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STREAM: Strategic Targeting of Recidivism through Evaluation And Monitoring (JUST/2011/JPEN/AG/2892)

Final Report: Workstream 4

Introduction: Background to STREAM and the rationale for this Workstream

This report will consider the impact of the Council of Europe Probation Rules on the policies and practices of probation in the EU member states. The Objectives of the Workstream will be set out; how the research was undertaken will be explained in a Methodology section; a Literature Review will cover what research has already discovered about this and associated questions. The report will then set out in detail the findings from our Inquiry. Analysis and discussion will follow and a further section will consider the Workstream's objective to scope the possibility of developing a Probation Centre of Excellence. The Report concludes with some Proposals.

STREAM

In order to understand the rationale and significance of this Workstream, it is first necessary to explain the background and the origins of the STREAM project. The broad aim of the project has been to support the development across Europe of effective practice in working with offenders in the community and to facilitate the sharing of good practice based on evidence. The forerunner of STREAM, the STARR Project (Strengthening Transnational Approaches to Reducing Re-offending - JLS/2007/ISEC/517) had found that, while there were many reasons to think that there was some excellent probation practice taking place in several countries, this could not always be convincingly demonstrated. In particular, the rigorous evaluation required to establish evidence on which policy and practice might be founded or to demonstrate effectiveness was often not undertaken. STARR found significant disparity in the frequency and quality of evaluations and in the use of evidence to guide practice, with relatively well-controlled and sound evaluation studies being discovered in only five of the EU Member States.

STARR was mostly concerned with the evaluation of (or the failure to evaluate) offending behaviour programmes[1]. Yet even if a programme can be shown to be effective, its achievements will only be replicated if the right conditions can be established. This depends not only on 'programme integrity'[2] , but on a range of organisational considerations, notably management, adequate staff training and resourcing to deliver the programmes. Indeed an authoritative review of what has been learnt since the introduction of *what works*, places particular emphasis on 'the importance of the broader service context in supporting effective intervention' (Raynor and Robinson 2009: 109). Both practice and its evaluation, then, depend upon a *context* – of culture, organisation and infrastructure, of scholarship and research - and in these respects too there are wide variations across the continent that affect member states' capabilities to implement and to test their work. The most complete specification of this context for probation is provided by the European Probation Rules (hereafter *EPR* or *the Rules*).

It is for these reasons that Workstream 4 was included in the overall project. Other workstreams explored what is known about effective practice in one-to-one probation supervision; the scope for introducing to one country methods developed in another; and how countries might be helped to undertake evaluation of their own. EPR is concerned with all these questions: for example, Rules 104 and 105 (and see Part VIII in general) make clear statements about the importance of evaluative research. But EPR also guides the organisation, management, policies and practices which make these activities possible at all. It is therefore essential to gain a better understanding of the extent to which EPR have been put into effect.

European Probation Rules

The European Probation Rules (Recommendation CM / Rec [2010] 1 to the member states, adopted by the Committee of Ministers of the Council of Europe on 20th January 2010) are an attempt to specify the characteristics and requirements of a probation agency (Council of Europe 2010a). The Rules are organised in eight parts:

Part I: Scope, application, definitions and basic principles
Part II: Organisation and staff
Part III: Accountability and relations with other agencies
Parts IV - VI: Probation work (the several tasks and responsibilities of the probation agency), the processes of supervision, work with victims of crime
Part VII: Complaint procedures, inspection and monitoring
Part VIII: Research, evaluation, work with the media and the public

[1] A programme may be defined as a 'structured sequence of opportunities for learning and change' [McGuire] or ' a systematic, reproducible set of activities in which offenders can participate' [Correctional Services Accreditation Panel]. See Raynor and Robinson 2009: 128.
[2] A programme may be said to have 'integrity' when it 'is conducted in practice as intended in theory and design' (Hollin 1995; Robinson and Crowe 2009)

A Glossary is appended to the main text. The Rules are also accompanied by a Commentary (Council of Europe 2010b) to explain their rationale and implications.

The starting point, as with all Council of Europe Recommendations, is the European Convention on Human Rights and the Rules set out how the Convention should apply to probation, as well as the conditions for ethical and effective probation organisation, policy and practice (Canton 2010). Determining the precise way in which the standards set out by the Rules are to be implemented remains the prerogative of each state, but the Rules set the ethical parameters and identify those aspects of probation to which all countries must give attention.

Unless the areas covered by the Rules receive appropriate attention – unless, that is, a probation agency is properly resourced and managed, its staff adequately trained and able to go about their work in the right way - it will be all but impossible for effective programmes to be established, delivered or evaluated. And unless the work of the agency is founded in law and sound lines of accountability and management are in place, no initiative can be implemented appropriately. Investigating the extent to which the Rules have been implemented was accordingly an important element of the STREAM programme and the investigation was assigned to this workstream.

In general, the influence of instruments that originate at a governmental level above the nation-state is a matter of the highest importance both to the Council of Europe and to the EU. The Council of Europe has promulgated many recommendations, supports member states in implementation and from time to time attempts a survey of their impact. On the other hand, unless an inspection[3] or litigation discloses shortcomings, the extent to which a Recommendation has had its intended effect remains uncertain. And while the status of EU law and mechanisms of enforcement are different, the EU too needs to know much more about those factors that influence the extent to which its laws and directives in the area of criminal justice and punishment are received and implemented in different countries. This consideration is more than ever relevant at a time when the EU is requiring its members to implement a series of Framework Decisions relating directly to prison, probation and pre-trial detention[4].

Objectives of this Workstream

The formal objectives of this workstream are:

1. To ascertain if the European Probation Rules (hereafter EPR) have influenced probation policy and practice in member states
2. To discover how EPR have been used (for example, to benchmark established systems; to develop new systems)

[3] The most important inspectorate here is the Committee for the Prevention of Torture (http://www.cpt.coe.int/en/). Among other concerns, the CPT will consider whether Rules and Recommendations (notably the European Prison Rules [Council of Europe 2006] are being put into effect.
[4] FD 2008/909/JHA on transfer of prisoners; FD 2008/947/JHA on probation and alternative sanctions; FD 2009/829/JHA on the European Supervision Order.

3. To identify any difficulties that have hindered implementation
4. To determine the strengths and the shortcomings of EPR in light of experiences of implementation
5. To use the findings of the research to improve implementation and effective organisational practice, providing recommendations to assist European wide probation agencies
6. To scope the possibility of developing a 'centre of excellence' for European probation, most likely through a virtual network (interactive website), to ensure that the project is sustained and continues to develop.

With regard to the first of these objectives especially, a key distinction that needs to be made immediately is between the impact or influence of EPR and, on the other hand, conformity or compliance with these Rules. It may be, for example, that a country's organisations, policies and practices are substantially in accordance with EPR, but have not been *influenced* by them: rather, their practices may have already been in place and have not changed because of EPR. This seemed likely: after all, the content of the Rules was the outcome of the deliberations of a committee within the Council of Europe whose members have extensive experience of penal affairs[5]. It was the experience of their own agencies and their own conceptions of good practice that they drew on when drafting the Rules. Similarly, the two experts, from the UK and the Netherlands, who advised this committee drew on their own ideas of best practice.

A colleague in the Council of Europe was asked at the beginning of this project whether impact was important here or whether conformity was enough. Her reply guided the subsequent thinking in this workstream:

> 'I think that both the impact of the Rules is important to measure as well as the compliance with these. The impact is important as it allows us to know whether legislative or structural changes have been initiated after their adoption … and in line with their standards and whether they have been included in the training of staff. Compliance is important as it shows whether practices and mentalities change over time because of being influenced by the Rules or because society or legislation change.' (Personal communication)

Methodology

While the European Probation Rules have been recommended by the Committee of Ministers to all 47 member states of the Council of Europe, our research was confined to the (28) states of the European Union. Within some of these states, there are different

[5] Like the Prison Rules, the Probation Rules were developed by one of the committees of the Council of Europe, the Council for Penological Co-operation (PC-CP), which is an advisory body to the European Committee on Crime Problems (CDPC). At the relevant time, the PC-CP was made up of 9 members elected in their individual capacity from different European member states, mostly people with extensive experience of penal affairs. Their experience – for example, of the practical challenges of managing a prison or a probation agency – not only gave authority to their opinions, but also ensured that hard, specific questions were properly addressed.

jurisdictions and different arrangements for the provision of the services of probation. In the United Kingdom, for example, different arrangements prevail in England and Wales, in Scotland and in Northern Ireland, while the German *Länder* vary considerably[6].

With these challenges in mind, the research team started by trying to identify a key contact in each country. A paper was written and published in the newsletter of the Confederation of Probation (CEP) alerting people to the STREAM project and inviting support and cooperation (Appendix One). Our key contacts were to be individuals who were known to be knowledgeable about the topics of inquiry, but who were also in a position to identify others in their country with specialist knowledge and to encourage them to correspond with us. At this stage of the inquiry, this Workstream was working together with Workstream 1, led by Jean Hine, also at De Montfort University. The decision to work closely together represented an efficient use not only of the project's resources, but also of the time of the busy respondents concerned. It was recognised that, at a later stage, the two Workstreams would need to 'split' because of their different concerns, but cooperation was invaluable at the earliest stages. Individual researchers were assigned countries and then became responsible for finding out as much as they could about these countries.

Those identified for initial contact were people known to us from earlier projects, academic associates, and connections made through the CEP. An email was written to these contacts (Appendix Two) and, if there was no response or a reply pointing us to somebody else, to others as well. In the event, the team was not successful in identifying someone in every country, while other respondents were found rather later in the project than would have been ideal. Even so, the project was successful in gaining some information from every country in the EU with just a single exception, and in most cases this information was substantial and valuable. An indication of the extent of 'reach' is that we understand that at least 20 countries were represented at the Final Conference in Malta in October 2014, many of whom had contributed directly to the work of Workstreams 1 and 4.

The idea of sending a written questionnaire was considered but rejected. Not only the quantity of returns (experience shows that response rates can be very disappointing), but also the quality of the responses can be a significant shortcoming with a written questionnaire. Complex questions may be answered briefly and / or with ambiguities that need further exploration. Dialogue, in contrast, can stimulate new and creative ideas, as well as making sure that the questions are understood in the manner intended. For this reason, emails were sent to our key contacts with a request to arrange an appointment for a conversation on Skype.

In very many cases, Skype conversations subsequently took place. In some cases, however, people had no access to Skype and other means had to be found: some countries replied that Skype was not available to them in the workplace and sometimes this was deliberately the case (perhaps because of concerns about the security of their

[6] Different people were identified for the separate jurisdictions of the UK, though to begin with it was only possible to find a person from a single *Länd*.

ICT systems). While it is the prerogative of every country to decide on its use of technology, it is to be noted that restriction on the use of Skype (or similar software) does limit the communication and networking that is becoming increasingly essential to European probation. This is needed not only for research development, but for the purposes of implementing the Framework Decisions.

Several Skype conversations took place with these key initial contacts (the schedule of questions is attached at Appendix Three). Where possible (not always), written questions were sent in advance so that the respondent had an opportunity to ponder the matters that were to be discussed. With the permission of the respondent, the conversation was recorded for the project's further reference. Where a Skype conversation could not be arranged, sometimes the telephone was used instead. As stated, the main purpose of the conversation was to identify individuals with specialised knowledge of the topics of the two Workstreams. At the same time, these initial respondents were almost always deeply knowledgeable and experienced and the opportunity was taken to elicit their own views on the topics of the two workstreams.

The research team was given introductions to other respondents who were identified by our initial key contact. The schedule of question in this second phase is reproduced as Appendix Four. The same procedures were then followed, email leading to a recorded Skype (where possible). In some cases, conversations took place on the telephone and, in one or two cases, as a last resort a written questionnaire was used. In most cases, short written summaries of the main points taken from the interview were sent to the respondents who were asked to check that they felt fairly represented. In the great majority of cases, interviews were conducted in English, although we were able to offer the option of an interview in French or German instead. This limitation is to be noted, although it is unclear what difference it may have made to the findings (on some aspects of language and interpretation, see Kaptan and Canton 2014).

Our original aspiration had been to interview people in several different roles – ideally, a representative of the Ministry of Justice, a member of staff of the probation agency itself and a scholar or researcher in a university. In practice, this proved impossible for us to achieve. Where we could, we interviewed staff in different roles, but sometimes we ended up relying on the views of a single respondent. Where we did speak to people in different roles, mostly people said the same things and an agreed national picture emerged, but there were at least four examples where perspectives were significantly different, with a senior manager and a researcher expressing markedly different opinions.

Perhaps the prospect of getting a definitive national account is illusory – especially in answer to questions like: *Do Probation policies and practice reflect the values and beliefs of EPR?* National experts will have their own (and perhaps opposing) views about this. So while in the exposition that follows views and practices have been attributed to countries, the reality is much more complex than this. This may be especially the case where discussion relates not to matters of fact (*we do / do not work directly with victims*), but to 'softer' questions of ethos and of values. In general, the relationship

between how people describe and justify their work and the realities of their practice – the 'story' and the reality (Cohen 1985) – is always uncertain. This is not to call into question the good faith of respondents, but rather to recognise that there are many ways of interpreting practice, its effects and its meanings, and that the view of the individual policy maker, civil servant, practitioner or academic will represent just one way of understanding what is taking place in their country.

A further possible limitation to be noted is that some respondents may have felt anxious about describing their nation's experience in ways that they feared might be seen as negative and accordingly tempted to exaggerate compliance. In fact all countries have significant shortcomings and these are often important sources of learning for improvement. But there may be cultural or political difficulties in admitting problems to researchers. Others, by contrast, may have been unduly or unfairly critical of their country's probation practices. In all cases, individual respondents were promised anonymity by the researchers and in this report no responses are attributed to any particular country.

Most of this report tries to summarise views and information provided by respondents in individual interviews. Findings were further enriched, however, by three events in the course of the project. In April 2014, a seminar was held at De Montfort University where a small group of scholars (who were not involved directly in the project) were asked to deliver presentations around the following topics:

> Is it possible to determine the circumstances and conditions in which countries implement instruments such as the European Probation Rules? What about the circumstances and conditions under which they achieve impact? Is resort to modes of governance above the level of the nation-state a feasible means of raising normative standards? If so, how exactly do the instruments have their influence? How do the answers to these questions relate to the notion of "effectiveness" and its assessment? What are the implications for bodies like the Council of Europe and the EU that are striving to raise standards on the basis of evidence-led policy-making?

Secondly, in September 2014, a workshop was held in The Hague. Although much of the discussion on this occasion related to the concerns of Workstream 1, there were also workshops in which participants were asked to explore issues relating to the EPR and also the particular idea of a Centre of Excellence. Workshops of this type can be an especially rich way of eliciting ideas because participants are able to compare and contrast their experiences, express disagreement and encourage one another to develop new ideas.

Thirdly, the final conference that took place in Malta in October 2014, included a short workshop on the idea of a Centre of Excellence. The views expressed there by a number of participants with extensive experience have been included in the relevant section in this report.

The Literature Review

Before undertaking our own inquiry, the research team reviewed the relevant literature to see what existing scholarship and research findings could contribute to answering our questions. In the particular case of the European Probation Rules (EPR), there has been little research and publication. Since the EPR were adopted as recently as 2010, and since probation is in any case less extensively researched than prison or policing, there is relatively little academic literature on the Rules themselves. Some papers, however, should be mentioned here. Morgenstern (2009) has reflected instructively on the potential and the limitations of European initiatives for harmonisation and minimum standards. Canton (2010) explained the origins and importance of EPR, although was not in a position to say anything about their implementation. Jesse (2011) undertook an instructive review, comparing the quality standards of his own administration (Mecklenburg – West Pomerania) with EPR, while drawing particular attention to the constraints of financial pressures and cutbacks. Most recently, Morgenstern and Larrauri (2013) reflected on the impact and potential of European norms, policies and practice. Yet even though there have been a number of earlier Council of Europe Recommendations on community sanctions and measures (notably Council of Europe 1992; 2000), it could fairly be said that European initiatives on the supervision of offenders in the community remain poorly understood and scholarly analysis of their impact is relatively rare (Morgenstern and Larrauri 2013).

The Council of Europe (2011) attempted its own survey of the implementation of EPR, alongside other Recommendations (the European Prison Rules [Council of Europe 2006] and the European Rules for Juvenile Offenders subject to Sanctions or Measures [Council of Europe 2008]). Again, the timing of that inquiry – and perhaps also the perceived relative importance of the new EPR – led most respondent nations to say much more about the other two Recommendations and little about EPR.

There are however wider bodies of scholarship relating to these questions. First, there has been some study of the general question of the effective promulgation and implementation of instruments that originate at a governmental level above the nation-state, and which purport to regulate criminal justice and punishment. Literature that bears on this general topic may illuminate EPR insofar as attempts to influence pan-European probation development could be seen as just a special case of this broader question.

