

Offender Supervision in Europe

COST Action IS1106



Offender Supervision in Europe



COST Action IS1106 Final Report

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Acknowledgments and permissions

All of the photographs in this report are from the ‘Seen and Heard’ exhibition that takes place alongside our final conference in Brussels on 11-12th March 2016. They were taken as part of one or other of the two visual methods projects we discuss in this report by people subject to supervision or by supervisors. The photographs should not be used, copied, reproduced or otherwise distributed without permission. For more information, contact Fergus.McNeill@glasgow.ac.uk

The members of the Action would also like to thank and pay tribute to Tim McBride, our administrator, for his efficiency and patience in helping us navigate our ways through our work.

Introduction and background

The work of COST Action IS1106 on Offender Supervision in Europe began on 27th March 2012 at our ‘kick-off’ meeting in Brussels and it concludes with our final conference, back in Brussels, on the 11-12th March 2016. This report reflects on our achievements over the course of four years of complex, challenging, creative and highly constructive research collaboration.

Our Memorandum of Understanding stated that:

‘The main objective of the Action is to exchange, increase and deepen knowledge about offender supervision in Europe, in order to understand its development in social context, how it is constructed and experienced by those involved and its impacts and consequences’.

The central rationale for our work was that offender supervision in Europe has developed rapidly in scale, distribution and intensity in recent years but that the emergence of what we termed ‘mass supervision’ (i.e. in the community) had largely escaped the attention of legal scholars and social scientists more concerned with the ‘mass incarceration’ reflected in prison growth. We argued that this represented an important analytical lacuna for law and social science. Moreover, the neglect of supervision meant that research had not delivered the knowledge urgently required to engage with political, policy and practice communities grappling with delivering justice efficiently and effectively in fiscally straitened times, and with the challenges of communicating the meaning, legitimacy and utility of supervision to an insecure public.



So, we set out in the Action to remedy these problems. We aspired to facilitate cooperation between institutions and individuals in different European states (and with different disciplinary perspectives). We wanted both to connect researchers already carrying out research on offender supervision and to draw others to this field of study. We proposed to review and synthesize existing knowledge and then to enrich it through interdisciplinary and comparative

work and capacity building. Perhaps most ambitiously, we aimed to make the Action a European forum on offender supervision for academics, policy makers, practitioners and interested citizens.

How the Action worked

Participants

By the beginning of our fourth year of work, the Action spanned 23 European countries and our three working groups boasted a total of 64 active participants (with many others having contributed along the way in various ways) whose collective expertise encompasses criminal justice, criminology, law, psychology, social work and sociology.

Mechanisms

COST Actions do not directly fund research. Rather, they work through a specific range of networking mechanisms that aim to support the development of research. In

our case, by the end of the final conference, we will have held 8 Management Committee Meetings, 8 meetings of the working groups, 3 international conferences, 9 short-term scientific missions (which allow one researcher to visit another), 4 core group meetings, 2 workshops and one training school (for post-graduate and early-stage researchers). We have travelled all over the continent; for example, hosting our working group meetings or conferences in Athens, Belfast, Bratislava, Brussels (twice), Liverpool, St George's Bay (Malta) and Zagreb.

We have worked throughout the Action to engage with others and to share our developing work with them. We have presented regularly at the annual European Criminology Conference and our emerging findings formed a key part of our Chair's plenary addresses at the conference of European Directors of Prisons and Probation in Helsinki in June 2014 and at the World Congress on Community Corrections in Los Angeles in July 2015. We have also invited experts to contribute to our work both at our meetings and in written responses. For example, we have benefitted from engagement of US scholars like Reuben Miller, Michelle Phelps and Josh Page, allowing the development of transatlantic conversations about 'mass supervision'.

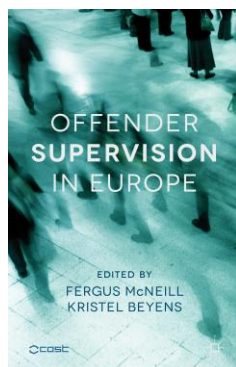
Our blog site (www.offendersupervision.eu) and Twitter feed (@COST_OSE) have also been important in enhancing the reach and impact of our work.

Methods

Though, as we have noted, the Action cannot fund research itself, it has supported the development of new research methods and new research projects.

