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**Citation:** Jackson, J., Bradford, B., Hough, M., Kuha, J., Stares, S., Widdop, S., Fitzgerald, R., Yordanova, M. and Galev, T. (2011). Developing European indicators of trust in justice. *European Journal of Criminology*, 8(4), pp. 267-285. doi: 10.1177/1477370811411458

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## **Developing European Indicators of Trust in Justice**

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### **Abstract**

A social indicators approach to trust in justice recognises that the police and criminal courts need public support and institutional legitimacy if they are to operate effectively and fairly. In order to generate public cooperation and compliance, these institutions must demonstrate to citizens that they are both trustworthy and possess the authority to govern. This paper has four sections. First, we outline the conceptual roadmap for a comparative European analysis of trust in justice. Second, we describe the methodological development process of a 45-item module in Round 5 of the European Social Survey that fields the survey indicators. Third, we present the findings from a quantitative piloting of the indicators in the UK and Bulgaria. Fourth, we consider the policy implications of the procedural justice model of criminal justice that underpins the current project.

### **Key words**

Trust and confidence, legitimacy, compliance with the law, cross-national research, survey design.

### **Introduction**

Trust in institutions and the legitimacy of legal authorities help sustain and justify social and political institutions and arrangements across Europe. Concepts of trust and legitimacy highlight the moral and practical connection between citizens and social systems. Individuals in a democratic society have the right to live under a system that operates within the rule of law; that acts effectively and fairly within commonly accepted norms; and that demonstrates to itself and to citizens its rightful possession of power. For institutions to flourish, they should demonstrate to citizens that they are trustworthy and that they possess legitimate authority.

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If EU Member States are to achieve effective crime policies they need to pay closer attention to issues of trust and legitimacy. An emphasis on public trust and institutional legitimacy can be contrasted with more short-term and ‘populist’ policies that exploit public sentiment by “cracking down” on crime – regardless of the actual benefits flowing from such policies. In order to establish how levels of trust, legitimacy, cooperation and compliance vary across the European Union, there is a need for valid and reliable indicators that are based upon a comprehensive conceptual scheme. We have developed a set of such indicators in the Euro-Justis project – funded by the European Commission – and we have fielded the core items in Round 5 of the European Social Survey (ESS).

In this paper we first outline the conceptual roadmap for a current comparative analysis of trust in justice. Second, we describe the methodological development process of the 45-item ESS module that fields the core survey indicators. Third, we present the findings from a quantitative pilot of the indicators. Finally, we consider the policy implications of a procedural justice model of criminal justice.

### *What are social indicators?*

Economic indicators are widely used to trace economic development and predict future economic performance. The social, cultural or educational provision in a nation depends critically on its economic condition. Yet, economic indicators do not tell us everything about a country’s overall condition. To fill this gap we need a variety of specific social indicators (Jowell and Eva, 2009). Combining national information with transnational objectives, social indicators provide measurements of human well-being and societal functioning. They can be used to monitor the broader system, identify change, and guide efforts to improve policy and conditions in areas such as health (e.g. life expectancy rates), crime (e.g. recorded crime figures) and education (e.g. school enrolment rates). What constitutes human well-being is a normative and political question, but once consensus is reached these statistics can help policy-makers understand the shifting circumstances of life in different countries.

When taking the measure of a nation it is important to assess how citizens view the way in which their societies actually operate. As Jowell and Eva (ibid: 318) ask: ‘Do they, for instance, see their societies as generally fair or unfair? Do their country’s institutions inspire trust or suspicion? Is their system of criminal justice seen to be even-handed or biased? Do their neighbourhoods feel safe or dangerous?’ This paper outlines a system of social indicators of what we term ‘trust in justice’ – by which we mean public trust in the police, criminal courts, and other criminal justice agencies – and public perceptions of the legitimacy of these legal authorities.<sup>1</sup> Developed as part of a European Commission 7<sup>th</sup> Framework Programme funded project ([www.eurojustis.eu](http://www.eurojustis.eu); see also Hough et al., 2010, and Jackson et al., in press), our guiding premise is that European Member States need to pay closer attention to issues of confidence, legitimacy and security if they are to achieve balanced and effective crime policies. Indicators can be used to inform careful and long-term policies to restore legitimacy, instead of short-term ‘electioneering’ strategies that offer quick fixes without addressing long-term issues. Social indicators of trust in justice are vital for better formulation of the problems

facing criminal justice agencies and more effective monitoring of changes in public attitudes in response to policy innovation.

The Euro-Justis indicators and the ESS module work within a tripartite structure set out by previous work on social indicators of poverty and social exclusion (Atkinson et al., 2002). Primary indicators (level-1) constitute a small number of lead survey measures of trust and legitimacy. Secondary indicators (level-2) support the primary indicators by providing greater detail using survey measures of the various dimensions of trust and legitimacy. Finally, country-based indicators (level-3) highlight local specificities and help interpret survey data. The focus of this paper is on the two main constructs: trust in the police and criminal courts; and perceptions of the legitimacy of the police and criminal courts.

### **The conceptual roadmap for trust and legitimacy**

The first step in building a coherent set of indicators is to draw up a conceptual framework. In this paper we discuss the two main constructs in our framework; please see an extended online version of the paper (Jackson et al., 2010) for the full wording of the items, as well as more details on piloting.

#### *Trust in the police and criminal courts*

Trust becomes relevant when we depend upon the actions of others, when there is risk to us inherent in others' actions (or inactions), and when we feel uncertainty about others' behaviour. By 'bracketing out' possible future events, through (and with) trust we are anchored in social situations that would otherwise appear overwhelmingly uncertain – especially regarding the motives, intentions and possible actions of others.