The European Framework Decisions aiming at facilitating cooperation and the sharing of good practice, including FD 947 on the transfer between countries of probation and alternative sanctions, reflect an attempt in recent years by the European Union to extend judicial cooperation among member states. However, owing to concerns expressed about the consequences of such 'third pillar' initiatives for national sovereignty, attempts to introduce international standards and instruments for probation work are not binding on European Member States. They must be put into effect, but the manner in which this

achieved is to be decided by each country for itself. The extent to which they will impact on domestic legislation in different countries is therefore uncertain.

Yet a sharper question is *what counts as implementation anyway?* For example, a country may transpose an FD into domestic law, but ensuring the effective realisation of the practices required by the FD is very much another matter. Here statutory law is necessary, but by no means sufficient. This challenge is even more radical for such a broad, exhortatory and aspirational instrument as EPR. Implementation here calls not only (and indeed not always) for legislation, but for changes in policy and, especially, in practice. The challenge of how practice can be appraised to gauge its conformity with EPR is substantial.

There is also an extensive literature that considers the many historical, cultural, political and economic complexities which interact to influence variations in the purpose and form of criminal justice policy and practice in different countries (Cavadino and Dignan 2006a, 2006b; Norris 2009; Hamilton 2013; Nivette 2014). Some of this literature has been written to advance understanding of comparative analysis (Ruggiero *et al*. 1996; Cavadino and Dignan 2006a, 2006b), although interest has also been prompted by the challenges of *penal policy transfer* and attempts to understand the circumstances in which policies and practices brought from one country may be introduced to another and expected to thrive (Newburn and Sparks 2004; Canton 2009; McFarlane and Canton 2014).

Comparative analysis of criminal justice

Comparative analysis has tried to construct typologies to try to make sense of the many factors that might influence criminal justice and more specifically penal policy and practice in different countries. Influential approaches include attempts to explore connections between the political economy of a country and its penal system and its attitudes to punishment (Cavadino and Dignan 2006a, 2006b; Lacey 2008). Cavadino and Dignan (2006a, 2006b) distinguished different types of welfare regimes and attempted to show connections between these regimes and the penal policies of different countries. Others have drawn on notions of *political culture* (Lijphart 1999) to contrast countries which are less punitive, more inclined to maintain lower imprisonment rates and invest in support and rehabilitation and, on the other hand, those where politicians are more likely to appeal to popular punitive emotions and adopt uncompromising penal policies for political gain (Lacey 2008; Sparks and McNeill 2009; Hamilton 2013).

Yet the idea of a primary influence that determines the trajectory of penal policy and practice or the character of probation work is at risk of considerable over-simplification. As Nelken (2009: 297) has argued in respect to political economy, for example, 'a wider variety of variables than those connected to neo-liberalism can lead to higher or lower punitiveness'. For instance, the legal culture in a country, including its court processes and criminal procedures, acts an independent variable in its own right 'and not merely as

a conduit for wider economic and political factors or changes' (*ibid*: 301). Although difficult to measure or even to specify, the interplay among all the factors that constitute a 'legal culture' can result in important differences between countries regarding legal behaviour, including ideas about probation practice.

Similarly attempts to assign nations to 'families' (Castels 1998; Castels and Obinger 2008; Norris 2009), based on historical and cultural affinities, have had limited success in explaining why penal policy in general or probation practice in particular takes the form that it does. Nelken (2004, 2009) rightly insists that penal policy and practice are not determined by any single influence, but by several factors in complex interaction.

Probation

Probation is a fascinating, though relatively neglected, case study in this area of research. This is because much of its value lies not only in what probation agencies do and the effectiveness and efficiency with which their work is accomplished, but what probation represents and stands for – what it *means* in different countries. The symbolic aspects of probation, what people want from it, are always subject to debate. The historical development of probation in different countries may be influenced by the strength of moral unity in social groups regarding common underlying principles of tolerance, respect, dignity, fairness and forgiveness, for example. But these terms are not absolute and are themselves liable to change in response to a range of political and socio-economic factors. Meanings attached to them shift over time and criminal justice approaches are always subject to contestation and perhaps resistance in the countries concerned (Nelken 2009). These factors, often deeply embedded in a nation's culture, are likely to make a difference to the way in which international regulation is received and the extent to which it is implemented.

Probation services are described and labelled differently in different countries (McNeill 2013) and the terms in which they refer to the users of their services (for example, *offenders* or *clients* or *service users*) are also different and often suggestive of the way in which probation understands and chooses to represent its work (Herzog-Evans 2013). That said, the little research that has been carried out suggests that, despite legal and organisational differences of definition, policy and practice, the fundamental principles and ethics underlying probation work are common to most countries. Owing to a strong religious tradition of charitable and voluntary work that has informed probation work in most European countries since its inception, an emphasis on welfare, social work and equal opportunities; the affirmation of human dignity and respect for the autonomy of individuals; and the belief that every person can change, form part of the values and mission of every European probation service (van Kalmthout and Durnescu 2008). Providing guidance, care and assistance to offenders has proven durable as an end in itself, even if it is sometimes modulated by other penal strategies involving punishment and / or control (Robinson and McNeill 2004). It is these principles and ethics that have informed much of the current European harmonisation agenda. As McNeill (2013) has pointed out, an emphasis on justice and fairness in probation work, and its role of furthering the social inclusion and civic reintegration of offenders into communities, is

firmly grounded in the various Council of Europe standards and instruments intended to strengthen community sanctions as a viable alternative to imprisonment and to ensure that the human rights of offenders subject to them are respected.

Nevertheless, the purpose and priorities of probation work have been subject to considerable change in recent years in several countries. This change may be largely understood as stemming from broad transformations in late-modern economic, social and cultural conditions. Premised on notions of personal morality and self-determination, associated with neo-liberalism, this cultural trend has important consequences for how probation work has come to be defined and understood politically and publicly. The fundamental human right of individuals to receive welfare support in order to achieve civic reintegration has come to be seen as economically untenable and morally limiting. Social marginality must be governed through an amalgam of social and penal policy, leading to a coercive, authoritarian strategy which gains precedence during periods of economic austerity (Wacquant 2009). Now subsumed within a 'culture of control' (Garland 2001) and 'new punitiveness' (Pratt *et al.* 2005), offenders supervised in the community are increasingly seen less as recipients of welfare support and more as targets of control - targets which, for reasons of public protection, require increasingly rigorous measures of risk assessment, supervision and breach (McNeill 2013). Indeed the reduction of risk and the imperative to protect the public have, in the politic pronouncements of many countries, been identified as the defining priorities of criminal justice in general and of probation too. In this respect, rehabilitation has in some places come to be seen not as a desirable end in itself, but valued principally as a means of reducing reoffending. In other countries, by contrast, the social work ethos remains strong and doubts are expressed about the priority given elsewhere to the assessment and management of risk. Some of the newer agencies are founded on a commitment to welfare.

A focus on individualism, high levels of inequality and a lack of social cohesion have impacted directly on perceptions of justice, resulting in diminished welfare provision and high rates of imprisonment. Despite emerging from a charitable and welfare tradition, probation, especially in the English-speaking nations, has been reconfigured. Viewed either as opportunistic or just plain evil (Garland 2001), offenders supervised in the community are subject to ever stricter risk assessment and supervision requirements (McNeill 2013). Behaviourist philosophies and methodological individualism derived from Canadian 'what works' research have informed evaluations of programmes measured primarily in terms of reducing (re)offending. Structural and social barriers to offender reintegration which exist outside the purview of an individualistic lens are ignored (Flynn 2012). Such perspectives have been highly influential in English-speaking nations, but global processes of penal policy transference are not restricted to them. EU approaches have a discernible US influence (Baker 2010) while many Eastern European nations - Bulgaria, the Czech Republic, Romania, Croatia, the Baltic countries - have looked directly to England and Wales for guidance on probation policy and practice (Canton 2009). It is also the case that multinational companies, more powerful than many of the countries in which they trade, increasingly export penal policies and practices around the

world (Nelken 2004, although this process has accelerated considerably in the decade since he wrote).

Harmonizing Probation Services in Europe

The point of these discussions is to highlight the complexities involved in the effective promulgation and implementation of instruments that originate at a governmental level above the nation-state. 'Punishment is deeply embedded in the national / cultural specificity of the environment which produces it.' (Melossi 2001: 407), although this does not mean that the European Union 'lacks the necessary means and impetus to develop its own version of "Governing through Crime".' (Baker 2010: 188).

It is not and could never be a straightforward matter of a state's receiving, enacting and implementing such instruments. Rather, this process is interpreted and mediated by a broad and interacting set of economic, social, cultural and professional considerations that may modify or even frustrate supra-national regulation and will in all cases shape the manner and degree of its implementation. Further, competing priorities and objectives, as well as variable professional and public views on criminal justice, have marked implications for attempts to harmonise probation policy and practice. For example, 'different purposes [for probation] suggest different definitions and measures of effectiveness' (Shapland *et al*. 2012: 3). In the face of global transformations in economic and social relations, the diffusion, imitation, copying or emulation (Dolowitz 2000) of probation policy and practice throughout European countries is dependent on the strength of the traditions of probation within them. As we have seen, for some countries legal transfer is subject to strongly held principles and cultural values, whereas in others it is conditioned by and secondary to market priorities; or in others still, former Soviet Union countries for example, it may be seen as part of an effort to modernize, to become more democratic and economically successful.

The Workstream 4 Seminar

Since there is relatively little literature relating to the specific research questions of this Workstream, a seminar was convened to explore the inherent complexity of these questions and to make connections between the projects' objectives and some of the existing research[7]. Among the questions that the speakers were invited to address were:

- Is it possible to determine the circumstances and conditions in which Member States implement EU instruments (such as Framework Decisions) and Council of Europe Recommendations?
- What are the circumstances and conditions that enable such instruments to achieve impact?

[7] Key note speakers were: Professor Estella Baker, De Montfort University; Professor Dr Miranda Boone, University of Utrecht; Professor Sir Anthony Bottoms, University of Cambridge; Professor Rob Canton, De Montfort University; Professor Fergus McNeill, University of Glasgow; Professor Dirk Van Zyl Smit, University of Nottingham. Some of the speakers have asked not to be cited directly, so the summary set out in the body of the report represents a few of the ideas emerging from presentations and discussions. They should not be attributed to particular contributors.

- Is resort to a mode of governance above the level of the nation-state a feasible means of raising normative standards?
- If so, how exactly is this influence achieved?
- What are the implications for bodies like the Council of Europe and the EU that are striving to raise standards on the basis of evidence-led policy-making?

Yet speakers were also encouraged (in the invitation) to reflect as they felt appropriate on the European Probation Rules. Some challenged specific Rules. Others warned against an undue optimism, which EPR were felt to express, in the potential of probation interventions to reduce reoffending. History, after all, repeatedly reminds us of the dangers of such assumptions. It was further argued that EPR champions probation with insufficient regard to the principle of proportionality. EPR fail to explain how they might advance the objective (referred to in the preamble) of reducing the prison population. As Cohen (1985) warned many years ago, there can be no assumption that a greater use of probation (or any community sanction) will reduce the numbers of people in prison. It is one thing for probation to displace the use of imprisonment, quite another for it to act as an 'alternative' to less interventionist sanctions like suspended sentences or fines. The priority should not be to proliferate probation tasks or even to establish agencies in all European countries, but to develop community sanctions and to address the difficult questions about how they may contribute to a reduction in the use of imprisonment. The expansion of probation should not be taken as an unmixed benefit, as EPR appear to assume.

A useful distinction in considering compliance, made by more than one speaker, is between substantive and formal compliance – compliance, as it were, with the spirit of regulation (substantive) and not only its letter (formal). This distinction has been applied instructively to the question of an offender's compliance with the orders of the court (Robinson and McNeill 2008), but has application here as well. One could imagine, for example, with regard to a Framework Decision, a country transposing the FD into national law as required while, intentionally or not, subverting its implementation – for example, by using the FD to send offenders to another country for reasons other than the priority of their *social rehabilitation* as the FD intends. Again, it would be possible for a country to affirm some of the principles of the EPR, especially as they are (necessarily) cast in general terms, but in reality to undertake its work in a way that failed to express those principles in practice. This becomes all the more important because substantive compliance with EPR depends not (only) on law, mission statements and policy, but on how practitioners go about their work. One speaker had found in their research

> ' … practices that can maybe not be considered as infringements of the rules in a narrow sense, but are not in line with the idea behind them either.'

Doubts were expressed about the extent to which probation practitioners thought the discourse of human rights should *guide* their work. In short, a focus on statute to assess the degree of compliance in a particular country can make unwarranted assumptions about the relationships between law, policy and practice.

In trying to understand what circumstances and conditions conduce to compliance, Bottoms (2002) influentially distinguished mechanisms of compliance which may be conceptualised as follows:

Dimensions of Compliance	**Comments: Application to question of implementation of EPR**
A. **Instrumental /prudential compliance** 1. Incentives 2. Disincentives	People will take account of consequences, of costs and benefits. What are the perceived costs and benefits of seeking to implement EPR specifically and supra-national regulations more generally? It must also be recognised that these costs and benefits may well be different as between different people involved in implementation.
B. **Normative compliance** 1. Acceptance of / belief in social norm 2. Attachment leading to compliance 3. Response to normative cues 4. Legitimacy	Legitimacy is a key aspect of the normative dimension of compliance, which recognises that people are much more likely to comply when they feel they are being dealt with fairly and with respect. Rigid, unfair or unreasonable responses to non-compliance can lead to further non-compliance and undermine the legitimacy on which longer-term, substantive compliance is likely to depend. How do countries regard the 'legitimacy' (***not*** merely the legality) of European regulation? Do the threats (e.g. of fines for non-compliance) – an instrumental incentive – have their intended effect or do they risk making some countries defiant? Are countries committed to substantive compliance with the norms of a 'family of nations'?
C. **Situational compliance** 1. 'Architectural' compliance 2. Social-structural situational compliance	National systems of criminal justice may make it relatively harder or easier to comply. For example, where EPR require *changes* in practice – sometimes their whole point – such changes may impinge on the priorities of other agencies who may then resist. 'New penal policy or practice will have to find – or more probably make – its place in the context of an existing system' (Canton 2009b: 70). (Joint work between probation and prison – for instance, to plan for release and resettlement - may be an example here. In some EU countries, the prison and probation agency is an integrated organisation – with a single management structure and set of priorities. In others, there are decades of competition and cultural difference between the two.) Or perhaps EPR assume practices that do not take place at all in some countries (e.g. pre-trial assessment) and cannot be accommodated in law and / or process. Situational factors also raise questions about resourcing.
D. **Compliance based on habit or routine**	EPR call for a reappraisal of practice, but some countries may be locked into routines and habits that 'resist' change, not in principle so much as through an unreflective following of routines.
	Adapted from Bottoms 2002, with comments added.

It is not that any one of these dimensions of compliance should be taken to be more important than any other: it is rather that they all make a difference to the chances and

the degree of compliance. They have variable salience and purchase over time and in different contexts and conditions. Mere instruction, even backed by the threat of sanction from the regulatory body, is by no means a guarantee that compliance will occur and especially no assurance that compliance will be substantive.

The seminar went on to explore how these insights from a literature around compliance, developed substantially to try to understand how individuals comply, might be applied to the complex question of national compliance with international regulation. Among the complicating considerations here are that compliance involves a large number of 'agents'. The implementation of EPR involves a large number of people in any country. Their motivations (especially with regard to the first two dimensions of compliance) are constantly shifting. For instance, initial enthusiasm can give way to reluctance when putting the regulation into effect turns out to be more difficult than anticipated. These changes are all the more likely as initially unforeseen (sometimes unforeseeable) implications begin to become apparent. This matters because it is the continuing – not just the original – commitment to the regulation that makes a difference to successful implementation.

It is also obvious that the motivations of the principal actors are likely to be different. Those involved in the substantive implementation of EPR include (at least) senior civil servants, managers and practitioners and what weighs with these people, with their differing professional and personal and personal priorities may well not be the same. The judiciary and, in some countries, the prosecutor's office can support, resist or seek to shape regulations as they think fit. Changes have to take place at a number of levels and in a number of places. The dynamics of exchange of ideas and practices among such a diverse group, with so many differences and priorities, are extremely hard to untangle, but obviously represent a critical variable in the acceptance and implementation of regulation.

The seminar helped the researchers to have a much deeper appreciation of the complexities of the questions we have been seeking to answer. In particular, these complexities made it clear that improving compliance with regulations is not simply a matter of getting the instructions clear and then having a good system of (instrumental) inducements for implementation and penalties for failure. The seminar, then, was an invaluable complement to the investigative 'fieldwork' that was undertaken and which this report now moves on to discuss.

Workstream 4: Findings of the Inquiry

The need to distinguish impact or influence (*this is done because of EPR*) from compliance / conformity (*practices are in line with EPR and were already)* has already been emphasised. Some of the questions that we put to our respondents tried to tease this out, although at other times the distinction seemed less important. The first few questions (Numbers 1 to 6) were deliberately general and wide-ranging and looked at EPR as a set, rather than at particular aspects of policy or practice.

