence given.
- Where there is more than one person accused in a case, a separate form must be completed for each person, and each person should be assigned a unique 'integrated file number' (IFN).
- Individual persons should be linked to a specific incident(s) through the same IFN applied by prosecution and law enforcement institutions.
- For each case against an individual, each criminal charge should be set out separately, with reference to the relevant section of the criminal code.

As with the recommendations made by the Manual for law enforcement systems, the core points for court case recording should assist in providing maximum flexibility for the later generation of aggregate statistics, whether 'case' or 'person' based. In particular, the use of a separate form for each individual person accused, together with an IFN, should facilitate the later calculation of system performance measures, such as 'response/attrition' rates. Further discussion on response/attrition rates in the context of prosecution statistics is on page 60 of this Study.



Based on the information contained in individual court case files, the United Nations Manual proposes a number of possible statistical indicators:

**Table 8: Court indicators proposed by the United Nations Manual for the Development of a System of Criminal Justice Statistics**

	Proposed Indicators	Disaggregation
<b>Cases</b>	<ul style="list-style-type: none"> <li>▪ Charges initiated</li> <li>▪ Appeals initiated</li> </ul>	<ul style="list-style-type: none"> <li>▪ By offence type</li> </ul>
<b>Persons</b>	<ul style="list-style-type: none"> <li>▪ Person cases initiated</li> </ul>	<ul style="list-style-type: none"> <li>▪ By charge (section of Criminal Code)</li> <li>▪ By age, sex, ethnicity, offender-victim relationship, national or ethnic origin, geographical area of residence</li> </ul>
<b>Performance</b>	<ul style="list-style-type: none"> <li>▪ Court appearances</li> <li>▪ Court hearings</li> <li>▪ Case elapse time</li> <li>▪ Case convictions</li> <li>▪ Cases disposed of</li> <li>▪ Recidivism rate</li> </ul>	<ul style="list-style-type: none"> <li>▪ Type of appearances</li> <li>▪ Type of disposition</li> <li>▪ Sentence type</li> </ul>

As with law enforcement and prosecution statistics, one or two of these indicators may be viewed as particularly important for core standards on crime and criminal justice statistics. The indicator '*case convictions, by crime type*', for example, is broadly equivalent to the indicator contained in the UN-CTS questionnaire: the 'number of persons convicted for [crime type].' The UN-CTS defines 'persons convicted' as 'persons found guilty by any legal body authorized to pronounce a conviction under national criminal law, whether or not the conviction was later upheld. The total number of persons convicted should include persons convicted of serious special law offences but exclude persons convicted of minor road traffic and other petty offences.'<sup>112</sup> This indicator should be considered as a basic minimum statistic that prosecution authorities should be capable of producing for the whole of the territory under jurisdiction.

At the European level, the European Sourcebook on Crime and Criminal Justice Statistics also collects data on court convictions. The European Sourcebook questionnaire states that 'the counting unit for court statistics is the *conviction*. Conviction means that the person was found guilty, according to the law, of having committed an offence and therefore has a criminal record.'<sup>113</sup> In terms of counting rules, the European Sourcebook questionnaire provides that: 'as a rule, a person convicted more than once in a year of having committed an offence will be counted

<sup>112</sup> Eleventh United Nations Survey of Crime Trends and Operations of Criminal Justice Systems. Questionnaire covering the years 2007 – 2008. Available at: [http://www.unodc.org/unodc/en/crime\\_survey\\_eleventh.html](http://www.unodc.org/unodc/en/crime_survey_eleventh.html)

<sup>113</sup> European Sourcebook on Crime and Criminal Justice Statistics 2006, Third Edition. Available at: [www.europeansourcebook.org](http://www.europeansourcebook.org)

more than once.’ In addition, the questionnaire indicates that sanctions imposed by the prosecutor that lead to a formal verdict and count as a conviction should be included, but that sanctions imposed by the prosecutor that do not lead to a formal verdict, sanctions/measures imposed by the police, and sanctions/measures imposed by other state bodies should be excluded.

All of the European Sourcebook questionnaire, the UN-CTS, and the United Nations Manual further distinguish between input and output court statistics. The United Nations Manual, for example, classifies ‘person-cases initiated’ and ‘charges initiated’ as court input statistics, ‘court appearances’, ‘court hearings’ and ‘case elapse time’ as process statistics, and ‘person-cases disposed’ and ‘sentences’ as output statistics. The Eleventh UN-CTS questionnaire asks both ‘total persons brought before the criminal courts’ (*input statistics*) and ‘total persons convicted’ (*output statistics*). The questionnaire defines persons brought before the criminal courts as ‘persons brought before any legal body authorized to pronounce a conviction under national criminal law, whether the person is finally acquitted or convicted.’

Where unit court records and aggregate statistics distinguish between court input and output events, it becomes possible to calculate ‘conviction rates’. If IFNs are used, then conviction rates can be calculated based on an identified cohort of persons brought before the criminal courts. This information is particularly valuable when disaggregated by type of crime. An alternative approach is to estimate conviction rates through a ratio of total persons brought before the criminal courts in a defined time period (such as one year) to the total persons convicted during the same time period.

Whilst there are currently no clear international or European standards on the measurement of court performance, the principle of calculation of conviction rates can be derived from the ‘input’ and ‘output’ indicators proposed by the (non-binding) United Nations Manual for the Development of a System of Criminal Justice Statistics.

Even this seemingly straightforward classification hides a number of difficulties however. Different national court systems may apply very different counting rules, including whether court data refers to before or after appeals, whether a principal offence rule is applied, how a person who is convicted of more than one offence of the same type is counted (as one person or as two or more people), and how a person dealt with more than once during the same year is counted. Such issues are not covered by international or EU standards on court statistics and – where cross-national comparability of court statistics is required – should be covered by additional metadata, by country.

### Specific indicators at European level

As with police and prosecution statistics, it is also possible to identify within EU standards a number of specific information items that should be recorded by court systems. These items involve the same crime types as those identified for police and

prosecution statistics in this Study; racism and xenophobia, money laundering, and trafficking in persons. It should be noted that the proposed indicators for these three crime types are non-binding but nonetheless provide important guidance as to evolving priorities for crime data within the European Union.

Table 9 sets out the specific information items to be collected by court authorities for these three crime types. Table 5 on page 53 of this Study should be consulted for further details of the source and comments on these standards at EU level.

**Table 9: Indicators for specific crime types proposed at EU level**

Specific crime type	Information items to be collected at court level
<b>Crime involving racism and xenophobia</b> <sup>114</sup>	<ul style="list-style-type: none"> <li>▪ Annual number of persons sentenced for 'racist crimes.'</li> <li>▪ Persons acquitted from charges for racist crimes.</li> <li>▪ Annual number of persons sentenced for 'anti-Semitic crimes'.</li> <li>▪ Persons acquitted from charges for anti-Semitic crimes.</li> <li>▪ Annual number of persons sentenced for crimes with 'extremist right-wing motive'.</li> <li>▪ Persons acquitted from charges for crimes with extremist right-wing motive.</li> <li>▪ All persons sentenced and acquitted by charge, age, sex, nationality.</li> </ul>
<b>Crime involving money laundering</b> <sup>115</sup>	<ul style="list-style-type: none"> <li>▪ Number of staff dedicated full time (or full time equivalent) to money laundering in the judiciary.</li> <li>▪ Number of persons/legal entities convicted for money laundering offences.</li> <li>▪ Number of convictions for laundering proceeds of crimes committed abroad.</li> <li>▪ Number of convictions for crimes other than money laundering originating from STRs.</li> <li>▪ Number of sentences by type for money laundering offences.</li> <li>▪ Number of unsuspended custodial sentences by length.</li> <li>▪ Number of freezing procedures (based on a court order).</li> <li>▪ Number of confiscation procedures concerning money laundering convictions.</li> <li>▪ Number of requests received for freezing orders concerning money laundering cases from another EU Member State and the value of frozen assets.</li> <li>▪ Number of requests received for confiscation orders concerning money laundering convictions from another EU Member State and the value of confiscated assets.</li> <li>▪ Amounts recovered following money laundering convictions.</li> </ul>
<b>Trafficking in persons</b> <sup>116</sup>	<ul style="list-style-type: none"> <li>▪ Number of sentenced traffickers per year, by: <ul style="list-style-type: none"> <li>• Charge (disaggregated by gender, age, nationality, country of birth and type of exploitation)</li> <li>• Sentences: type and severity of punishment</li> </ul> </li> <li>▪ Victims filing claims for compensation, by charge, and by claims honoured/denied.</li> <li>▪ Victims testifying in court, by charge.</li> </ul>

<sup>114</sup> FRA Annual Report See [http://fra.europa.eu/fraWebsite/attachments/ar07p2\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/ar07p2_en.pdf).

<sup>115</sup> Based on the requirements of Directive 2005/60/EC, a financial crime sub-group of the EC DG-JLS Expert Group of Experts on the Policy Needs for Data on Crime and Criminal Justice proposed a set of indicators for statistical reporting on money laundering. The indicators were endorsed by the DG-JLS Expert Group and a Eurostat working group in February 2008 agreed on pilot-collection of money-laundering data.

<sup>116</sup> Republic of Austria, Federal Ministry of the Interior and IOM International Organization for Migration. Guidelines for the collection of data on trafficking in human beings, including comparable indicators. February 2009. Available at:

## Summary – court statistics systems

In summary, international and EU level standards suggest that court authorities should make use of a unit record-based system that contains details of person-cases brought before the courts. Records should clearly contain details of the charge or charges assigned to each person prosecuted and of the final court disposition. Where possible, this should be linked in some manner to the crime type initially recorded by the police. It is good practice for a system to assign an 'integrated file number' to court files, in order to link files with police and prosecution files. These underlying data, when aggregated, should be capable of producing core indicators on the '*number of persons convicted, by crime type*'. Offender data should, ideally, be further disaggregated by age, sex, ethnicity, offender-victim relationship, national or ethnic origin, and geographic area of residence. At the EU level, specific indicators on crime involving racism and xenophobia, money laundering and trafficking in persons are under development at the European level.

## 4.4. Survey- based statistics systems

### Background – The need for survey- based statistics

In addition to administrative statistics generated by law enforcement, prosecution and courts systems, a comprehensive system for crime and criminal justice statistics should include information from population-based surveys. It is a well-known fact that not all criminal offences that occur are reported to or come to the attention of law enforcement authorities. Reporting rates to the police for five crime types (theft from a car, theft of a bicycle, burglary, attempted burglary and theft of personal property) were estimated at around 51 percent in 2003/04 for fourteen countries participating in the European Survey on Crime and Safety (EU-ICS).<sup>117</sup> Even where offences do come to the attention of the police, a permanent record may not result for any number of reasons, including where insufficient evidence of an offence can be identified.

In addition to the problem of non-reporting of conventional crimes (resulting in the so-called '*dark figure of crime*'), police-recorded data on many complex crime types, such as acts of corruption, do not easily provide a clear picture of the phenomenon. In many countries, acts described by the United Nations Convention against Corruption may not be perceived as corruption, let alone as a criminal offence, by persons who

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[http://www.emn.at/modules/typetool/pnincludes/uploads/IOM\\_Vienna\\_AT\\_MoI\\_Guidelines%20for%20the%20Collection%20of%20Data%20on%20THB.pdf](http://www.emn.at/modules/typetool/pnincludes/uploads/IOM_Vienna_AT_MoI_Guidelines%20for%20the%20Collection%20of%20Data%20on%20THB.pdf)

See also FN 35 concerning the ongoing work of the European Commission on a proposal for an EU Directive on establishing National Rapporteurs on Trafficking in Persons in EU Member States.