Our initial plan was to convene working groups on 'experiencing supervision', 'practising supervision' and 'contextualising supervision'. However, we quickly realised that we needed to revise these groupings and, during the first year of the Action's work, our Management Committee approved a change to the following structure:

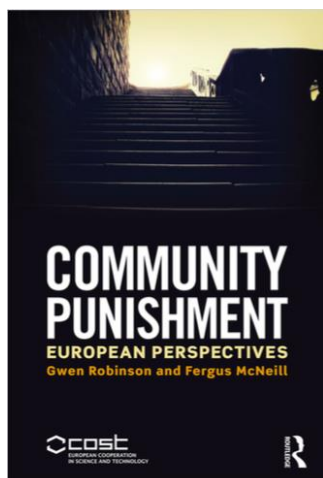
- Working group 1: Experiencing supervision
- Working group 2: Decision-making and supervision
- Working group 3: Practising supervision
- Working group 4: European norms, policy and practice



In year one, these groups began by reviewing existing research, exploring both substantive findings and methodological issues. We published the results in our first book: **Offender Supervision in Europe** (McNeill and Beyens, 2013). That collection included overview chapters written by the working groups' leaders, but behind these 'meta-chapters' lie dozens of individual, country-specific contributions (many of which we published on the blog site). The result was both an authoritative overview of existing research and a 'call to action' since we were able to identify methodological and substantive limitations that required to be addressed.

In years 2 and 3, we confronted the complex challenges of how to develop to advance an improve our field of study, both conceptually and methodologically. We decided to suspend the activities of working group 4 and to integrate its members within the other groups, allowing normative issues (and other 'European' questions) to be explored and addressed within each group's work. The three remaining groups proceeded to explore how best to approach comparative research on supervision,

having identified this as a critical gap in the literature and as a major methodological conundrum. Our work progressed in two main ways.



Firstly, our second book, **Community Punishment: European perspectives** (Robinson and McNeill, 2015) developed our work conceptually through the use of a case study approach to examine the evolution of institutions and practices supervision in 12 of the countries in the Action. In so doing, we advanced debates about and models for comparative research, as well as returning to the task of contextualising supervision historically, socially, culturally and politically.

Secondly, we advanced our work methodologically by conceiving and developing six pilot research projects (more details of these are available in the 2016 briefing papers from each working group¹).

Working group 1 developed two pilots. The **Eurobarometer** project required painstaking work to develop a survey instrument that could be used to examine and compare across jurisdictions the experiences of those subject to supervision. The instrument has now been translated for and tested in 8 countries, with 2 further countries planning to follow suit. The **Supervisible** project used innovative visual methods (photography) to explore and represent experiences of supervision; it sought to make supervision visible. Three countries piloted the method and a further 5 have plans to repeat the process.

Working group 2 developed a single project based on innovative **comparative vignette methodology** (using carefully constructed and transferable case scenarios). These vignettes have been used to explore decision-making processes related to breach of supervision and the management of compliance. All 12 countries represented in the group have been involved in testing the method.

Working group 3 developed three separate pilot studies. The **Visualising practice** project explored the usefulness of visual methods (photography) in representing and comparing supervision, working with 14 practitioners in 5 countries. The **Observing practice** project used observational methods to compare first meetings between supervisors and supervisees across 5 countries. The **Practice diaries** project used diaries to compare the professional lives and routine practices of supervisors across 6 countries.

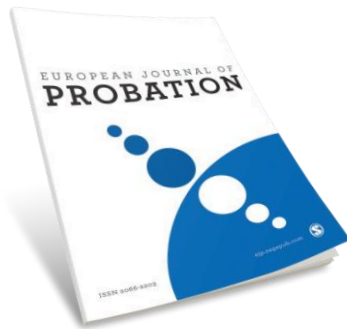
Our experiences of conducting these six pilot studies inform our conclusions and recommendations below.

Key Outputs

We have already mentioned above the two important books that we have produced so far. A third book is currently being prepared. This final volume, **The Enforcement of Offender Supervision in Europe: Understanding Breach Processes**, aims to deepen our understanding of the processes of breach in the context of unpaid work orders and early release from prison across a range of different European

¹ See: <http://www.offendersupervision.eu/documents-and-resources>, accessed 4th March 2016

jurisdictions. The collection is being edited by Miranda Boone, Niamh Maguire and Gill McIvor and will be published by Routledge in Spring 2017.