The second set of questions (6 – 10) considered specific rules and were used as a means of testing impact or compliance by looking at the application of the rule in detail. The specific Rules chosen for this more searching inquiry were Rules 1, 37 and 93. Rule 1 is a bold and confident statement about the ethos of probation: if this was accepted and 'owned' by different countries, this would be a strong initial indication that the principles of the Rules would be respected. Rule 37 refers to the need for probation to work in partnership with other agencies. It was felt that investigation into this rule would shed light on probation's standing and its place in civil society. Rule 93 was investigated because, although EPR has much to say about offenders, it also makes important statements about the rights of victims and the corresponding duties of the criminal justice system, including the probation agency. This has been further emphasised by the European Parliament's recent (2012) directive on minimum standards on the rights, support and protection of victims of crime. It seemed instructive to find out probation responses to the directive and to the relevant sections of EPR.

Question 1: How well known are the European Probation Rules?

Plainly the Rules must be known and recognised if they are to have an influence, although it is possible (and indeed likely) that there could be a high level of compliance even if the Rules had no effect at all and were not at all well known.

Although almost all our respondents were familiar with EPR (which of course is why they were chosen *as* respondents), most people said that the Rules were not well known in their country. There were differences here between policy makers and managers, on the one hand, who were felt to be rather more likely to know the Rules and, on the other hand, practitioners, who were often said to know less, little or nothing about them. One respondent felt that this may not matter: after all, if practice is guided by policies that have been informed by the Rules, practitioner awareness of EPR is, to this extent, arguably less important. EPR were also known to a relatively small number of scholars and researchers in various countries, some of whom had indeed undertaken research in which EPR were a relevant aspect, although not often on EPR directly. (For that matter, in many countries there is not a great deal of 'probation research' undertaken anyway.) There were, however, two respondents who had studied the EPR directly and in detail for academic research. Awareness among researchers was also linked with participation in relevant European networks – notably the COST project (to be discussed later in this paper in connection with the *Centre of Excellence*) – while policy makers and practitioners who are active in Europe were also more likely to be aware of EPR.

In many cases, there was little sign that the probation agency had done much to raise staff awareness of the Rules or their significance. Yet in some countries it was felt that the EPR *ought* to be better known and ways in which this might be achieved were being considered. For example

> '… there should be more information and encouragement from the HQ team and policy makers to discuss them and receive feedback and ideas from staff to improve conditions of working and developing some community impact.'

In one country the view was expressed that while the EPR were not well known, they are still relatively new and are becoming better known. A special edition of a national probation journal was devoted to EPR. Elsewhere (though in few cases), there was some evidence of a strategy to familiarise staff with EPR, including training events and seminars for staff. In one country, several workshops have taken place as part of staff professional development and some of these have focused on EPR. The outcomes of this process, however, are not yet known. Even so, it indicates a willingness to study the Rules and to explore their implications for practice.

In addition,

> ' [the administration] has issued a small leaflet on EPR and circulated it to all staff. It was communicated to all personnel of the corrections agency. When the rules were adopted an internal communication was made by emails and other means to communicate on these new rules, the next step is to communicate with specific documentation to all personnel.'

The *effectiveness* of making staff aware of EPR is another matter. Even if leaflets are distributed and links to the text are placed on the agency website, the meaning and implications of EPR are not always apparent.

> 'Today everyone can see a copy. But a few weeks ago I asked some of my colleagues – and few of them had read or understood the meaning of the Rules or the impact they can have. If you only read the Rules without the commentary you can think it's not a problem … and that we respect most of them. But they don't see the impact on the actual job.'

One respondent said that it was not easy to answer the question in general terms since different people were aware of different rules. In the same way, where duties (for example, public protection) are shared among several agencies, some people will be very familiar with some specific rules, but may know nothing of others.

In a minority of cases, the EPR were said to be well known and influential.

> 'The Probation Rules 2010 were translated … and have been made widely available. They are consciously cited in probation contexts and so are increasingly known in the Ministry of Justice, Criminal Sanctions Agency and in practice.'

This will be taken up in more detail (below) in the discussion of responses to Question 3.

Summary: The EPR are most widely known amongst senior managers and some researchers but not well known amongst the general staff. A few countries have disseminated the Rules quite widely amongst practitioners and staff at all levels in various formats.

Question 2: Are EPR a good way of establishing common standards across the EU?

The significance of this question is that EPR aspire first to establish and then to raise standards of practice across Europe. This question was intended to find out why this is important, whether EPR is achieving this or whether other means need to be found. The view of the research team at the outset was that this matter is becoming increasingly important. A principal reason for this is the imperative to give effect to the EU Framework Decisions. FD 2008/909/JHA on transfer of prisoners and FD 2009/829/JHA on the European Supervision Order may involve probation agencies, while their work is essential to the success of FD 2008/947/JHA on probation and alternative sanctions. All these Framework Decisions rest on the principle of mutual recognition and this in turn depends fundamentally on mutual trust and confidence. If all countries could be sure that probation practice everywhere in Europe is founded on the principles of EPR, the prospect of successful implementation of the FDs is greatly enhanced. Again, while the origin, legal basis and mechanisms of compliance are very different as between a Council of Europe Recommendation and an EU Framework Decision, finding out more about how countries respond to requirements and recommendations promulgated at a European level is of fundamental importance.

The great majority of our respondents felt that common standards were necessary and that EPR was a good way of bringing this about, although they have yet to achieve their potential in this respect. They provide

> 'guidelines and professional definitions, terms and methods of work and services … [and thus form] a good basis for a professional approach'.

Others referred to their potential to be a foundation of a 'common framework'. At the same time, there was recognition that there was considerable diversity in practice among countries, although arguably less than a decade ago (van Kalmthout and Durnescu 2008). The critical question then becomes: what is appropriate national difference and what represents unwarrantable inconsistency? This is a question that goes to the heart of many debates about the standing of the EU and the Council. In the particular case of probation practice, the need for a common standard was often said to be a precondition of the effective implementation of the FDs (see above). An interesting observation too was that:

> 'One of the interests of the EU would be for a probation officer from {one country} to be able to go and work in others countries – but if there is too much difference how can we work together?'

One country expressed the concern that, in times of economic constraints on probation agencies, the EPR might deteriorate into a 'lowest common denominator' rather than acting as a stimulus for enhancement. To raise standards, EPR would also have to be supplemented by increasing knowledge about and dissemination of effective practice.

One respondent felt that EPR were limited in effect because a Recommendation was no more than 'soft law' that countries could disregard if they chose. On the other hand, the views of a respondent from another country are of particular interest in this regard. This respondent argued that the weight of authority of the Council of Europe gave Recommendations a legitimacy that cannot not always be achieved through legislation. The EU sometimes reminds member states of their obligations by reference to the sanctions of non-compliance (e.g. European Commission 2014), but it is an open question whether this is an effective device for achieving the compliance that is sought – especially the substantive as opposed to the formal compliance needed to put these measures into effect (see earlier discussion). As anticipated by Bottoms (2002), substantive compliance – implementation in the spirit and not only the letter – depends on legitimacy and confidence that the instruction is fair and reasonable. In relation to Europe (a 'Europe' that is not always and everywhere differentiated between the EU and the Council of Europe), some countries are more persuaded of this than others. Indeed there is sometimes what might be called a cultural resistance to European instruction or to approaches that are felt to have been unduly influenced by the practices of a single country.

EPR also have:

> 'relatively general content and related interpretative flexibility allows to include the specifics of the individual Member States in the field of criminal policy and legal solutions in the field of criminal law. In this sense, it is much better method of shaping of common policies and common practices and building mutual confidence of Member States than the "hard" law in the European Union in the form of directives or regulations.'

Another respondent observed in similar vein that EPR are both general - allowing countries to adapt and apply the rules to their own national circumstances - but also often quite specific in guiding organisation, policy and practice.

Summary: Most of the respondents felt that common standards were necessary and that EPR were important in bringing this about. Despite considerable variations in practice across countries, the EPR do provide a common framework. This is increasingly important to give effect to the EU Framework Decisions.

Question 3: Have the Rules been used? How?

There are countries in which the Rules have had a direct and demonstrable impact on law, policy and practice. In at least six countries, EPR have sometimes been studied systematically for these purposes, especially in countries with relatively newer and developing probation agencies. EPR have been said to have 'inspired' new legislation, including new sanctions , and the revised probation laws much better reflect the principles of the Rules. Examples from one country include the client's right to have access to their case file, which has now been incorporated into law. This strong evidence of impact was qualified by saying that it is hard to be sure that the Rules were directly responsible for this, although the Ministry was believed to have consulted the Rules when drafting the legislation. One respondent said that while recent legislative changes have been in line with the EPRs, this was mostly because of the influence of other countries in helping that country to establish the probation agency in recent years. These more experienced nations already practised in ways that reflect EPR principles and it was thought to be the legacy of this influence, rather than the Rules themselves and directly, that have embedded the principles that the Rules articulate.

EPR have been cited in explanatory memoranda in support of national **legislation** and were often referred to by our respondents as 'a reference point' for the development of the law relating to probation and to the structure and organisation of agencies. Since national legislation is often under review and amendment, some countries told us of impending changes that, it was hoped, would enhance compliance with the Rules. At any rate, the EPR formed part of the debate as the legislation was being drafted and was even said to have been a stimulus to legislation and organisational reform.

> 'If any changes are planned they provide a wide EU perspective on which to consider proposed changes and use them to check standards of practice. The Penal Code includes amendments that are based on the EU Rules - practice, organisation and systems are closer now to the EU rules than previously although this has not been done systematically.'

Many respondents spoke of the potential here, so far realised to no more than a limited extent, with the frequent reminder that the Rules are still young. It was said, for example, that the Rules were becoming perhaps increasingly important and will form part of the debate about reform and reorganisation which is anticipated in the future. Where senior managers show confident leadership and support for EPR, the prospects of implementation are naturally greatly enhanced.

One respondent felt that there while it was hard to point to much direct influence (in line with that country's general response to the EPR), but may have had some influence 'behind the scenes'. In such cases, the influence of the Rules is not easy to demonstrate, although the respondents felt it was nevertheless significant. Whether or not EPR have been used, the challenge (for example from the agency to the Ministry) that a national practice might be in violation of the EPR may well encourage a country to review its practices.

> 'The Rules strengthened the professional approach but they didn't really change the approach. The Probation Service now has less capacity and more work which has made it more difficult to develop services and professional practice. However the country does know the theories and what they are supposed to do when working with offenders.'

While the managerial and practitioner respondents from one country claimed that the Rules were followed thoroughly, a researcher from the same country was more cautious. The Rules were said to be used selectively, invoked when people found it expedient to do so, but in other circumstances disregarded.

One valuable use of the rules would be to **benchmark**: agencies might examine their own policies and practices and compare them with EPR. This has taken place, although we found no more than three examples of where this has been done systematically. As will be discussed later in the analysis, this exercise is invaluable not only for the implementation of the EPR, but for their further development in years to come.

EPR have had their influence on **practice**. Here once again, EPR were referred to as 'a significant reference' for practice and for professional staff. A respondent gave an example of 'a working group which has recently drafted a pattern for the definition of a treatment programme' and has drawn on EPR to help in its deliberations. Another example of particular interest and significance was that, as a result of studying the Rules carefully, a country changed its practice so that offenders on community service no longer undertake work for the direct benefit of the probation agency itself. This country had recognised the requirement of the EPR in this respect (# 48 refers) and was open to making changes in its practices accordingly.

One respondent said that even where practitioners had not heard of EPR, their influence on law, organisation and policy led to a difference in practice as well. Relatedly, EPR have formed the basis of **national standards** to guide practice and on the basis of which staff are held accountable for their work. Two other countries reported that when the work of the agency is inspected, EPR contribute to the criteria for inspection. This is the aspiration of another country too, where it has been decided to use EPR both to set standards and to use in inspection routines.

EPR inform the **staff training** curriculum in a number of countries. There were views expressed that attention to this is not always sufficient, perhaps, but students and newly appointed staff are introduced to the Rules in at least four countries. Mention has already been made of staff seminars designed to help staff to implement EPR and respondents referred to specific training events focusing on (for example), the question of consent and the active cooperation of the client / offender; co-operation between probation agencies and the prison service; assessment; complaint procedures, inspection and monitoring. Similarly, in another country EPR have acted as a stimulus to pilot projects and training, including (for example) a project on ethical conduct, integrity and transparency in the probation system, which took place in 2013.

Despite the EPR's requirements about training (Part II, especially # 23 – 28), training remains limited in some countries. One respondent told us that while there is training in running offending behaviour programmes e.g. anger management or motivational interview training, there is no overall programme of professional development. Yet where training does take place, there seem to be several countries where EPR are part of the curriculum.

In this connection, mention should be made of the Criminal Justice Social Work (CJSW) Project (http://www.cjsw.eu/). Led by Avans University in the Netherlands, probation agencies and universities from a number of European countries have developed a set of high quality teaching modules both for initial / qualifying and for continuing education in the field of CJSW / probation. EPR are strongly represented in this curriculum and indeed form a central component of the first (and compulsory) module that covers *Perspectives and Legal Context*. It is hoped that these materials will be used widely and if this takes place, EPR will become securely embedded in probation training. Indeed in at least one case this curriculum is already in use for new staff who will therefore begin their careers in the agency with a sound understanding of EPR. This matter is discussed again later in this paper where the idea of a Centre of Excellence is considered.

Even in those countries where EPR have not made much discernible difference, policy makers still have recourse to them when new practices are being introduced. A respondent from a country, where the overall impact was considered to be slight, said that as victim work and restorative justice are being introduced – an innovation in this country – EPR have been referred to for guidance. Electronic Monitoring was said to be another example, although it should be noted that there now exists a specific Council of Europe (2014) Recommendation on this practice. So perhaps even in those countries that have not used EPR to test or change established practice, the Rules may inform new initiatives.

There are examples of the EPR being used to champion probation.

> 'The Rules have helped to influence relationships with politicians and stakeholders to enable the Probation Service to fulfil its goals and used internally in … to negotiate at the Ministry to provide the required level of Service.'

EPR are explicit about the importance of adequate resourcing of a probation agency (see especially # 18 and 22, though also 104). There were two examples where the respondent was confident that the Rules had been used successfully to increase resources. Other countries have been less successful in this respect:

> '[Rules relating to practice have been used.] However many of the other rules around working in partnerships, co-operation between agencies and ministries (for example # 8) and the Rules around Human Resources / staff pay and conditions of service and working with the media to deliver

information and knowledge about the work of probation to the public are not followed (for example # 17).'

But here too the potential remains: the Rules give managers and practitioners some leverage in making their case for additional and adequate resourcing.

Summary: There are a number of countries in which the Rules have had a direct and demonstrable impact on law, policy and practice. Many of these countries were relatively new in establishing Probation Services and benefited from using the Rules to develop their service. More experienced Nations, with established Probation Services, already practised in ways that reflect EPR principles, but were sometimes using EPR when planning innovation or change. Examples were found where the EPR had direct impact on:

- Developing legislation
- Benchmarking policies and practice
- Forming the basis for national standards
- Providing a reference point for practice and professional staff
- Staff training – qualification curriculum, induction and staff development
- The introduction of new practices such as restorative justice
- Negotiations for adequate (or additional) resources

Question 4: Which Rules have been most influential?

Many respondents found it difficult to answer this question and said that no rule(s) had been more influential than others, but there was a wide range of responses about the different ways in which particular rules had made a difference.

Some referred to the basic foundational principles in the first Part of the EPR or to more general aspects:

'The most influential rule is the clear definition of the role of Probation Officers – it describes the differences between control and help and explains the role/tasks and functions of Probation Officers.'

'Elements of the Rules, for instance on citizenship, do offer opportunities to establish a separate identity for probation distinct from prisons and imprisonment.'

The Rules in relation to consent and cooperation (especially #6)and the discussion in the Commentary prompted a reappraisal of the fundamental character or ethos of probation work.

'In this country a lot of POs consider the people have to follow all that the PO says. The concerns and opinions of the offender is not really important – it doesn't appear in our reports to the judicial authority. We rarely put the

> opinion of the person. … (many of the) youngest staff, recruited by the Ministry of Justice, are law students – for them the law is the most important thing and people have to follow the law. "I am the probation officer so you must follow me". I think it will change…'
>
> 'Since 2000 and the implementation of 'what works' models, control has become more important. Control and motivation are the terms used now to promote change and the desistance of offenders. However, it is also important to refer offenders to welfare agencies (health, employment, accommodation, etc.). Therefore Rule 12 is very important to ensure probation practice develops in this direction.'

Whatever view is taken about the relationship between 'care and control', the text of EPR has encouraged probation agencies to think carefully about this. As often, seeing that countries take different positions on these questions means that practice is no longer taken for granted.

At least seven countries said that the most influential rules were those that related to aspects of **practice** - processes of supervision, particularly assessment, planning, intervention and evaluation. Among the reasons why assessment was held to be so important in one country was that the probation agency has extensive demands made upon it, aggravated by what was regarded as an inappropriate use of community sanctions (for example, imposed in some cases simply to replace financial penalties). Rigorous assessment before trial would help courts and practitioners to target limited resources more effectively and indeed this respondent would welcome even tighter stipulation from EPR on this matter.