<sup>117</sup> Criminal Victimization in International Perspective. Key findings from the 2004-2005 ICVS and EU ICS. Dijk van, J., Kesteren van, J., Smit, P. WODC (2007), p.111.

encounter such acts on a regular basis.<sup>118</sup> Other specific crime types, such as violence against women, are also highly unlikely to be reported as a criminal offence, particularly where the perpetrator is an intimate partner, former intimate partner or family member of the victim.

Information on conventional crime and such specific crime types can be significantly enhanced through the use of population-based surveys. Such surveys may target either the general population or specific sections, such as women, juveniles, migrants, businesses, or professions such as the justice system. They may be geographically limited to local regions, urban areas or specific cities, or cover the entire territory. Surveys may ask about experience and perception of a series of 'conventional' crime types, such as assault, robbery, theft and burglary, or focus on particular crime types, such as corruption or violence against women. The importance of population-based surveys is highlighted by the United Nations Manual for the Development of a System of Criminal Justice Statistics, which states that: *'Not all criminal justice statistics needs can be met through administrative and operational information systems. It is widely recognized that a sizeable portion of criminal events are not reported to the police and that certain types of information relevant to crime and criminal justice are not readily available from the criminal justice system... The crime victimisation survey, in particular, has emerged as an important vehicle for collecting information on citizens' direct contact with crime and the criminal justice system... A well-planned and executed crime victimisation survey, especially if conducted periodically, can complement police-recorded data and provide essential information to policy makers and administrators... Joint publication of victimisation and police-reported data helps to inform the public about the full nature and extent of crime.'*<sup>119</sup>

This (non-binding) international guideline is particularly clear that a comprehensive system for crime and criminal justice statistics should include (ideally, regular) crime victimisation surveys as a complement to police-recorded crime. Together with police-recorded data, population-based surveys are able to provide information on:

- The extent of victimisation by type of crime (crime 'prevalence');
- Details on circumstances of crime (who, where, when, how);
- Detailed information on victims (demographic and social profiling);
- Information on crimes not reported to the police;
- Public attitudes towards fear, insecurity, crime and crime prevention; and
- Perception and experience of law enforcement and criminal justice system performance.

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<sup>118</sup> The United Nations Convention against Corruption does not define 'corruption' *per se*. It rather provides for the prevention and criminalization of the widest possible range of manifestations of corruption. These include traditional forms, such as bribery and embezzlement both in the private and public sectors, as well as trading in influence, abuse of functions, illicit enrichment, obstruction of justice, laundering and concealment of proceeds of corruption.

<sup>119</sup> United Nations (2003). Manual for the Development of a System of Criminal Justice Statistics, p.36.

In addition to the ability of surveys to provide estimates of crime event prevalence within the target population, the last items listed above – public attitudes towards crime and crime prevention and perceptions of police and criminal justice system – are particularly important. The UNODC Criminal Justice Assessment Toolkit highlights the importance of obtaining such measures. The Toolkit makes reference to the role of victimisation surveys in this respect and notes both that the number of victimisation incidents reported to respondents in a victimisation survey and perceptions of safety in the community can function as key crime prevention performance indicators.<sup>120</sup>

This section of the study briefly reviews international and European-level standards for population-based surveys. It includes standards both for crime victimisation surveys and also for specialised surveys, in particular surveys for the measurement of the nature and extent of corruption.

### Standards for crime victimisation surveys

At the international level, guidelines for the design and implementation of crime victimisation surveys may be found in the UNODC-UNECE Manual on Victimization Surveys.<sup>121</sup> This Manual addresses, in some detail, the steps to be taken when planning a crime victimisation survey, methodological issues, how offences and victims might be counted by crime victimisation surveys, questionnaire design, interviewing techniques, data processing, estimation and analysis, survey ethical considerations, publication and dissemination of survey results, and the evaluation of surveys.

It is not the purpose of this Study to reproduce the recommendations made in the UNODC-UNECE Manual. A number of points made by the Manual are, however, important in the context of international and European standards for justice and home affairs statistics:

- The UNODC-UNECE Manual highlights the importance of crime victimisation surveys being government-led. It notes that national crime victimisation surveys can provide a valuable source of information to policy makers and can be used to understand the level and nature of both personal and household crime, as well as people's perceptions of safety in the community and their confidence in law enforcement agencies. Due to the importance of crime victimisation surveys in government policy-making, the Manual notes the value of ensuring and emphasizing the independence of the agency responsible for conducting the survey. The national statistical office or agency is recommended as a suitable government institution in this respect. Indeed, a review of an inventory of victim surveys conducted or planned in the fifty-six

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<sup>120</sup> UNODC Criminal Justice Assessment Toolkit, module on Criminal Justice Information, p.12. Available at: [http://www.unodc.org/documents/justice-and-prison-reform/cjat\\_eng/1\\_Criminal\\_Justice\\_Information.pdf](http://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/1_Criminal_Justice_Information.pdf)

<sup>121</sup> UNODC-UNECE Manual on Victimization Surveys. Available at: [http://www.unodc.org/documents/data-and-analysis/Crime-statistics/Manual\\_on\\_Victimization\\_surveys\\_2009\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/Crime-statistics/Manual_on_Victimization_surveys_2009_web.pdf)

member countries of the United Nations Economic Commission for Europe showed that in almost half of the cases, the surveys were conducted by the national statistical office.<sup>122</sup>

- With respect to the frequency of crime victimisation surveys, the Manual notes the value of regular surveys in order to establish a data time series. Where it is not necessary or practical to collect the data every year, the Manual proposes that a periodic survey strategy may be introduced where surveys are conducted at fixed intervals such as every two years, three years or five years.<sup>123</sup>
- As concerns the counting of offences and victims, the UNODC-UNECE Manual notes that crime victimisation surveys should aim to produce both *prevalence* and *incidence* estimates. Prevalence estimates include the percentages of people or households victimized by measured offences. Incidence measures include estimates of the numbers of crime and victims as well as crime rates, which are based on the numbers of offences or victims per unit of population.<sup>124</sup>
- The UNODC-UNECE Manual notes that it may be desirable to compare results of crime victimisation surveys across countries. The benefits of comparability can include:
  - Fostering the exchange of information related to crime and to the functioning of criminal justice systems at regional and international levels;
  - Transparency and accountability in crime prevention and the operation of law enforcement and criminal justice systems; and
  - The development of common benchmarks and indicators for assessing the nature, extent and public perception of crime.

The Manual notes that problems of comparability of surveys can arise from methodological differences in the conduct of the survey itself, such as sample selection and method of interviewing (these may be controlled for as far as possible), as well as inherent differences between target populations, including different perceptions of crime or widespread cultural acceptance of criminal practices (difficult to control for). The Manual reviews approaches to improving comparability, including in respect of data collection methods, questionnaire design, sample design, survey non-response, survey timing, and survey content.<sup>125</sup>

- With respect to cross-national comparability of crime victimisation surveys, a core component is the content of the survey, in terms of the crime types asked about. The UNODC-UNECE Manual notes that a core group of offences can be found in most surveys. For the purpose of comparability, efforts should be made to ensure that crime victim surveys contain standard minimum

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<sup>122</sup> *Ibid.* p. 4.

<sup>123</sup> *Ibid.* p.45.

<sup>124</sup> *Ibid.* p.49.

<sup>125</sup> *Ibid.* p.80.

question elements. The Manual presents a draft list of key ‘topics’ that may act as useful indicators of experiences of crime among citizens and that, to some extent, can be considered comparable across countries. Figure 9 below sets out the key topics proposed by the UNODC-UNECE Manual.<sup>126</sup>

**Figure 9 – Key topics for international comparability proposed by the UNODC-UNECE Manual on Victimization Surveys**

Crimes and victimization	Property crime			Contact crime / violent crime			No crime specified
	Household burglary	Theft of vehicles	Other theft	Robbery	Physical Assault	Sexual offences	
Measure of victimization in the past 12 months	x	x	x	x	x	x	
Measure of repeat victimization in the past 12 months	x	x	x	x	x	x	
Reporting to the police	x	x	x	x	x	x	
Crimes involving weapons				x	x	x	
Victims who suffered physical injury				x	x	x	
Victim-offender relationship				x	x	x	
Public confidence/trust in police							x
Feelings of safety							x
Basic socio-demographic variables							x

The key topics proposed by the UNODC-UNECE Manual does not provide recommended question wording, nor is it intended to represent a crime victimisation survey questionnaire structure. Rather, the topics should be considered as ‘high-level headings’ that represent issues which might normally be included in a victim survey, particularly where a degree of international comparability is sought. The list of topics includes both core crime types and relevant survey questions, including measures of prevalence and incidence and questions concerning crime perceptions and the performance of the law enforcement and criminal justice system.

In so far as the list of topics was developed by a group of experts within the framework of a Task Force on Victim Surveys created by UNECE and UNODC, the key list of topics can be taken as a (non-binding) international recommendation on the contents of a crime victimisation survey.

At the European level, the EU Action Plan 2006 on developing a comprehensive and coherent EU strategy to measure crime and criminal justice recognised a need to

<sup>126</sup> *Ibid.* p.21.



establish a methodology for a common victim survey (module) on victimisation.<sup>127</sup> The purpose of such a module is to ensure that information on crime victimisation could be collected in Member States according to an agreed methodology and giving rise to comparable statistics. Under a grant agreement issued by Eurostat, a draft crime victimisation module was developed by the European Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI) in 2007. The draft module was designed to take account of existing experiences with victimisation surveys at national and international levels and took account of work undertaken by UNODC and UNECE in developing an inventory of victimisation surveys and in drafting the UNODC-UNECE Manual on Victimisation Surveys. A draft of the module was submitted to the Bureau of the Conference of European Statisticians in February 2009 and the text was finalised by the Conference of European Statisticians in June 2009.<sup>128</sup>

As at the time of writing (February 2010) analysis of test results from the victimisation module in 16 EU Member States and Catalonia is underway.<sup>129</sup> Whilst all countries and territories involved in testing the module were required to use the same module questions (translated into national languages), the method of drawing the survey sample was left open to Member States, and interviews could be conducted either face-to-face using laptop computers (Computer Assisted Personal Interviewing – ‘CAPI’) or by telephone (Computer Assisted Telephone Interviewing – ‘CATI’), or otherwise such as using the Internet. In practice, Member States participating in the testing of the module were encouraged to use both methods for different sub-sets of the sample, in order to make it possible to assess the advantages and disadvantages of each mode for this type of survey module. The average sample size in each Member State was expected to be about one thousand individuals.

The EU victimisation module itself consists of seven parts. The first part (section A) deals with personal and household information. Section B addresses feelings of safety and fear of crime. Section C contains 5-year screener questions on victimisation. Section D follows-up on identified crime incidents. Section E deals with victimisation by new types of crime and Section F with preventative measures. Section G concerns victimisation by violent crime and is broken down into four parts; sexual and non-sexual violence and whether the offenders were known to the victim or not.