The Action has also produced two special issues of the **European Journal of Probation**. The first of these was guest edited by Christine Morgenstern and Gwen Robinson and was published in December 2014. It examined ‘**Consent and Cooperation of the Unfree**’² and contained 4 papers from members of the Action and two external contributions. The second was guest edited by Gwen Robinson and Kerstin Svensson and was published in December 2015. It examined ‘**Innovative Methods for Comparative Research on Offender Supervision Practice**’³ and contained 4 articles drawing on some of the pilot

studies referred to above. Members of our (suspended) fourth working group also briefly reconvened (virtually) in year 4, under the leadership of Christine Morgenstern, to provide a response to a consultation on revision to the European rules for community sanctions and measures⁴.

We have already noted above some of the conference contributions that have emerged from our work, but our knowledge exchange activities extend far beyond traditional academic dissemination. Our blog site⁵, for example, now contains 67 separate short and accessible blog posts addressing aspects of our work and sharing the work of other related groups doing similar work (like our colleagues in the Robina Institute in the USA⁶). The ‘Documents and Resources’ page on our blog site contains 3 annual newsletters, 13 working group briefing papers, 9 reports from short-term scientific missions, 8 other reports and 12 audio recordings of contributions to our meetings⁷. Of course, dozens of other research outputs by members of the Action have been informed by their participation in the Action’s work.

However, not content with this remarkable range of outputs, we are in the process of preparing a series of short podcasts reflecting upon our work, which we aim to publish online over the next few weeks (that is, by the end of March 2016). Perhaps even more unusually, our two visual methods pilot projects -- **Supervisible** and **Visualising Practice** -- have provided us with images that will form the basis of an exhibition and performance at our final conference. The **Seen and Heard** event includes an exhibition (curated by the artist Carlyne Kardia) of about 60 of the images from these projects and a performance (by the musician Louis Abbott) of songs inspired by the images.

Seen and Heard is funded by an award from the UK Economic and Social Research Council (£11,500), and in turn develops work undertaken in the Supervisible project with funding from the Howard League for Penal Reform (£5,000) and the University of Applied Sciences in Dortmund (€10,000).

² <http://ejp.sagepub.com/content/6/3.toc>, accessed 4th March 2016.

³ <http://ejp.sagepub.com/content/7/3.toc>, accessed 4th March 2016.

⁴ See: <http://www.offendersupervision.eu/wp-content/uploads/2016/01/CSM-Rules-Consultation-Response.pdf> accessed 4th March 2016.

⁵ <http://www.offendersupervision.eu>, accessed 4th March 2016.

⁶ See: <http://www.offendersupervision.eu/blog-post/robina-report-highlights-mass-supervision-in-the-usa>, accessed 4th March 2016.

⁷ See: <http://www.offendersupervision.eu/documents-and-resources>, accessed 4th March 2016.



However, by far our largest spin-off project to date arose from collaboration between members of our working group on decision-making. Under the leadership of Anthea Huckelsby (UK), a team including Kristel Beyens (Belgium), Frieder Dünkel (Germany), Miranda Boone (the Netherlands) & Gill McIvor (Scotland) secured an award on **The Use of Electronic Monitoring in EU Member States** (from the

European Commission-Directorate of General Justice Action Grants scheme, €622,000 approx.). The award was granted in December 2013 and the project runs from May 2014-May 2016. It is comparing the operation of electronic monitoring for adults in four member states (five jurisdictions) in order to examine its use at all stages of the criminal justice process and its effectiveness in terms of providing an effective and humane alternative to custody and reducing prison populations.

Regional workshops took place in Berlin, Utrecht and Brussels and the project's final conference takes place in London on 17th March 2016. For more information see: <http://emeu.leeds.ac.uk>

So, what have we learned?



Much of our work has been conceptual, exploratory and qualitative in character. In particular, we have not sought to analyse statistical trends in the use of supervisory sanctions and measures in Europe. In part, this was because we were aware of the ongoing work of other European colleagues (led by Prof Marcelo Aebi at the University of Lausanne) on the Council of Europe's Annual Penal Statistics. Helpfully, that work has produced some key findings in this past year. Aebi, Delgrande and Marguet (2015⁸) have revealed that, as we argued at the outset of the Action, the numbers of people subject to offender supervision have grown significantly (if unevenly) in almost all European jurisdictions in recent years. Seventeen of the 29 countries in their review now have more people under supervision than in prison.