One country explained its strategy for developing establishing national standards based on EPR:

> 'The policy and plan agreed is to bring in a system of quality practice standards based on the EPR with a staged implementation, starting off with Parts 4 and 5 on direct probation work, but also moving on things like accountability and cooperative work with other services - starting off from the centre (of EPR) then working out. The aim is to implement all of the sections, none are of lesser importance.'

In countries where prison and probation have traditionally been separate organisations, rules about throughcare and joint work between prison and probation were often said to have been significant. The rules concerning community service, families, resettlement and aftercare were identified elsewhere as the most influential. Another respondent reported that the Rules were said to have been particularly useful in supporting the establishment of a research and training unit and in building a framework for evaluation in the national probation service. Whenever a piece of research is questioned by politicians or the Ministry they are able to point to the EPRs as justification for this.

Summary: There was a wide range of responses about the different ways in which particular rules had made a difference. A significant number of countries said that the Rules on aspects of practice and the role of probation officers had been the most influential. In some countries, particularly the countries with newer services, the Rules on human resources / conditions of service, resources and training had been the least influential.

Question 5: What problems have been experienced in trying to implement EPR?

In general, the answers to this question were less informative than might have been hoped, even when the responses were followed up in conversation. Those countries that had spoken enthusiastically about EPR tended to feel that there were no problems of implementation; those who had used them less or not at all referred not so much to problems of implementation as a general reluctance to take an interest in them. The basis of this reluctance was usually *we do this already, our standards of practice are very high* and / or *we have no need of European guidance on these matters.* Some countries - perhaps especially in the eastern part of Europe / newer members of the EU - are keen to be seen as 'European' and welcome guidance and even instruction from Brussels and Strasbourg. Other countries pay much less attention to what the European organisations tell them to do.

Sometimes there were signs of differences between the views of the probation agency and the Ministry:

> 'The Ministry of Justice claimed the right to make their own priorities and objectives and would not always accept our arguments about following the Rules.' (a probation manager)

There is an irony in the observation that some countries who resisted the idea of European prescription nevertheless recognised the value of EPR in promoting a level of standardisation across the continent.

The (lack of) priority given to probation in national politics was mentioned by one respondent:

> 'Reforms are being considered, but probation is 'not on the table'. .. The Ministry doesn't really engage with the Rules at all and if it has any impact at all it will go no further than the mission statement. On the other hand, compliance is pretty good.'

In some cases, specific rules assume practices and procedures that are not used in every country. Several countries reported that, since they do not undertake direct work with victims, those rules could not be implemented (see further discussion of Question 10 below). The rules on pre-trial assessment were sometimes not used both because of a

lack of experience in such work, but also because of suspicion from the judiciary that probation might begin to trespass on their authority. While EPR says that breach of probation should not automatically entail custody, echoing the principle set out in an earlier Recommendation (Council of Europe 1992), one country reported that a breach of probation by reason of committing a similar offence must by law result in a sentence of imprisonment. EPR had, at least so far, not succeeded in bringing about change.

Financial constraints were also mentioned. Restorative justice and mediation could not be introduced properly because of costs, there were too few staff to undertake assessment as required. Training as envisaged by EPR was not everywhere affordable. The Ministries of some countries are unmoved by an argument for further resources because of the requirements of the Rules. One respondent expressed this plainly:

> 'A difficulty is that while countries may agree with the Rules in principle, in the real world they may not have too much effect. For example, the Rules state that probation agencies should be adequately resourced and no one will say that they disagree with this, but in reality resources are not sufficient and the Rules will not convince the Ministry to increase resources.'

Another country felt that the commitment to inter-agency work frequently expressed in EPR was a long way from being realised in their country, even if this respondent was personally committed to the idea. This may be an honest recognition of the fact that EPR call on other organisations and individuals and how they respond is a matter beyond the influence of the probation agency and indeed of the Ministry of Justice.

Two countries said that Rules had not been translated into the national language. Both countries suggested that this was an indication of the lack of interest in the EPR by the Ministries and the lack of standing of Probation in their country.

Summary: There was little consensus about this question. Those countries that had spoken enthusiastically about EPR tended to feel that there were no problems of implementation; those who had used them less or not at all referred to a general reluctance to take an interest in them. Some countries - perhaps especially in the eastern part of Europe / newer members of the EU - are keen to be seen as 'European' and welcome guidance and even instruction from Brussels and Strasbourg. Other countries pay much less attention to what the European organisations tell them to do. The Rules had not been translated into the language of two countries and this may indicate a lack of interest and standing of Probation within those countries.

Question 6: Do Probation policies and practice reflect the values and beliefs of EPR?

This question arises from recognition of the earlier distinction between influence and compliance. The EPR, founded on the Convention, sets out the values and beliefs that

the Council feels should guide probation policy and practice. Even if EPR had no influence, conformity with these principles would be a welcome discovery.

The great majority of respondents felt that their own policies and practices did indeed reflect the values and beliefs of EPR. Some were keen to add that this was not because of the Rules, but had been long established in their professional probation traditions.

> 'I believe that the values and beliefs underlying the EPR, as well as the vast majority of rules are respected in the our system of probation from at least a dozen years.'

Among the relatively few reservations expressed here, two of were of particular interest. Two respondents said that probation work, which had once been seen as social work, had been tilted more towards control because of an amalgamation between the prison and probation services. This new emphasis was at odds with the ethos and indeed some of the specific precepts of the Rules.

Another respondent made the useful observation that while in theory probation practice follows the values / beliefs of EPR, in reality staff come from a range of professional backgrounds, each with their own codes of ethics and with no unifying professional training. In recognition of the diverse backgrounds of new recruits on entering the service, training is sometimes heavily tilted towards staff attitudes and values.
So whether and how the values of EPR are realised in practice must remain open questions, whatever the 'official' position of the agency. This raises important questions about what the implementation of EPR really amounts to: the law and the mission statements make necessary statements about the probation agency, but there is no straightforward way of determining whether this is realised in practice. Law and policy are always mediated by the professional interests, as well as the skills, knowledge and values, of practitioners. Thus:

> 'The "official" view seems to be that the Rules are used, the more "unofficial" view is that there are obstacles to do with a cultural resistance to rules and practices being "imposed" from outside and a view that control and monitoring of offenders is more important than "welfare" and rehabilitation, such that Rule 1, in particular, is not followed in the way that it might be.'

although this particular respondent felt that this was something that ought to be challenged.

Yet it is arguable that this opposition between help and control represents a misunderstanding of the Rules, which fully acknowledge the place of control in working with offenders. # 55 for instance states:

> ' Supervision shall not be seen as a purely controlling task, but also as a means of advising, assisting and motivating offenders. It shall be combined, where relevant, with other interventions which may be delivered by probation

or other agencies, such as training, skills development, employment opportunities and treatment.'

Indeed what the Rules are keen to challenge and to change is precisely this stark opposition between help and control. At its most constructive, the purpose of control is to do all that can be done to reduce reoffending and often the best means of bringing about the necessary changes is through engaging with the offender. A strong professional relationship can be a pre-condition of effective work and by no means entails that the duty to try to control is compromised.

Summary: The great majority of respondents felt that their own policies and practices did indeed reflect the values and beliefs of EPR. Some wanted to add that this was not because of the Rules, but had been long established in their professional probation traditions. Two countries expressed some reservations where probation work, which had once been seen as social work, had been tilted more towards control because of an amalgamation between the prison and probation services.

Question 7: Rule 1: Relationships and social inclusion

Basic Principle #1 states:

> 'Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to supervise (including control where necessary[8]), guide and assist them and to promote their successful social inclusion. Probation thus contributes to community safety and the fair administration of justice.'

While many agencies would affirm their commitment to reducing (re)offending, probation's defining belief is that this is best achieved through the influence of a professional relationship and by social inclusion. Question 7 investigated whether this conception of probation was shared.

In many countries there was a strong identification with these principles, although several respondents were immediately keen to add that control was also an important and indeed a defining function of probation. One country cited desistance research in support of their recognition of the value of relationship and inclusion. Some respondents said that sometimes this approach was reflected in the terms in law used to describe (or prescribe) the work of probation (for example, as once, if no longer, in England – *advise, assist and befriend)*.

To enlarge on their answers, some referred to their own knowledge of probation work and / or their discussions with managers and practitioners. Some also said that this is

[8] It is worth noting in passing that the words *including control where necessary* are superfluous here. Within the lexicon of the Council of Europe (and in the Glossary to EPR), the word *supervision* explicitly includes *control where necessary*.

how the public understood the work of probation - which is not to say that this guiding philosophy of working with offenders necessarily commands public support. In some countries, control and punishment may be viewed as more appropriate in response to offending and accordingly expected of probation – or at least as functions in addition to rehabilitation.

A respondent felt personally that relationships were most important – and that staff needed thorough training to learn how to work in this way – but this view was not shared by many colleagues:

> 'Fighting against recidivism is the aim of probation. For each PO it is to avoid recidivism. I don't think that the main way for us is to establish a positive relationship with offenders: it is more to control them and to interview them about how they committed an offence and how to avoid it – but nothing about positive relationships. It's not in any law … – this aim of positive relationships. The oldest probation officers are still working in collaboration – they see the importance of the relationships but the youngest POs don't really see this importance. … the other difficulty is that POs … have around 100 people (to work with) so they say that we want to do a motivational interview, to help people, to guide them but we don't have the means or time. We have a lot of reports to do. Even if we wanted to do this it is not possible.'

Even where more liberal attitudes prevail:

> ' … services for offenders are sometimes seen as in competition with services for other ("more deserving") groups in the community'.

It was not surprising to hear that it was felt that in many countries, including those with long-established agencies, the public had not much knowledge of probation at all. Nor was much being done to change this.

A fairly new agency reported that

> 'The main intention of the Government is to use Probation as a means of control and PO's are pushed towards the control function of their role. However many do have a social work background, so use social work as a basis for their interventions with offenders. There are no resources available to develop the social inclusion of offenders or the help and support element – the only available resource is the personal relationship developed by the PO with the offender. The Service does work on a stick and carrot approach – it is not just about punish and control and is very much about social reform and re-integration. '

Tensions like this between the agency's expectations and the skills and motivation of its staff arose in other countries. One developing agency said that most of the staff

appointed at first had no experience of working with offenders, while others who had some such experience (for instance as police officers or lawyers) needed to learn more about how to form effective professional relationships. Unable to reconcile what they found to be tensions, some staff left; but those who remained form the basis of a competent and effective service.

Elsewhere the tension is not so much between the agency and the attitudes of its staff as between the agency and the public:

> 'Many of the staff in the probation service are trained psychologists or social workers and the idea that people should be helped and given fair access to the ordinary resources of civil society is familiar to them. So the service itself does understand its working this way. Public opinion, of course, is another matter. Even agencies with whom probation works in partnership are not always familiar with the purposes and values of probation and some of them do not even get its name right! There have been some cases where politicians or other famous people have been ordered to undertake community work and this has made probation more "visible" to the public. Sometimes the public reaction has been that the sanction of community work does not represent sufficient punishment to fit the crimes that have been committed, especially for corrupt politicians.'

As for social inclusion, respondents generally felt that this was the right approach, though hard (as everywhere) to achieve. One country said that the trend towards social reintegration has become much stronger in recent years. Yet here too the question of what staff felt able to achieve made a difference:

> 'So now, the control part of probation is only a piece of a broader process toward social reintegration, and not the main objective for itself. But many probation officers are former police officers and only few are social workers. Probation officers have begun to build their own professional group, also in order to strengthen probationers' rights.'

Some of these topics crystalize around the challenge of resettlement / re-entry into the community following a term of imprisonment. One country described a specific current project, run by the Probation service and community groups in the area in which prisoners are going to live on release, which is seeking to develop the social, vocational and work skills of offenders. Another country saw a valuable role for volunteers in bringing about inclusion. This was also recognised elsewhere where social inclusion and gaining more support from the community were seen as a big problem which might partly be addressed through the use of volunteers as mediators and within supervision. This agency is developing Circles of Support and Accountability for work with sex offenders and developing links with local society, municipalities and organisations. The Ministry of Justice supports this development and the next European money they receive will support this initiative.

Summary: In many countries there was a strong identification with the principles of building positive relationships and developing social inclusion, although several respondents were keen to add that control was also an important and indeed a defining function of probation. In many countries, including those with long-established agencies, the public had not much knowledge of probation at all. Respondents generally felt that social inclusion was the right approach, though hard to achieve. This was often one of the main challenges of resettlement / re-entry into the community following a term of imprisonment.

Question 8 Rule 1: Help & support

This question is plainly close to Question 7 and respondents raised many of the same issues. As before, questions arising include:

- is this how probation understands its work and presents its work?
- is this how the public understands probation?
- are the public accepting of this or do they have different expectations of probation?

There was a range of responses to these questions. Some countries saw help and support as the 'main thrust of [probation's] work', although the public was believed to know little about what it actually does. Emphasis on help and support is affirmed in mission statements. Another country felt that there was 'no great difficulty with public acceptance' that probation might help offenders:

> 'However, there is no dominant nature and is balanced with educational and controlling function. Social assistance (welfare) is provided rather by municipal agencies than the probation officers.'

In contrast, another country (with a similar political legacy) identified

> 'problems with the public … not supporting community work with offenders and having a tradition of retribution and revenge towards offenders. The Ministry of Justice has a priority of building new prisons to replace the old soviet prisons. Press reporting is usually about high profile cases and probation then needs to defend what it does – 'bad' news is what people want to read about.'

Other countries were more optimistic:

> 'One of the common issues is that probation is generally invisible unless something goes wrong, but in general they have good relationships with the media – people recognise probation in communities, partnerships and committees, - media coverage is generally positive.'

Several countries were seeking ways to raise awareness and support especially and attempts were being made through the media to spread information and to promote the service's work:

> 'Until recently the work of the probation service was unknown. Recently we have had political reforms that want to change the way they do the work – it's on the news and we have debates about it. The general audience (the public) is more and more aware of their work – it's a crucial point. The reform wants to amplify the work – when the general audience doesn't understand why we are putting more money and equipment for them and the usefulness of it.'

Another view (expressed just one country, but perhaps true of others) was that the public distinguished between offenders in these respects: rehabilitation was accepted for less serious offenders, but stricter punishment was expected for the more serious.

To summarise: questions 6 – 8 explored general issues about the ethos of EPR. EPR makes strong statements about relationships, social, inclusion, help and support, while also recognising duties to 'punish' (in the sense of giving effect to the court's order), to control and to protect the public by reducing reoffending. In particular, EPR seeks to reject a sharp opposition between help and control: even if there are cases where these guiding duties point in different directions, they are relatively few and reconciling these perceived tensions is at the heart of probation's mission in EPR and indeed in most countries in Europe.

Summary: Questions 6 – 8 are closely linked, exploring general issues about the ethos of EPR. EPR makes strong statements about relationships, social, inclusion, help and support, while also recognising duties to 'punish' (in the sense of giving effect to the court's order), to control and to protect the public by reducing reoffending. In particular, EPR seeks to reject a sharp opposition between help and control: reconciling these perceived tensions is at the heart of probation's mission in EPR and indeed in most countries in Europe. Most countries identify with this, although not all could be confident that this was understood or supported by the public. Others commented on possible tensions between the official position, the views of practitioners as they undertook their work and the realities of practice.

Question 9: Rule 37: Work with other agencies

It is through a question like this that some of the potential and limitations of the Rules are revealed. Rule 37 requires that

> 'Probation agencies shall work in co-operation with other agencies of the justice system, with support agencies and with the wider civil society in order to implement their tasks and duties effectively.'

The rationale for this, as the Commentary elaborates, is that the many and complex needs of offenders and the aspiration that they should have fair access to the opportunities available to everyone else (one definition of *social inclusion*) call on the skills and resources of several agencies, working together in partnership. It cannot be achieved by the probation agency alone. Effective inter-agency work, moreover, is especially important in contributing to community safety. Some offenders pose significant risks to the public and these risks will be managed most effectively by agencies using their skills and knowledge in a complementary way. This requires cooperation not only among the agencies of criminal justice (for example prison and probation staff need to work well together in their provision of 'through the gate' services; police and probation may need to work together to protect from those who pose a serious risk of harm or from prolific and persistent offenders), but also with a wide range of other agencies of civil society. Yet while this seems to be right in principle, the incentives for other agencies – especially those beyond the criminal justice system – to work with probation and to attend to the requirements of EPR are not always apparent to them and the legislative mandate in a country for them to adapt their services may not always be in place. This is the background to this question.

There was widespread commitment to the principle expressed in #37, but many interesting responses that shed light both on the potential and the challenges in these respects. Some countries were confident that Rule 37 is fully realised:

> 'In our system of sentences in the community, both "networking" and "the Community" have a strategic role in the taking in charge of the person under a Community measure or sanction. This results from the ascertainment that both the offender's needs and the public security needs request the strict cooperation and the contribution of different public agencies present in the community. Such characteristic is traditionally present and rooted in our country.'

