

European Institute for  
Crime Prevention and Control,  
affiliated with the United Nations  
(HEUNI)  
P.O.Box 161, FIN-00131 Helsinki  
Finland

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**PROFILES OF  
CRIMINAL JUSTICE SYSTEMS  
IN EUROPE AND  
NORTH AMERICA  
1990–1994**

Kristiina Kangaspunta, Matti Joutsen,  
Natalia Ollus and Sami Nevala (eds.)

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# Foreword

This report and the companion volume “Crime and Criminal Justice Systems in Europe and North America 1990-1994” (HEUNI publication no. 32, Helsinki 1998) are the result of an analysis of European and North American national responses to the Fifth United Nations Survey of Crime Trends and Operation of Criminal Justice Systems (1990-1994). The working group has supplemented the responses with a large amount of other data, in particular the data emerging from the mammoth International Crime Victim Survey (ICVS).

The data and how the analysis was carried out are described in the companion volume. The present volume provides a national perspective on the data. It contains profiles of 51 criminal justice systems in Europe and North America. The “mini-states” of the Holy See, Monaco and San Marino, which to a large extent rely on the criminal justice system of a neighbouring country, are not included. Insufficient data were available on Bosnia-Herzegovina to prepare a profile.

Each basic profile contains three parts. Part one provides background information on the structure and development of the criminal justice system. Part two provides a basic set of data: selected data on victimisation, offences reported to the police, sanctions imposed by the courts, prison population, and personnel and resources. Part three is an attempt to see how various demographic, economic and social factors can help to explain some of the differences and patterns detected in crime trends and the operation of criminal justice.

The analysis relies on a set of indices developed expressly for this report. Six of the indices seek to describe various dimensions of crime (violent crimes, violence against women, burglaries, motor vehicle crimes, petty crimes, and corruption). The violent crime index, in turn, is a composite of a homicide index and a non-fatal violence index.

One index seeks to measure the opportunity for property crime, and another index seeks to measure the amount of “strain” in society. Three indices seek to describe various dimensions of the operation of criminal justice: the resources available to the criminal justice system; gender balance among criminal justice personnel; and public satisfaction with the performance of the police.

The use of the indices should not be understood to suggest that the crime situation or the operation of the criminal justice system in different countries can readily be compared with some “ideal model”. Furthermore, it should

be noted that the analysis uses macro-level data, which ignore local differences in rates.

The profiles were prepared by an international expert group consisting of Dr Carolyn Block (the United States), Prof. Jan J.M. van Dijk (the Netherlands), Dr Matti Joutsen (HEUNI), Prof. André Kuhn (Switzerland) and Prof. Ineke Haen Marshall (the Netherlands/the United States). Mr John van Kesteren (the Netherlands) and Ms Lieke Bootsma (the Netherlands) have assisted with the statistical analysis.

In many cases, the profiles were based on those presented in the European and North American report on the results of the Fourth United Nations Survey (1985-1990) (HEUNI publication no. 26). All of the draft profiles have been sent for comment to the authorities and national experts in the countries in question, and valuable additional material has been received in this manner. HEUNI would like to express its sincere gratitude to all who have contributed.

Following the receipt of comments, we have unified the format of the profiles, and some of these comments and data have not been used here. Nonetheless, readers who are interested in fuller information regarding individual countries are invited to contact HEUNI.

Throughout the preparation of this report, we have had several occasions to note that new data are constantly emerging. We have sought to incorporate as much of these data as possible. However, we anticipate that new data will be made available, and that readers may detect errors in the present report. We have therefore decided to publish the report also in an electronic format at HEUNI's website, <http://www.vn.fi/om/heuni/> and keep the data updated at regular intervals.

Readers are therefore invited to submit their comments to us at [heuni@om.vn.fi](mailto:heuni@om.vn.fi)

## To the reader

The data used in this report and in the companion volume are taken primarily from the responses submitted to the Fifth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems and the International Crime Victim Survey by the countries in question. In many cases, supplemental data have been used, and the sources are cited.

In the process of the validation of the data, a number of presumable errors were noted. These often appeared to be errors in understanding the questions, or errors in transcription. In such cases, the respondents have been asked to comment on the matter. Replies were received from most, but not all, of such respondents.

Sections 1.3 and 1.4 of the companion volume note many of the difficulties in analysing official or research data on crime and criminal justice from different countries. The importance of bearing these cautions in mind when reading the present report cannot be stressed too highly.

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# Introduction

This report consists of national profiles of 51 European and North American countries. The profiles are based on an analysis of the responses to the Fifth United Nations Survey of Crime Trends and Operation of Criminal Justice Systems (1990-1994). This was supplemented by other information available to the members of the expert group that performed the analysis. This expert group consisted of Dr Carolyn Block (United States), Prof. Jan J.M. van Dijk (the Netherlands), Dr Matti Joutsen (HEUNI), Ms Kristiina Kangaspunta (HEUNI), Prof. André Kuhn (Switzerland) and Prof. Ineke Haen Marshall (the Netherlands/United States). Ms Natalia Ollus (Finland) and Mr Sami Nevala (Finland) have overseen the compilation of the data and the editing. Mr Johan van Kesteren (the Netherlands) and Ms Lieke Bootsma (the Netherlands) have assisted with the statistical analysis.

Each profile seeks to provide background information on the criminal justice system, trends in crime, criminal justice resources and the performance of the criminal justice system. Where possible, additional sources of information have been utilised.

The profiles have been prepared by individual members of the expert group, and sent to the authorities and experts in the respective countries for review. We have sought to take into full account the many valuable comments and additional data that these authorities and experts have provided. We have, however, subsequently unified the format of the profiles, and some of these comments and data have not been used here. Nonetheless, readers who are interested in fuller information regarding individual countries are invited to contact HEUNI.

The pitfalls and shortcomings and perhaps even the impossibility of using macro-level indicators to make reasonable international comparisons of crime and criminal justice operations have been extensively documented elsewhere (Neapolitan 1997). There is no need to further elaborate on this point: there *are* enormous problems associated with macro-level comparative research in crime and criminal justice. That is the bad news. But there is also some good news.

The good news is that criminologists interested in cross-national surveys have made tremendous progress over the last several decades. Not only has international scholarly exchange become commonplace, there has also been an explosive growth in the quality and amount of macro-level data on crime and criminal justice available for analysis. One such example is the United Nations Surveys on Crime Trends and Operations of Criminal Justice Systems, which are now entering their sixth cycle. In response to the Fifth United Nations Survey, a larger number of countries than ever before participated and provided useful data – many more so than in the earlier surveys.

In addition to the United Nations Surveys, several other comparative data sources relevant to crime and criminal justice issues have been developed. The growing availability of international macro-level data now allows more creative solutions to the issue of international comparisons than ever before was possible.