Trust reduces the complexity of our social world (Luhmann, 1979, 1988; Giddens, 1991). A recent review of sociological, psychological and philosophical work identified three types of trust (Smith, 2010). The first is an individual tendency or psychological disposition to trust 'most people.' This is a generalised form of trust that is based largely on social learning and developmental processes. The second is particularised trust. This is the idea that people 'like me' can be trusted, that other groups may not share my moral values; in-groups and out-groups (and thereby moral communities) are defined by social categories and stereotypes. The third is strategic trust. This is the belief that specific others have the appropriate motives and intentions. Significant others can be relied upon to act in one's own interests in specific situations, around specific issues.

We define trust in the police as the public belief that the police have the right intentions towards citizens and are competent to act in specific ways in specific situations (cf. Hardin, 2002). More strategic than particularised, to trust in the police<sup>2</sup> is to believe that officers have appropriate motives and are technically competent (in the roles assigned to them within social relationships and systems) to

carry out their fiduciary obligations (that is, in certain situations place the interests of others above their own) (Barber, 1983; cf. Stoutland, 2001). Placing trust in the police involves assuming that officers will act according to expectations framed by the twin functions of this institution. The police is a public service and a state-sponsored institution equipped and entitled to use force; we look to officers to deal effectively with crime, disorder and other forms of emergency and to be impartial and fair (restrained in their use of authority). Coming into contact with the police as victims, witnesses and suspects, we have vested interests in the outcomes of these encounters. And because officers have some degree of freedom in how they might act, these outcomes are placed at risk from their (mis)behaviour (cf. Tilly, 2005). Trust is important in our expectations about future encounters, but it also refers to more general beliefs that the police are performing their social function to the best of their ability.

Trust is demonstrated, earned and justified. It is won by acting effectively and fairly, by taking the interests of citizens into account, and by communicating and engaging with citizens (Bradford et al., 2009; Hohl et al., 2010). While people's views on legal authorities are not expected to be in a state of constant review, trust is subject to revision through experience, whether direct, vicarious, or mediated. Dynamic and situational, it can be enhanced or undermined by events or long-term processes that include:

- single incidents, involving accidents, incompetence, incivility or malpractice;
- perceived changes in levels of police visibility;
- perceived declines in availability and readiness to intervene; and
- shifts in perceptions about the degree to which the police are even-handed in their treatment of different groups.

Of course, many people do not have the expertise, time, or interest needed to fully evaluate police activity. They are seldom in the position to know what the police and criminal courts are doing, and have little substantive knowledge of how officers or judges generally act and behave. But they can still answer quite specific survey questions about police performance and motives (e.g. Sunshine and Tyler, 2003; Skogan, 2006; Reisig et al., 2007; Tankebe, 2010; Jackson and Bradford, 2010a). One explanation for this turns on the idea that trust is based on what Hardin (2002) calls 'encapsulated interests.' Applied to the police, this is a general belief that officers understand the interests of the general public (or not) and take these interests into account when acting. Tyler's notion of motive-based trust is particularly relevant here (Lind and Tyler, 1988; Tyler, 2006a; Tyler and Huo, 2002). This is a form of trust premised on the idea that the parties involved have shared social bonds (making it possible for the one to imagine, understand and influence the interests of the other). Motive-based trust turns on whether the police are seen as having the best interests of the community at heart, that they share their values, goals and priorities (Jackson and Sunshine, 2007; Jackson and Bradford, 2010a), and that they are working on behalf of the community to deliver order, to defend norms and values, to secure a sense

of justice for offenders that represents the rights and dignity of citizens. A sense of shared motivation and goals may thus be central to trust in the police, driving more specific assessments of competence: believing officers generally take our interests into account – that we and they are ‘on the same side’ – may shape more concrete beliefs of their competence.

### *Legitimacy of the police and criminal courts*

Defined most generally, legitimacy is the right to govern and the recognition by the governed of that right (Beetham, 1991; Coicaud, 2002; Tankebe, 2007). In relation to criminal justice, legitimacy resides most fundamentally in the recognition of the criminal justice system’s right to exist, and in the justification of its authority in determining the law, governing through the use of coercive force, and punishing those who act illegally. While definitions vary widely, a key feature of many is that it confers the right to command and promotes the duty to obey (Weber, 1978; Tyler, 2006a). Most importantly, people defer to, and cooperate with, legitimate authorities because they feel it is right to do so (Tyler, 2006a, 2006b, 2008).

For Weber (1968), the legitimacy of institutions denoted the approval or sincere recognition of a norm, law or social arrangement. The law is legitimate when people see the legal system (and its authorities) as providing an appropriate standard of conduct: the law is to be complied with not because of external sanction, but because it is seen to be the correct standard. This citizen-conferred (‘subjective’ and ‘empirical’) account of legitimacy states that a system is legitimate when the public grant it legitimacy. An observer sitting outside the system might find a particular arrangement unjust and unacceptable. Yet they must nevertheless conclude that it is legitimate when those governed believe it to be so. According to this perspective, *to say something is legitimate is to make a factual claim about the subjective state of mind of particular individuals that belong to one political society.*

A normative concept of legitimacy sets out further, more ‘objective’ criteria according to which an authority or institution is legitimate (cf. Hinsch, 2008). Normative legitimacy refers not to the subjective state of mind of the governed, but to whether the actions of authorities meet certain substantive requirements (usually requirements of justice and rationality for which objective evidence can be adduced). Operating at the level of the institution, legitimacy is here a property of performance and structure (captured by national-level statistics of efficiency, accountability, legality, and so forth). Any normative conception of legitimacy has to describe why meeting these criteria confers authority on norms, institutions, or persons. *Normative legitimacy means substantive recognition that the truth (or validity) of these arrangements is right and just.*

But what qualities must an institution possess to warrant its justified authority? Some political philosophers have followed a loosely Weberian tradition, situating legitimacy in individual’s perceptions that the rule of an authority is justified. Here there might be just one criterion of legitimacy of the justice system: that individuals feel an obligation to obey the rules set forth by the legal system and enforced by legal authorities (such as the police). According to the empirical concept of legitimacy,

we might thus say that the police are legitimate when citizens feel obligated to obey police directives. Tyler's work would then suggest that legitimacy is won and lost partly through the experience of procedural justice and injustice. But others maintain that, because legitimacy is granted by the individual to the institution, it must rest in part on the value judgements of those individuals; a decision by the individual, whether conscious or not, that the institution shares a certain moral or ethical position (Beetham, 1991). Legitimacy is not just a recognition of power, it is also a justification of that power. Such accounts point to normative concepts of legitimacy, and extend our area of interest to perceptions of the justice system that provide a normative justifiability of power.