Perhaps more importantly, they show that this cannot be explained by crime rates and, crucially, that it has **not** led, as advocates of such sanctions often hope, to a reduction in the use of imprisonment. Indeed, seven of the countries with the highest probation rates are also among the top ten in their rates of imprisonment. Aebi et al.'s (2015) work therefore suggests that the expansion of these forms of sanction has led to widening of the net, sweeping more European citizens into diversifying forms of penal control.

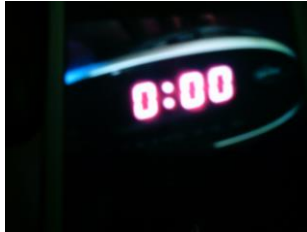
These findings underline the importance of our developing work on how such supervision is experienced by those subject to it, how it is constructed by those who practice it, and about how decisions about it are made. To conclude this report, we summarise some of our key discoveries in each of these areas.

Experiencing supervision

Our initial review of research raised questions about the rigour and reliability of existing work on how supervision is experienced, but broadly suggested that most

⁸ See: <http://pun.sagepub.com/content/17/5/575.refs>, accessed 4th March 2016.

people find it helpful. Respect and fairness from supervisors, good relationships between supervisors and supervisees in which they work *together* to address problems, and the provision of practical assistance all seem to help. These sorts of factors influence to a large extent the way people engage (or fail to engage) in changing their offending behaviour through supervision. However, Our pilot testing of the Eurobarometer suggests that experiences are very different in different countries, especially in relation to the extent of practical assistance (with employment, housing, finances and offending) offered.



Despite public perceptions of supervisory sanctions as ‘soft options’, a more recent strand of research suggests that supervision can often be painful in a variety of ways. When, in our Supervisable pilot study, we asked people with experience of being supervised to represent these experiences in photographs, their pictures most commonly reflected themes of constraint, losing time, waste and of being judged or condemned. Growth towards better lives was a more positive theme.

Discussion of the pictures suggested that all five key themes contained ambiguities (for example, constraint can be experienced as being held safely not just as being prevented from doing what you want to do), but even when experienced as a constructive and positive experience, it seems that supervision still hurts.

While supervision has many diverse forms, they share an immanent, pervasive quality in which people are made subject to life-altering and freedom-limiting conditions and live under the constant threat of further (worse) sanctions being imposed should they be judged as somehow ‘failing’. Their status as semi-free citizens feels precarious. Being supervised in a fair and helpful way may make these pains easier to bear, but it does not remove them. The way supervision affects others (families, communities, employers, victims and so on) is even less well understood.

Decision-making and supervision



Our initial literature review on decision-making and supervision found that research on this topic was located in only a few countries. We also found that there was a paucity of research on the decision-making *process* itself. We did not find much information on the influence that the different agencies involved have on each other and whether a different construction or organisation of decision-making processes could lead to different outcomes. Another clear outcome of the review was that breach and revocation were very under-researched topics. A comparison of the legal procedures of these countries involved in the COST Action showed that extreme variations exist in procedures and outcomes in relation to breach and recall and in the extent to which discretion can be and is exercised.

In our working group’s pilot study on decision-making processes in 12 countries, we found a striking similarity in relation to the types of groups that are typically excluded at the front door sentencing stage from receiving community sanctions; for example, foreigners, mentally ill people etc. Community sanctions need to be made more accessible to these groups to avoid the unnecessary and inappropriate use of imprisonment.



In relation to breach processes, we observed considerable differences between different jurisdictions in the dynamics of discretionary decision-making. In many countries decision-makers use much more discretion than is technically provided for by the law. Often this is necessary to maintain the dignity and respect of the persons subject to supervision, to secure its success and to fulfill the spirit of relevant law (rather than just the letter of the law).

In our work to date we mapped the differences and similarities in decision-making processes and procedures. Further research is needed to discover whether and how these differences lead to different outcomes; for example, a fair distribution of measures among different groups of offenders and to successful implementation and compliance.

Practising Supervision

In the research review prepared by our third working group, we found that research on the practice of offender supervision was also scarce. The studies we found focused on local conditions and very few comparative studies had been conducted. The main methods used were interviews and surveys, which had produced knowledge principally about what practitioners *say they do*, rather than on *what they actually are doing*. This working group has thereafter sought to extend that knowledge base by developing innovative methods for research on practice. We have found that by using *photographs, diaries and observations* a more thorough understanding of the practice can be developed. We also found that interviews can be valuable, but more as a complement to the other methods than as a standalone method. Our piloting has given us opportunities to test these methods as well as knowledge on both similarities and differences between the European practices.