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<sup>127</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010. 7 August 2006, COM (2006) 437 final. See Point 4.3. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0437:FIN:EN:PDF>

<sup>128</sup> Documentation related to the development of the EU victimisation survey module is available on a restricted basis on the Eurostat CIRCA website.

<sup>129</sup> Member States participating in testing the EU victimisation survey module are Austria, (Catalonia), Cyprus, Czech Republic, Denmark, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Portugal, Poland, Slovenia, Slovak Republic, Spain, and Sweden.

The content of the EU victimisation module covers the high-level headings proposed as key topics by the UNODC-UNECE Manual on Victimisation Surveys; household burglary, theft of vehicles, other theft, robbery, physical assault and sexual assault. For each crime type, the module asks a screener about victimisation in the past five years and then focuses on the most recent incident, including identification as to whether it occurred within either of the past two years. It also includes a measure of incidence, by asking (where the event occurred in the previous year) how many times the event had occurred. The module also covers the additional topics proposed by the UNODC-UNECE Manual on Victimisation Surveys; reporting to the police, use of weapons, physical injury suffered, the victim-offender relationship, public confidence and trust in police, feelings of safety, and basic socio-demographic variables.

The wording used for each crime type included in the draft EU victimisation survey module is set out in Table 10:

**Table 10 – Crime types and question wording included in the draft EU victimisation survey module**

Crime type	Draft EU Victimisation survey module wording
<b>THEFT OF CAR</b>	...have you or anyone else in your household had a car or a van stolen or driven away without permission?
<b>THEFT FROM CARS:</b>	... have you or anyone else in your household had anything stolen from (your/their) car or out of it (parts of the vehicle, personal possession or other things)?
<b>CAR DAMAGE</b>	... have you [or anyone of your household] had your [their] car vandalised or damaged by someone trying to break into it?
<b>THEFT OF MOTOR CYCLE, SCOOTER, MOPED</b>	...have you or anyone else in your household had a motor cycle, scooter or moped stolen or driven away without permission?
<b>BICYCLE THEFT</b>	... have you or anyone else in your household had a bicycle stolen?
<b>BURGLARY</b>	... did anyone get into your home without permission, and steal or try to steal something?
<b>OTHER BURGLARIES</b>	[Apart from anything you have already mentioned] ... did anyone get into your second home without permission, and steal or try to steal something that belonged to you or someone in your household?
<b>PROPERTY DAMAGE AND VANDALISM</b>	Excluding vehicles ... has anyone intentionally damaged or vandalised property that belonged to you or to someone in your household?
<b>ROBBERY</b>	...has anyone stolen, or tried to steal, something from you by using force or threatening you?
<b>THEFT</b>	Excluding thefts of personal property by using force, there are different types of theft of personal property, such as pick-pocketing or theft of a purse, wallet, clothing, jewellery, mobile phone or sports equipment. This can happen at one's work, at school, in a pub, on public transport, on the beach, or in the street. ... have you personally been the victim of any of these incidents?
<b>CONSUMER FRAUD GOODS:</b>	... has someone – when selling something to you – cheated in terms of quantity or quality of the goods, or left you totally without the commodity you had paid for?
<b>CONSUMER FRAUD: SERVICES</b>	...has someone – when delivering a service to you – cheated in terms of quantity or quality of the services, or left you totally without the service you had paid for?
<b>BRIBERY</b>	... did any government official or official in local administration, for instance a police officer, a judge or an inspector in your country ask you, or expect you to give a bribe for his or her services?
<b>PHISHING</b>	... have you been asked by internet or by e-mail to give the security codes of your credit card, debit card, bank card or on-line bank account by suspected criminals? ...has your credit card, debit card, bank card or on-line bank account been used for illegal purposes by using these security codes?
<b>IDENTITY FRAUD</b>	...has anyone pretended to be you or used your personal details without your permission?
<b>SEXUAL HARASSMENT</b>	Sexual harassment here refers to such sexual behaviour that is unwanted, one-sided, and may contain coercion. Excluding your present spouse, cohabiting partner, or boy- or girlfriend, has anyone else done any of the following things to you <u>since you were aged 15</u> ? 1 Made indecent telephone calls to you? 2 Sent indecent sms's (text messages) or e-mails to you? 3 Indecently exposed him-/herself to you? 4 Made offensive remarks about your body or sexuality? 5 Told you indecent jokes or spoken to you in a manner you felt to be sexually offensive?

	6 Suggested sex in an inappropriate context? 7 Touched you sexually when you did not want it or tried to kiss you against your will? 8 Followed or stalked you? 9 Threatened your work or studies will suffer if you don't agree to have sex with him/her?
<b>VIOLENCE BY STRANGERS</b>	Next, we would like to ask you about violence that you may have experienced by a person who was a stranger to you. A stranger is a person you did not know at all before the possible violent incident. Which, if any, of the following violent behaviour have you experienced from a stranger <u>since you were 15</u> : 1 Threatened you with violence? 2 Prevented you from moving or grabbed you? 3 Slapped you? 4 Threw a hard object at you? 5 Pulled your hair? 6 Beat you with a fist or a hard object, or kicked you? 7 Strangled or tried to strangle you? 8 Shot at you or stabbed or cut you with an edged weapon? 9 Beat your head against something? 10 Forced you into any form of sexual activity by threatening you, holding you or hurting you in any way? 11 Tried to force you into any form of sexual activity by threatening you, holding you or hurting you in any way? 12 Took advantage of you sexually when you were unable to refuse, e.g. because you were asleep, passed out or unconscious? 13 Behaved violently against you in some other manner?

Following the initial results of the testing of the common survey module on victimisation, the European Statistical Committee recommended in November 2009 that the survey module be implemented in 2013. This process – envisaged to lead towards a ‘European Security Survey’ – will require the preparation of a regulation of the European Commission, likely in the course of 2011.

The development of the EU module on victimisation follows a relatively recent history of the progress of the crime victimisation survey as a tool for measuring crime and criminal justice. The International Crime Victimization Survey (ICVS) for example, was conducted in 1989, 1992, 1996, 2000, and 2004 in a number of countries and cities, both in Europe and other regions. These waves of the ICVS were carried out mostly by telephone interviewing, using typical samples of 2000 respondents per country. The fifth wave of the ICVS (2004) received EU funding under the European Commission DG-Research 6<sup>th</sup> Framework Programme and was named EU-ICS for the EU Member States in which the survey was conducted. Concurrent to the testing of the EU victimisation survey module by Eurostat, a sixth wave of the ICVS (ICVS\_2) is also being conducted with EU funding in the course of 2009 in selected EU Member State countries. One of the aims of ICVS\_2 is also to investigate the effect of interviewing mode, particularly the effect of internet-based completion of the survey.

With respect to the identification of a ‘European standard’ for crime victimisation surveys, the range of different initiatives makes such a task somewhat of a challenge. As set out in the UNODC-UNECE Manual, however, victimisation surveys do not necessarily require identically worded questions or identical survey methodology. Rather, a number of ‘core’ elements should be taken into account in the design and implementation of a victimisation survey; both with respect to the topics contained in the questionnaire, and in the sampling, survey methodology and mode of interviewing. Whilst the EU victimisation survey module may come to represent a common questionnaire used in EU member states, much work still needs to be completed before it can be implemented at European level.

In the meantime, the following core points may at least be identified as a common 'minimum' basis within developing international and EU work on crime victimisation surveys:

- Whilst meeting local needs, for the purposes of cross-national comparability, crime victimisation surveys should aim to include the key topics proposed by the UNODC-UNECE Manual on Victimisation Surveys (see Figure 9 on page 71 of this Study);
- Where higher levels of comparability with future victimisation surveys in European countries are required, crime victimisation surveys may need to take into account the wording and mode of implementation used by the EU victimisation survey module;
- Depending upon survey budgets, needs and constraints, a wide range of approaches may be taken to selection of the target population, sampling and survey mode. A number of factors should be taken into account, however, in order to satisfy the principles of good survey design. Many of these are common to the conduct of population-based surveys in general but some are specific to the conduct of victim surveys. Discussion in the UNODC-UNECE Manual on Victimisation Surveys suggests:
  - The target population should be carefully defined according to the identified goals and objectives of the survey and limitations of the sample frame with respect to the target population should be clearly identified;
  - When the survey aim is to provide representative estimates at some territorial level, a probability sample is required;
  - Regular or periodic surveys are important for establishing time series data that can inform policy making in crime prevention and response;
  - The selection of the mode or modes of interview and information capture methods for victimisation surveys should take into account societal characteristics, available funds and the type of information being collected;
  - The minimization of survey non-response is important and the effective training of interviewers is particularly key in this respect. Interviewers should be qualified, skilled and motivated; and
  - It is important to widely disseminate the results of crime victimisation surveys both to the general public and stakeholders. Effective dissemination of survey results with clear explanation of the meaning and limitations of results helps to ensure transparency in crime prevention and response decision-making.

## Standards for specialised surveys

In addition to crime victimisation surveys, the EU Action Plan 2006 on developing a comprehensive and coherent EU strategy to measure crime and criminal justice refers to the measurement of a number of specific forms of crime that may be investigated through the use of specialised surveys. Objectives 11 to 14 of the Action Plan refer to; 'measuring the attitudes of citizens to specified phenomena', 'measuring violence

against women', 'measuring domestic violence', and 'measuring the extent and structure of victimisation in the business sector'. In addition, Objective 4 of the Action Plan ('measuring five types of serious and cross-border crime') includes the measurement of corruption.<sup>130</sup> In each of these areas, the EU Action Plan proposes the identification of policy needs and the development of common indicators and methodology for data collection.

Some progress has been made in a number of these areas, including through the award of a contract by the European Commission DG-JLS for the development of a European survey to assess the level and impact of crimes against business.<sup>131</sup> Whilst the European business survey will include questions on corruption, work at the European level on the development of standards for measuring the nature and extent of corruption is not currently at a high level of development. Whilst population-based survey data on corruption are gathered by the Eurobarometer survey on corruption<sup>132</sup> (requested by the European Commission DG-JLS and coordinated by DG-Communication), funding has not, to date (September 2009), been allocated for an EC project on the development of indicators on corruption.

In light of the relatively early stage of development of these initiatives, it is currently somewhat premature to speak of 'standards' at the EU level for the conduct of specialised surveys on corruption. Historically, surveys on corruption and integrity have typically used a perception-based approach, where questions focussed on the opinion of respondents about the extent, trends and patterns of corruption. More recently, questions on perception have been accompanied by questions on actual experiences of corruption, such as bribery events<sup>133</sup>. For example, the Eurobarometer survey on corruption exemplifies an emerging practice of combining both *perception* and *experience*-based questions in a general population survey on corruption. The Eurobarometer survey asks respondents for example:

- Please tell me whether you totally agree, tend to agree, tend to disagree or totally disagree with the statement 'Corruption is a major problem in (our country)'; (*perception-based*)
- Over the last 12 months, has anyone in (our country) asked you, or expected you, to pay a bribe for his or her services? (yes/no, nobody did/don't know) (*experience-based*).

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<sup>130</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010. 7 August 2006, COM (2006) 437 final. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0437:FIN:EN:PDF>

<sup>131</sup> See <http://transcrime.cs.unitn.it/tc/832.php>

<sup>132</sup> See [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_291\\_sum\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_291_sum_en.pdf)

<sup>133</sup> Since 1996, a question on victimisation experiences of corruption by civil servant has been comprised in the ICVS.