We assume, then, that judgements among individuals about the legitimacy of an institution are based to some degree on assessments of the congruence between its goals, practises and behaviours and their own goals and values. Legitimacy becomes a kind of 'moral alignment' between individuals and the legal/criminal system around them. Beetham (ibid.) adds a third criterion: the perceived legality of legal authorities. Legitimacy, for him, turns on the moral justifiability of the power relations bound up in the state and its justice system – conformity to people's values, its ability to satisfy public interests and normative expectations, and in the legality of its use of power. All considerations of legitimacy must involve a normative, ideological or moral element, he argues: those granting legitimacy always do so on the basis that it is an expression of common shared values.

Following Tyler (2006a, 2008) and Beetham (1991), our framework is premised on the idea that the justice system can be considered empirically legitimate when individuals governed by it feel (a) an obligation to obey the authority (as a special case of Beetham's notion of expressed consent that is particularly relevant in the case of legal institutions), (b) that the authority expresses shared morals – people justify the existence of legal authorities when they judge that they enact, defend and strengthen a general moral framework they themselves share, and (c) that the justice system follows its own internal rules as these are understood by individual citizens. We reason that the moral alignment between citizens and police officers (for example) provides a measure of whether the police are to be seen to operate with some shared ethical and moral framework; but also that such alignment provides the police with the *moral authority* to act as a source of guidance or an exemplar of proper conduct.<sup>3</sup>

But legitimacy is not just confirmed by the subjective state of citizens. Legitimacy also flows from the objective behaviours of criminal justice institutions. The criminal justice system can be considered normatively legitimate when the actions of its officials conform to certain minimum standards with regards to fairness, efficiency and honesty in its representation. These standards refer to expressed consent (e.g. defined as national-level ESS estimates of intentions to cooperate); normative justifiability of power (e.g. defined as levels of democratic accountability and transparency); and legality of action (e.g. defined as levels of cooperation and abuse). For further discussion see: Hough et al., (2010); Jackson et al., (in press) and Jackson and Bradford (2010b).



## **Developing European indicators of trust and legitimacy**

To recap, our approach to the development of social indicators perspective is premised on the idea that citizens have a right to expect the police and criminal courts to be effective, fair and responsive to local needs and priorities. We define trust as the belief that the police and courts have the right intentions and are competent to do what citizens trust them to do. We define legitimacy as (a) expressed consent, (b) normative justifiability of power and (c) legality of action. As – according to this perspective – legitimacy is both citizen-conferred and system-conferred, it is to be captured not just by survey data on citizen perceptions but also by national data on accountability, transparency, democratic principles, corruption, and so forth.

These central tenets are expected to hold in many situations, but we also expect local social and cultural contexts to play an important role. The countries under consideration in the ESS module will provide a specific set of factors that influence how citizens view their criminal justice agencies: what it means to trust them; what the relationship between trust and legitimacy is; and how the connection between legitimacy and compliance is constituted. Table 1 provides an overview of the concepts measured in the ESS module.

INSERT TABLE 1 ABOUT HERE

### *From concepts to measures in a cross-national context: The European Social Survey*

Just as careful consideration is needed in shaping a conceptual scheme, so the development of measures needs attention and care. The first stage of the current project was to develop the theoretical motivation and collect together a range of indicative measures (as part of the Euro-Justis project). An application was then made for space in the ESS. This was successful, and we developed the Euro-Justis indicators and the ESS module in parallel, the latter forming the core of the former<sup>4</sup>. While rich data emerged from Euro-Justis cognitive interviews in Italy, UK, Finland and Bulgaria, our focus here is on the ESS development, in order to report key moments in the development of social indicators of trust in justice.

Stages of question development and design in the ESS are illustrated in Figure 1 (Saris and Gallhofer, 2007; Fitzgerald and Jowell, 2010). At Stage 1, proposals are received from question designers using the ESS Question Module Design Template (Fitzgerald, 2007). These proposals outline the substantive measurement aims of the module, its theoretical framework and identify the key concepts and dimensions. This template is then used throughout the questionnaire design process to document decisions and to ensure that the process is continually informed by the agreed measurement aims of the module. Once the conceptual basis of the module is agreed, the proposed questions are reviewed by a multi-disciplinary cross-national specialist panel (stage 2) and assessed by the Survey Quality Predictor Program (SQP) (Saris and Gallhofer, 2007). SQP is used to estimate the reliability and validity of new items based on the structural form of the items (stage 3)<sup>5</sup>. The questions are then

revised by the question designers (stage 4) and following this, stages 1-4 are repeated reflecting the iterative nature of the question design process. The ESS National Coordinators are then consulted on both substantive and translation issues (stage 5).

In the next stage the proposed questions are tested in a large-scale, two-nation quantitative pilot including some split ballot MTMM (multi-trait/multi-methods) experiments (stages 6 and 7) for particular concepts. Extensive analysis of the pilot data – including examination of item non-response, scalability, factor structure, correlations, analysis of the MTMM experiments, assessment of translation as well as consideration of the Pilot Reports from the pilot countries (stage 8) – feed into further specialist review of the proposed questions (stage 9). This is subsequently followed by further consultation with the National Coordinators (stage 10) before the final source questionnaire is produced (stage 11). The final source questionnaire contains annotations of words and phrases where their meaning within the context of the survey question is thought to need clarification to aid translation. The questionnaire is then translated in all participating countries and all languages spoken as first language by 5% or more of the population before fieldwork commences.