We have learned that there is a great variation in practice, but also that the variation can be just as wide within a jurisdiction as between jurisdictions. However, we have found evidence of a common 'habitus' of offender supervision: an approach or disposition that is recognisable in offender supervision in different jurisdictions and settings. This means that we now know more about what practitioners are doing when they

practice offender supervision and we have created a good framework for future studies.

We also know that people are important, and that it is important to involve practitioners in the study of practice. They need to explain their perspectives on what we observe in observation, what they show in their pictures and how they choose what to mention in a diary. This means that collaboration with practitioners in research is of great value for the outcome. However, we have found difficulties with getting access to practice and in practitioners finding time to contribute to research.



With the outcomes from this working group as a starting point much further could be initiated. For example many questions for comparative research are suggested, such as *What constitutes the habitus of offender supervision in Europe?*, or for more local studies, *What constitutes the variation within a jurisdiction?*. An overarching question that arises from the work done is *What does 'community'*

mean in community sanctions and measures? Our pilot studies also suggest several more detailed questions, the viability of each depending on the interest of the researcher and the degree of interest from practice.

Our mixed methods approach to research on offender supervision, the fact that we have a strong network of academics and colleagues connected to practice and the presence of leading academics in the field of probation research in our working group provides a very good platform for the future. The challenge for further work is to find appropriate channels for funding.

Implications for policy, research and practice



First Principles: We now know that supervisory sanctions are expanding and diversifying across Europe and that this expansion is not, in general, impacting significantly on prison populations. We also have emerging evidence from our own work and the work of others that offender supervision is a painful experience, even when it is experienced as fair, constructive and helpful. Two principles follow:

1. Since supervision hurts, decisions about imposing and revoking supervision must be bound by considerations of proportionality. No one should be subject to more demanding or intrusive supervision than their offending deserves.
2. Supervision must be delivered in ways that actively minimize unintended and unnecessary pains both for those subject to supervision and for others affected by it (for example, family members).

Availability: It appears that some social groups (e.g. people with mental health problems, foreign nationals, etc.) are commonly excluded from supervisory sanctions and thus accelerated through the criminal justice system and into custodial sanctions and measures. To avoid the unnecessary, inappropriate and disproportionate use of imprisonment, supervisory sanctions and measures need to be made more accessible to these marginalized and vulnerable groups.

Discretion: The exercise of considerable discretion (beyond that provided for by law) is sometimes necessary to maintain the dignity and respect of persons subject to supervision, to secure its success and to fulfill the spirit of relevant law (rather than just the letter of the law). In approaching compliance issues in supervision, careful attention to the spirit of the law and the intent of the sanction or measure is required, as well as to its formal requirements.

Legitimacy and help: Efforts to improve the practice of offender supervision should attend carefully to its legitimacy and helpfulness since we now have strong evidence that these qualities support engagement, minimize pains and help to secure positive outcomes. In particular, practical help in addressing unmet needs should be a central aspect of supervision. As well as helping citizens' integration and inclusion, working fairly and helpfully also supports constructive relationships and thereby desistance.

Research development: Our pilot studies have developed new ways of conducting more robust research at the local, national and international levels -- including comparative research.

1. Further research on experiencing supervision now needs to move beyond the pilot stage and also needs to extend beyond the experience of those supervised to include families, communities, employers, victims and so on.
2. Further research on decision-making is required in order to explore the relationships between different decision-making processes and practices and different outcomes in different systems.
3. Further research on practising supervision requires open doors for collaboration. Such collaborations make it possible to understand practice better and to develop it consciously. When we understand similarities and differences in practices within and between jurisdictions, we can also better understand which models and methods for practice it is possible (and wise) to transfer between jurisdictions.