Two problems in particular plague international research using official crime and criminal justice statistics: (1) missing data, and (2) incorrect or inconsistent data. We believe that sufficient research data and supplemental statistical data have become available to merit an exploration of the utility of *indicators* in making cross-national comparisons of trends in crime and criminal justice.<sup>1</sup> The use of indicators solves, to a certain degree, the key problems of missing data and data inconsistency. The goal of the research presented in the present report and in the companion volume was to identify robust, accurate and reliable cross-national indicators of crime and criminal justice operations that may be of relevance in policy development. It is our contention that – because this approach combines information from several sources, and takes data consistency into account – issues of data quality and data availability are less problematic than in many other cross-national comparisons. Also, these indices function as a data reduction technique, making data analysis more manageable and easier to interpret.

## 1 Crime and criminal justice system indices

In the preparation of the present project, a total of 13 indices were developed. Each of these indices reflects, to varying degrees, theoretical considerations, empirical considerations (i.e., the degree of interrelationship between the source variables), as well as pragmatic considerations (i.e. which data are available). (These considerations are discussed in greater detail in the companion volume.) The 13 indices are as follows:

### A. Crime indices

- Burglary index
- Homicide index
- Non-fatal violence index
- Violence against women index
- Motor vehicle crime index
- Petty crime index
- Corruption index

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<sup>1</sup> For a recent demonstration of this, see Maguire et al 1998.



## B. Opportunity and motivation indices

- Opportunity for crime index
- Motivation for crime index

## C. Operation of the criminal justice system indices

- Law enforcement resources index
- Criminal justice practitioner gender balance index
- Citizen evaluation of police performance index

# 2 Construction of the crime and criminal justice system indices

The construction of these thirteen indices is based on the fact that a number of data sources are available on a country's level of different types of crime and on different aspects of the operation of its criminal justice system, but no single data source provides information for all countries, and each source has some questionable data for individual countries. Instead of choosing a single data source, therefore, we combined information from all available data sources into individual indices. The purpose of each index is to produce a robust index of the dimension in question that uses all available information, is accurate and reliable, and is easy to interpret.

We had several goals and considerations in mind in building each index.

1. The most important goal was to use *all of the data available*, and to keep the number of countries with missing information as small as possible.
2. A second goal was to use, whenever possible, *more than one data source*. An index based on data consistent across several sources will be more reliable and robust than an index based on a single-source measurement.
3. A third goal is to include measurement of *different dimensions* of the phenomenon. For example, the Serious Violence Index recognises that violent crime includes more than lethal violence. Therefore, the Serious Violence Index measures different dimensions of violence by including also non-lethal violence (assault and robbery).
4. Recognising the lack of precision inherent in each individual indicator, a fourth goal was to avoid placing undue credence on the pin-point accuracy of a country's rate on a single data source. Instead, we used a country's *rank-ordering* on each data source. We employed countries' rankings in several part of our analysis, yet a central focus of the analysis was a country's *quartile* position on each source variable, as well as on the composite indices – whether the country ranked in the highest, second,

third, or lowest 25 percent relative to other countries. The purpose of this is to focus attention away from countries falling in the mid-range, and instead to emphasise examining the differences between those countries that consistently have rates of serious violence that are very high and those countries that consistently have very low rates.

The process involved the following steps:

**Step 1: Identification of available international data (e.g. Fifth UN Survey; ICVS data; WHO data; Centers for Disease Control data).**

There will inevitably be differences between data sets. These differences are due to several factors: change from year to year in the actual level of the dimension being measured (whether homicide, opportunity for crime, public satisfaction with the performance of the police or whatever), differences in the “mix” of high-rate versus low-rate countries reporting in a given data set, and some individual anomalies within each data set. For these reasons, it is more valid to combine all of the available information into a single overall index. This reduces the effects of a particular year, a particular mix of countries, or other situations unique to a single data set. The result is a more “robust” indicator of relative levels of the dimension being measured. (For a further discussion of this, including cautions regarding such an approach, see pp. 10-11 of the companion volume.)

In addition, each of the data sets contains some questionable data. Using multiple data sources reduces the potential effect of such anomalies.

**Step 2: Determination of countries’ rank order for each of the data sources.**

For each of the constituting variables, a ranking for the countries is computed. The country with the lowest score is assigned a value of one. The highest rank number depends on the number of countries for which the data are available.

Since the number of countries for which data are available is not the same for the several source variables, we needed to standardise this ranking. This is done by dividing the rank by the number of countries for which that data are available and multiplying by 100. For example, if data are available for 20 countries, the initial rankings are 1 through 20. After standardisation, the lowest ranking is 5 ( $100 \cdot 1/20$ ). If data are available for 50 countries, the lowest ranking is 2 ( $100 \cdot 1/50$ ) followed by 4 and 6. In all instances, the highest standardised ranking is 100.

**Step 3: Calculating the index by averaging the standardised rankings.**

The next step consists of simply averaging the (standardised) rankings, adjusting for the availability (or lack thereof) of data by the size of the denominator (i.e., if there are data on two source variables, the total is divided by 2; if there are data on all 5 source variables, the total is divided by 5).

This rank-averaging method has one major drawback: countries which have only one or two data points base their rankings on fewer data points than countries with more complete information. Also, the relative ranking of each country on a particular source variable is determined by the (coincidental) mixture of countries on that variable. The advantage is that this method minimises the loss of cases, plus maximises the use of all pertinent data simultaneously (i.e., it is a summary measure).

**Step 4: Concentrating on countries in the top and bottom quartile.**

In the early stages of the project, initially the decision was made to focus exclusively on the countries which, on the basis of available data, could with a high degree of certainty be qualified as either low crime (i.e., homicide, burglary, corruption, and so on) or high crime countries. If a country had high scores on most source variables and no low scores on any others, it was classified as a high (homicide, burglary, corruption) country. In other words, countries were classified as high if their source variables consistently indicated high or at least moderately high levels of homicide. Countries that scored high on some variables and low on others were classified in an intermediate group (a group about which *inconsistent* information is available). Countries about which no information was available on most source variables were classified in a second intermediate group (a group about which *insufficient* data are available). The low crime category was constructed in a way comparable to the high crime category: countries consistently showing low or moderately low scores on all source variables were classified as low crime (homicide, burglary, corruption) countries. This procedure resulted in dichotomies between low crime and high crime countries for all eight types of crime. This procedure had the advantage that certain countries could be classified with a high degree of certainty as experiencing low or, alternatively, high levels of particular types of crime (e.g. homicide, burglary, corruption).