INSERT FIGURE 1 ABOUT HERE

### **Results of the quantitative pilot**

This section focuses on stages 6 and 7 of the 2010 ESS development process. The two-country quantitative pilot was conducted in Bulgaria (by the Agency for Social Analyses) and the UK (by Ipsos-MORI) in January and February 2010. Four hundred face-to-face interviews were carried out in Bulgaria and 420 in the UK<sup>6</sup>. The objectives were to test the wording of new and amended questions to make sure they were correctly understood by respondents; to test the expected interrelationships between variables in the data; to identify suitable candidates for deletion in order to meet the target number of questions; and to check the duration of new modules. All interviewers working on the pilot were briefed before conducting fieldwork and completed a short questionnaire outlining any problems experienced during the interview. A selection of interviewers in both countries were also invited to a debrief where researchers from the fieldwork agencies facilitated a discussion about the questionnaire. Members of the ESS research team observed live interviews conducted in the UK. Interviewer debriefing reports were prepared by the respective fieldwork teams. They are drawn upon later in this paper. We turn first to the country context of the pilot.

### *Different contexts: UK and Bulgaria*

The UK was selected as one pilot country since it provided a test of the questionnaire in the ‘source’ language that had been used when designing the module. Bulgaria was selected to provide a good contrast as a former communist country (as well as for reasons of economy). Testing in a former communist country was deemed to be important for historical reasons, e.g. existing ESS data suggested that levels of trust in the police and legal system were lower in Bulgaria and some other former East European countries than elsewhere in Europe.

Why is the context important? Any comparative piece of survey research needs to demonstrate equivalence of concepts and measures if the conclusions are to be valid and the empirical findings are to be convincing. Conceptual equivalence refers to the meaning of theories and concepts across diverse cultures: do they apply and are they equivalent in different social, cultural and political settings? Measurement equivalence refers to the comparability of measures: do the scales reflect the same underlying concepts?

The specific contexts under investigation influence the adaptation of concepts, development of scales, translation of wording and empirical assessment of measurement equivalence. In the UK there may be something specific to the relationship between individuals and the police – in particular, the police’s position as representative of nation, state, community and even an idealised national past (Reiner, 2010; Loader and Mulcahy, 2003). Although the strength of these images may have been attenuated, not least by the long decline in public trust in almost all state institutions, a persistent residue remains that may powerfully affect what it means to trust the police. Many in Britain today would probably still concur with the opinions of their parents and grandparents, who in research carried out for the 1962 Royal Commission on Policing indicated overwhelmingly that they thought the British police were the best in the world (Loader and Mulcahy, 2003). That such an opinion might be based in large part on negative stereotypes of police in other countries would only serve to underline that the image of the British police is tightly bound to notions of identity, even patriotism and pride. Because the image of the British police is so strongly tied to important social structures and identities, people may care more about their *relationship* with it than they do about its instrumental effectiveness. Clearly such factors as conviction rates and the ability to return stolen property are – and should be – important in the formation of trust. Yet all current evidence suggests that shared social values and issues of procedural justice are more important (e.g. Jackson and Bradford, 2009).

By contrast, Bulgaria continues to experience high levels of corruption, an ineffective justice system, and high levels of organized crime. Cases of political corruption, flagrant cases of conflict of interests and the use of public resources for personal benefit continue, and are considered by the public as “crime without punishment”. There are high levels of public mistrust in state institutions and in justice, and common public dissatisfaction with quality of life and welfare, and mistrust towards the government (Tilkidjiev, 2010). Data collected in the ESS rounds 3 and 4 and through other international studies<sup>7</sup> show that Bulgarian citizens have the lowest degree of satisfaction with life in general and with

the activity of key state institutions, as compared to everyone else in the EU. Thus, trust in justice operates against a backdrop of Bulgaria as a ‘low-trust society,’ both in terms of social or interpersonal trust, and in terms of political trust in institutions.<sup>8</sup>

*Method and analytical strategy*

In these widely divergent contexts we assess the measurement properties of our scales of trust and legitimacy. Because of limited space we describe models for only three constructs, each measured by three survey items. The constructs are (a) *trust in police effectiveness*, (b) *perceptions of police corruption* and (c) *perceived risk of sanctions*. The English wordings of the questions are given in Table 2.

INSERT TABLE 2 ABOUT HERE

Multiple-item survey scales are commonly analysed using statistical latent variable models, for example linear factor analysis, latent trait (item response) models, and latent class models (for overviews, see Bartholomew and Knott, 1999; Bollen, 1989; McCutcheon, 1987; Skrondal and Rabe-Hesketh, 2004). All of these operationalise the notion that the individual survey items are regarded as fallible measures of some directly unobservable constructs, and that it is those latent constructs that are of primary interest.

As an example, Table 3 shows parameter estimates for a model for the items on *trust in police effectiveness*, conditional on one latent variable and with country (UK vs. Bulgaria) as an explanatory variable. This is a linear factor analysis model, of the kind represented by diagram (1) of Figure 2. The measurement part of the model in Table 3 shows that scores on all three items are positively associated with the latent variable, high values of which can thus be interpreted to represent high levels of trust in police effectiveness. Comparing the two countries, there is a statistically significant difference in the means levels of trust. The average level of perceived effectiveness is around 0.8 units lower among the Bulgarian than the UK respondents, on a similar 11-point scale as the items.