Another country reported that, while multi-agency working was seen as very important:

> 'probation is the only institution who really want to develop this cooperation. Prosecutors and police and courts are working separately. But for probation to fulfil their tasks and roles they need this common work. It is the newest idea of probation – there is no use of rehabilitation in prisons if there is none in society – so bringing this idea of cooperation to all institutions'.

Other countries referred to established committees or councils that represented a collective endeavour. Interestingly, the catalyst for setting up these arrangements has sometimes been a recognition of the need for a collective response to social problems for which probation is just one of several agencies with a responsibility. Domestic violence and child protection are examples of these concerns.

Countries reported regional variations – arrangements are different in different parts of the country – and there was more confidence in local partnership than in formal

collaboration protocols established at national level. This may reflect the useful observation by one respondent that it is in some respect easier to achieve cooperation in smaller countries where key people *know* one another personally.

A wide range of particular agencies were mentioned by the respondents. These included:

- criminal justice agencies – especially the prison service and the police, but also (depending on national arrangements) courts and the office of the prosecutor
- other state agencies – social services, education (especially for young offenders), housing and health services; local authorities (for example, in finding suitable placements for community service work)
- NGOs – most commonly mentioned were agencies concerned with drug use and homelessness, although there were others besides.

Within the criminal justice system, cooperation is not always guaranteed by formal organisational arrangements. Notably, it is not necessarily the case that combining prison and probation will *of itself* bring about effective cooperation between the personnel working respectively in prisons and in the community. The corollary is that cooperation between structurally separate organisations can also be effective. The importance of this is that there seems no compelling reason to think that combining agencies into a single organisation is necessarily the best or only solution to perceived shortcomings in inter-agency cooperation. Organisational rearrangements (mergers and separations of prison and probation agencies) are quite common. Nor does imposing statutory duties to cooperate guarantee that partnership will be effective, although they do give authoritative expression to the value of the principle of cooperation.

Where probation is quite new, it has sometimes had to struggle, not only to establish working agreements, but to enable other agencies (both within and beyond the criminal justice system) to appreciate what probation can contribute to a collective endeavour - what it can give as well as what it may reasonably expect from its partners. Nor is this a challenge only for newer agencies. Encouragingly, however, some countries reported progress in these respects:

> 'The involvement of several agencies and professionalism in the definition and management of the tailored treatment programme, certainly encourages the good progress of community measure or sanction. {a new law} has significantly improved the local social planning, there has been a progressive widening of the network of public and private subjects taking part into the local planning of social policies. Especially after {another new law}, the participation of the probation agency in the drafting of local plans has significantly increased.'

Similarly another respondent said that inter-agency work 'could be better but is developing. A country that generally related problems about cooperation nevertheless told us:

> '[We] have a list of NGO services as a resource available to everyone: if they have a client with a specific need or problems, then they know what to use. Increasingly we are using those resources outside the service - available in the community. Probation is inviting NGOs to seminars and establishing private/ personal networks instead of the formal agreements that were so difficult.'

As was noted earlier, maybe sometimes informal liaison, developing mutual understanding and trust and building on the shared professional concerns and objectives of the partners, can be more successful than formal 'top-down' arrangements that do not necessarily command the confidence of the personnel who will have to put them into effect.

A precondition of working together is the sharing of information. In some places, this was said to be good, although sometimes inter-agency cooperation does not go much further than this. In other places, information sharing protocols have been established. Other countries reported that information is viewed proprietorially by some agencies and shared sparingly, if at all. Sometimes this is a seen as a matter of bureaucracy or at least as a problem that could be overcome if processes were administered differently, but elsewhere questions of principle can arise:

> 'The other question is about privacy e.g. dealing with mental health care means problems with privacy. E.g. client or service user is having contact with a psychiatrist and he is not always willing to give information to the probation service even in the same organization. *The principle of confidentiality overrules that of sharing.'*

There are some disincentives to cooperation. Notably, as one respondent pointed out, each agency has its own priorities and incentives – and, it could be added, different ideas of what might be a solution to the problem they face. Funding arrangements can work against cooperation, other agencies thinking that this is 'probation work' that they cannot afford to take on themselves. For that matter, while welcoming the principle of inter-agency cooperation, Jesse (2011) is among those who have noted that the achievement of partnerships and establishing sound inter-agency protocols calls for time and resourcing that are not always sufficiently allowed for when the budget for the probation agency is calculated – and this is no doubt the case for other agencies besides.

There were complaints about bureaucracy, which, it was recognised, has sometimes been put in place to guard against corruption. Just making a referral to another agency can be difficult:

> 'The bureaucracy means you need to prepare a document, get signatures, it can take one or two weeks before letters arrive, three persons in between you and the recipient also have to read and check it before it gets to you.'

Such cumbersome procedures acted as a disincentive to the partnerships commended by EPR. Instead, the agency was cultivating informal relationships with other agencies to circumvent the bureaucracy. This is just one example of the limitations of formal regulation and the preference expressed by some for informality and pragmatic solutions developed by the staff who have to make things work. Those arrangements may have a legitimacy, as well as a perceived relevance, which is sometimes lacking in formal prescription.

One country reported a (professional) cultural resistance to referral and partnership, with POs thinking they should be able to meet all the needs of their clients within the resources of their own agency.

While some countries are enthusiastic about working with other agencies, even to the extent of disbursing significant proportions of their budget to develop NGOs with whom they will be working in partnership, in other places there are few NGOs in existence and little or no formal 'contracting out'. Even in these case, though, NGOs may provide some services to offenders and take referrals from probation. The important point here is that EPR must not assume that civil society is adequately resourced in all countries and this compromises the principle of social inclusion.

Summary: There was widespread support expressed for Rule 37 – whose principle is a thread throughout many of the rules: 25% of the Rules affirm or imply this principle, Jesse (2011) calculates. In many places, this is well developed, although elsewhere it is a persistent challenge even if progress is being made. It was evident that partnership work was much more widespread in the organisation of Community Service schemes. There needs to be a fuller appreciation of some of the disincentives to cooperation that stand in the way of achieving this aspiration. There should also be more emphasis, perhaps, on the importance of developing trust and understanding among those who need to make cooperation actually work and a recognition of the limitations of statute. Legal mandate, inter-agency agreements, protocols and instructions are of course essential, but will not on their own be sufficient to give full implementation to this Rule.

Question 10: Rule 93: Work with victims

Rule 93 prescribes that

> 'Where probation agencies provide services to victims of crime they shall assist them in dealing with the consequences of the offence committed, taking full account of the diversity of their needs. '

The Commentary explains that, in many countries, victims of crime often report that they do not feel well supported by the agencies of criminal justice, which typically give priority to detection and prosecution and, in general, focus their work on the offender rather than the victim. Indeed some victims say that their experience of the criminal justice system is so distressing that it is almost like being a victim again. The recent

directive from the European Parliament (2012), establishing minimum standards on the rights, support and protection of victims of crime (and replacing Council Framework Decision 2001/220/JHA) is an attempt to change this state of affairs.

The longer established probation services of northern and western Europe were set up to work with offenders and the ethical and political obligation to enhance services to victims poses challenges for these organisations. In some jurisdictions where a Probation Service is of more recent origin, the attempt is being made to incorporate attention to the needs of victims into the culture and organisation of the agency *ab initio*. The Probation and Mediation Service of the Czech Republic is a well-known example. Here, the 'unit of intervention' in response to crime is not just the offender, but the *relationship between the offender, the victim and the community*, recognising the rights and responsibilities of each. Other countries similarly recognise the importance of a victim focus in their probation practice and have been attempting to build this into the heart of their organisation and practice. This is the background to this question.

With no more than one or two exceptions, most countries reported that they did not work directly with victims[9]. In the few cases where this was done, the respondent was confident that this work was undertaken in accordance with EPR. In response to the 2012 directive, one respondent explained that there had been progress generally in their country in improving the victim experience at court, but there had been no change in probation practice. But almost all respondents are aware of the importance of this topic and reported on ways in which this was being managed in their respective countries.

Many countries said that victim support was not their responsibility and indeed doubted that probation staff had the ability to do it appropriately. For this reason,

> 'Our focus is to work together with victim organisations.'

> 'there is a protocol between Probation and Victims teams if any risk to the victim is assessed. Probation Officers do not work directly with victims but do work with the victim's team if there are any specific identified problems/risks.'

But this general statement was qualified in many ways. For example, probation agencies liaise with victim organisations (often NGOs) and may make referral. Others have help-lines and will respond as helpfully and sensitively as they can to inquiries from victims. Work with victim organisations is likely to be managed with considerable care and thoroughness:

> 'sometimes we support other institutions who work with victims. E.g. 2 years ago we cooperated with an organization policy research centre – which did a big survey about victims' needs and how to improve victims' service and we

[9] It is to be noted that EPR nowhere says that direct work with victims should be the responsibility of the probation agency. The Rules simply state that, *if* such work is done by probation, certain standards must be achieved.

were a partner for this. We helped with the research part – we had to send questionnaires for victims involved in mediation. We can't provide them with access but we could send out the questionnaire to them by post. At least in this way we are trying to support some other initiatives – not probation ones – done by other institutions. If we find out that the victim voice is important then we try to involve victim organisations. E.g. how to improve the supervision of sex offenders we involved as a partner a centre for victims – they were partners in the project. What we need to do to improve our practice we asked their advice about what they thought about our work.'

Some countries have set up separate state services for victims and probation agencies are expected to cooperate with these. Sometimes this is not straightforward. For example, in one country this victim organisation works as part of the same Ministry as probation, but the two agencies have quite different target groups and different understandings of and approaches to their work.

The value of restorative justice and specifically mediation is being increasingly recognised and some countries have experience of such schemes, though with variable confidence in their success. Two countries spoke of their ambitions to develop restorative practice and work with victims more generally, but these were frustrated for the time being by limited resources.

Many countries have some form of victim information process where the probation agency contacts a victim (or perhaps informs another agency so that they can make contact) to give information about the progress of a prosecution or perhaps the date of an offender's release from prison. In other countries, this is taken further, with the probation agency contacting the victim when release is being considered to ascertain their views (about licence conditions, for example) and report back to those charged with taking the decision.

Another important exception to the generally limited involvement with victims is in cases of domestic violence. At least four countries identified a role for probation in such cases – before trial and subsequently. In such cases, the circumstances of offender and victim make it highly likely that work with the offender will also entail some contact with the victim.

One country spoke of its limited involvement in working directly with victims, but referred to Rule 96. This states that:

'Even where probation agencies do not work directly with victims, interventions shall respect the rights and needs of victims and shall aim at increasing offenders' awareness of the harm done to victims and their taking responsibility for such harm.'

Our research did not inquire into this Rule, but our belief is that many countries will respect this as an essential element of working to change offending behaviour.

Summary: Many countries do not have victim support as a probation responsibility and thus do not work directly with victims. An exception to the generally limited involvement with victims is in cases of domestic violence. However there were examples where probation agencies liaise with victim organisations (often NGOs), make referrals, provide help-lines and respond to inquiries from victims. Some countries have set up separate state services for victims and probation agencies are expected to cooperate with these. Many countries have some form of victim information process where the probation agency contacts a victim to give information or ascertain their views about potential release arrangements. The value of restorative justice and specifically mediation is being increasingly recognised whilst some countries have ambitions to develop restorative practices.

Views from the Workshops

While most of our findings were the product of the individual interviews described, the discussions at the workshop held in The Hague were informative in other ways, as group dialogues so often are (see Methodology section). This section summarises some of the views expressed by participants, who included people who had responded to us individually.

It was believed by all participants that the EPR can be used to permit, encourage and inspire good practice. The groups confirmed the strong impression of the research team that EPR were in general better known to policy makers, while at practitioner level there is little awareness of them. Even so, the use made of them by some policy makers and managers meant that EPR were adhered to at practice level. It was rare, however, that countries had taken active steps to familiarise their staff with EPR and to encourage practitioners to explore their implications for their work.

It was recognised that EPR are more recent than the Prison Rules and similar rules governing work with juvenile offenders and that it will take time for them to become as widely known. But this may not happen spontaneously:

> 'It is not sufficient to rely on probation managers to communicate the EPR within their organisations. They must also be championed by academics and probation educators.'

Relatedly,

> 'EPR should feature more strongly in training for those training to work in probation. This happens in some countries at the moment …. but in others only in an *ad hoc* way or not at all (e.g. some countries have no specific training for probation officers – as probation officers are trained as social workers).'

Countries with newer probation agencies have tended to embrace the Rules to help them to develop their service. Association with European networks like CEP (who have always been strong supporters of EPR) and COST also helps to spread EPR's influence. On the other hand, from the point of view of one country where probation was recently established (and least in a modern form), poorly resourced and not well-developed, the EPR seemed 'Anglo-centric' and of little relevance to the distinctive circumstances of their emerging national probation service.

In terms of the EPR's style and content, there was an appreciation of the difficulty faced by the Council of Europe in striking a balance between making the Rules specific and demanding in raising standards and, on the other hand, framing them in a way that will be acceptable to all the member states of the Council of Europe. For example, governments might have resisted rules that imposed limits on the size of caseloads. One useful insight was that

> 'The EPR are less tangible than the Prison Rules because probation is less tangible than prison. Prison conditions are easy to visualise (e.g. the size of a cell) – "probation conditions" are less concrete.'

There is a risk that, because they are often framed in such general terms (a *professional relationship* for example), it would not be difficult for most countries to claim that they were practising in accordance with EPR. Compliance could be 'tokenistic'. Rule 1 is so general that it can induce complacency or a sense of 'fake safety', yet does it provide useful guidance ? 'The devil is in the detail'! A similar complaint was levelled at #37 on partnerships: what constitutes a productive and equal partnership? In general, many (perhaps most) of the Rules are attempts to specify quality in performance, but how is this to be appraised? And how could research disclose shortcomings in quality in these respects? Another view, though, was that core principles, however vague and contestable, need to be affirmed: the imperative to respect human dignity was one example.

Some participants felt that the Rules needed 'teeth' – unless litigation leads to financial compensation for complainants, there are no particular consequences for non-compliance. There was an awareness that the European Prison Rules had sometimes been cited in the European Court of Human Rights when the court was explaining its ruling. Perhaps EPR might one day be invoked in this way.

Analysis and Discussion

There seems little doubt that the European Probation Rules have had a valuable influence in many countries. As discussed (in the summary of answers to Question 3 above), they have been used to help to shape legislation, organisation, policy and practice. They seem more likely to have been taken up by newer probation agencies – especially those in eastern Europe. Some of these countries have also been the beneficiary of various twinning projects and other forms of international support. In

those cases, the correspondence of their practices with the requirements of EPR may be as much a reflection of the values and principles of their mentors as the direct influence of the Rules themselves.

There are also at least four examples of countries with established probation agencies who are considering reform and / or the introduction of new practices (for example, working with victims, restorative justice or electronic monitoring) and have consulted the Rules as a resource to inform their deliberations. Other countries, on the other hand, said that the Rules had attracted little or no interest in their country. This was commonly because of a lack of interest in – or even hostility towards – European regulation. By marked contrast, some 'newer' Europeans are keen to participate actively in the community of nations and tend to receive guidance and instruction from Brussels and Strasbourg very positively.

Yet the implications of this are rather less straightforward than might be anticipated. As Nelken asked (long before EPR was adopted and with regard to the EU rather than the Recommendations of the Council of Europe)

> 'Why do the UK and Denmark complain most about the imposition of EU law but then turn out to be the countries which have the best records of obedience? Conversely, why does Italy, whose public opinion is most in favour of Europe, have such a high rate of non-compliance?' (Nelken 2004: 1)

Among other questions, this pointedly raises the distinction between the impact of EPR and compliance with them. Some of those countries that were reported to have disregarded EPR believe themselves to be highly compliant – no doubt because EPR were constructed out of the best practices of a number of these countries (*we did this anyway*). Some respondents, though, who judged that their countries complied well with EPR, also noted that it was necessary to guard against complacency. Unless some kind of benchmarking has taken place, on what basis can a country be confident that it does indeed comply to this level? Nor does it make much sense to refer here generally to EPR – it is entirely likely that those countries who have not made use of the Rules comply well with some rules, but no so well with some others.

The observation was frequently made that the Rules have yet to achieve their potential. Their influence, limited so far, may be expected to extend in the years ahead. But this will not happen without efforts to promote the Rules. Morgenstern and Larrauri (2013) offer the salutary reminder that 20 years after the introduction of the European Rules on Community Sanctions and Measures (Council of Europe 1992) they are still scarcely known to the personnel to whom they are principally addressed. Policy makers and managers must take an active lead here. The leadership of senior managers is especially necessary: there are at least four examples of countries where the agency's senior staff champion the Rules and this seems critical to their effective implementation. Education and training, both for new staff and in the course of professional development, must

take account of the implications of EPR for practice and opportunities must be made for staff to explore the EPR's implications for their work.