At the international level, the States parties to the United Nations Convention against Corruption commit to develop “common definitions, standards and methodologies” in the fight against organised crime and corruption.<sup>134</sup> As custodian of the Convention, and in line with its strategy to develop enhanced knowledge of trends in specific crime areas, work by the United Nations Office on Drugs and Crime, promotes the use of population-based surveys as a useful tool for collecting information on crime involving corruption. UNODC recognises that there are specific challenges to the production of robust statistical evidence on corruption, including difficulties in defining acts of corruption and the existence of a multiplicity of forms of corruption, the fact that survey respondents can have different understanding of episodes of corruption, particularly in light of different cultural perceptions and the existence of understandable reluctance to disclose experiences of criminal acts.

Notwithstanding these challenges, experience is developing at the national and international level in implementing surveys to measure the nature and extent of corruption in the population as well as within specific sectors of society and institutions. Three main typologies of surveys appear to be emerging, aimed at assessing the experience and perception of different sectors of the society concerning corruption. These include: (i) household surveys to measure experience and perception of corruption in the population, both when using public services and (possibly) in private transactions; (ii) business surveys to measure experience and perception of corruption faced by enterprises; and (iii) surveys amongst civil servants to measure the experience and perception of corruption of public employees.

Experience shows that questionnaires need to be tailored to local context and culture, while retaining a significant component of internationally comparable information. Whilst, at the international level, corruption indicators have not been formally agreed, work by UNODC focuses on the use of *survey-based* indicators that cover both the experience and perception of corruption. Table 11 sets out example indicators that may be derived from corruption surveys, relating to both measurement aspects.

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<sup>134</sup> United Nations Convention against Corruption, Article 61; United Nations Convention against Transnational Organized Crime, Article 28

**Table 11 – Example survey-based indicators for the measurement of experience and perceptions of corruption**

Survey-based Indicators on Experience of Corruption			
	Indicator	Definition	Type of indicator
1.1	<b>Experience of corruption</b>	% of respondents who were asked by public officials to pay for services that should have been rendered for free (over the past year).	Experience
1.2	<b>Type of official involved</b>	% of respondents who were asked by public officials to pay for services, by type of public official involved	Experience
1.3	<b>Modality experienced in corruption</b>	% of respondents who were asked for a bribe directly % of respondents who spontaneously offered a bribe to avoid a problem with the authorities % of respondents who spontaneously offered a bribe to receive a service they would have been entitled to for free	Experience
1.4	<b>Type of bribe</b>	% of respondents who paid money % of respondents who offered gifts	Experience
1.5	<b>Reporting of corruption to authorities</b>	% of respondents who reported their experience of corruption to relevant authorities	Experience
1.6	<b>Reasons for NOT reporting crime incident - corruption</b>	% of those respondents who did NOT report crimes to the police who did so because they felt the police were corrupt	Experience/ perception
1.7	<b>(Dis-)Satisfaction with police action upon reporting</b>	% of those respondents who reported to the police who were (dis-)satisfied with the subsequent police action	Experience/ perception
1.8	<b>Reasons for dissatisfaction – corruption</b>	% of those respondents who reported to the police and were dissatisfied with the subsequent police action who felt the police were corrupt	Experience/ perception
1.9	<b>Cost of corruption</b>	Approximate amount of money paid overall in bribes in the past 12 months	Experience

Survey-based Indicators on Perception of Corruption			
	Indicator	Definition	Type of indicator
2.1	<b>Likelihood of corruption</b>	% of respondents thinking that certain categories of public officials are likely to be corrupt (5 points scale):	Perception
2.2	<b>Perception of presence of corruption in different sectors</b>	% of respondents thinking that certain sectors of civil society are affected by corruption (5 points scale)	Perception
2.3	<b>Perception of change in corruption</b>	% of respondents thinking that certain types of corruption-related behaviours have improved or worsened over time	Perception
2.4	<b>Perception of likelihood of changes in level of corruption</b>	% of respondents thinking that certain types of corruption-related behaviours will improve or worsen in the future	Perception
2.5	<b>Social acceptance of corruption</b>	% of respondents thinking that certain types of actions can be justified (always, never, sometimes), for example: - Claiming government benefits to which respondent is not entitled - Avoiding a fare on public transport - Cheating on taxes - Someone accepting a bribe in the course of their duties - A government official gives a job to someone from his family who does not have adequate qualifications - A government official demands a favour or an additional payment for some service that is part of his job - A public official decides to locate a development project in an area where his friends and supporters live	Perception
2.6	<b>Assessment of the operations of public institutions</b>	% of respondents assessing the services of selected public institutions on a 5 point scale	Perception
2.7	<b>Perceived impact of corruption</b>	% of respondents thinking that corruption represents a major national problem and/or an obstacle to development	Perception
2.8	<b>Efficacy of the judicial system</b>	% of respondents assessing the efficacy of the judicial system on a 5 point scale	Perception
2.9	<b>Perception about the economic effectiveness of grey business practices</b>	% of respondents indicating that paying bribes provides significant/highly significant advantages in comparison to costs/risks	Perception

Survey-based Indicators on Perception of Corruption			
	Indicator	Definition	Type of indicator
2.10	<b>Assessment of corruption as obstacle to business</b>	% of respondents indicating corruption as obstacles to business	Perception
2.11	<b>Clientelism as a political practice</b>	% of respondents thinking that clientelism is a political practice on a 5 point scale	Perception
2.12	<b>Perceptions of mechanism of bribery in public procurement (cost of contract)</b>	% of respondents considering bribes as part of the cost of contracts	Perception
2.13	<b>Perceptions about involvement of foreign companies/ multinationals in bribery of local officials</b>	% of respondents indicating the involvement of foreign companies/ multinationals in bribery of local officials	Perception
2.14	<b>Allocation of responsibilities for combating corruption</b>	% of respondents thinking that preventing and fighting corruption is the responsibility of different agencies	Perception
2.15	<b>Link between corruption and organized crime/drug trafficking</b>	% of respondents thinking that most corruption is caused by organized crime / drug trafficking	Perception

Whilst Table 11 does not represent an intentional 'standard', it does provide an initial listing of the type of indicators that may be used for cross-national comparison of survey results. As with crime victimisation surveys, the sample design, methodology and mode of interviewing are likely to vary between different corruption surveys. Guidelines in this area do not exist at present and may represent an area for future development of international standards. In the meantime, corruption surveys should aim to include questions that can give rise to a number of the indicators listed in Table 11.

Finally, in the area of specialised surveys on violence against women, whilst no standard as such exists at the European level, a developing body of work does exist at international level. The need for the development of survey instruments capable of offering some degree of cross-national comparability in this sensitive area was recognised over ten years ago. A first operational version of an 'international violence against women survey' (IVAWS) was drafted in 2001 under the co-ordination of the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) with inputs from the United Nations Office on Drugs and Crime (UNODC), the United Nations Interregional Crime and Justice Research Institute (UNICRI) and Statistics Canada. This led to pilot studies in some 15 countries and the publication of a cross-national comparative report.<sup>135</sup>

More recently, the issue has been discussed by the General Assembly of the United Nations, which in December 2006 requested the United Nations Statistical Commission to "develop and propose, in consultation with the Commission on the Status of Women, and building on the work of the Special Rapporteur on violence against women... a set of possible indicators on violence against women in order to assist States in assessing the *scope, prevalence* and *incidence* of violence against women."<sup>136</sup>

<sup>135</sup> See Johnson, H., Ollus, N., Nevala, S., *Violence Against Women: An International Perspective*. Springer (New York), 2008.

<sup>136</sup> United Nations. General Assembly Resolution 61/143, 19 December 2006.



In response to this resolution, and following the initial work of an expert group meeting on indicators to measure violence against women<sup>137</sup>, the United Nations Statistical Commission established a 'Friends of the Chair' Group to finalise a set of indicators to be adopted by the Statistical Commission.<sup>138</sup> In December 2009, the Group proposed the following core set of indicators for adoption by the Statistical Commission:

1. Total and age specific rate of women subjected to physical violence in the last 12 months by severity of violence, relationship to the perpetrator and frequency
2. Total and age specific rate of women subjected to physical violence during lifetime by severity of violence, relationship to the perpetrator and frequency
3. Total and age specific rate of women subjected to sexual violence in the last 12 months by severity of violence, relationship to the perpetrator and frequency
4. Total and age specific rate of women subjected to sexual violence during lifetime by severity of violence, relationship to the perpetrator and frequency
5. Total and age specific rate of ever-partnered women subjected to sexual and/or physical violence by current or former intimate partner in the last 12 months by frequency
6. Total and age specific rate of ever-partnered women subjected to sexual and/or physical violence by current or former intimate partner during lifetime by frequency
7. Total and age specific rate of women subjected to psychological violence in the past 12 months by the intimate partner
8. Total and age specific rate of women subjected to economic violence in the past 12 months by the intimate partner
9. Total and age specific rate of women subjected to female genital mutilation

The Group noted that the instrument of choice for producing accurate and relevant statistics for these nine core statistical indicators on violence against women would be a dedicated statistical survey on violence against women that was representative both of national and major sub-national levels. Where this is not possible, the Group recognised that a module attached to a health and demographic survey would also be a viable alternative. In addition, the Group noted that some indicators may not only be measured by survey-based methodology but also through the use of relevant administrative statistics.

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<sup>137</sup> United Nations. Indicators to measure violence against women. Report of the Expert Group Meeting, 8-10 October 2007. Available at: <http://www.unece.org/stats/documents/ece/ces/ge.30/2007/mtg1/zip.3.e.pdf>

<sup>138</sup> See <http://unstats.un.org/unsd/demographic/meetings/vaw/default.htm>

The proposed core set of indicators was endorsed on an interim basis by the United Nations Statistical Commission in February 2010 pending further development work by an expanded Friends of the Chair Group. Future work is expected to focus on agreeing additional indicators together with the adoption of statistical standards for surveys on violence against women.

## Summary – Survey-based statistics

Developing international and EU standards (as set out in the United Nations Manual for the Development of a System of Criminal Justice Statistics and the EU Action Plan) highlight the importance of integrating survey-based statistics on conventional crime and specific crime in a comprehensive system of criminal justice statistics. Surveys are able to provide valuable estimates on the prevalence and incidence of victimisation, by type of crime, in addition to perceptions of the fear of crime and law enforcement and criminal justice system response. Strong recommendations can be found at the international level for the regular conduct of victim surveys as a complement to police-recorded statistics and for their use in policy development.

A number of initiatives aim to develop standardised questionnaires and methodologies for crime victimisation surveys. These include the ICVS and EU victimisation survey module. The approach taken at the international level in the UNODC-UNECE Manual on Victimisation Surveys, however, is to identify key ‘topics’ for inclusion in a victim survey rather than complete standard question wording. The Manual further provides detailed discussion on the range of options for sample design and survey methodology and mode of interviewing. In particular, the Manual highlights the importance of designing and implementing victimisation surveys that are both locally relevant and, so far as possible, cross-nationally comparable. Comparability itself is affected by a range of factors, including questionnaire design, survey method and the target population and sample frame.