INSERT FIGURE 2 ABOUT HERE

INSERT TABLE 3 ABOUT HERE

The model in Table 3 specifies complete measurement equivalence, where all the survey questions measure the same concept and in the same way in both the UK and Bulgaria. Before we interpret the results too firmly, we should assess the adequacy of this assumption. This too can be examined with latent variable modelling, by comparing the model of equivalence with models of partial non-equivalence where some parameters of the measurement models (“Intercepts” and “Loadings” in Table 3) are allowed to vary between the countries.

## Results

A summary of our analyses is given in Table 4 (please see Jackson et al., 2010, for more details on the findings). For each construct, we examined one item at a time. As an example, consider the police effectiveness item EFF2, which is shown second in Table 4. The model of measurement equivalence was fitted first. Estimates of the intercepts and loadings of this measurement model for item EFF2 are shown in the “Equivalence” row of the table, separately for the UK and Bulgaria. Because the measurement is specified as equivalent, these estimates are by definition equal for the two countries. Estimates of the rest of the parameters are not shown in the table; for the equivalence model for police effectiveness, they are the estimates shown in Table 3.

INSERT TABLE 4 ABOUT HERE

The row labelled “Direct effect” shows estimated intercepts and loadings of the measurement model of the item being tested when the intercept for that item is allowed to vary between countries (and the equivalence model holds for the other two items); this is represented graphically by the arrow labelled (a) in diagram (1) of Figure 2. Here the intercept for EFF2 is 5.16 for the UK but 4.93 for Bulgaria. Finally, the row labelled “Interaction” shows estimates when both the measurement intercept and factor loading of the item being tested vary by country (as represented by arrow (b) in Figure 2). These three models are then repeated for the other two *trust in police effectiveness* items in turn, and for models for the items on *perceived risk of sanctions* and *perceptions of police corruption* similarly.

Different models for each item were compared using standard statistical likelihood ratio tests. The P-values of these tests are shown in Table 4. For example,  $P=0.12$  for the comparison of the Equivalence and Direct-effect models for item EFF1, which indicates that the less constrained Direct-effect model does not fit significantly better than the more constrained Equivalence model. For CORR1 we have  $P<0.01$  for the same comparison, so the opposite conclusion is reached. In other words, when the intercept parameters of the measurement model of an item are allowed to have different values in the two countries (while keeping the measurement models of the other two items for the same concept the same across countries), their difference is statistically significant for CORR1 but not for EFF1. The measurement is cross-nationally equivalent in this respect for EFF1 but not for CORR1.

## Lessons drawn

Statistical conclusions from these analyses are relatively clear-cut. We can combine these conclusions with findings from the interviewer debriefings. First, no significant deviations from measurement equivalence were found for the measures of *trust in police effectiveness*. Consequently, these items appear to work in comparable ways for both British and Bulgarian respondents. Consistent with this, the interviewer debriefings indicated that respondents found these questions relatively straightforward. But

there were two caveats. First, according to the debriefing report drafted by the Agency for Social Analyses in Bulgaria, a significant number of Bulgarian respondents felt that their answer to EFF3 (“*If an emergency were to occur near to where you live and the police were called, how quickly do you think they would arrive at the scene?*”) depended on the type of emergency. EFF3 was subsequently changed to ‘If a violent crime or house burglary were to occur near to where you live and the police were called, how slowly or quickly do you think they would arrive at the scene?’ In translation to Bulgaria it further emerged that the police would react immediately to the former (violence) but hardly arrive at the scene in the latter case (burglary), so the final item specified only violent crime. Second, a good number of UK respondents, when asked whether they had difficulties with certain questions in the module, felt that they did not have much concrete knowledge about the police performance with respect to EFF1 (“*How successful do you think the police are at preventing crimes in [country] where violence is used or threatened?*”) and EFF2 (“*How successful do you think the police are at catching people who commit burglaries in [country]?*”). Yet they still felt comfortable giving an answer. Perhaps respondents were drawing upon a broader set of expectations about the assumed motives and interests of the police (Jackson and Sunshine, 2007; Jackson and Bradford, 2010a), inferring competence from shared values.

Second, all three measures of *perceptions of police corruption* showed evidence of non-equivalence between the countries in the intercepts of the measurement models, but not in their loadings. The three indicators were designed to jointly measure the unobserved construct of ‘perception of police legality of action’. But the lack of measurement equivalence suggested that the items were not measuring ‘the same thing,’ in some sense: the intercepts were different in Bulgaria compared to the UK. In particular, in Bulgaria the intercept for bribery was larger in magnitude than it was in the UK. This suggests that bribery is a far bigger objective (and subjective) problem in Bulgaria. A clear finding from the Bulgarian interviewer debriefing was that the bribery question ‘touched upon a very sensitive topic.’ (In the UK interviewer debriefing, no problems were raised by these three questions, although again there was some concern that respondents had little direct knowledge of police activities). Given these findings, the question design team went back to the drawing board with the measures, changing the focus to bribery and what political scientists call ‘state capture’ (i.e. the undue influence of government and big business on the police and criminal courts).

Third, the items on perceived risk of sanctions also deviated from equivalence: for SANCT1 intercepts were comparable in two countries but loadings only marginally so; for SANCT2 intercepts were comparable but loadings not; and for SANCT3 neither loadings nor intercepts were comparable. This suggests that perceptions of the risk of sanction related to the three crime types considered here are not correlated equally strongly with each other, and with overall risk of sanction, in the two countries. The interviewer debriefings indicated that people found the basic item of perceptions of being caught and punishment to be clear and understandable, but that the specific criminal acts were more problematic. In particular, in both countries (but especially Bulgaria) there was confusion as to the

notion of ‘paying cash with no receipt to avoid paying VAT.’ This, alongside the ESS expert review process, suggested that we needed to change the crime types (with implications not just for the perceived risk of sanction indicators but also the personal morality and compliance scales). The final questions used covered the following crimes:

- make an exaggerated or false insurance claim;
- buy something you thought might be stolen; and,
- commit a traffic offence like speeding or crossing a red light.