An important drawback appeared to be that almost half of the countries could not be classified as either high or low. They ended up in one of the two intermediate categories. As a consequence no useful information was available about the level of crime in half of the countries. A second drawback was that a dichotomous variable overlooks the differences *within* the high and low crime groups (no differentiation is made between countries with very high and those with moderately high levels of crime). The possibilities of multivariate analyses of the correlates of crime indices are severely restricted if the indices only differentiate between low and high crime countries.

After careful consideration, we decided to supplement the initial approach by using the “averaging ranking method” instead. This procedure results in rank numbers for all countries instead of the dichotomy between high and low crime countries with many countries in the intermediate categories. We did check how the “averaging ranking” method compared with the initial dichotomy of high crime and low crime countries. We found that the ranking

method correlated highly with the old dichotomous rankings.<sup>2</sup> Countries with higher rank numbers were almost without exception also classified as high crime countries according to the initial procedure. Thus, in the end we decided to actually use the countries with inconsistent data (by averaging the rankings on the source variables), abandoning the initial decision not to analyse the countries that were classified in the intermediate categories because of data inconsistency.

However, the main focus of each index remains on the differentiation between those countries with consistently high rates of whatever is being measured (homicide, burglary, corruption and so on) relative to other countries, and those countries with consistently low rates – as measured by the multiple data sources. Incidentally, we also believe that *theoretically*, it may be more productive to focus our analysis primarily on countries at the top or at the bottom with regard to the various crime and criminal justice indicators, rather than those in the intermediate ranges.

### 3 Are international crime and criminal justice comparisons possible on the basis of quantitative data?

We have already noted that each of the data sets used in preparing the present report have disadvantages, missing values, suspect values and so on. It is precisely these types of difficulties which have led many criminologists to conclude that comparisons of crime and criminal justice – using data such as those collected by the United Nations Surveys – should not be made internationally.

It is the view of the expert group, nonetheless, that sufficient data are emerging to attempt precisely such comparisons. Bundling different sets of data together as an index makes for more robust measures. If for example different indicators suggest that a country has an unusually large amount of violent crime, then there are reasonable grounds to assume that the indicators are correct, and that this country does indeed have an unusually large amount of violent crime. However, regardless of how painstakingly we try to create valid macro-level indicators, we should not overlook the fact that the source variables remain imprecise and open to systematic or random fluctuations.

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<sup>2</sup> The correlation coefficients between the dichotomy (with the first intermediate group – with inconsistent data – as an “in between” category) and the ranking method were as follows: for burglary .68 (n=35; p=0.000), for motor vehicle crime .81 (n=44; p=.01), for petty crime (n.a.), for homicide .87 (n=47; p=0.000), for serious violence .82 (n=48; p=0.000), for violence against women .83 (n=43; p=0.000), and for corruption .76 (n=41; p=.01). Since the “dichotomous” variable has three categories, the maximum correlation can never reach 1.00. The highest possible correlation is about 0.92.

It is, therefore, not advisable to stress individual country-differences too much, to place too much emphasis on individual variations. Instead, at this stage of development in methodology and data collection, the best we could strive for is to be able to categorise countries in very general ways. Indeed, the main purpose of our analysis is to place crime and criminal justice data in a given country against a background of comparable data for all European and North American countries as a whole. It is this that is the underlying idea of this report.

## 4 Other data used in the preparation of the profiles

In order to ensure that all members of the HEUNI expert group were using the same data in the preparation of the profiles, all the data, including the indices, were entered into a document that came to be known as the “HEUNI Crime Guide”. This was in effect a database consisting of data from various sources. The primary sources of data are the Fifth United Nations Survey on Crime Trends and Operations of Criminal Justice Systems (1990-1994), and the International Crime Victim Surveys (ICVS) (collected in 1989, 1992, and 1996). Other sources include e.g. Transparency International, the World Competitiveness Survey, the World Health Organization, Interpol, the Centers for Disease Control, the World Bank, the Human Development Report, UNICEF, UNESCO, World Drink Trends, the World Values Study, and the Council of Europe. These sources have been used throughout, and are not separately cited in each of the profiles.

The data in the Crime Guide are divided into five separate spreadsheets: crime and attitudes, motivation and opportunity, policy indicators, the criminal justice system, and sanctions. In addition to these basic spreadsheets there are three sheets with the rank-based indices: crime indices, motivation and opportunity indices, and operation of the criminal justice system indices.

The basic data sources used in creating the five main spreadsheets are noted on pp. 145-148 in the companion volume.

## 5 ICVS data in the Crime Guide

### Levels of aggregation

There are two types of surveys in the ICVS. In all the industrialised countries, the surveys were nation-wide. Based on the town size, information could also be extracted on urban and rural areas. For most of the countries in Central and Eastern Europe, the surveys were restricted to the capital cities. For some

of these countries, the surveys were extended to a rural area in the country, where about 200 interviews were done. Urban data is therefore available for every survey, while nation-wide and rural information is not always available.

## Countries and sweeps

There were three sweeps of the ICVS: 1989, 1992 and 1996. However, some surveys were done in other years: Spain (the region of Malaga in 1993 and 1994) and Estonia 1995. Seven surveys were done in 1997 (Belarus, Bulgaria, Croatia, Lithuania, Malta, Slovakia, and Ukraine). Not all countries participated in all of the ICVS sweeps. The main reason for this was the availability of funding. For the industrialised countries we had to depend on the willingness of each country to finance their own fieldwork (table E2 of the companion volume (pp. 194-195) indicates which countries participated in the sweeps). To make comparison possible between countries we decided to compute the average over all available sweeps. This is justified if we assume that differences within a country over a period of seven years are smaller than the differences between countries.

## Victimisation

The ICVS data of the profiles include data on total contact crimes, burglary, violence against women and theft of car. Contact crimes include robbery, sexual offences (women only) and assaults and threats. Burglary is here burglary with and without forced entry. Violence against women includes sexual and non-sexual assaults against women, threats and sexual offensive behaviour are excluded. Theft of car gives the percent victimisation for the total population. All the victimisation statistics are prevalence rates, that is, the percentage of respondents who have been victimised at least once in a period of one year. The victimisation rates for violence against women indicate the percentage of female respondents victimised once or more in a period of *five* years.

For further information on the ICVS and the use of the ICVS in this analysis, please see pp. 148-149 and 189-195 in the companion volume.

## 6 Preparation of the criminal justice profiles

This report covers European and North American countries. The “mini-states” of the Holy See, Monaco and San Marino, which to a large extent rely on the criminal justice system of a neighbouring country, are not included. Insufficient data were available on Bosnia-Herzegovina to prepare a profile. Tadjikistan, Turkmenistan and Uzbekistan were not included; however, data

were provided to HEUNI on Kazakhstan and Kyrgyzstan, and therefore profiles were prepared on these two countries.