The methodology and questionnaire design of surveys on the nature and extent of corruption is less advanced than that for crime victimisation surveys. Nonetheless, emerging practice at the international level suggests that survey-based indicators on the experience and perception of corruption are the most appropriate measurements, including for the purposes of cross-national comparability. Similarly, as concerns violence against women, emerging work at the international level has proposed survey-based indicators and is commencing development of statistical standards for specialised surveys.

## 4.5. Asylum, visa and migration statistics systems

### Background

The majority of this Study concerns standards for crime and criminal justice statistics systems. However, as set out in the introduction to this study, 'justice and home affairs' statistics also include asylum, visa and migration-related statistics. This section of the Study considers relevant standards for asylum, visa and migration-related statistics, primarily at the European level.

Asylum, visa and migration-related statistics, whilst having some overlap with crime and criminal justice statistics, are a distinct field of statistics. They are, nonetheless, usually generated by many of the same institutions that are responsible for crime and criminal justice statistics, including ministries of interior, justice and foreign affairs.

Asylum applications, for example, may be received at border crossing points or police stations further inland. Applications may then be forwarded centrally for determination in the first instance, often by a department within the ministry of interior or its equivalent. Subsequent appeals against decisions on asylum applications are often heard by bodies linked with the court system or directly under the ministry of justice. Visa applications are typically processed either by the ministry of foreign affairs and/or by the ministry of interior. As visa applications are normally received at diplomatic or consular missions abroad (and sometimes at border crossing points) a system must usually be in place for forwarding applications either to the capital, or for reporting details of visa decisions made by the mission or border crossing point back to the capital. Migration and border management are usually handled by the ministry of interior or its equivalent. Ministries of foreign affairs may also, however, be involved in the granting or refusal of entry to the territory, the issuance, refusal, revocation or renewal of temporary or permanent residence permits, or the registration of residence. In any event, effective management of migration requires the development of systems that allow the monitoring of immigration and emigration flows as well as the monitoring of the size and composition of the foreign resident population.

In addition to being an area of justice and home affairs statistics in its own right, statistics on asylum, visa and migration have a number of synergies with crime and criminal justice statistics:

- A number of migration or border-related acts may themselves be criminal offences. Depending upon national laws, these could include offences such as illegal border crossing/illegal migration or offences related to identity document fraud or counterfeiting. In addition, the offences of smuggling of migrants and trafficking in persons may be detected during border transit.
- Other (non-migration related) crimes may occur at border crossing points. These include smuggling of goods and customs fraud.
- Migration may be the (forced) result of the action of law enforcement authorities. For example, persons with no right of residence in a country may

be ordered to leave and eventually expelled by state authorities where they have no right to remain.

- From a broader crime perspective, persons of different national or ethnic origin may be the subject of racist and xenophobic crimes.

This section of the Study examines relevant standards for the collection of asylum, visa and migration statistics at the EU level. Where synergies exist, it attempts to link the area of asylum, visa and migration with broader standards for crime and criminal justice statistics.

## EU standards for migration and asylum statistics – Regulation (EC) No 862/2007

In contrast to the area of crime and criminal justice statistics (where clear EU *acquis* on the content of such statistics is limited), specific legislation on migration statistics exists in the form of Regulation (EC) No 862/2007 on Community statistics on migration.<sup>139</sup>

This migration statistics Regulation establishes common rules for the collection and compilation of Community statistics on immigration and emigration flows between Member States and between Member States and third countries, on citizenship and country of birth of persons usually resident in Member States, as well as on administrative and judicial data in Member States relating to immigration, granting of permission to reside, citizenship, asylum and other forms of international protection and the prevention of illegal immigration.<sup>140</sup> The Regulation sets out a number of migration-related definitions in addition to key data items that Member States should be capable of supplying to Eurostat.

The data items specified by the Regulation cover the areas of:

- Migration (immigration, emigration and residence) (Articles 3 and 6);
- Asylum (Article 4);
- Acquisition of citizenship (Article 3); and
- Prevention of illegal entry and stay (Articles 5 and 7).

For the purposes of these topics, the Regulation sets out a number of detailed definitions reproduced in Table 12.

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<sup>139</sup> Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:199:0023:0029:EN:PDF>

<sup>140</sup> *Ibid.*

**Table 12: Relevant definitions from Regulation (EC) No 862/2007 on Community statistics on migration**

<b>Definitions from Regulation (EC) No 862/2007 on Community statistics on migration</b>	
<b>usual residence</b>	means the place at which a person normally spends the daily period of rest, regardless of temporary absences for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage or, in default, the place of legal or registered residence.
<b>immigration</b>	means the action by which a person establishes his or her usual residence in the territory of a Member State for a period that is, or is expected to be, of at least 12 months, having previously been usually resident in another Member State or a third country.
<b>emigration</b>	means the action by which a person, having previously been usually resident in the territory of a Member State, ceases to have his or her usual residence in that Member State for a period that is, or is expected to be, of at least 12 months.
<b>citizenship</b>	means the particular legal bond between an individual and his or her State, acquired by birth or naturalisation, whether by declaration, choice, marriage or other means according to national legislation.
<b>country of birth</b>	means the country of residence (in its current borders, if the information is available) of the mother at the time of the birth or, in default, the country (in its current borders, if the information is available) in which the birth took place.
<b>immigrant</b>	means a person undertaking an immigration.
<b>emigrant</b>	means a person undertaking an emigration.
<b>long-term resident</b>	means long-term resident as defined in Article 2(b) of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.
<b>third-country national</b>	means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty, including stateless persons.
<b>application for international protection</b>	means application for international protection as defined in Article 2(g) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.
<b>refugee status</b>	means refugee status as defined in Article 2(d) of Directive 2004/83/EC.
<b>subsidiary protection status</b>	means subsidiary protection status as defined in Article 2(f) of Directive 2004/83/EC;
<b>temporary protection</b>	means temporary protection as defined in Article 2(a) of Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.
<b>external borders</b>	means external borders as defined in Article 2(2) of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).
<b>third-country nationals refused entry</b>	means third-country nationals who are refused entry at the external border because they do not fulfil all the entry conditions laid down in Article 5(1) of Regulation (EC) No 562/2006 and do not belong to the categories of persons referred to in Article 5(4) of that Regulation.
<b>third-country nationals found to be illegally present</b>	means third-country nationals who are officially found to be on the territory of a Member State and who do not fulfil, or no longer fulfil, the conditions for stay or residence in that Member State.

Applying these definitions, the Regulation provides that statistics on specified data items shall be based on a range of data sources, including records of administrative and judicial actions, registers relating to administrative actions, registers of the population of persons or of a particular sub-group of that population, censuses, sample surveys and other appropriate sources.<sup>141</sup>

<sup>141</sup> Regulation (EC) No 862/2007, Article 9.

The Regulation provides for a first reference year for statistics of 2008 and the Commission is required to submit a report to the European Parliament on statistics compiled pursuant to the Regulation by August 2012. Eurostat has aligned its data collection on migration with selected variables from the Regulation accordingly. These variables include data items related to acquisition of citizenship, migration, and asylum, and are included in the Eurostat online population database.<sup>142</sup> The accompanying Eurostat metadata cite definitions from Regulation (EC) 862/2007 (as reproduced in Table 12 above) and states that data are collected from Member States *'on the basis of a gentlemen's agreement'*.

As at the time of this study (September 2009), published Eurostat data do not cover all data items contained in Regulation (EC) 862/2007. Additional data are, however, collected under the CIREFI programme of the European Commission (DG-JLS).<sup>143</sup> The CIREFI database focuses on enforcement measures taken in the field of illegal migration, including refusals of entry, apprehensions of aliens illegally present, and removed aliens.<sup>144</sup> CIREFI data are rarely made publicly available<sup>145</sup> but are designed to assist Member States in effectively studying illegal migration, in preventing illegal immigration and facilitator networks, in better detecting forged documents and in improving expulsion practice. Whilst not carried out strictly pursuant to Regulation (EC) 862/2007, data collection closely related to items in the regulation is also undertaken by additional international organisations. The International Centre for Migration Policy Development (ICMPD), for example, collects information on migration-related border apprehensions in Central and Eastern Europe.<sup>146</sup> Additional data on migration and asylum are also collected and published by the Organisation for Economic Co-operation and Development (OECD) through its 'Continuous Reporting System on Migration' (SOPEMI).<sup>147</sup> Whilst OECD data includes information relevant to data items listed in Regulation (EC) 867/2008, such as residence permits, the OECD SOPEMI data collection relies solely on national data definitions, with the result that cross-national comparison of OECD data is particularly challenging.

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<sup>142</sup> See <http://epp.eurostat.ec.europa.eu/portal/page/portal/population/data/database>

<sup>143</sup> See [http://europa.eu/legislation\\_summaries/other/l33100\\_en.htm](http://europa.eu/legislation_summaries/other/l33100_en.htm)

<sup>144</sup> THESIM: Towards Harmonised European Statistics on International Migration, edited by Poulain, M., Perrin, N., and Singleton, A. (2006). Presses Universitaires de Louvain, p. 272.

<sup>145</sup> Some data on refusals, apprehensions and removals from the CIREFI database are available in the "Annual Reports on Migration and Asylum" published by DG-JLS on their website. However, the latest report dates from 2006 and covers data for the year 2003. See: [http://ec.europa.eu/justice\\_home/doc\\_centre/asylum/statistics/doc\\_annual\\_report\\_2003\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/asylum/statistics/doc_annual_report_2003_en.htm)

<sup>146</sup> See for example, Peter F., Jandl, M., (eds.) (2007): 2006 Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe. A Survey and Analysis of Border Management and Border Apprehension. Data from 20 States. Vienna, ICMPD.

<sup>147</sup> See: [http://www.oecd.org/document/51/0,3343,en\\_2649\\_33931\\_43009971\\_1\\_1\\_1\\_37415,00.html#STATISTICS](http://www.oecd.org/document/51/0,3343,en_2649_33931_43009971_1_1_1_37415,00.html#STATISTICS)

Regulation (EC) 862/2007 is a clear example of binding EU *acquis* containing clear data items that Member States should be capable of collecting and reporting at the European level. Whilst data collection and reporting in practice is still under development, the initiatives already undertaken by Eurostat and DG-JLS, indicate that a number of steps have been taken in practice to collect more comparable data in the fields of asylum, visa and migration. Significant challenges remain however. Methods used in international migration statistics differ widely between countries. Each country has its own methods and tradition in data collection, and its own specific demographic analysis and policy needs for information about migration flows into or out of the country. Whilst Eurostat and the DG-JLS data collections cover certain key migration and asylum variables, little cross-national information is currently available on other related areas, such as residence permits<sup>148</sup> and visa issues.

Table 13 below sets out data items on which Member States are required to collect statistics by Regulation (EC) 862/2007, organized by broad topic, and by type of statistics; whether 'stock' or 'flow'. In line with general migration principles, a 'stock' measure corresponds to the total number of persons satisfying a particular criterion at a particular point in time (such as the total number of foreign-born persons within a territory). A 'flow' measure corresponds to the number of persons who satisfied a particular criterion during a specific time period (such as the total number of registered immigrants during one year). The Table also provides examples of possible data sources and specifies existing cross-national data collection initiatives for each data item.