In some countries, efforts have already been made to familiarise practitioners with EPR and they are becoming more likely to form part of professional training programmes. They are, however, less well known to practitioners than to policy makers and managers. It has been suggested that this may not matter too much: after all, if practitioners undertake their work within the parameters of law and policy that has been shaped by EPR, then in effect they will be implementing the Rules. Yet while this argument has some merit, its limitations are also apparent. Some of the Rules have very specific application to practice. Less obviously, but just as importantly, compliance with EPR must not rest at the level of law and policy but must infuse practice. The values of the Rules should not simply stand as abstract ethical affirmations, but should be achieved in and through the practices of the agency.

One example to make the point is the commitment to oppose unfair discrimination. This is an easy claim to make – which is not to deny that it is necessary to make it – but realising the aims of anti-discrimination in practice involves a careful scrutiny of services and procedures that (probably unwittingly) might disadvantage certain groups. The achievement of anti-discrimination is accomplished in and through the work of service delivery. Reliable and up to date training is required here too to develop awareness and sensibility among all staff to unfair practices and a commitment to change these as necessary.

Benchmarking – systematically assessing current policies and practices against the requirements of EPR – has taken place in some countries, but infrequently. This is disappointing. In the first place, as has been seen, countries cannot know about the extent of compliance without some such investigation. It bears repeating that **implementation of EPR cannot rest at the level of law or even policy, but fundamentally depends also upon the service delivery work of practitioners.** A benchmarking exercise could, in principle, lead to three kinds of discovery:

- ✓ national practice conforms well with EPR
- ✓ national practice conforms well in some respects, but should be changed in other respects to meet the requirements of EPR
- ✓ national practice conforms well in some respects, but in some other respects reveals some of the shortcomings or limitations of EPR.

In some ways, it is this third outcome that is most useful. The case of the European Prison Rules is instructive here. It is no criticism of the first edition of the Prison Rules to say that they were significantly improved in the second, current version. This is largely because the revising committee was able to take account of the real effects of attempting to put them into practice. Even though the Council of Europe draws on the experience and expertise of people from many countries, Rules need to be put into effect before their quality can be properly appraised. Benchmarking exercises which show the

real effects of trying to implement EPR will be an invaluable resource to the Committee when the Rules come to be revised.

This relates especially to specific aspects of professional practice. While the main purpose of the Rules is to specify the implications of the Convention for the work of probation and for the rights of its service users, EPR also tries to commend best professional practice. But of course conceptions of best practice *change* with the emergence of new ideas and research findings. It is at least arguable that EPR are already beginning to 'show their age' in some respects. The conception of best practice promoted by EPR is heavily reliant on the Risk-Needs-Responsivity paradigm (for example, Bonta and Andrews 2007), but this has been amplified and challenged by the insights of desistance research and it is likely that, if EPR were to be written today, there would be much more about desistance and about the *Good Lives Model* (see Ward and Brown 2004; Ward and Maruna 2007). Be that as it may, the point is that the Rules will need to be refreshed and this will be achieved not only by research and scientific progress but by the experiences of countries benchmarking their policies and practices and putting the Rules to test. Moreover, such an exercise needs to be undertaken periodically and systematically, like all such assessments or inspections. There is a synergy here between the work of this Workstream and Workstream 1 (centred on evaluation): the development of evaluative practice across Europe should include an assessment of the impact of the Rules and the consequences of implementation across a range of policy and practice.

The ethos of the Rules – their emphasis on the value of professional relationships and social inclusion, of help and support - as a means of reducing (re)offending is recognised and respected in the great majority of European countries. Other countries insist that punishment and control where necessary are also among probation's duties. This is nowhere denied in the Rules, which in fact challenge the assumption that these responsibilities are incompatible. Some would argue that it is precisely the combining of these responsibilities that defines probation's work (Canton 2011). Not all countries are persuaded of this, however, and in some cases penal policy has tended to become more punitive in recent years with an impact on how probation understands and presents its work. This is all the more likely in those countries where questions of crime and punishment have become politically controversial.

An associated problem is that public understanding of probation's work is a challenge in many countries. Attempts are being made to change this though media work. Here, as the agency charged with putting into effect the non-custodial sentences ordered by the court, the probation agency can find itself in the predicament identified by Hough (2007) and by others: the public knows very little about probation, but has not much confidence in its work. Would the public be more or less supportive of probation if it *was* aware of its ethos and its practices? How possible is it to challenge in public debate the common belief that rehabilitation and control are incompatible in working with offenders? Or to convince a doubtful public that rehabilitation is often the best way of reducing reoffending and so making the public safer?

One response to the perception that the public expects weighty punishment is to claim that community sanctions can amount to substantial punishment. Yet whatever the truth of this claim it is not easy to persuade a sceptical public – or politicians anxious not to be seen as 'soft on crime' – that reporting to a probation officer, participating in rehabilitative programmes or therapies or undertaking community service constitute *punishment* – or at least adequate punishment for crimes. Similarly, probation's claim to contribute to public protection is both plausible and defensible, but it runs the risk of bringing the service into disrepute when offenders under supervision commit further offences. Public confidence is essential to the agency's legitimacy, but this is best achieved by speaking confidently and clearly about the purposes and practices of probation, and then undertaking the work in an efficient, effective and principled way, rather than making extravagant claims that few people are likely to believe in any case.

An idea with potential here is to draw attention to the work that probation agencies undertake on behalf of the victims of crime. In most cases, as we saw in the discussion of Question 10, there is little direct work with victims beyond the giving of information through victim contact schemes. But it is very common for probation to liaise with agencies who do offer direct support to victims. Specifically, some agencies are trying to develop victim-offender mediation and other restorative justice practices. Emphasising the potential of this work is among the ways in which probation might enhance public confidence in its work.

Countries differ in many respects that may affect the character of their probation work and their capacity, as well as their willingness, to implement EPR. While attempts have been made to construct typologies to try to 'group' countries for purposes of comparative analysis, as sketched in outline in the Literature Review, none of these typologies sheds much light on the question of whether and how countries may strive to implement EPR. For instance, many of the more liberal, welfare-oriented countries, while confident that their practice was in line with EPR, have paid scant attention to the Rules themselves.

As well as variations in welfare economy, political or legal culture, there are other straightforward ways in which countries and their probation agencies differ (see Bogschütz 2011) and which may have a bearing on the prospects of implementation of EPR.

- Some jurisdictions are geographically small and / or have relatively low populations. This may mean that people know one another and integration of the different stages of the criminal justice process may be to that extent more easily managed. Closer relationships between policy makers, management and practitioners might be expected to make implementation of EPR easier (so long as the motivation to do this exists). In larger countries, this can be much harder to manage. And where the systems of governance are devolved, it can be much harder to achieve consistency and integration.

- Many probation systems are mature. They have evolved through more than 100 years of small changes and improvements. Others systems have gone through recent major reform, often learning from other countries. Sometimes a completely new probation agency has been created in less than a decade. There are again other countries where modernisation of criminal justice is not yet a political priority. In this respect, the findings of this research are equivocal. We have found experiences of new agencies drawing extensively on EPR, but others who attribute their compliance with the Rules more to the influence of 'mentor' countries than to the EPR themselves. Older established services do conform with much of the EPR, but it is not at all clear that the Rules have had an influence on them: it is more that it is the best practice of these countries that have influenced the substance of the Rules. Even so, some older countries consult the Rules when introducing new practices or when they decide to benchmark.

- In some countries, staff are qualified as social workers, psychologists or pedagogues. They then receive induction and training in the workplace for the more specialised skills and knowledge needed to work with offenders in the community. In other countries, there is a specific qualification for probation officers. Other countries have appointed staff – perhaps from a legal or prison background – who may be less receptive to the principles of EPR. The educational background of staff, then, may a difference to their ability to appreciate and work within the ethos and practices commended by EPR.

- Agencies may be relatively better resourced or alternatively may struggle with unmanageably high caseloads. Resourcing may affect compliance with EPR, but there is no evidence that it makes a difference to the likelihood of EPR being referred to in the first place. This research has found a couple of examples of EPR being adduced in a successful argument to increase resourcing, but more usually such arguments have had less positive outcomes.

- Some countries emphasise the professional working relationship between the probation officer and the 'client', while others emphasise the more controlling aspect of the work. Where these precepts are believed to be in opposition, the ethos of EPR may make a country less receptive to them.

- Penal policy is a matter of (party) political controversy in some countries. Public protection has become more important than rehabilitation in some places. Such questions become especially salient when there is a high-profile crime where the probation agency is believed to have been at fault. Where political parties compete with each other over issues of 'law and order' and emphasise punishment and control, EPR are more likely to struggle for acceptance.

- Some countries are more committed to a common European approach to criminal justice and probation. Other countries insist that this is a national prerogative. This may be associated with their more general attitude towards Europe. At the

same time, as was seen earlier in this analysis, this attitude does not always predict the degree of compliance.

Our research has not been able to find any particular factors that are associated with the likelihood of a country's working to implement the EPR. Countries with newer agencies, who are often newer members of the EU as well, seem to be those who are most likely to welcome EPR in principle and accept its guidance. That said, many of those countries have also benefited from the mentoring of agencies from other countries with longer established probation agencies and compliance with the Rules is as likely to reflect this influence as the direct impact of EPR. At the same time, many of the newer agencies are aware that their policies and practices are still developing and that compliance with EPR is an aspiration from which they fall short in some respects. By contrast, the established agencies, who in some cases have taken little notice of the Rules, believe themselves to comply well. This may indeed be the case although without a systematic exercise of benchmarking it is hard to know if any country can credibly make this claim. These matters will be taken up again in the Conclusions and Proposals at the end of this report.

A European Probation Centre of Excellence

One objective of this Workstream is:

> *To scope the possibility of developing a 'centre of excellence' for European probation, most likely through a virtual network (interactive website), to ensure that the project is sustained and continues to develop.*

In addition to a study of the relevant literature, this part of the report is based on conversations with a number of key people with knowledge and experience of attempts to establish ways of sharing and disseminating good practice among the probation agencies of Europe.

What is a centre of excellence?

Although the term *centre of excellence* is nowadays familiar, it is doubtful that there is any agreed definition or understanding of what a centre actually is. Internet searches produce some instructive examples which illustrate some of the features that are usually associated with centres of excellence. For example, *The King's British Heart Foundation (BHF) Centre of Research Excellence* at King's College, London announces its mission as

- To nurture a critical mass of high quality multi-disciplinary scientists within a highly collaborative environment that catalyses internationally-leading cardiovascular research programmes
- To be a beacon that attracts talented individuals to research training programmes and careers in cardiovascular science and academic medicine

and sets its aims as

1. provide a highly collaborative, multi-disciplinary environment which catalyses imaginative and innovative cardiovascular research programmes
2. place major emphasis on clinical translation, eventually leading to therapeutic advances …
3. engage noncardiovascular and non-biomedical scientists to direct their expertise to cardiovascular problems
4. deliver outstanding research training and a nurturing environment for clinical and non-clinical scientists.

http://www.kcl.ac.uk/medicine/research/divisions/cardio/bhf/index.aspx

The *Centre of Excellence for Stability Police Units* places strong emphasis on training, offering training programmes, including 'train the trainer' courses and 'Mobile Assistance Teams', as well as acting as a 'doctrinal hub' to articulate best practice and identify operational procedures for the deployment of stability police units http://www.carabinieri.it/Internet/Coespu). The *Jane Goodall Center for Excellence in Environmental Studies* similarly places especial emphasis on training and supporting others to realise the aims and values of the Centre http://www.wcsu.edu/goodall/

On the basis of these and other examples, while different centres place varying emphasis on their activities, a *centre of excellence* usually refers to

> *an institution or the hub of a network that claims to represent best practice in a policy, business or technological domain and aspires to offer leadership and guidance to others; this includes identification and dissemination of good practice, the commissioning and interpretation of research, development of initial and continuing education and training; explanation and promotion of the work to the public and to policy makers on behalf of the domain.*

European institutions, networks and schemes - probation

Countries within and beyond Europe have long exchanged ideas, research findings and practices in all aspects of criminal justice, including probation. As Radzinowicz wrote, 'Imitations, mutations and cross-fertilization of all kinds of institutions and measures in response to crime can be traced in abundance throughout the world …' (Radzinowicz 1999: 357). These have included the study of crime and criminals, the collection, collation and interpretation of criminal statistics, law, sentencing practice, policing, prisons, probation, working with victims and crime prevention. Taking place through academic conferences and professional congresses, international publication, correspondence and study visits, these exchanges have sometimes led to deliberate attempts to 'import' institutions or practices from another country (policy transfer). While these arrangements have not usually centred around any single institution or 'hub', there is no doubt that international cooperation of this type is valued and indeed has been influential in the development of probation in Europe and beyond (Vanstone 2008).

There are several important and influential kinds of activity taking place in Europe that, in their different ways, represent some of the contributions that might be made by a centre of excellence.

Council of Europe

As is well known, the Council and the European Court of Human Rights are the custodians of the European Convention on Human Rights. No country has ever joined the EU without first becoming a member of the Council. The Council's work is established securely on the foundation of the shared ethical commitments of the 47 member states of the Council. The Court enforces the Convention, but can only respond to cases brought before it; the Council interprets the Convention and advises member states about its policy and practice implications. Within these ethical parameters, the Council is committed to respecting the autonomy of member states to operate in their own way and does not seek to prescribe any specific practices. In the realm of criminal justice and punishment, the Council gives expression to the principle that states must have regard to the rights, dignity and human worth of all concerned, offenders, victims of crime and others. This is exceptionally important because it is often in relation to the practices of prosecution and punishment that people's rights are most vulnerable to abuse.

The Council advances its work through:

1. Setting standards – Rules and Recommendations apply the (often necessarily quite general) principles of the Convention to the specific circumstances of imprisonment and community sanctions and measures (CSM). Among the most important such recommendations in this area are:

    - European rules on community sanctions and measures (CSM) - No. R (92) 16
    - Improving the implementation of the European rules on CSM – Rec (2000) 22E
    - European Prison Rules – Rec (2006) 2
    - European Probation Rules - CM/REC 2010 [1]
    - Recommendation on electronic monitoring - CM/Rec(2014)4

There is a useful Compendium relating to penitentiary questions and each Recommendation is accompanied by a useful Explanatory Memorandum / Commentary.

2. Inspection – The Council inspects the practices of member states to check their conformity with the Convention. The Committee for the Prevention of Torture (CPT), notably, undertakes visits to examine the treatment of those detained to protect them from torture and inhuman treatment.

3. Co-operation – As well as calling states to account, the Council supports them in developing good practice. In penal affairs, this is achieved through the work of

committees of experts, twinning projects and advisory groups. The Council also convenes major conferences for Directors of Prisons and Probation Agencies.

It is perhaps in the area of co-operation that the Council's strengths and limitations are most apparent. The Council is extremely active in supporting member states to develop probation systems, facilitating expert visits, seminars and conferences, and has given many countries invaluable advice and support in (notably) drafting legislation relating to probation and other community sanctions and measures, practice guidance, management and training. Yet a possible limitation is that the Council has limited capacity to offer ongoing reliable support to these countries and is dependent on the variable availability of (busy) experts. This is in no sense to depreciate the contributions that have been made.

While the Council sets standards, moreover, it is not always in a position to monitor their effects. The CPT is vigorous in its inspection work, but inquiry into conformity with the requirements of some recommendations (perhaps especially in regard to CSM) is unavoidably less systematic. The Council sends questionnaires to member states asking about the effect of its Recommendations, but the response is uneven. (This is part of the value of this Workstream within the STREAM project, attempting to find out about the impact of the European Probation Rules, even though this has had to be restricted to EU states rather than to all the members of the Council). It is fair to say, perhaps, that the Council would benefit from knowing more about how its Recommendations have their effects and whether more could be done to support effective implementation.

Among the respondents interviewed in this Workstream, the value of the Council and the importance of its standards were often affirmed. The Council has considerable authority and most countries readily acknowledge the need to try to give effect to its recommendations. To this extent the Council stands as a beacon – one of the ways in which centres of excellence sometimes describe themselves – and an inspiration to its members. Other activities of centres of excellence, however, are not part of the Council's role. Thus it advises about staff training in very general terms (staff must be adequately trained and supported to undertake the work expected of them) and emphasises the value of research (for instance, European Probation Rules Part VIII #104 – 108). But it does not attempt to set curricula for staff training or to undertake much research itself. At the same time, it sets standards, as we have seen, and does all it can to disseminate best practice among its member states.

CEP

The Confederation of European Probation has established itself as indispensable in the development of probation across the continent (http://www.cep-probation.org/). It holds conferences and seminars and has an excellent web resource, including an extensive 'knowledgebase' containing presentations given at CEP conferences and seminars, articles on probation, texts of European regulations on probation, and much more. It also contains brief descriptions of the probation systems of most countries in Europe, enabling countries to learn from one another and providing an invaluable resource for comparative research. CEP publishes an online peer-reviewed academic journal

(EuroVista) that is available free of charge (http://www.euro-vista.org/) and sends regular newsletters to its members and others who sign up to receive it. Its members are public institutions or organisations which provide probation services (i.e. probation agencies) or other agencies responsible for the development of probation services, as well as not-for-profit organisations providing such services. Other supporting organisations, some individual subscribers and academic institutions enjoy associate membership.