In making rough international comparisons, we have computed the mean (in some cases, median) value for three regions: all European and North American countries, Central and Eastern European countries (using the UN grouping of “Eastern Europe”) and the fifteen European Union countries. The use of the European Union countries instead of “Western Europe and North America” was due to the strong political interest more broadly throughout Europe (East and West) in comparing countries to the general “yardstick” of the European Union norm.

If data are indicated as missing in the present profiles this means that the data were either not provided in the original response to the Fifth United Nations Survey, or that the data could not be obtained any other way.

All of the profiles have been sent to the authorities and selected experts in the countries in question for validation. Most did indeed respond and provided many useful comments and amendments to the profiles, especially to the first part, concerning background information on the criminal justice system. All of the contributors are acknowledged at the beginning of each profile, and we are most grateful to them for their contribution.

Following the receipt of comments, we have unified the format of the profiles, and some of these comments and data have not been used here. Nonetheless, readers who are interested in fuller information regarding individual countries are invited to contact HEUNI.

In the short span of time between the publication of the companion volume and the preparation of the present report, we have received Fifth United Nations Survey responses and/or substantial other background material on Albania, Iceland, the Republic of Ireland, Israel and Poland. Since all or some data were missing for these countries during the preparation of the indices for the first publication, these countries lack any score on most of the indices used in part three of the present profiles.

Also otherwise, throughout the preparation of this report, we have had several occasions to note that new data are constantly emerging. We have sought to incorporate as much of these data as possible. However, we anticipate that new data will be made available. We are also aware that even the process of validation cannot rule out the possibility of errors.<sup>3</sup> We have therefore decided to publish the report also in an electronic format at HEUNI’s website, <http://www.vn.fi/om/heuni/> and keep the data updated at regular intervals.

Readers are therefore invited to submit their comments to us at [heuni@om.vn.fi](mailto:heuni@om.vn.fi)

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<sup>3</sup> In some cases, profiles have been revised on the basis of new data after having been reviewed by the authorities and experts, and so they cannot be held “responsible” for any errors included in the data.

# Criminal Justice Profiles





# Albania<sup>1</sup>

## 1 Background

### 1.1 Structure of the criminal justice system

The Albanian criminal justice system has been influenced by the Eastern European criminal justice systems, in particular that of the former Soviet Union. The present Penal Code was approved in June 1977 and entered into force in October 1977. The present Criminal Procedure Code was approved in December 1979 and entered into force in April 1980.

Both Codes have been amended several times, in particular during the 1990s. Among the more important amendments are the re-establishment of the system of advocates (attorneys) (1990), an increase in the role of public prosecutors in the investigation of offences (1991), the creation of an investigative (criminal) police (1992), provisions on corruption (1991), provisions on the production of and trafficking in drugs (1993), the adoption of the possibility of release on parole (1990), and provisions on the prescription of offences (i.e., time bars on prosecution and punishment; 1990).

The court system consists of 35 district courts, the Courts of Appeal and the Court of Cassation. Usually the district court operates with one professional judge and two lay judges, sitting as a group. In the case of misdemeanours (punishable by imprisonment of less than two years), the court operates with one judge presiding alone.

The Courts of Appeal and the Court of Cassation operate in all cases with three professional judges. All cases go in the first instance to the district court. The general Constitutional Provisions (which are in force until the new Constitution is drafted and approved) prohibit the establishment of ad hoc and special courts.

The judge is not required to carry out a preparatory judicial procedure, except where the case has not been investigated appropriately. Preparatory procedure is required in private prosecution cases (cases prosecuted by the complainant). The judge plays an active role during the proceedings, for example by asking questions, gathering evidence and requesting expert testimony. Already before the major reforms in 1992, the court had the right to initiate prosecution, to present charges, and to change the charges at any stage in the proceedings. This clearly shows that Albania has adopted the inquisitorial model.

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<sup>1</sup> This profile was originally prepared for the analysis of the fourth survey by Mr. Arben Rakipi, Law Drafting Division, Ministry of Justice, Albania.

The prosecutorial service has a parallel, hierarchical structure. The Attorney General is the senior prosecutor. In prosecution, Albania follows the principle of opportunity. The public prosecutor has the right to refuse to bring charges, and to suspend or interrupt the bringing of charges if one of the elements of a penal act is missing.

The appointment, transfer or dismissal of judges and public prosecutors is decided by the High Justice Council, which is headed by the President of the Republic. The Minister of Justice is the vice-chairman of the Council.

Also the police have a parallel structure. The police also include the criminal investigation police. From the administrative point of view, the criminal investigation police is subject to the local chief of police, while from the point of view of criminal procedure, they are subject to the district prosecutor. In larger districts, the police and the criminal investigation police are divided into small regional precincts.

The investigation of criminal offences is the responsibility of the public prosecutor. Private complaints are allowed in the case of certain petty offences, such as insult, petty assault and trespassing (violation of the sanctity of the home). If an offender has been arrested in the act of a public offence, the district prosecutor may authorise the police to handle the investigation. However, if the case is brought to court, the approval of the prosecutor is needed for the charges.

In August 1994, new drafts of the Criminal Code and the Criminal Procedure Code were in the process of being approved by Parliament.

Efforts in Albania are concentrated in drafting new penal and procedural legislation. Legislation is also being prepared in the prison system, prison conditions, prisoner after-care and probation, in order to institute modern legislation.

## 1.2 The operation of the criminal justice system and sentencing

The criminal justice system of Albania only recognises two main sanctions, imprisonment and fines. A third sanction, “re-education through work”, was abolished in 1993. In many cases the judge may impose what is termed “conditional imprisonment”, which, however, has several important differences compared to sanctions with the same name in other countries.

Capital punishment can also be imposed.

In the case of serious offences, the suspect is usually held in pre-trial detention for three days to three months. These time limits, which may be extended by the prosecutor, depend on the seriousness of the offence.

The age of criminal responsibility is fourteen years. Between the ages of 14 and 18 years, the defendant is regarded as having diminished responsibility. Accordingly, the punishment is one half what it would have been in the case of an adult.

## 2 Statistics

Albania did not respond to the Fifth United Nations Survey.

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted, no response from Albania to the Fifth United Nations Survey was available in the preparation of this profile, and so a considerable amount of key data are missing. Nonetheless, the fact that the ICVS has been carried out provides some data. (Several of the indices are a composite of Fifth United Nations Survey, ICVS and other data, and so the absence of the Survey data may well skew the results. This caution should be kept in mind.)