Table 13 shows that reliable cross-national data for a number of variables (particularly involving residence permits) are not currently available. Table 13 also includes one data item that is not strictly required by Regulation (EC) 862/2007; the stock of persons with refugee status in a territory. Whilst this number is particularly difficult to measure (due, not least, to returns and acquisition of citizenship), estimates are provided by the United Nations High Commissioner for Refugees (UNHCR) in an online database format.<sup>149</sup>

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<sup>148</sup> The "Annual Reports on Migration and Asylum" published on the DG-JLS website contain some limited data on residence permits issued by Member States. However, it must be noted that definitions and counting rules vary widely among countries depending on their regulative systems in place. See: [http://ec.europa.eu/justice\\_home/doc\\_centre/asylum/statistics/docs/2003/9.3.1\\_annual\\_total\\_positive\\_decisions\\_residence\\_permits\\_overview\\_2003.pdf](http://ec.europa.eu/justice_home/doc_centre/asylum/statistics/docs/2003/9.3.1_annual_total_positive_decisions_residence_permits_overview_2003.pdf) and [http://ec.europa.eu/justice\\_home/doc\\_centre/asylum/statistics/docs/2003/9.3.2\\_annual\\_total\\_number\\_residence\\_permits\\_country\\_2003.pdf](http://ec.europa.eu/justice_home/doc_centre/asylum/statistics/docs/2003/9.3.2_annual_total_number_residence_permits_country_2003.pdf)

<sup>149</sup> See the UNHCR Statistical Online Population Database at: <http://www.unhcr.org/pages/4a013eb06.html>.

**Table 13 – Data items for statistical reporting by Member States contained in Regulation (EC) 862/2007**

Type of data	Indicator definition	Possible data sources	Reference from Regulation (EC) 862/2007	Current cross-national data collection <sup>150</sup>
<b>Migration and Residence data</b>				
<b>Stock data</b>	Foreigners (by age group, citizenship and sex)	Population register/Census based calculation or estimate	Article 3(1)(c)(i)	Eurostat migr_st_popage
	Foreign-born (by country of birth, sex and age group)	Population register/Census based calculation or estimate	Article 3(1)(c)(ii)	Eurostat migr_st_popctba
	Valid residence permits at end year (by citizenship/type/duration)	Permit register	Article 6(1)(a)(iii)	DG-JLS (limited)
	Foreigners with long-term residence permits at end year (by citizenship)	Permit register	Article 6(1)(b)	DG-JLS (limited)
<b>Flow data</b>	Immigrants (> 12 months, by sex, age group and citizenship) <sup>151</sup>	Population Register	Article 3(1)(a)(i)	Eurostat migr_immagec
	Immigrants (> 12 months, by sex and country of previous residence)	Population Register	Article 3(1)(a)(iii)	Eurostat migr_immiprv
	Emigrants (> 12 months, by sex, age group and citizenship)	Population Register	Article 3(1)(b)	Eurostat migr_emiage
	Emigrants (> 12 months, by sex and country of next residence)	Population Register	Article 3(1)(b)	Eurostat migr_eminxt
	First time residence permits (by type/duration/citizenship)	Permit register	Article 6(1)(a)(i)	DG-JLS (limited)
	Change of residence permits (by type/duration/citizenship)	Permit register	Article 6(1)(a)(ii)	DG-JLS (limited)
<b>Asylum data</b>				
<b>Stock data</b>	Stock of persons with open applications at end year (by citizenship, age group and sex)	Ministry of Interior/Responsible authority for asylum applications	Article 4(1)(b)	Eurostat migr_asypncctzm
	Stock of positive decisions (by type and year of decision)	Ministry of Interior/Responsible authority for asylum applications	Not required by Regulation.	UNHCR <sup>152</sup>
<b>Flow data</b>	Persons submitting first time applications (by citizenship, age and sex)	Ministry of Interior/Responsible authority for asylum applications	Article 4(1)(a)	Eurostat migr_asyappctzm
	Decisions on applications (by citizenship, age and sex)	Ministry of Interior/Responsible authority for asylum applications	Article 4(2)(a) and (b)	Eurostat migr_asydcfstq

<sup>150</sup> Eurostat references refer to variable names contained within the Eurostat population database available at: <http://epp.eurostat.ec.europa.eu/portal/page/portal/population/data/database>.

<sup>151</sup> Note that although Regulation (EC) 862/2007 defines immigration/emigration to mean usual residence for a period that is, or is expected to be, of at least 12 months, data collected by Eurostat on international migration flows contains a wide range of time period criteria for inclusion in official statistics, according to the standard used in each Member State. See Metadata to 'migr\_flow' at: <http://epp.eurostat.ec.europa.eu/portal/page/portal/population/data/database>

<sup>152</sup> Most industrialized countries lack a refugee register and are thus not in a position to provide accurate information on the number of refugees residing in their country. Since 2007, UNHCR estimates stocks of refugees in industrialized countries, based on the individual recognition of refugees over a ten-year period. See <http://www.unhcr.org/45c06c662.html>



Citizenship data				
<b>Flow data</b>	Persons granted citizenship during reference period	Ministry of Interior/Ministry of Justice	Article 3(1)(d)	Eurostat migr_acqctz
Prevention of illegal entry and stay				
<b>Flow data</b>	Persons refused entry at the border (by age, sex, grounds for refusal, citizenship of persons refused, and type of border (land, sea or air))	Police and border police, Ministry of Interior	Article 5(1)(a)	CIREFI database
	Persons found to be illegally present in the territory under national law (by age, sex and citizenship, grounds for apprehension and place of apprehension)	Police and border police, Ministry of Interior	Article 5(1)(b)	CIREFI database ICMPD Yearbook
	Persons issued with an order to leave the territory (by age, sex, citizenship and reason for order)	Police and border police, Ministry of Interior and Ministry of Justice	Article 7(1)(a)	CIREFI database ICMPD Yearbook
	Persons who actually left the territory following an order to leave (by age, sex, citizenship and reason for order)	Police and border police, Ministry of Interior and Ministry of Justice	Article 7(1)(b)	CIREFI database

The data items in Table 13 may be taken as a core set of EU-level indicators for migration and asylum issues. It should be noted at this point that there is some overlap with *crime* indicators also considered in this Study. Persons refused entry at the border or persons found to be illegally present in the territory may also, for example, commit a criminal offence under national law.

Whether any criminal offence is reported separately depends upon the purpose and focus of statistical reporting, and whether the two events are separable in national law. For example, in some countries a criminal offence may only be committed, if a person is refused entry at the border due to possession of forged documents, not for an attempt to cross the border in contravention of entry rules *per se*. Further, a refusal of entry at the border may be due to the identification of a perpetrator of the crime of smuggling in migrants ('facilitation of illegal migration' under Council Directive 2002/90/EC) or trafficking in persons. In addition to trafficking or smuggling of persons, individuals may also be refused entry and apprehended at the border where smuggling of goods or customs fraud is suspected.

The current state of international and EU standards and *acquis* does not provide any simple solution to the challenge of reconciling migration and crime data. At present, indicators in each area appear to have developed according to discrete policy needs and largely independently from each other. Law enforcement authorities, for instance, may report the number of persons arrested for travel document fraud (as one of many other crime types), and the border police may report the number of persons refused entry at the border. However, it is likely to be very difficult to reconcile such figures in order to identify reasons for refusal and the percentage of fraudulent travel documents presented at the border that resulted in an arrest.

International and EU standards do not, at present, provide statistical recommendations in this respect. However, the principle of police unit record production, using detailed incident and individual file numbers, suggests that data systems should be designed to allow the identification of border-related criminal offences that can also be clearly linked to violations of migration rules.

Whilst EU standards for crime and migration statistics are not closely linked as of yet, EU work has progressed significantly at the operational level with respect to data sharing on individuals in the area of crime and border control. Although such systems are not the focus of this study, they are nonetheless of relevance, and can provide some guidance on data items that should be collected and reported, particularly in the area of visa statistics.

## EU standards for visa statistics and specific system development

With a view to ensuring the effective policing of EU external borders and combating illegal immigration and trafficking in human beings, the European institutions are in the process of developing a number of systems for operational exchange of asylum, visa and crime-related information. Whilst the asylum-related system operates across the EU-27 Member States, the visa and crime-related systems are built on the Schengen *acquis* and, as such, currently exclude certain Member States.<sup>153</sup>

Three systems are of particular relevance – ‘Eurodac’, the ‘Schengen Information System’ (SIS), and the ‘Visa Information System’ (VIS). Table 14 provides an overview of each of these systems, together with the operational data and statistical data required by each. Each system is established by European legislation and represents a binding standard for EU member states. From a justice and home affairs statistics viewpoint, the European Council Regulations and Decisions establishing each system provide both details on underlying systems for data exchange on individuals, and on aggregate statistical data that should be available from each system.

EU *acquis* establishing Eurodac (a system for sharing of information on persons seeking asylum in the European Union) requires, for example, that EU Member States are able to produce statistical data on the number of persons who apply for asylum, who have previously lodged an application for asylum in another Member State. The SIS and VIS systems similarly require a number of specific statistical items involving (criminal) ‘alerts’ and visa applications to be generated from the operational sharing of data on individual persons.

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<sup>153</sup> The United Kingdom and Ireland do not take part in all provisions of the Schengen *acquis*.

**Table 14 - Overview of border-related operational systems at the European level**

System	Overview	Operational data (individual record exchange)	Statistical data
<b>Eurodac</b> <sup>154</sup>	Establishes a fingerprint recognition system to assist in determining which Member State is responsible pursuant to the Dublin Convention <sup>155</sup> for examining an application for asylum lodged in a Member State. Eurodac has been functioning in all 27 EU Member States since 2003.	Each Member State shall promptly provide the following data for every applicant for asylum and for aliens apprehended in connection with the irregular crossing of an external border of at least 14 years of age to the Central Unit: (a) Member State of origin, place and date of the application for asylum; (b) fingerprint data; (c) sex; (d) reference number used by the Member State of origin; (e) date on which the fingerprints were taken; (f) date on which the data were transmitted to the Central Unit.	<ul style="list-style-type: none"> <li>■ Number of hits for applicants for asylum who have lodged an application for asylum in another Member State (Article 3(3)(b)).</li> <li>■ Number of hits for applicants for asylum who were previously apprehended in connection with the irregular crossing of an external border and who were not turned back.</li> <li>■ Number of hits of data of third country nationals apprehended when illegally staying on the territory of one Member State with data on the previously recorded fingerprints of asylum seekers in all Member States<sup>156</sup></li> </ul>
<b>Schengen Information System II (SIS)</b> <sup>157</sup>	Establishes a system for the issuing of 'alerts' allowing competent authorities to identify a person or an object with a view to taking specific action. SIS II is to contain alerts on persons wanted for arrest for surrender purposes and wanted for arrest for extradition purposes. SIS II should also contain alerts on missing persons to ensure their protection or to prevent threats, on persons wanted for judicial procedure, on persons and objects for discreet checks or specific checks and on objects for seizure or use as evidence in criminal proceedings. SIS II is expected to be operational by the end of the year 2010.	According to Article 20 (2) of the Regulation on the SIS II, the information on persons in relation to whom an alert has been issued shall be no more than the following: (a) surname(s) and forename(s), name(s) at birth and previously used names and any aliases, which may be entered separately; (b) any specific, objective, physical characteristics not subject to change; (c) place and date of birth; (d) sex; (e) photographs; (f) fingerprints; (g) nationality(ies); (h) whether the person concerned is armed, violent or has escaped; (i) reason for the alert; (j) authority issuing the alert; (k) a reference to the decision giving rise to the alert; (l) action to be taken; (m) link(s) to other alerts issued in SIS II in accordance with Article 37.	<ul style="list-style-type: none"> <li>■ Number of alerts on persons for which the retention period has been extended. (Article 44(6)).</li> <li>■ Number of times SIS II was accessed by each Member State (Article 66).</li> </ul>

<sup>154</sup> Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention. OJ L 316/1. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:316:0001:0010:EN:PDF>

<sup>155</sup> The Dublin Convention means the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed at Dublin on 15 June 1990.