Final words

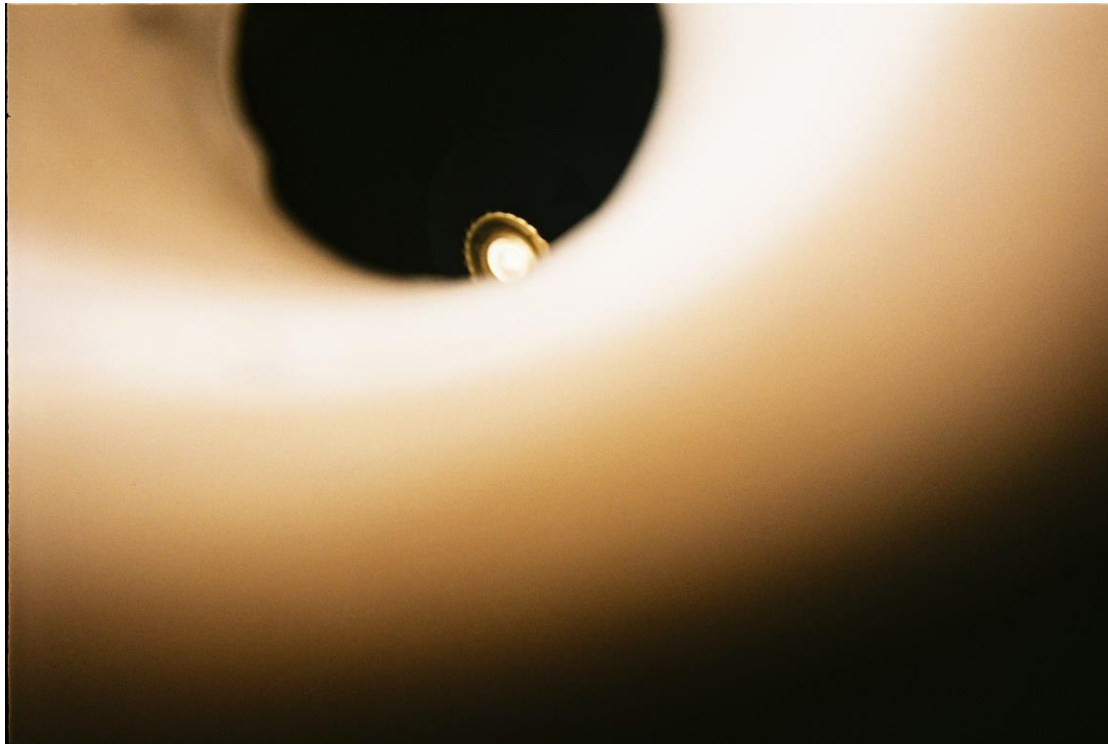
It has been no small challenge to summarise four years of work and four years of learning in a few pages. Perhaps we have said too little about the challenges we have faced. We have learned -- as we suspect all COST Actions must learn -- that language and cultural differences need to be very carefully considered in developing collaborations; oftentimes, we thought we were talking about the same things only to discover we meant quite different things (and vice versa!). Nonetheless, we have learned that shared commitments and enthusiasms -- and a little patience with one another -- can go a long way.



More importantly perhaps, we have learned that collaboration is essential in developing our knowledge and in exploring the implications of the new knowledge that we discover together. Indeed, we might go so far as to say that we cannot learn much about ourselves and our own systems of supervision until and unless we find ourselves struggling to 'translate' them for others. That process helps us develop perspective, and as the photographs in this report reveal, perspective is crucial in shaping what we are able to see, and what we fail to see. We can only find new perspectives by moving around -- conceptually and geographically.

The end of the Action may mean that we travel less in the physical sense, but one of the Action's key legacies will be the way that it has moved us around and will continue to move us around conceptually. Facilitating these movements is one of the key contributions that European institutions and European associations can make to criminal justice reform. Certainly we now know from experience that working together produces new understandings, opens up new possibilities and helps us imagine progressive change.

That matters to us because we study systems that test (under the stress of crime and punishment) relationships between the state, civil society and citizens. These institutions, cultures and practices are mirrors into which we insist that we must look, even if we don't always like what we see. Working together forces us to examine ourselves; at the same time, it helps us to see the face of possibility more clearly.



About COST

COST is the longest-running European framework supporting trans-national cooperation among researchers, engineers and scholars across Europe. It is a unique means for them to jointly develop their own ideas and new initiatives across all fields in science and technology, including social sciences and humanities, through pan-European networking of nationally funded research activities. Based on a European intergovernmental framework for cooperation in science and technology, COST has been contributing - since its creation in 1971 - to closing the gap between science, policy makers and society throughout Europe and beyond. As a precursor of advanced multidisciplinary research, COST plays a very important role in building a [European Research Area](#). It anticipates and complements the activities of the EU Framework Programmes, constituting a “bridge” towards the scientific communities of COST Inclusiveness Target Countries. It also increases the mobility of researchers across Europe and fosters the establishment of scientific excellence. For more information, see: http://www.cost.eu/about_cost

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