In terms of the earlier discussion about the defining characteristics of centres of excellence, the CEP does constitute the hub of a network that claims to represent best probation practice and policy and offers leadership and guidance. It is active - mainly through its conference events, but also through its website and publications - in the dissemination of good practice. It attempts to explain and promote the work of probation to the public and to policy makers, although its achievements here are hard to assess. On the other hand, it does not (or not often) commission its own research nor does it seek to lead probation training.

The CEP attempted to set up a *Register of Experts* some years ago. The idea was that, once found suitable for membership of this register, experts would be available to CEP members (mainly here the national probation agencies) who would make their approach online. The experts would then offer advice and guidance to the country concerned. It may be instructive to note that there was almost no take-up of this service and the Register was abandoned. Yet it remains the case that CEP is often approached by countries seeking advice on specific aspects of policy and practice and regularly facilitates connections with experts known to and trusted by CEP. It could be concluded that there exists a 'demand', but that simply providing an online list of experts has been found not to be the way to meet it. This could be seen as a warning that a virtual centre may not function as well as an actual one.

Twinning Projects

The EU has established and supported a number of twinning projects over several years, many of them under the Phare Programme (a pre-accession instrument financed by the EU to assist applicant countries as they prepare to join the EU). Longer established agencies are twinned with newer and emerging probation agencies to support their development. The beneficiary selects a specific twinning partner through a competitive process. Sometimes the provider is a consortium rather than a single country, but even where one country is the lead (or sole) partner it is usual to involve experts from other countries: a twinning project is an EU programme and this should be reflected in its staffing and in the opportunities for the beneficiary to take its learning from a range of national experiences. This approach enriches a project and ensures that the beneficiary has access to knowledge and skills that no single country could provide on its own. For example, in a recent project in Turkey, the UK Ministry of Justice commissioned the extensive participation of an Austrian NGO, while short term experts were also deployed from Hungary, the Czech Republic, Catalonia and the Netherlands (Barry and McFarlane 2014).

One of the most exciting aspects of twinning schemes is the way in which countries take on the role of provider as their agencies mature. For example, between 2002 and 2006, the UK and the Czech Republic were partners in two EU twinning projects, with the UK as provider and the Czech Republic as beneficiary. A working relationship continued over the years through low level formal and informal contacts and visits. In 2010, as the Czech Probation and Mediation Service celebrated its tenth birthday, the Czechs joined with the UK Ministry of Justice in a twinning project in Croatia where they delivered training and development work to their Croatian colleagues. Croatia has already made important contributions to the development of other countries (mainly informally, through the Council of Europe). Romania is another country with a relatively short history of probation that has been a beneficiary of a twinning project, but is now active and generous in offering support to others. Not the least of the advantages of this approach is that it enables the beneficiary to learn from countries whose recent history is more similar to their own, in contrast to most of the countries in the north and west of Europe who have experienced longer periods of political stability. Similarly, many of the candidate countries and the newer members of the EU fund their probation services less adequately than countries in other parts of the continent. Working with partners who have much more restricted budgets helps to provide a useful corrective here.

Partnership and sustainability are key elements of a twinning project. After a six month preparatory phase, implementation takes place over one or two years and throughout it is hoped that the staff engaged in the twinning project will develop good personal and professional relationships with their opposite numbers. Indeed the experience of the UK (which has acted as the senior partner and provider in many such projects) is that these relationships will last beyond the lifetime of the project and in the best of cases establish a long term relationship between the institutions and the staff from both sides. Sometimes, after the project's formal conclusion, the partnership continues informally, with requests for professional information or data and even occasionally visits or advice (Barry and McFarlane 2014). That said, the intensity of participation cannot be sustained beyond the lifetime of the project. What is sustained, it is hoped, is more the learning from the project than the partnership.

COST

'Offender Supervision in Europe' (European Cooperation in Science and Technology - COST Action 1106) aims to remedy what it sees as a lack of attention in scholarship and research into CSM (in contrast to imprisonment). It facilitates cooperation between institutions and individuals in different European states and with different disciplinary perspectives, who are interested in undertaking research on offender supervision. Reviewing and synthesizing existing knowledge, it has set out to develop understanding through interdisciplinary and comparative work and capacity building. This COST Action will thus provide a European forum on offender supervision for academics, policymakers, practitioners and interested citizens (http://www.offendersupervision.eu/).

The COST Action started in March 2012 and is to run for four years. It is a busy network and has already demonstrated its worth through setting up a website, using social media, arranging conferences, enabling scholars who share interests to consider working together, as well as planning short-term scientific missions and training schools for researchers. It is organised around four working groups, addressing respectively

- Practising supervision
- Experiencing supervision
- European norms, policy and practice
- Decision making and supervision

In addition, the COST Action has published an extremely useful book, a collection of papers edited by Fergus McNeill and Kristel Beyens (2013), with contributions corresponding to the concerns of the project's four working groups. Many of the participants in the COST Action are also members of the European Society of Criminology's Community Sanctions and Measures Working Group (see http://communitysanctionsblog.wordpress.com/) which is another active network of scholarship.

Other Projects

There are many other projects that could be mentioned that have contributed to the identification and dissemination of good probation practice. Examples include:

The STARR (Strengthening Transnational Approaches to Reducing Re-offending) project found that a great deal of excellent probation practice was taking place across Europe, but that countries were often unable to demonstrate this because of inadequate systems of evaluation. The current project (STREAM – especially Workstream 1) is part of the response to the challenges from STARR's findings.

The DOMICE Project (Case management in European Corrections) http://www.starr-probation.org/default.asp?page_id=1 mapped case management systems across Europe.

ISTEP (Implementation Support for Transfer of European Probation Sentences) created a website (http://www.probation-transfers.eu/) to give countries information about each other's probation sanctions to facilitate transfer of CSM under EU Council Framework Decision 2008/947/JHA.

SOMEC (Serious Offending by Mobile European Criminals) brings together a range of criminal justice organisations from across Europe to look at how member states can cooperate in order to safeguard their citizens against dangerous offenders who cross national borders (http://www.cep-probation.org/default.asp?page_id=553).

The SPORE project (http://spore-resilience.eu/en/about/) was developed in recognition of the fact that the effectiveness of probation work is closely related to staff capacity and

personal suitability for such complex work. The project sought to identify examples of good practice in probation agencies, to strengthen resources and support agencies in their efforts to sustain the resilience and well-being of employees and to avoid burnout, stress and trauma.

Many of these projects have been funded through action grants under the European Commission's Criminal Justice Support Programme. Other projects have addressed specific aspects of probation (and related) practice – for example, initiatives on domestic violence, Circles of Support and Accountability, DUTT (Developing the Use of Technical Tools in Cross-Border Resettlement) and electronic monitoring projects. (Information about a number of these initiatives can be found at http://www.cep-probation.org/default.asp?page_id=157&map_id=111)

While all of these projects have involved research and many of them have tried to set out the implications for staff skills and knowledge, few have had training as a specific focus. An important exception is the Criminal Justice Social Work (CJSW) project - http://www.cjsw.eu/

Following conference discussions at Agen in France in 2009, researchers began to explore the feasibility of designing a curriculum of training for probation staff. In 2010 a European Probation Curriculum Group carried out research into the requirements of various probation curricula throughout Europe and the potential need for a European approach to probation training (Durnescu and Stout 2011; see also Stout and Canton 2010). The Criminal Justice Social Work Project was subsequently established to develop a set of teaching modules for initial education and continuing professional development in the field of CJSW and probation. Practitioners and academics from several European countries have been involved in designing and testing the training materials which will be available online within the next few months.

Mention must also be made of publications with a particular focus on European Probation. Prominent among these is *Probation in Europe*. Its second edition (Van Kalmthout and Durnescu 2008) is available online at http://www.cep-probation.org/default.asp?page_id=157&map_id=59 and completed national chapters for the new edition are available at http://www.cep-probation.org/default.asp?page_id=157&map_id=152 The new edition is written to a common template so that comparisons can readily be made among different countries. It is an indispensable resource for European probation research.

The journal EuroVista (http://www.euro-vista.org/) has already been mentioned. There is also the excellent *European Probation Journal* (http://www.ejprob.ro/), while various national journals are increasingly concerning themselves with international as well as domestic probation matters.

No doubt some projects have been omitted. The purpose here is not to give a comprehensive account, but to show that there is a considerable amount of activity taking place in Europe around probation, CSM and associated matters. Probably all (and

certainly almost all) of these projects have placed emphasis on the sharing of experience among countries, recognising that the probation agencies in the nations of Europe share many of the same problems and might find support and guidance in a collective endeavour towards solutions (Canton 2009a). In their attempts to stimulate research, identify and spread good practice and explore implications for training, the institutions and projects reviewed are undertaking many (perhaps most) of the activities associated with a Centre of Excellence.

What more is needed

While there is considerable activity and a great deal of high quality work being undertaken, there may be some identifiable areas where the European probation community might accomplish even more; specifically:

a) Identifying priority research needs
b) Coordinating and sequencing research activities
c) Sustaining work beyond the end of projects
d) Explaining (and 'championing') probation to judges, criminal justice practitioners and to the general public.

a) The COST action has made an enormous contribution to identifying research needs and beginning to devise ways of meeting those needs. What is less clear, however, is the extent to which its emerging agenda corresponds with those research areas that the profession itself would identify as priorities. Policy makers, managers and practitioners may reasonably expect to enjoy a productive and mutually beneficial working relationship with the academic community and to feel that their needs for research are receiving proper attention. This does not mean (of course) that research should be confined to those areas, but research and practice need to work in synergy and there ought to be a reliable means of ensuring that this happens. As matters stand, researchers seek funding to undertake projects of interest to them and it is arguable that no one has the responsibility to scope current research activity, identify needs for research and seek to commission work to make good any gaps. While the Council of Europe, the EU and the ministries of the member states will all have their ideas about what is most important here, there ought to be mechanisms to ensure that there are opportunities to undertake research into those topics that the profession of probation (as represented by its practitioners and managers) has identified for itself as priorities. This is especially important when probation aspires to being a profession that develops its policies and practices in the direction that evidence points.

b) Coordination of research may be another challenge. While there has been a coherent sequence between some projects – for instance, there is a discernible strand and progression of research inquiry from DOMICE, through STARR to STREAM – the existing processes mean that projects are at risk of failing to gain momentum and consequently under-achieving. Many aspects of practice need incremental research

findings, with projects building on each other and relating coherently to other inquiries. In short, there is a need for a much more strategic approach to research.

c) While sustainability is almost always a declared priority, projects are time-limited, especially those whose focus is mainly on research. Funding ceases when the project ends. It could even be said that, while those who commission and fund research are quite right to insist that participants provide the 'deliverables' of the contract to time, this fixes an end to a project and militates against the aspiration of sustainability. Even the excellent COST action will come to its end in a couple of years' time and new bids will need to be made to consolidate and take forward its achievements. Much depends on the ability and energy of a relatively small number of scholars and researchers (from, encouragingly, almost all member states and from other European nations outside the EU). Although the momentum that has built up must not be under-estimated, it could be said that too much of this work is insufficiently institutionalised and dependent on the enthusiasm, skills and preferences of this relatively small number of researchers.

   Training is another example where the absence of a strategy is notable and sustainability is consequently imperilled. Part of the rationale for the CJSW project was to develop a shared curriculum in support of harmonisation of probation work across the EU. This project has done some excellent work, but once the lead university found that further such work was not consistent with its own priorities for curriculum development, momentum was immediately in jeopardy. With inevitable changes in probation, it will not be long before the training materials are outdated, but there is no one with the capacity to make sure that they are refreshed to take account of new skills and knowledge needed to do the work of probation.

   In brief, the activities set out in the earlier part of this paper are time-limited projects: the Council of Europe and the CEP are perhaps the only established and enduring institutions.

d) The need to explain the purpose and value of probation to judges, criminal justice practitioners and to the general public is recognised everywhere. While this is a predictable challenge for countries where probation is a new idea, even in those nations where the institution has been long established, misunderstanding and a lack of knowledge hinders probation's development and detracts from its credibility and legitimacy. In England and Wales for example, people are generally poorly informed about probation work, as they will admit in surveys, with almost four out of five people saying they know little or nothing about probation. This confessed lack of understanding does not stand in the way of judgements about its work, with only a quarter of respondents saying that they think that the probation service does a good job (Hough 2007)! No doubt there are local and national initiatives to improve understanding and confidence, but probation needs its champions at every level. This is one of the functions of a centre of excellence and it is not clear that it is being fulfilled by anyone at the moment.

Parallels and Models

Among the possible models for a probation centre of excellence, two in particular merit discussion here. The Probation Institute in England and Wales is one of these. Its website declares

> 'The Probation Institute is an independent centre of excellence and a professional home for all those involved in probation work. We support effective services, promote evidence-based policy and practice and the professional development of our members and explain the work of probation to the media, parliamentarians and the public.' (http://probation-institute.org/)

The Probation Institute is working with a wide range of stakeholders, to try to ensure that the work of probation is evidence-based and rigorous, and aspires to being 'seen as authoritative both by its membership, the wider criminal justice system and the public'. It hopes to provide 'a framework for unifying the probation workforce as a whole by providing professional leadership for probation workers' at a time of radical organisational change in English probation.

Among the current and envisaged activities of this emerging Centre (many of them in partnership with others) are:

- setting practice standards
- commissioning the development of a Voluntary Register for Practitioners
- supporting initial training and continuing professional development
- identifying research priorities and coordinating and facilitating in commissioning research
- holding a series of professional conferences
- writing a code of ethics for probation

For all its energy, ambition and early achievements, this is still a very young centre (2014). It has been inclusive in its approach, making sure that it has involved all possible stakeholders in contributing to its thinking and planning. If it is able to establish itself and to prosper, it may offer a model for a European Centre. A stimulus to creation was the radical change in governance in the probation service in England and Wales. With (foreseeably) a range of different providers, many from independent and indeed commercial sectors, there is a risk of probation becoming fragmented and a need for a centre to constitute a focus for good practice, research and training. One challenge for the Probation Institute will be to secure a reliable funding stream and in the medium and long-term it may depend upon membership subscriptions for its funding. This in turn will mean persuading NOMS, Community Rehabilitation Companies and other organisations, as well as individual members, that membership of the Institute is valuable to them.

A second model is an established centre - The European Forum for Restorative Justice (http://www.euforumrj.org/home). To advance its general aim of contributing to 'The

development and establishment of victim-offender mediation and other restorative justice practices throughout Europe', the Forum is involved in many of the activities associated with a centre of excellence: promoting international information exchange and mutual assistance, promoting the development of effective restorative justice policies, services and legislation, elaborating the theoretical basis of restorative justice, stimulating research and assisting in the development of principles, ethics, training and good practice. The website also declares that the Forum

- Promotes dialogue between practitioners, policymakers and researchers
- Supports public education that increases awareness about issues for victims, offenders and the community
- Makes representation to and / or liaises with European and international institutions or organisations, including the Council of Europe, the European Union and relevant non-governmental organisations
- Raises, holds and administers funds in furtherance of its work
- Works to ensure that practice and research inform and support each other, and that these both inform and support policy making, which then informs the work of practitioners.

Membership is open to individuals and organisations (government, statutory and non-governmental) who support the general aim of the Forum. The Forum convenes Committees, which act as working groups on specific topics, such as practice and training, research, information and communication. It is supported and administered by a secretariat based at the University of Leuven in Belgium and with a team from several different European countries.

The attention paid to training and research and the important task of promoting an understanding of the value of restorative justice, including making representation to politicians and institutions, is an invaluable function which, at least arguably, is not at the moment undertaken by any institution on probation's behalf.

Conclusions: Centre of Excellence

The table below tries to map the tasks of a centre of excellence against the work of the current institutions and projects.

Tasks of a Centre of Excellence	Council of Europe	CEP	Other
Setting Standards	✓		National probation agencies
Supporting countries in meeting standards	✓	✓	Twinning projects
Resource to countries needing advice	✓	✓	Twinning projects
Encouraging / commissioning research	?	✓	National probation agencies
Undertaking research			COST and several other specific projects
Disseminating good practice across Europe	?	✓	STARR, DOMICE, SOMEC and others
Training			CJSW, Twinning Projects (for their duration)
Championing probation	?	?	?

A centre of excellence for probation in Europe must

- be founded on an alliance between the academic and practice sectors, probably with the profession taking a lead
- draw upon the experience of the probation services in different countries (it should not be dominated by any single national understanding of probation policy and practice)
- represent the concerns and interests of probation to European institutions, notably the EU and the Council of Europe, and advise members in different countries about how to seek to influence policy at national level

- act as a resource and support to countries who are developing new probation services (and must therefore be sensitive to the particular social, political and economic circumstances of each of these countries)
- develop a research strategy, support commissioning, interpret and disseminate research findings
- seek to develop training, both initial and continuing
- promote probation internationally and advise members about how to act as champions in their own countries .