Similar analyses were conducted for all the other scales. Where appropriate, improvements were made on the basis of these analyses, as well as the interviewer debriefings and the continuation of the expert review process, and the improved formats were finally fielded in the ESS questionnaire. Space precludes us reporting full details.

### **Conclusions: the significance of trust in justice for crime-control policies across Europe**

We finish with some brief thoughts on the broader policy context of our work – particularly the relevance of the ESS module to models of cooperation and social regulation. By measuring contact, trust, legitimacy, cooperation and compliance (as well as perceived risk of sanction and personal morality), we can begin to test Tyler’s procedural justice model in the European context. Cooperation and compliance are enhanced when institutions enjoy the right to govern and the recognition of that right by the populace (Tyler, 2006a). When people are aligned with their society’s legal structures, they are less likely to break the rules of that society and more likely to assist the police and courts through reporting crimes, identifying culprits and giving evidence (Sunshine and Tyler, 2003; Tyler et al., 2010; Tyler, 2010; Huq et al., in press).

A key idea in procedural justice theory is that normative compliance — ‘ought to’ reasoning — is secured more economically, and is more stable over time, than instrumental compliance (‘what’s the risk / benefit for me’ reasoning). Legitimacy encourages people to follow the rules, not out of fear of punishment, but because they believe they ought to. Fair procedures and the restrained use of authority mean there is less need for costly and minimally-efficient crime-control policies that focus on surveillance, intrusion, capture and punishment (Tyler, 2008). Compared to crime-control policies based around deterrence and instrumental models of cooperation that seek to demonstrate to citizens that the police are effective and the courts are punitive, a values-based model is a more efficient and effective basis for encouraging people to bring their behaviour in line with the law and legal institutions. If most people obey the law without the active force of deterrence and punishment, then the police can target the hard-core whose behaviour is motivated not by values, but by the rational choice of

likelihood being caught and the severity of subsequent punishment. Without voluntary compliance, and without most people obeying most laws most of the time, there is significant cost for criminal justice.

Prior research on procedural justice and compliance has been explored primarily in English-speaking cultures and has not yet been sufficiently tested in the kind of diverse societies and legal jurisdictions that are found across Europe. The ESS module will generate data that speaks to a value-based approach to legal regulation that designs institutions in ways that promote the development of social values such as legitimacy.



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**Acknowledgements**

This work was funded by the European Commission 7<sup>th</sup> Framework Programme (project entitled Euro-Justis: Developing Scientific Indicators of Trust in Justice) and the Economic and Social Research Council (project entitled LCat: Latent Variable Modelling of Categorical Data – Tools for Cross-National Surveys, RES-239-25-0022).

**Table 1.** Concepts covered in the ESS trust in justice module

Overview of the **level-1** indicators

CONCEPT	SUB-CONCEPT
Confidence in criminal justice	Confidence in the police
	Confidence in the courts

Overview of the **level-2** indicators

CONCEPT	SUB-CONCEPT
Trust in the police	Trust in police effectiveness
	Trust in police distributive fairness
	Trust in police procedural fairness
	Trust in police priorities and shared values
Trust in the criminal courts	Trust in court effectiveness
	Trust in court distributive fairness
	Trust in court procedural fairness
Perceived legitimacy of the police	Obligation to obey the police
	Moral alignment with the police
Perceived legality of police and court action	Perceived corruption and the legality of police action
	Perceived corruption and the legality of court action
Perceived legitimacy of the law and the criminal courts	Obligation to obey the criminal courts
	Moral alignment with the courts
Cooperation with the police	
Compliance with the law	
Perceived risk of sanction	
Personal morality	
Perceived legitimacy of the law (legal cynicism)	
Contact with the police	
Punitive attitudes	

Plus: victimisation and worry about crime in the main questionnaire

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**Table 2.** English wordings of the survey items for three key concepts

Items on trust in police effectiveness:

**EFF1:** “How successful do you think the police are at preventing crimes in [country] where violence is used or threatened?”

**EFF2:** “How successful do you think the police are at catching people who commit burglaries in [country]?”

**EFF3:** “If an emergency were to occur near to where you live and the police were called, how quickly do you think they would arrive at the scene?”

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Items on perceptions of police corruption :

**CORR1:** “How often would you say that the police in [country] take bribes?”

**CORR2:** “How often would you say that the police in [country] deliberately provide false evidence to the courts?”

**CORR3:** “How often would you say the police in [country] use more force than is legally allowed when making arrests?”

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Items on perceived risk of sanctions:

Introduction: “Now some questions about how likely it is that you would be caught and punished if you did certain things in [country]. How likely is it that you would be caught and punished if you...”

**SANCT1:** “...paid cash with no receipt to avoid paying VAT?”

**SANCT2:** “...bought something you thought might be stolen?”

**SANCT3:** “...over or falsely claimed government benefits?”

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Notes:

1. The short labels listed here are used to refer to the items in Tables 2 and 3, and elsewhere in the Section.
2. Response options are 11-point scales running from 0 to 10 for all items except the last three, which had 4-point scales.

**Table 3.** Parameter estimates for a factor analysis model with one factor for the three items on Police effectiveness, with country as an explanatory variable for the latent variable.

Measurement model:			
Item	Intercept	Loading	Residual standard deviation
EFF1	5.14	1*	0.90
EFF2	4.71	0.84	1.52
EFF3	5.81	0.59	2.28

Distribution of the latent variable:			
Country	Mean	(Standard error of mean estimate)	Standard deviation
UK	0*		1.79
Bulgaria	-0.79	(0.15)	1.93

\* Note the technicality that two parameters are fixed at given values, which is necessary to render the model identifiable. The constraints used here equate the scale of the latent variable with that of one “anchor” item (here EFF1), and assign the average of the latent variable in one country (here the UK) the value 0.