The data necessary for computing Albania's score on the homicide index are missing. Albania has a middle-range score of 52 on the serious violence index, and the same score on the index of violence in general. According to the ICVS, 44% of urban respondents stated that they tend to avoid certain places in their neighbourhood at night; this is the same as the mean for all of Europe and North America, and below the mean for the Central and Eastern European countries (49%).

Internationally speaking, Albania appears to have a relatively high amount of burglary (a score of 79 on the burglary index) and a very low amount of offences directed against motor vehicles (a score of 24 on the motor vehicle crime index). (Since, according to the ICVS, only 21% of urban households had a motor vehicle – by far the lowest rate in Europe and North America – they are less prevalent as targets of crime and are presumably also better protected.) Albania is also low on the index of petty crimes (30).

On the index of the amount of corruption, Albania is relatively high, with a score of 78. (No Transparency International or World Competitiveness Yearbook data were available on Albania, and so this score is calculated on the basis of the ICVS data alone.)

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the results of the ICVS, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”), satisfaction among urban respondents in Albania was an above average 2.7 (the mean for Central and Eastern Europe was 2.2). In 1995, unemployment (which presumably is one factor that is linked to motivation) was a very high 17% of the active labour force. This was considerably higher than the corresponding figure five years previously (9.5%) (The Economist Pocket Europe in Figures, 1997). The “strain index” calculated for Albania was 5.3, which is close to the mean for Europe and North America of 5.2, and below the mean for the Central and Eastern European countries (8.0).

According to the UN Compendium on Human Settlements, 36% of the population in Albania live in urban areas, a very low rate. The 1997 Human Development Report assigns Albania with a very low “human development index” of 0.66. According to the ICVS, 75% of the urban population live in flats; this is also the mean for Central and Eastern Europe. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) Only 3.6% of the urban population report the use of special door locks, 5.2% the use of special window grills, and only 0.5% the use of burglar alarms in their household – all rates which are the lowest or near the lowest among European and North American countries. The ICVS also indicated that the population in Albania is somewhat less active than elsewhere in the region on the average in spending their leisure time outside of the home, with respondents reporting spending an average of 2.5 evenings per week away.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Albania’s score of 27.3 was the fourth lowest in Europe and North America (the regional mean was 51.4).

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. According to the ICVS, 5.2% of the respondents in Albania stated that their household had a firearm, and 4.1% stated that their household had a handgun. Both figures are in the intermediate range. No data are available on alcohol consumption in Albania.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Albania has the lowest rating in Europe and North America. According to ICVS data, only 1.1% of the urban respondents were divorced; internationally, this is quite low. Another indicator of divorce is that the divorce rate is 0.7 per 1,000 in population per year; again, this is one of the lowest in the region (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in Albania in 1994 was a very low 0.64. 12% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that 5% of persons at the top levels of government are female. In this light, it is of interest to note that Albania has an intermediate score of 56 on the violence against women index.

### 3.3 Operation of the criminal justice system

Due to the absence of a response to the Fifth United Nations Survey, the country’s score on the Law Enforcement Resources Index or the index of Criminal Justice Personnel Gender Balance could not be calculated.

On the Citizen Evaluation of Police Performance Index Albania (with a score of 28) is situated near the mean. According to the ICVS, only 27% of victims in urban areas reported the offence to the police, which is a very low rate. However, only 54% of victims in Albania who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, which is a middle-range result. Despite the low reporting rate, only 27% of all respondents were dissatisfied with the way in which the police controlled crime.

# Andorra<sup>1</sup>

## 1 Background

### 1.1 General

Two Co-Princes representing secular and religious authorities have governed Andorra since 1278. Until very recently, Andorra's political system had no clear division of powers into executive, legislative, and judicial branches. The principality of Andorra became a parliamentary democracy in 1993 when its Constitution was approved by popular referendum. The Constitution establishes Andorra as a state ruled by law in which the people are sovereign, and in which the legislative, executive, and judicial powers are separated. The fundamental impetus for this political transformation was a recommendation by the Council of Europe in 1990 that, if Andorra wished to attain full integration in the European Union, it should adopt a modern constitution that guarantees the rights of those living and working there. Under the Constitution, the two Co-Princes – the President of France and the Spanish Bishop of Seo de Urgel – serve equally as Heads of State and are each represented in Andorra by a delegate. Elections were held in December 1993 to choose members of the Conseil General (the Parliament), which selects the Head of Government.

The Constitution prohibits arbitrary arrest, detention, or exile. The Constitution provides citizens with safeguards against arbitrary interference with their “privacy, honour and reputation.” No searches of private premises may be conducted without a judicially issued warrant.

The legal system is based on French and Spanish civil codes; there is no review of legislative acts.

The judicial system is handled jointly by the co-princes. Courts apply the customary laws of Andorra, supplemented with Roman law and customary Catalan law.

### 1.2 The court system

Judicial powers are exercised, in accordance with the law, by the “batlles”, the “tribunals de batlles”, the “tribunals de corts” and the Superior Court of

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<sup>1</sup> We wish to express our appreciation to Mr André Pigot, Membre-secrétaire du Conseil Supérieur de la Justice, Principauté d'Andorre, for the provision of background information on the criminal justice system.

Justice. There is no jury system. “La batllia” and the “batlles” are courts of first instance and examining courts with jurisdiction over everything except major crimes (which go to the “tribunal de corts”). “Batlles” are nominated as judges of first instance, and magistrates as judges of the “tribunal de corts” and of the Superior Court of Justice.

Civil cases are heard in first instance by four judges (the “tribunal de batlles”), two chosen by each co-prince. Appeals are heard first by the one-judge Court of Appeals, presided over by a judge appointed alternatively by each co-prince. Final appeals are brought to the Supreme Court of Andorra at Perpignan (France) for civil cases, or to the Ecclesiastical Court of the bishop of Seo de Urgel (Spain) for criminal cases. Criminal cases are heard by the “tribunal de corts” in Andorra la Vella. The highest judicial body is the five-member Superior Council of Justice. The two Co-Princes, the Head of Government and the President of the Parliament each appoint one member and, collectively, the members of the lower courts. The Constitutional Court checks the constitutionality of the laws, of international treaties, of legislative decrees and of the rules of the Conseil General. The Constitutional Court is also an arbiter in conflicts between constitutional organs.

Judges are recruited and nominated by the Conseil Superieur de la Justice, for a renewable term of six years, the “batlles” among people of Andorran nationality and the magistrates preferably from Andorran nationality. However, Spanish and French citizens are also considered. Judicial candidates must have a French or Spanish legal education. During their tenure, “batlles” and magistrates cannot be removed from their job, except if a criminal or disciplinary sanction has been imposed by the Conseil Superieur de la Justice.