<sup>156</sup> See also the annual Report of the European Commission on the Activities of the EURODAC Central Unit. Available at: <http://www.statewatch.org/news/2009/jan/eu-com-eurodac-annual-report.pdf>

<sup>157</sup> Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II). OJ L 205/63. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:205:0063:0084:EN:PDF>

<p><b>Visa Information System (VIS)</b><sup>158</sup></p>	<p>Establishes a system for the exchange of visa data between Member States, to enable authorised national authorities to enter and update visa data and to consult these data electronically. VIS has not yet been fully implemented in all EU Member States.</p>	<p>The visa authority shall enter the following data in the application file:</p> <ol style="list-style-type: none"> <li>1. the application number;</li> <li>2. status information, indicating that a visa has been requested;</li> <li>3. the authority with which the application has been lodged, including its location, and whether the application has been lodged with that authority representing another Member State;</li> <li>4. data to be taken from the application form, including <i>inter alia</i> name, nationality, travel document details, type of visa requested, destination, purpose of travel;</li> <li>5. a photograph of the applicant, in accordance with Regulation (EC) No 1683/95;</li> <li>6. fingerprints of the applicant, in accordance with the relevant provisions of the Common Consular Instructions.</li> </ol>	<ul style="list-style-type: none"> <li>■ Competent visa authorities shall have access to <i>inter alia</i> the following data, for the purposes of reporting and statistics without allowing the identification of individual applicants:             <ol style="list-style-type: none"> <li>1. status information;</li> <li>2. nationality of applicant;</li> <li>3. border of first entry;</li> <li>4. type of visa requested or issued;</li> <li>5. type of travel document;</li> <li>6. grounds for any decision concerning the visa application;</li> <li>7. cases in which the same applicant applied for a visa from more than one visa authority.</li> </ol> </li> </ul> <p>(Article 17).</p>
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Table 14 demonstrates that (amongst other indicators), Community *acquis* on the VIS can provide at least a broad basis for guidelines on visa statistics. This is significant in so far as the primary piece of EU legislation in the area of asylum and migration, Regulation (EC) No 862/2007, does not specify visa-related indicators.

Article 17 of Regulation (EC) No 767/2008 on the VIS is entitled 'Use of data for reporting and statistics' and provides a list of data items to which competent visa authorities shall have access for the purposes of reporting and statistics. Whilst this list of data items is generic, a possible core list of visa-related indicators could be constructed by analogy with the indicators contained in Regulation (EC) No 862/2008 on Community statistics on migration. Table 15 sets out some proposals in this respect. It should be noted that, whilst the exact indicators proposed in Table 15 cannot strictly be taken as binding EU *acquis*, they are nonetheless derived from the broad (binding) provisions of Article 17 on the VIS.

<sup>158</sup> Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS). OJ L 213. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004D0512:EN:HTML>. See also Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation). OJ L 218/60. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0060:0081:EN:PDF>

**Table 15 – Possible visa-related indicators derived from Article 17, Regulation (EC) No 767/2008, on the Visa Information System**

Type of data	Indicator definition	Possible data sources	Reference from Regulation (EC) No 767/2008
Stock data	Stock of persons with valid visa (by citizenship and type and duration of visa)	Ministry of Foreign Affairs/Ministry of Interior	Article 17
	Stock of persons to whom a visa has been refused (by citizenship)	Ministry of Foreign Affairs/Ministry of Interior	Article 17
Flow data	Visa applications (by citizenship and country of application)	Ministry of Foreign Affairs/Ministry of Interior	Article 17
	Visas granted (by citizenship, country of application, type and duration of visa)	Ministry of Foreign Affairs/Ministry of Interior	Article 17
	Visas refused (by citizenship, country of application, type and duration of visa)	Ministry of Foreign Affairs/Ministry of Interior	Article 17

## Summary – asylum, visa and migration statistics

In summary, an examination of EU *acquis* on asylum, visa and migration statistics reveals a relatively developed set of standards. Regulation (EC) No 862/2007 on Community statistics on migration contains detailed definitions and specific indicators for migration and residence, asylum citizenship, and prevention of illegal entry and stay. Whilst the indicators themselves are quite specific, EU standards say little however about the structure of the underlying systems that give rise to the aggregate statistics. Indeed, data collected and disseminated by Eurostat corresponding to indicators listed in the Regulation is derived from a mix of administrative records and national surveys. Further, Eurostat statistics show that factors such as the time period of ‘usual residence’ applied for the purposes of inclusion in official statistics on immigration and emigration varies from Member State to Member State. The availability of data on other variables, such as data on residence permits, is even more limited, due mainly to the wide range of national systems in place. Basic principles for asylum and migration statistics, however, include the fact that Member States should be capable of producing both ‘stock’ and ‘flow’ figures, and that such statistics should be disaggregated by *inter alia*, citizenship, age, and sex.

At the operational level, EU legislation prescribes advanced systems for the exchange of information on individual persons. This body of legislation also includes a number of statistical reporting requirements, particularly in the field of visa statistics. By analogy with asylum and migration indicators, stock and flow statistics for visa applications, visas issued and visas refused could be added to the body of EU standards in this area.

Whilst asylum, visa and migration statistics represent a discrete field in their own right, there are overlaps with crime and criminal justice statistics. This is particularly the case where a criminal offence takes place at a country border, such as in the case of smuggling of migrants or trafficking of persons. In addition to these specific cases, however, the ethnicity and citizenship of perpetrators of crime in general is an important component of crime and criminal justice statistics. At the international level,

the United Nations Manual for the Development of a System of Criminal Justice Statistics recommends the disaggregation of all offender and victim statistics by ethnicity and national origin. This requires both a system for careful recording of ethnicity and citizenship when a person is suspected or accused of a crime and a system for identifying such characteristics in crime victims, preferably both when reported to the police and in crime victimisation surveys. At the EU level, the focus on racist and anti-Semitic crimes is (partly) reflective of increased levels of migration. From a crime prevention policy perspective, data on such crimes may be particularly important when combined with stock and flow data on asylum and migration.

Overall, the Study shows that a comprehensive system of justice and home affairs statistics is required to include core indicators on asylum, visa and migration issues. A number of these are set out in binding EU *acquis*. Whilst the indicators are relatively clear, the challenge of comparability of statistics deriving from different national laws remains.



## 5. Conclusions

### 5.1. Towards a ‘checklist’ for justice and home affairs statistics systems

This Study has reviewed international and European standards in the area of justice and home affairs statistics. It has done so starting from general principles, followed by consideration of relevant definitions in the area of crime and criminal justice, and by an examination of the particular standards by institution – police, prosecution, courts, survey-based statistics, and asylum, visa and migration statistics.

Whilst the standards and guidelines represent a mix of both binding and non-binding standards and international and EU-level standards, a number of common themes and core items can nonetheless be identified. This is true both for the underlying institutional data recording and collection systems, and for the data that could be reported with some level of comparability at the regional or international level.

This Chapter of the Study presents a summary of its findings in tabular form. Each table sets out relevant principles and guidelines, beginning from local level record generation, through collation of statistics, to indicators that should be reported at national level. The proposals in the tables below do not represent binding EU *acquis*, but rather are drawn from the range of international and EU-level standards considered in this Study. As such, they may be taken as a starting point for the development of a system of justice and home affairs statistics that is aligned with emerging standards. Such a system should contain the necessary flexibility and resources to produce key indicators at the national level, including as (increasingly) required by binding EU legislation.



## Police-recorded statistics

	Local level record generation by police stations			Collation of statistics	Reported national statistics	
<b>Incidents</b>	Local police stations generate individual unit records on the reporting of a (crime) incident	Individual incidents are assigned an 'incident number'	The individual unit record contains details of: <ul style="list-style-type: none"> <li>▪ reported incident</li> <li>▪ the victim</li> <li>▪ suspected offender</li> </ul>	Data from unit records are collated from all local police stations in the territorial jurisdiction by a central institution	<b>The number of recorded incidents during one year are reported, disaggregated by crime type</b>	
<b>Persons</b>	The threshold for initiating a person record ('formal contact' with the police as a suspect) is clearly defined	Individual persons are assigned an 'integrated file number' (IFN). The person is linked to the incident through the IFN and incident number.	Person records contain details of: <ul style="list-style-type: none"> <li>▪ age</li> <li>▪ sex</li> <li>▪ ethnicity</li> <li>▪ offender-victim relationship</li> <li>▪ citizenship</li> <li>▪ geographical area of residence</li> </ul>	The person record clearly states the charge with reference to relevant legal provisions. The relationship between the charge and the incident classification is clear.	Data from unit records are collated from all local police stations in the territorial jurisdiction by a central institution. A principal offence rule may be applied when counting persons.	<b>The number of persons brought into formal contact during one year are reported, disaggregated by:</b> <ul style="list-style-type: none"> <li>▪ crime type</li> <li>▪ age</li> <li>▪ sex</li> <li>▪ citizenship</li> </ul>
<b>Crime types</b>	Reported incidents are classified using a crime classification scheme	The crime classification scheme covers: <ul style="list-style-type: none"> <li>▪ 'Conventional' crime types</li> <li>▪ Involvement of organised crime</li> <li>▪ Money laundering</li> <li>▪ Corruption</li> <li>▪ Trafficking in human beings</li> <li>▪ Smuggling of migrants</li> <li>▪ Drug-trafficking</li> <li>▪ Cybercrime</li> <li>▪ Crime involving racism and xenophobia</li> </ul>	Differences between the crime classification scheme and definitions applied by Eurostat and UN-CTS are clearly identified. Within the confines of national criminal law, the crime classification scheme is aligned so far as possible with definitions applied by Eurostat and UN-CTS.	The crime classification scheme is applied uniformly by all police stations.	Data from police stations is reported in a uniform format, using the crime classification scheme to a central institution.	<b>Crime type disaggregation of recorded incidents and persons brought into formal contact includes:</b> <ul style="list-style-type: none"> <li>▪ Intentional homicide</li> <li>▪ Assault</li> <li>▪ Rape</li> <li>▪ Sexual assault/sexual violence</li> <li>▪ Sexual offences against children</li> <li>▪ Robbery</li> <li>▪ Theft</li> <li>▪ Burglary</li> <li>▪ Domestic burglary</li> <li>▪ Motor vehicle theft</li> <li>▪ Fraud</li> <li>▪ Drug-related crime</li> <li>▪ Drug-trafficking</li> <li>▪ Kidnapping</li> <li>▪ Involvement of organised crime</li> <li>▪ Money laundering</li> <li>▪ Corruption</li> <li>▪ Trafficking in human beings</li> <li>▪ Smuggling of migrants</li> <li>▪ Drug-trafficking</li> <li>▪ Cybercrime</li> <li>▪ Crime involving racism and xenophobia</li> </ul>