**Table 4.** Results of likelihood ratio (LR) tests and estimated parameters of one-factor models for the survey items listed in Table 2, comparing models with different levels of measurement equivalence for each item in turn. See the text for more details.

Items for trust in police effectiveness

Item tested	Model	P-value for LR comparison with		Parameter estimates for item tested			
		Equivalence	Direct effect	Intercept		Loading	
				UK	Bulgaria	UK	Bulgaria
EFF1	Equivalence			5.14	5.14	1.20	1.20
	Direct effect	0.12		5.16	4.93	1.12	1.12
	Interaction	0.25	0.53	5.16	4.92	1.16	1.10
EFF2	Equivalence			4.71	4.71	0.84	0.84
	Direct effect	0.09		4.63	4.87	0.89	0.89
	Interaction	0.23	0.82	4.63	4.87	0.88	0.90
EFF3	Equivalence			5.81	5.81	0.59	0.59
	Direct effect	0.91		5.82	5.80	0.59	0.59
	Interaction	0.67	0.37	5.82	5.83	0.54	0.63

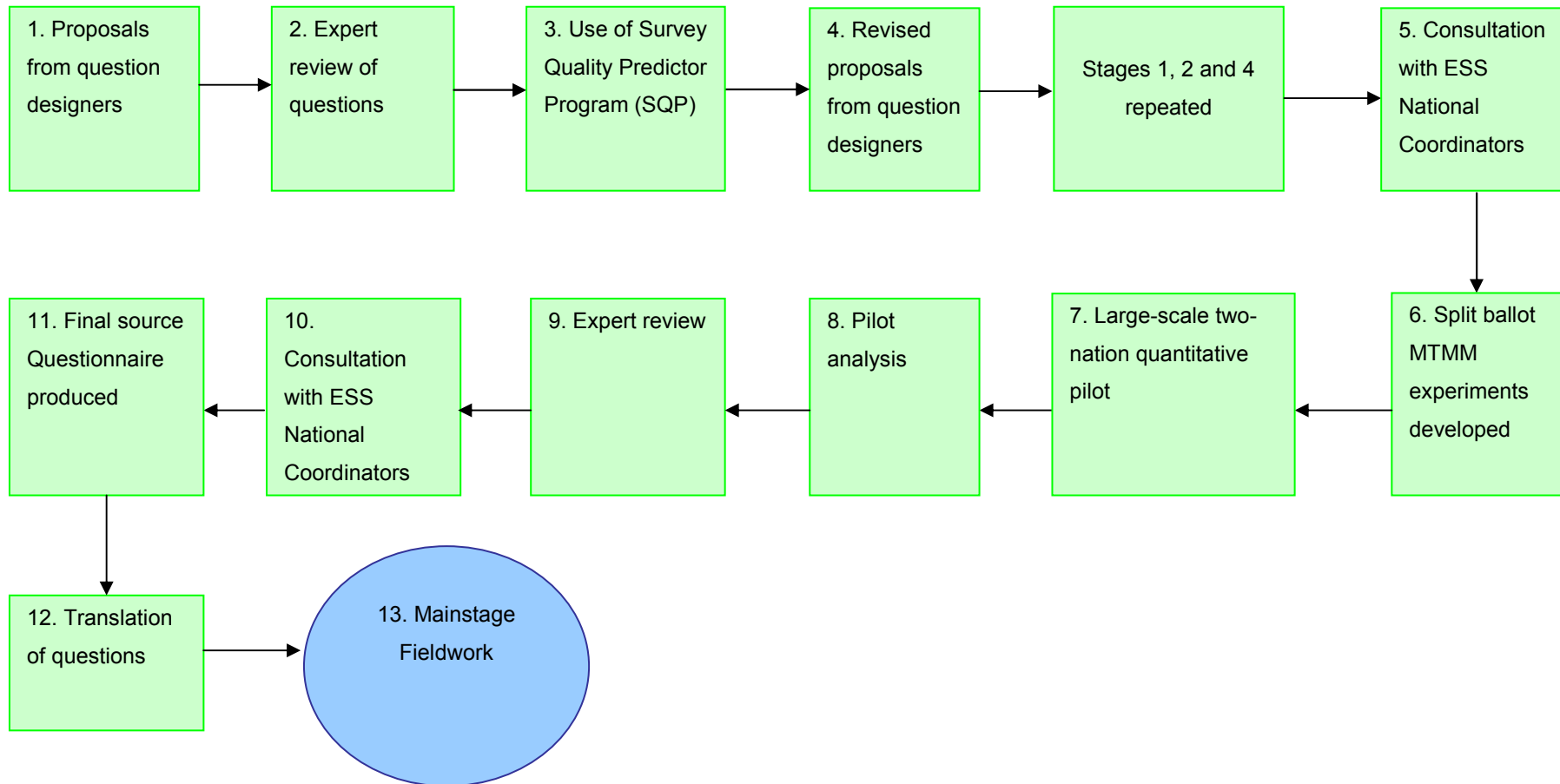
Items for perceptions of police corruption

Item tested	Model	P-value for LR comparison with		Parameter estimates for item tested			
		Equivalence	Direct effect	Intercept		Loading	
				UK	Bulgaria	UK	Bulgaria
CORR1	Equivalence			3.35	3.35	1.06	1.06
	Direct effect	<0.01		2.91	4.85	0.91	0.91
	Interaction	<0.01	0.27	2.92	4.88	0.95	0.87
CORR2	Equivalence			2.77	2.77	0.83	0.83
	Direct effect	<0.01		3.01	1.79	0.97	0.97
	Interaction	<0.01	0.18	3.01	1.67	0.92	1.02
CORR3	Equivalence			4.10	4.10	0.55	0.55
	Direct effect	<0.01		4.63	2.79	0.75	0.75
	Interaction	<0.01	0.25	4.63	2.67	0.71	0.80