It is customary to have a defence attorney present during all procedures. Such assistance is optional in criminal procedures related to infractions. The right to an attorney is guaranteed by the Constitution. If one cannot afford an attorney, the State will provide one. Andorra has a system of solicitors. Andorran solicitors are lawyers who offer their service to conduct mandatory business, which the parties may appeal, in conjunction with the defence attorneys, to represent them in those cases where they do not want to appear in person before a court, except in those cases where procedural law determines otherwise.

### 1.3 The prosecutor’s office and the police

The prosecutor’s office consists of the Director of Public Prosecution and the assistant prosecutors. The Director of Public Prosecution and the assistant prosecutors are nominated by the Conseil Superieur de la Justice, for a renewable term of six years. The Prosecutor’s Office is headed by the Attorney General (“Fiscal General del Estado”) and formed by members named by the Superior Council of Justice. The positions are renewed every



6 years, among the persons who fulfil the requirements to become a judge. Its judicial status is regulated by law.

The Prosecutor's Office acts directly in the penal processes and requests that all the necessary diligence is applied to find out about criminal acts and their perpetrators. It is concerned with the total execution of the pronounced sentences. When the Prosecutor's Office has knowledge of an event which could constitute crime or fault, it will initiate penal actions by its own initiative or following government instructions (article 89).

Andorra has only a small internal police force. When dealing with the police, as long as a 'batlle instructeur' does not intervene, the office of Public Prosecution (ministere public) directs police activities in order to discover the facts which could constitute an infraction, orders all the investigations regarding obtaining proof (evidence) and controls the timeliness of the duration of pre-trial detention within legal limits. Instructions are directed to the chief of police. The function of the "police judiciaire" (criminal investigation) is fulfilled by all the members of the police force of Andorra, every time that they are requested to do so. The "police judiciaire" works under the guidance and direction of the 'batlles', the Justice Department (ministere public), and the courts, which it assists in their tasks and in the execution of judicial orders.

## 1.4 Crime categories and punishments

Punishable acts are classified as major crimes, minor crimes and infractions. The main punishments are as follows: incarceration, weekend detention, house arrest, public or private admonishment, and fine. Auxiliary punishments are fines (if not given as the main punishment); home confinement; prohibition to travel; temporary or permanent extradition of people with a foreign nationality; confiscation of the tools used to commit the crime; termination of parental rights; temporary or permanent prohibition to exercise one's civic privileges, or profession; revocation or suspension of driver's permit; revocation or suspension of gun permit; the temporary or permanent closing of the establishment or place where the criminal acts took place; prohibition to write checks or to use credit cards and the confiscation of checks and credit cards; and publication of the conviction. The maximum prison sentence for a major crime is 30 years, two years for a minor crime, and two months for an infraction.

## 2 Statistics

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Andorra.

## 2.2 Recorded crimes

The response of Andorra to the Fifth United Nations Survey does not provide statistics on the number and types of offences reported to the police. Statistics on the number of persons brought into formal contact with the criminal justice system are also unavailable.

Statistics on the number of persons prosecuted in Andorra are presented in the table below.

**Table 1. Number of persons prosecuted**

	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts)	-	1	2	-	4
(Major) Assault	52	67	100	67	87
Robbery	3	10	2	13	3
(Major) Theft	95	79	116	77	114
Rape	1	4	10	3	8
Drug-related crime	597	548	339	622	712
Total	1,886	2,013	2,055	2,002	1,987

The total number of people prosecuted fluctuated only slightly between 1990 and 1994. The overall increase in number of people prosecuted was only 5.3% between 1990 and 1994. However, between 1990 and 1994 there was a substantial increase in the number of people prosecuted for major assault (67.3%). The distinction between aggravated injury and simple injury can be found in the Andorran penal law under articles 192 and 195 of the Penal Code dated 11 July 1990: “He who mutilates, castrates or disables another person for procreation, or causes injuries which provoke total and permanent physiological or psychological damage, will be sentenced up to 15 years in prison” (article 192, aggravated injury), and “Those who cause injuries of any type or importance not included in the above article, provided that they are caused by firearms or hand weapons, explosives or flammable materials, or if they reveal in their crime excessive brutality, will be sentenced to up to 5 years in prison” (article 195, simple injury). In Andorra, there were very few prosecutions for intentional homicide (including attempts): 1 in 1991, 2 in 1992, and 4 in 1994.

Only a handful of people were prosecuted for rape in Andorra. The Principality’s legislation differentiates between types of rapes and sexual abuse. Violation, incest and rape are included in articles 204 to 209, and article 210 is exclusively devoted to the concept of sexual abuse. Rape is considered carnal access of a woman against or without her consent.

The fraudulent acquisition of financial goods is not included within the concept of embezzlement. This conduct is referred to in chapters 1-2 “Against Economy” of Title II in Book II of the Penal Code. Thefts are differentiated, depending on the amount stolen, as major offence, minor offence, and infractions. There were more prosecutions for (major) theft in Andorra in 1994 than in 1990 (114 compared to 95), but it should be noted that the yearly pattern is inconsistent.

The number of people prosecuted for drug-related crime increased by one-fifth between 1990 and 1994: from 597 (1990) to 712 (1994). There is a comparable increase of 20% in prosecutions for (major) theft, but the year-by-year trend for theft does not show a consistent pattern.

The total number of people brought before the “Court de Batlles” and the “Tribunals de Corts” is considerably lower than the total number of people prosecuted. This suggests that in Andorra, a significant number of people who are charged with crimes never go to trial. In 1994, the number of people brought before the “Tribunal de Corts” was almost 1.5% higher than in 1990. Conversely, the number of people brought before the “Court de Batlles” decreased slightly (from 359 in 1990 to 328 in 1994). Thus, in 1994 there were more court cases involving major crimes and slightly fewer cases involving minor crimes than in 1990. The number of convictions for major crimes increased from 251 in 1990 to 410 in 1994 (+63.3%). This increase is also reflected in the fact that in 1990, 82.8% of the cases brought before the “Tribunal de Corts” resulted in a conviction, compared to 1994 when almost 92% of these cases resulted in a conviction. A somewhat different picture emerges from an examination of the statistics presented for the “Court de Batlles.” In 1994, about one out of every twelve cases dealt with by the “Court de Batlles” resulted in an acquittal, which is very similar to the situation in 1990.

## 2.3 Convictions

Drug-related crime accounts for between 12% (1990) and 29% (1994) of convictions in Andorra. In addition to drug-related crime, the amount of robbery appears to have increased, although from a very low base level. In 1990, there were 10 robbery convictions; in 1994, the number of robbery convictions had increased to 39. The fact that tourism plays a major role in the Andorran economy may explain the relative importance of robbery and drug-related crime in this small country.