### Prosecution Statistics

	Local level record generation by prosecutors				Collation of statistics	Reported national statistics
<b>Person-cases</b>	The threshold for initiating a prosecution ('person prosecuted') is clearly defined and a unit record is opened for each person prosecuted.	Individual prosecuted persons are assigned an 'integrated file number' (IFN). The person is linked to police-recorded records through the IFN.	Person records contain details of: <ul style="list-style-type: none"> <li>▪ age</li> <li>▪ sex</li> <li>▪ ethnicity</li> <li>▪ offender-victim relationship</li> <li>▪ citizenship</li> <li>▪ geographical area of residence</li> </ul>	The person record clearly states the charge and details of case disposition (trial or other disposition by the prosecutor).	Data from unit records are collated from all prosecutors in the territorial jurisdiction by a central institution.	<b>The number of persons prosecuted during one year are reported, disaggregated by:</b> <ul style="list-style-type: none"> <li>▪ Crime type</li> <li>▪ Age</li> <li>▪ Sex</li> <li>▪ Citizenship</li> </ul>
<b>Crime types</b>	Unit records on persons prosecuted contain one or more clear criminal charges with reference to relevant legal provisions.  Differences between the charge and the police incident classification scheme are clearly identified.	The charge scheme covers: <ul style="list-style-type: none"> <li>▪ 'Conventional' crime types</li> <li>▪ Involvement of organised crime</li> <li>▪ Money laundering</li> <li>▪ Corruption</li> <li>▪ Trafficking in human beings</li> <li>▪ Smuggling of migrants</li> <li>▪ Drug-trafficking</li> <li>▪ Cybercrime</li> <li>▪ Crime involving racism and xenophobia</li> </ul>	Differences between the charge and definitions applied by Eurostat and UN-CTS are clearly identified.  Within the confines of national criminal law, the charge definition is aligned so far as possible with definitions applied by Eurostat and UN-CTS.	The charge scheme is applied uniformly by all prosecutors.	Data from prosecutors is reported in a uniform format, using the crime classification scheme to a central institution.	<b>Crime type disaggregation of persons prosecuted includes:</b> <ul style="list-style-type: none"> <li>▪ Intentional homicide</li> <li>▪ Assault</li> <li>▪ Rape</li> <li>▪ Sexual assault/sexual violence</li> <li>▪ Sexual offences against children</li> <li>▪ Robbery</li> <li>▪ Theft</li> <li>▪ Burglary</li> <li>▪ Domestic burglary</li> <li>▪ Motor vehicle theft</li> <li>▪ Fraud</li> <li>▪ Drug-related crime</li> <li>▪ Drug-trafficking</li> <li>▪ Kidnapping</li> <li>▪ Involvement of organised crime</li> <li>▪ Money laundering</li> <li>▪ Corruption</li> <li>▪ Trafficking in human beings</li> <li>▪ Smuggling of migrants</li> <li>▪ Drug-trafficking</li> <li>▪ Cybercrime</li> <li>▪ Crime involving racism and xenophobia</li> </ul>

## Court statistics

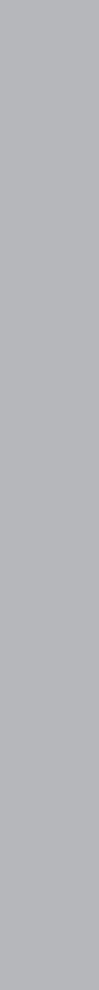
	Local level record generation by courts				Collation of statistics	Reported national statistics
<b>Person-cases</b>	The threshold for initiating a trial ('person brought before the criminal court') is clearly defined and a unit record is opened for each accused person.	Individual accused persons are assigned an 'integrated file number' (IFN). The person is linked to police and prosecution-recorded records through the IFN.	Person records contain details of: <ul style="list-style-type: none"> <li>■ age</li> <li>■ sex</li> <li>■ ethnicity</li> <li>■ offender-victim relationship</li> <li>■ citizenship</li> <li>■ geographical area of residence</li> </ul>	The person record clearly states the charge and details of case disposition (acquittal or conviction and sentencing details).	Data from unit records are collated from all courts in the territorial jurisdiction by a central institution.	<b>The number of persons convicted during one year are reported, disaggregated by:</b> <ul style="list-style-type: none"> <li>■ Crime type</li> <li>■ Age</li> <li>■ Sex</li> <li>■ Citizenship</li> </ul>
<b>Crime types</b>	Unit records on persons brought before the criminal courts contain one or more clear criminal charges with reference to relevant legal provisions.  Differences between the charge and the police incident classification scheme are clearly identified.	The charge scheme covers: <ul style="list-style-type: none"> <li>■ 'Conventional' crime types</li> <li>■ Involvement of organised crime</li> <li>■ Money laundering</li> <li>■ Corruption</li> <li>■ Trafficking in human beings</li> <li>■ Smuggling of migrants</li> <li>■ Drug-trafficking</li> <li>■ Cybercrime</li> <li>■ Crime involving racism and xenophobia</li> </ul>	Differences between the charge and definitions applied by Eurostat and UN-CTS are clearly identified.  Within the confines of national criminal law, the charge definition is aligned so far as possible with definitions applied by Eurostat and UN-CTS.	The charge scheme is applied uniformly by all courts.	Data from all courts is reported in a uniform format, using the crime classification scheme to a central institution.	<b>Crime type disaggregation of persons convicted includes:</b> <ul style="list-style-type: none"> <li>■ Intentional homicide</li> <li>■ Assault</li> <li>■ Rape</li> <li>■ Sexual assault/sexual violence</li> <li>■ Sexual offences against children</li> <li>■ Robbery</li> <li>■ Theft</li> <li>■ Burglary</li> <li>■ Domestic burglary</li> <li>■ Motor vehicle theft</li> <li>■ Fraud</li> <li>■ Drug-related crime</li> <li>■ Drug-trafficking</li> <li>■ Kidnapping</li> <li>■ Involvement of organised crime</li> <li>■ Money laundering</li> <li>■ Corruption</li> <li>■ Trafficking in human beings</li> <li>■ Smuggling of migrants</li> <li>■ Drug-trafficking</li> <li>■ Cybercrime</li> <li>■ Crime involving racism and xenophobia</li> </ul>

## Survey-based statistics

	Survey-design and implementation features				Collation of statistics	Reported national statistics
<b>Crime victimisation surveys</b>	Survey design and implementation led by a central government institution. Regular or periodic surveys conducted where possible.	Crime victimisation survey questionnaire contains key topics: <ul style="list-style-type: none"> <li>▪ 12 month victimisation measure, by crime type</li> <li>▪ 12 month repeat victimization, by crime type</li> <li>▪ Reporting of crimes to police</li> <li>▪ Involvement of weapons</li> <li>▪ Physical injury</li> <li>▪ Victim-offender relationship</li> <li>▪ Public confidence/trust in police</li> <li>▪ Feelings of safety</li> <li>▪ Basic socio-demographic variables</li> </ul>	Target population and sample frame carefully defined and a probability sample selected.	Interviewers receive training and are qualified, skilled and motivated.	Results from crime victimisation surveys are integrated with administrative statistics from police, prosecution and courts and used in policy making for crime prevention and response.  Results of crime victimisation surveys disseminated to general public and stakeholders.	<b>Key survey based indicators including 12 month victimisation, by crime type:</b> <ul style="list-style-type: none"> <li>▪ Household burglary</li> <li>▪ Theft of vehicles</li> <li>▪ Other theft</li> <li>▪ Robbery</li> <li>▪ Physical assault</li> <li>▪ Sexual offences</li> </ul>
<b>Corruption surveys</b>	Survey design and implementation led by a central government institution. Regular or periodic surveys conducted where possible.	Corruption survey questionnaire includes questions on both experience and perception of corruption.	Target population and sample frame carefully defined. May include general population, businesses, or public employees.	Interviewers receive training and are qualified, skilled and motivated.	Results from corruption surveys integrated into policy making for combating forms of corruption.  Results of corruption surveys disseminated to general public and stakeholders.	<b>Key survey-based indicators, including:</b> <ul style="list-style-type: none"> <li>▪ Experience of corruption</li> <li>▪ Type of official involved</li> <li>▪ Modality of experience</li> <li>▪ Reporting of corruption experience</li> <li>▪ Perception of presence of corruption</li> <li>▪ Perception of change in corruption</li> </ul>

## Asylum, visa and migration statistics

	Local level record generation by JHA institutions and NSOs				Collation of statistics	Reported national statistics
<b>Asylum</b>	Authorities responsible for receipt of asylum applications generate a unit record for each application received.	Person-based asylum application records contain details of: <ul style="list-style-type: none"> <li>▪ age</li> <li>▪ sex</li> <li>▪ citizenship</li> </ul>	(Where relevant) applications received for asylum can be checked against applications lodged in EU Member States using Eurodac.	Individual asylum record contains clear details of case disposition and type of final decision on application. Decisions in first and subsequent instances can be linked.	Data from unit records are collated from relevant institutions in the territorial jurisdiction by a central institution.	<b>The number of asylum applications submitted and granted during one year, disaggregated by:</b> <ul style="list-style-type: none"> <li>▪ Age</li> <li>▪ Sex</li> <li>▪ Citizenship</li> <li>▪ Status granted</li> </ul>
<b>Visa</b>	Authorities responsible for receipt of visa applications generate a unit record for each application received.	Person-based visa application records contain details of: <ul style="list-style-type: none"> <li>▪ citizenship</li> <li>▪ country of application</li> <li>▪ type/duration of visa</li> </ul>	(Where relevant) applications received for visas are entered in VIS.	Individual visa records contain clear details of final decision on application.  Decisions on visa applications of the same person can be linked.	Data from unit records are collated from relevant institutions in the territorial jurisdiction by a central institution.	<b>The number of visa applications submitted, granted and refused during one year, disaggregated by:</b> <ul style="list-style-type: none"> <li>▪ Citizenship</li> <li>▪ Country of application</li> <li>▪ Type/duration of visa granted</li> <li>▪ Reason for refusal</li> </ul>
<b>Migration</b>	A system for monitoring migration stocks and flows is in place, including through general population registers or the generation of unit records for registration of immigrants and emigrants or residence permit applications.	Immigrant and emigrant records contain details of: <ul style="list-style-type: none"> <li>▪ age</li> <li>▪ sex</li> <li>▪ citizenship</li> <li>▪ country of birth</li> </ul> and where possible: <ul style="list-style-type: none"> <li>▪ country of previous residence</li> <li>▪ country of next residence</li> </ul>	Residence permit records include details of: <ul style="list-style-type: none"> <li>▪ duration of permit</li> <li>▪ type of permit</li> <li>▪ citizenship</li> </ul>	Migration statistics can be generated from (local) population registers, registers of foreigners entering and leaving the country, registers of residence permits or other sources.	Data on change of residence and other important status changes (e.g. extension or cancellation of residence permits) are passed from the local to the central level.	<b>The stocks of immigrants and emigrants and the number of immigrants and emigrants during one year, disaggregated by:</b> <ul style="list-style-type: none"> <li>▪ Age</li> <li>▪ Sex</li> <li>▪ Citizenship</li> <li>▪ Country of birth</li> </ul>







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