Items for perceived risk of sanctions

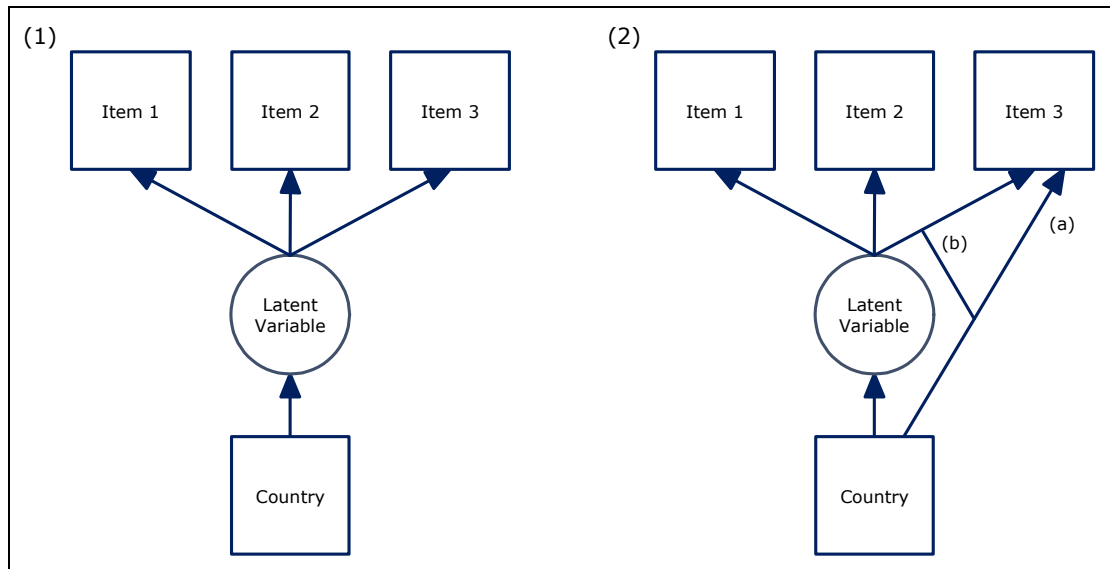
Item tested	Model	P-value for LR comparison with		Parameter estimates for item tested			
		Equivalence	Direct effect	Intercept		Loading	
				UK	Bulgaria	UK	Bulgaria
SANCT1	Equivalence			2.14	2.14	0.83	0.83
	Direct effect	0.11		2.12	2.24	0.94	0.94
	Interaction	0.07	0.09	2.12	2.17	0.97	0.80
SANCT2	Equivalence			2.44	2.44	1.21	1.21
	Direct effect	0.19		2.43	2.55	1.36	1.36
	Interaction	<0.01	<0.01	2.43	2.79	1.33	1.93
SANCT3	Equivalence			2.88	2.88	0.68	0.68
	Direct effect	<0.01		2.98	2.72	0.59	0.59
	Interaction	<0.01	0.01	2.98	2.64	0.74	0.38

**Figure 1.** ESS questionnaire development process (Round 5)





**Figure 2.** Graphical representations of the types of models considered in the analysis. Diagram (1) represents a model of complete measurement equivalence, where the distribution of the latent variable may vary between countries, but the measurement model for survey items as measures of the latent variable is the same in all countries. Diagram (2) represents partial non-equivalence where the measurement model of Item 3 varies between countries. The arrow labelled (a) represents a direct effect of country on the average level of the Item, i.e. an effect on the intercept term of the measurement model. The line marked (b) represents a situation where, furthermore, the loading of the latent variable in the measurement model depends on the country.



## Notes

<sup>1</sup> The focus in this paper – and in the European Social Survey module – is on the police and criminal courts. Space precludes all addressing other criminal justice agencies.

<sup>2</sup> Because of space pressure, we focus on the ‘police.’ However the module also addresses the ‘criminal courts’ and the theory applies equally to the criminal court agents of criminal justice.

<sup>3</sup> We consider it an open and empirical question whether (i) obligation to obey and moral alignment scale together, or (ii) whether they constitute separate latent constructs. It may well be the case that they scale together in some countries (and therefore would be combined into one measurement part of a broader structural model) but do not in other countries (and therefore just be separate parts of the structural model).

<sup>4</sup> For wording of the ESS questionnaire, see Jackson et al. (2010) or [http://www2.lse.ac.uk/methodologyInstitute/whosWho/Jackson/jackson\\_ESS.aspx](http://www2.lse.ac.uk/methodologyInstitute/whosWho/Jackson/jackson_ESS.aspx). Both the full set of Euro-Justis survey items and the core set used in the ESS can also be found at [www.eurojustis.eu](http://www.eurojustis.eu).

<sup>5</sup> SQP is usually only used once.

<sup>6</sup> As in the full survey the samples were of people aged 15 or over in residential property. To contain costs, quota sampling methods were used, using quotas for age, gender, occupational status and in the UK only, social class. The sample universe was specified to be the same as in the ESS main stage; namely individuals in residential property aged 15 and over with no upper age limit. Due to funding constraints the samples were not based on the representative principles of random probability sampling. Instead the samples were designed to broadly mirror the population of each country on key demographic characteristics. Quota sampling strategies were therefore employed in each country although the precise sampling specification differed slightly. In both countries respondents were

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selected according to the following quotas: age; gender and working status (working v. not working). In the UK, manual v. non-manual occupation was also used as an additional quota.

<sup>7</sup> European Quality of Life Survey 2003 and 2007; European Value Survey 2008 (cited in Tilkidjiev, 2010).

<sup>8</sup> The lowest trust is expressed towards political institutions - politicians, parties and parliament, followed by the judiciary and the police.