The total number of convictions for major crimes increased by two-thirds between 1990 and 1994. There was a sharper increase in the number of females convicted by the “Tribunals de Corts” (+118.2%) than in the number of males (+58.1%). It must be noted, however, that this sharper increase reflects the smaller base number of females. Thus, the number of females

increased by 26 (from 22 to 48); the number of males by 133 (from 229 to 362). In 1990, 8.8% of all persons convicted were female; in 1994, the proportion of females among those convicted increased to 11.7% of the total. Data are not available for the age distribution prior to 1994. The 1994 statistics show that 11.2% of all convictions for major crimes involved a juvenile (below 16). No data are available on the gender distribution of the convicted juveniles.

The total number of convictions for minor crimes (“Court de Batlles”) decreased between 1990 and 1994 by eight per cent. It appears that these convictions involve adults only. The relative decrease in the number of females convicted was higher (-28.6%) than in the number of males convicted (-6.5%). In 1990, 6.7% of the convictions for minor crimes involved females; in 1994, 5.2% of the convictions for minor crimes involved females.

## 2.4 Sanctions

In 1990, 245 adults per 100,000 inhabitants were sentenced to custodial sentences in Andorra. In 1994 the corresponding figure had dropped to 146 adults per 100,000 inhabitants.

The number of adults sentenced (as shown in the table below) appears higher than the number of persons convicted (see earlier tables). In 1994, 659 adults were sentenced by the “Tribunals de Corts”, compared to 505 adults in the “Court de Batlles”. Consistent with the trends noted earlier, there was an increase in total imposed adult sentences (+49.8%) in Tribunals de Corts between 1990 and 1994, whereas there was a slight decline (-3.1%) in “Courts de Batlles”. The number of sentences of imprisonment imposed between 1990 and 1994 declined in both the “Tribunals de Corts” (-26.9%) and in the “Court de Batlles” (-53.1%). In 1990, 29.5% of the sentences imposed by the “Tribunal de Corts” involved imprisonment; in 1994, the relative importance of imprisonment had declined to 15.2% of all sentences imposed by the “Tribunals de Corts”. The “other” category for the “Tribunal de Corts” includes 1 sentence of weekend detention (in 1992), 36 sentences of expulsion (in 1994), 27 sentences of revocation of drivers’ license (in 1994), and 9 sentences prohibiting the writing of checks. The “other” category of the “Court de Batlles” (for 1994) includes 13 sentences of weekend detention, 117 sentences of revocation of drivers’ license, and 2 sentences prohibiting the writing of checks.

No information is available on the prison population.

**Table 2. Trends in sentencing**

Sentenced	"Tribunals de corts" (Major crimes)					
	1990		1992		1994	
(adults)	N	%	N	%	N	%
Total	440		667		659	
Imprisonment	130	32.5	174	26.1	95	14.4
Fine	110	27.5	228	34.2	208	31.6
Conditional Sentence	200	50.0	264	39.6	283	42.9
Other	0	0	1	0.1	72	10.9
	"Court de Batlles" (Minor Crimes)					
	1990		1992		1994	
(adults)	N	%	N	%	N	%
Total	-		-		-	
Imprisonment	130	-	74	-	61	-
Fine	235	-	268	-	227	-
Conditional Sentence	156	-	125	-	85	-
Other	-	-	-	-	132	-

## 2.5 Personnel and resources

No statistics are provided on the number of police officers, only that it has a "small internal police force".

### Number of prosecutors

In 1994, Andorra had 3 prosecutors, two of whom were full-time. In 1990 there were 2 prosecutors. In 1990, there were no female prosecutors, but this situation had changed in 1994, when two of the prosecutors were female (67% of the total number of prosecutors). The rate of prosecutors per 100,000 inhabitants was 3.8 in 1990 and 4.6 in 1994.

### Number of judges

According to Andorra's response to the UN questionnaire, in 1990 the "Tribunal de corts" had 3 professional full-time judges, and in 1994, there were 3 (+2).

## 3 Crime and criminal justice profile

### 3.1 The crime situation

From the point of view of the development of a crime and criminal justice profile, it is regrettable that very little data are available on Andorra. The ICVS has not been conducted in Andorra, and few other sets of data are available. There are, for example, no data on the number of offences reported to the police or on the number of persons brought into formal contact with the criminal justice system.

The total number of people prosecuted in the country has fluctuated only slightly, around the 2,000 mark between 1990 and 1994. The overall increase in the number of people prosecuted was only 5.3% between 1990 and 1994. Between 1990 and 1994 there was a substantial increase in the number of people prosecuted for major assault (+67.3%); however, in absolute terms this only involves an increase from 52 to 87.

Interpol indicates that Andorra has a homicide rate (1994) of 1.6 per 100,000, which is comparatively low.

## 4 Further reading

“Andorra”, *Background Notes*, Vol. V, No.11, United States Department of State, Bureau of Public Affairs, Office of Public Communication.

“L’Organisation Judiciaire Andorrane”, received from Mr. André Pigot, Membre-Secrétaire, Consell Superior de la Justícia, Principat d’Andorra.

*Code Penal de la Principauté Andorrane* (1995), Andorra.

<http://www.andorra.ad>

<http://law.house.gov/198.htm> (US House of Representatives – Internet Law Library – European Law)

# Armenia<sup>1</sup>

## 1 Background

On 23 August 1990 the Supreme Soviet of the Armenian SSR passed the Declaration of Independence. After the August putsch in Moscow a referendum took place in Armenia whereby the citizens approved the Declaration. Thereafter Armenian SSR was renamed the Republic of Armenia. On 23 September 1991 the Supreme Soviet issued the Decree of Independence of the Republic of Armenia which declared the Republic of Armenia an independent state. The decisions made have predetermined the essence of the modifications and amendments introduced in the Code of criminal procedure (1961) and the Law on the Judicature introduced on the 6 May 1992.

Historically, the first Republic of Armenia was established in 1918. In 1922 the Armenian Republic was incorporated into the Union of Soviet Socialist Republics (USSR) as one of the four original republics. A separate Armenian Soviet Socialist Republic was formed in 1936.

The Criminal Code of the Armenian Soviet Socialist Republic was adopted by the Supreme Soviet on the 7 March 1961 and came into force on 1 June 1961. Up to the time of independence, the Criminal Code was subsequently amended in line with changes in the Soviet criminal legislation.