One well-supported view expressed in Malta is that a centre should enable staff across Europe to share good ideas about practice – not only policy. It is clear that there is excellent and innovative practice taking place in many countries as people find ways of responding to the problems that are shared by almost all probation staff. It was argued that the centre should encourage the identification and sharing of good practice and be a conduit for exchanging ideas. Prominent questions here include: what might desistance look like in each country? how is it to be supported by the work of probation? what are the skills that staff require? *who* (not only *what*) works? how are service users / clients to be enabled to draw on their experiences of probation to inform its work?

Although the objective of this Workstream anticipated that a centre could be established '*most likely through a virtual network (interactive website)*', the near unanimous view of respondents in this project is that a centre would need an established institutional base - a real centre of a hub, even if many of the connections and networking around that hub would inevitably be transacted electronically.

Debates took place about whether, rather than seeking to establish a *probation* centre, it might be better to plan for a centre of excellence in *correctional practices*. Many countries, after all, regard probation and prison as different elements of a single correctional enterprise. On the other hand, wherever prison and probation organisations unite, there is a risk of a takeover and the possibility that the distinctive needs of probation (in research, training and philosophy) are overwhelmed by the concerns of the much larger prison organisation. A common view was that it should be a probation centre, but that part of its remit should be to develop strong links with prison and indeed with many other agencies within and beyond the criminal justice system. Networking must be integral to its mission, recognising that probation can only accomplish its most important responsibilities in working in partnership with others.

It must be emphasised that in the discussions and workshops that have taken place in the course of this project there has been strong – indeed close to unanimous - support for establishing a European Probation Centre of Excellence. The enthusiasm for this was especially noticeable at the Final Conference in Malta which was attended by policy makers and senior managers, as well as practitioners and researchers, from around 20 countries. There are of course differences of view about what the priorities of a centre ought to be, about its governance and its funding, but the desirability and feasibility of developing a centre are agreed upon.

It was widely acknowledged that no centre of excellence could be established without joining in partnership with CEP, whose energy, ability and reputation has enabled it to undertake many of the tasks of a centre already. In particular, it will be essential to avoid any new institution competing with CEP for action or operating funding. Indeed it may be that the best way to establish a centre would be by enabling CEP to take on those functions that it does not, for now, undertake – perhaps especially in relation to the identification of research needs, drawing up a research strategy and the development of staff training. Smaller steps are seen as better than strides and an incremental development is both more feasible and desirable than an attempt to create a centre *de novo*.

STREAM and the projects that came before it are in themselves an eloquent testimony of how much can be achieved through European cooperation. The exchange of ideas, the dissemination of good practice, exploration of solutions to common problems, networking – all these have been of enormous benefit to the probation community of Europe. They will be part of the foundations of a centre of excellence. Although many of these benefits are intangible, it is through mechanisms like these – as much as or more than through regulation – that standards will be raised and cooperation developed. This is how mutual respect and trust can be increased and this is a precondition for the successful implementation of the Framework Decisions.

Establishing a centre of excellence would be the most reliable means of promoting the legacy of STREAM and the associated projects that led up to it. It has already been remarked that sustainability is notoriously difficult to ensure in projects of this kind and a centre could *institutionalise* the project's findings and achievements. The project has demonstrated that good practices can be shared when transferred with due regard to context and with professional commitment; the product of Workstream 1 will show how probation agencies can evaluate their work in order to identify and enhance good practice. These achievements could be consolidated and promoted by a centre of excellence which would support probation in Europe's aspiration to enhance human rights and to reduce dependence on imprisonment.

Workstream 4: Conclusions and Proposals

There are wide differences in the ways that Probation is organised and managed across the various European states. These differences reflect the diverse history, culture, social structure, law and economy of the member states. While the Council of Europe is committed to respecting this diversity and does not seek to commend any single way of organising a probation agency or to prescribe its policies and practices, the Council does set ethical parameters that call upon and require all countries to defend and promote the human rights of offenders, victims, their respective families, the staff of a probation agency and the public that it serves. These requirements, expressed in the European Probation Rules, are intended to guide practice. At the same time, increased European integration, the movement of people across the continent, Framework Decisions relating to international transfers of defendants and offenders, and the shared responsibility to

make sure that people are not disadvantaged on the basis of their nationality or their normal country of residence are all factors that call for mutual confidence and trust between countries, including their probation agencies. This in turn depends upon nations' awareness that countries, for all their legitimate differences, adopt common standards and these standards are articulated in EPR.

Our research has tried to identify some of the challenges associated with implementation of the Rules. In particular, it has been argued in this report that implementation cannot rest at the (formal) level of statute and policy, although this is important too, but must also involve a (substantive) commitment to work in accordance with the ethical principles that EPR enjoin. These principles may not be allowed to stand as abstract affirmations, but must infuse and guide practice.

Attention has been drawn to some of the considerations that policy makers and managers, as champions of the EPR in their own countries, will need to take into account. In particular, to support the effective implementation of EPR, on the basis of the findings of our inquiry, it is proposed that

I. Reliable translations of the EPR should be made readily available in the national languages of all member states.
II. The national probation agency should encourage its staff to study EPR and should make the text easily available to them, in recognition of the fact that substantive compliance with EPR involves their incorporation into practice: law and policy will not be sufficient for EPR to be fully implemented.
III. EPR should be incorporated into the qualifying training of all new staff or, where there is no specific qualifying probation training, into their induction and continuing professional development programmes. This should include information on the benefits of working to similar standards and values across Europe, so that the value of EPR can be made apparent to staff.
IV. Policy makers and senior managers should compare or benchmark their current statutory provision, policies and practices against the Rules to ensure that the agency's work respects the ethical requirements of EPR, but also as a contribution to subsequent enhancement of the Rules.
V. Redoubled attempts should be made to explain the work and the guiding values of probation to judges, politicians and the general public; in particular, a convincing attempt must be made to show that the development of positive relationships, social inclusion and help and support for offenders are fully compatible with a duty to control offenders, to protect the public and to reduce reoffending.
VI. Restorative justice and mediation are increasingly becoming seen as effective means of working with victims and offenders and the rules on these issues should be promoted as good practice and to enhance legitimacy with the public.
VII. The EU and the probation community of Europe, working closely with CEP, should consider how to establish a European Probation Centre of Excellence to champion the EPR across Europe and to guide countries in implementation and in the enhancement of probation practice.

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Appendices

Appendix One

The STREAM Project

STREAM (Strategic Targeting of Recidivism through Evaluation And Monitoring) is a major European research project, funded by the EU and involving criminal justice agencies, Ministries and universities in several European countries. It is led by the National Offender Management Service in England and Wales. The broad aim of the project is to support the development of effective practice across Europe in working with offenders in the community and to facilitate the sharing of evidence-based good practice.

The project has four main components.

Workstream 1 (led by Jean Hine, De Montfort University, Leicester, UK) is trying to find out more about how practice is evaluated across the EU. The earlier STARR project found that there is a great deal of excellent practice taking place across Europe, but that evaluation is uneven: there is substantial variation in both the extent and expectations of evaluation. Yet evaluation can show that projects and agencies are achieving their aims and highlight how they may be able to improve their practice. The findings of the research in this Workstream will be used to develop guidance on evaluation to help member states learn from each other, taking account of the different legal and social contexts within which it takes place, and to evaluate their own work. This Workstream will address questions such as: to what extent can agencies and organisations demonstrate the effectiveness of their work with offenders? how is evaluation

undertaken? who funds and undertakes evaluations? Examples of experience and good practice will be gathered and compiled as a web-based 'tool kit' of evaluation methods which could be used to develop policy and practice across Europe.

Workstream 2 (led by Joanna Shapland, University of Sheffield, UK and Sue Rex, NOMS) is investigating the feasibility of applying and evaluating the *Skills for Effective Engagement and Development* (SEED) programme, developed in the UK, in another European jurisdiction. The aims are to test whether this model to enhance practitioners' skills in engaging with offenders can be applied in a different country. This Workstream will also explore how the model needs to be adapted for use in this other country and whether the approach developed by Sheffield University to evaluate the model can be applied in another country.

Workstream 3 (led by Ioan Durnescu, University of Bucharest) is trying to obtain a European picture of current developments and processes in one-to-one supervision. This involves a literature review, focusing on the aims and impact of one-to-one supervision across Europe. This will help to identify and effective models of practice that can be disseminated across the whole STREAM project and further EU-wide networks, to assist organisations in developing and improving their staff-offender supervision and practices.

Workstream 4 (led by Rob Canton, De Montfort University, Leicester, UK) is an attempt to assess the impact of the Council of Europe's European Probation Rules. Are they being used? If not, what are the reasons for this – can any obstacles be identified and overcome? If they are being used, how – and what difference do they make to policy and practice?

In support of Workstream 2, Ioan Durnescu would be pleased to hear from anyone who feels they could contribute to his review of the literature. He is keen to receive any publications or research studies in any language on the effectiveness of one to one supervision. He is interested in any impact that probation could have on sentencing, human rights, offender rehabilitation, promoting alternatives to imprisonment and so on.

To fulfil the objectives of Workstreams 1 (Evaluation) and 4 (Probation Rules) Jean Hine and Rob Canton and their colleagues need to make contact with people in all countries in the EU. Our experience is that written questionnaires are not the best way to explore these topics, so our plan is to arrange Skype conversations with knowledgeable individuals if we can. We are in the process of identifying people to talk to in each country and would very much welcome approaches from anyone who feels they can contribute. We hope to speak to people who work in probation and other agencies, to staff in Ministries of Justice and to researchers and scholars.

STREAM is a project of considerable importance to the European probation community and the research team need the support of this community to enable it to achieve its potential. We do hope that the CEP membership and readers of this Newsletter will be able to lend us their experience and support.

If you feel that you are able to contribute to any of the Workstreams, please contact …

Appendix Two

Text of the original email sent to prospective key contacts in all countries.

Dear

I am writing to tell you about a major European research project and to ask for your advice and support.

STREAM (Strategic Targeting of Recidivism through Evaluation And Monitoring) is a large EU funded project involving criminal justice agencies, Ministries and universities in several European countries and led by the National Offender Management Service in England and Wales. The broad aim of the project is to support the development of effective community based practice with offenders across Europe and facilitate the sharing of evidence based good practice. The project has several components, but the ones in which De Montfort University is involved and for which we would ask your help are:

Workstream 1 – The aim of this workstream is to find out more about how such practice is evaluated across the EU and to use this learning to develop guidance on evaluation that can help member states learn what has been undertaken elsewhere and evaluate their own practice. We anticipate that there is substantial variation across Europe in both the extent and expectations of evaluation and want to find out more about approaches to evaluation in different countries, and to appreciate the different legal and social contexts within which it takes place. We will address questions such as to what extent can agencies and organisations demonstrate the effectiveness of their work with offenders, and who funds and undertakes evaluations and how. We will gather examples of experience that can offer useful examples and learning for others to use in a web based 'tool kit' of good practice in evaluation which countries could use to develop their policies and practices.

Workstream 4 is an attempt to assess the impact of the Council of Europe's European Probation Rules. Are they being used? If not, what are the reasons for this – can any obstacles be identified and overcome? If they are being used, how – and what difference do they make to policy and practice?

To fulfil our objectives we need to make contact with people in all countries in the EU. Written questionnaires are not the best way to explore these topics, so our plan is to arrange Skype conversations with knowledgeable individuals if we can. Ideally we want to discuss these matters with people in different roles in each country: we are initially thinking of someone who works in the Ministry of Justice, someone who works in the probation agency, and with someone in a university. Some members of our research

team are fluent in several languages so we would be able to hold conversations in English, French, German or Spanish.

As we are sure you will appreciate, identifying the most appropriate people to speak to will not be easy, and we are starting this work by contacting people such as yourself who are contacts known to members of the research team. Our request then is to ask if we may correspond with you about this project, please, and to ask if you can help us to identify other people in your country who might also be willing to share their thoughts and experiences with us.

We do hope that you will be able to share some of your time and to give us the benefit of your knowledge and experience.

Appendix Three

This is the schedule of questions for the initial Skype conversation with the key contacts.

Hello. Very kind of you to help us in this way. Please be aware that we should like to record this conversation. We are doing this so that we can listen to it over again if necessary. The recording will be held securely and will not go beyond the research team. Is this OK / may we have your permission to record? (If No, then we won't; if Yes, switch on now). May we please just confirm that you are willing to consent to this conversation. You can stop at any time and / or leave out any question on which you would prefer not to comment. If you change your mind later on, please just let us know and we will delete the recording. Any information you give us about policy and practice in your country will not be identified without your express permission. This Skype conversation may be quite brief today because our main interest is to seek your help to identify people who might be able to give us more detailed information. (We don't want to go into too much detail today.)
Can we begin please by asking you to tell us your (name and) professional position or role.
May I remind us both about the STREAM project? (Rob Canton outlined this in his mail to you and you may have seen the article in the CEP Newsletter.) I am interested in talking to you about Workstreams 1 and 4. Workstream 1 is about evaluation; 4 is about the European Probation Rules. (Say more as necessary.)
So can we start by talking about evaluation of work with offenders in the community? Is this an aspect of your work / an interest of yours? Can you tell us something – in very broad terms – about how this is undertaken in your country? [Prompts: Is this work monitored / evaluated? Who by? How is it funded? What sorts of questions are addressed? Are reports publicly available?(get links/copies if possible) To what extent

do you feel policy is informed by local / national evaluation? By international evaluation?]
Still on the question of evaluation. We are hoping to speak to a few people in every EU country. Ideally we would like to talk to someone who works in a professional agency (probation or other similar), someone who is responsible for policy about work with offenders, and someone who carries out evaluation. Can you advise us please about who we could approach to discuss evaluation?
Names, roles, email addresses (This could be managed by later emails)
Our other interest is in the European Probation Rules. Is this an aspect of your work / an interest of yours? We are trying to find out what influence they have had on policy and practice in each country. In general terms, can you please give us your views about this?
We would like to go into this in more detail in later conversations. Here we are thinking of conversations with perhaps two or three people: someone who works in probation, someone in the Ministry of Justice and someone in a university. Can you help us to identify someone in your country who might know about this and be willing to speak with us?
Names, roles, email addresses
Do you happen to know if the people you have mentioned speak fairly good English? We have a colleague in the research team who speaks fluent German, French and Spanish who could undertake these interviews if this would be easier?
Any notes here about language:
Just to remind: If you change your mind later on, please just let us know and we will delete the recording. Thank you for your time and input. Are you happy for us to contact you again should we need to?

Appendix Four

This is the schedule of questions discussed with respondents identified by the initial key contact.

Workstream 4 – Interview Schedule

Hello. Very kind of you to help us in this way. We should like to record the conversation when we speak, so that we can listen to it again. Of course we will only record it with your permission. The recording would be held securely and would not go beyond the research team. You can stop at any time and / or leave out any question on which you would prefer not to comment. If you change your mind later on, please just let us know and we will delete the recording. Any information you give us about national policy and practice will not be attributed to you or your country in our final report without your express permission.
This interview will be about the European Probation Rules (EPR). We are trying to determine the strengths and the shortcomings of EPR in light of national experiences of implementation. We think that some countries have not used them quite a lot, but other

countries haven't used them at all.
Do you know much about the Rules yourself? How well known are the Rules in your country? (Among policy makers, practitioners, academics?)
In very general terms, do you think that implementing the European Probation Rules is a good way of establishing common standards of probation practice across the EU?
Have the Rules been put to use? If so, how? Have they have had an influence on law? Or policy? On practice? Could you give some specific examples, please? For example, can the Rules be shown to have had an impact on legislation or policy or practice or perhaps on the education of staff? Are there other ways in which they have made a difference? What difference? (If the answer is 'No – they haven't been used', we will miss out the next question.)
If your country has used EPR, are there some particular Rules that have been more influential than others? Are there any Rules that you think could be improved upon? Which are they? What improvements might be suggested?
If EPR has not been used, why do you think this is? Have there been any particular difficulties that have hindered implementation of EPR?
(Even if the Rules have not had much direct influence), do you think the policies and practice of probation / community sanctions and measures in your country reflect the values and beliefs underpinning the EPR?
May we look at some specific examples, please: Rule 1 says that "Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to supervise (including control where necessary), guide and assist them and to promote their successful social inclusion." Is this how the probation agency in your country understands its work?
The Rules often refer to providing help and support to offenders. They also refer to care and to welfare. Does your probation agency think about its work in this way? Do you think that the public understands this and accepts that this is part of probation's duties?
Rule 37: "Probation agencies shall work in co-operation with other agencies of the justice system, with support agencies and with the wider civil society in order to implement their tasks and duties effectively." Does the probation agency work in partnership with other organisations in this way? Can you please give some examples?
Rule 93 states: "93. Where probation agencies provide services to victims of crime they shall assist them in dealing with the consequences of the offence committed, taking full account of the diversity of their needs." Does the probation agency in your country work with victims? How? Do you think its work is in accordance with this rule?
Is there anyone else in your country you think we should be speaking to about this? email addresses. Do they speak English (we can arrange for interviews to take place in English or French or German)
Thank you very much.