Following independence in 1991 the first presidential elections were held in October 1991. The country elected a President and Parliament. Between 1990 and 1995 Armenia dissolved the political, legal, social, and economic relationships of the previous political system, while simultaneously creating new ones. On 5 July 1995 the second parliamentary elections and a new general referendum on the new constitution were held. The Parliament was renamed the National Assembly, composed of 190 members, 150 of whom are elected by majority vote from uninominal constituencies and 40 by a proportional vote. According to the constitution adopted in 1995 Armenia is a presidential republic with power separated between the legislative, executive, and judicial branches of power. Suffrage is universal. The constitution provides for the rule of law, separation of powers, guarantees fundamental human rights and liberties according to universally recognized norms and principles. Armenia is administratively divided into 10 regions (marz) and the city of Yerevan, which also has a status of a marz.

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<sup>1</sup> This profile has benefited from comments made by Mr Vahran Kazboyan, Head of International Organisations Department, Ministry of Foreign Affairs. Information for this profile were obtained from the UNDP report on Armenia; <http://www.arminco.com/Armenia/HDR/HDR95/>; and <http://gaia.info.usaid.gov/country/armenia.html>.

Reforms of the judiciary and the law enforcement system are under way. The court system inherited from the period when Armenia was part of the USSR is being replaced by a new, multi-level system that differs from its predecessor in functions and powers. Horizontal relations are being replaced by vertical relations, and new institutions of judicial power have been established.

Armenia now has a Constitutional Court and a Council of Justice. The Presidential Decree of February 1997 set the schedule for the adopting the codes and laws necessary to reform the judiciary and law enforcement bodies. According to the Constitution, this should have been completed in the autumn of 1998. Although almost all the codes or laws have been drafted and discussed, none of them have as yet been adopted.

According to the Constitution of the Republic of Armenia, all international laws that Armenia has ratified or acceded to, have supremacy over national ones, and are an integral part of Armenian legislation.

The funding allocated to law-enforcement and judicial authorities is modest (USD 8,670,000 for the first half of 1997, which is USD 2.34 per capita), of which 47% is allocated to internal affairs, 33.5% to national security, 8.4% to court operations, and 4% to prosecution. The direct funding of judicial authorities is approximately 8 and 15 times lower than the allocation foreseen, respectively, for legislative and executive authorities.

In the first years after independence, the National Assembly abolished the death penalty for economic crimes and desertion, leaving the penalty only for premeditated murders under aggravated circumstances, as well as for military crimes committed in time of war. Since 1992 no executions have taken place. At present, a new draft of the Criminal Code is being discussed, which envisages the replacement of the death penalty with life imprisonment.

## 2 Statistics

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Armenia.

### 2.2 Reporting and recording

Between 1990 and 1994, the total number of offenses reported to the police in Armenia decreased from 12,110 to 9,923 (-18%). The total number of intentional homicides (including attempts) stayed virtually the same during period under review. Assaults decreased by 70% (from 348 in 1990 to 105 in 1994), robbery by 71% (from 371 in 1990 to 107 in 1994), and rape by 38% (from 34 in 1990 to 21 in 1994). A large proportion of all reported crimes took place in Armenia's largest city Yerevan. In 1990, 61 homicides took



**Table 1. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	12,110	342.1	16,250	440.4	9,923	264.6
Homicide	203	5.7	373	9.8	201	5.4
Assault	348	9.8	501	13.6	105	2.8
Rape	34	1.0	24	0.7	21	0.6
Robbery	371	10.5	532	14.4	107	2.9
Theft (including burglary)	1,906	53.8	2,015	54.6	1,796	47.9
Theft of cars					-	-

place in Yerevan; in 1994, 85 homicides were reported to the police in the city. With the exception of homicide, reported crimes (assault, robbery, and rape) decreased substantially between 1990 and 1994.

Even though the previous table showed a stable or declining number of offenses reported to the police, the total number of persons brought into formal contact with the criminal justice system for intentional homicide (including attempts) increased by 91.9% (from 86 in 1990 to 165 in 1994). This is noteworthy in view of the fact that the number of reported homicides remained virtually stable during the same time period (see previous table). The same pattern exists for robbery (between 1990 and 1994, the number of people brought into formal contact with the court because of robbery increased by 154.9%), rape (increase of 20% between 1990 and 1994), theft (including burglary) (increase of almost 200% between 1990 and 1994), and drug-related crimes (increased almost by a factor of 40 between 1990 and 1994).

The response to the Fifth United Nations Survey provides information on the proportion of juveniles out of persons brought into formal contact with the criminal justice system: about 9% in 1990, and about 8% in 1994. Five per cent of the people brought into formal contact with the criminal justice system in 1990 were female. In 1990 this proportion had slightly increased (6%).

As expected, there is considerable overlap between the number of people brought into contact with the criminal justice system, and the number of people prosecuted. The number of people prosecuted for intentional homicide was 1.5 times higher in 1994 than in 1990 (158 vs. 102). However, there was only a small increase (12%) between 1991 and 1994. The number of prosecutions for theft increased significantly: from a low of 670 (1990) to a high of 2,536 (1993). In 1994, the number of persons prosecuted for theft (1,858) had decreased by 26.7% (compared to 1993). Overall, the number of people prosecuted for theft increased by a factor of 2.8 between 1990 and 1994 (177.3%). The robbery figures show an unstable pattern: a decrease in 1991 (from 238 to 197), followed by a rather steep increase in 1992 (348)

and 1993 (481). The number of people prosecuted for robbery in 1994 (273), however, is only 14.7% higher than the number of people prosecuted for robbery in 1990. The number of prosecutions for drug-related crimes in 1994 was almost 50 times higher (594) in 1994 than in 1990 (12). For the crime of (major) assault and rape, the 1994 figures are lower than the 1990 figures. There were 32.9% fewer people prosecuted for assault in 1994 compared to 1990, and 64.1% fewer people were prosecuted for rape in 1994 compared to 1990.

The total number of people prosecuted in Armenia increased by 53.1% between 1990 and 1994 (from 4,192 to 6,419). The number of juveniles prosecuted more than doubled between 1990 and 1994 (from 134 to 306). However, in 1994 less than 5% of all prosecutions involved a juvenile (slightly up from 3.2% in 1990).

The number of people brought before the criminal court shows a steady increase between 1990 and 1994 (from 3,999 to 7,143). Very few people were acquitted; discontinuation of the proceedings appears a more common phenomenon. The large majority of all cases ends with a conviction (97.6% in 1990; 98.7% in 1994). The number of convictions has increased by 80.6% between 1994 and 1990.

Consistent with the patterns observed for number of people brought into formal contact with the criminal justice system and people prosecuted, statistics on conviction by crime type show a decrease in the number of convictions for assault and rape, and an increase for convictions for intentional homicide (including attempts) (+162.9% between 1990 and 1994), robbery (+159.4% between 1990 and 1994), theft (+206.2%), and drug-related crime (+3041.2%).

The number of convictions has increased faster for males (86%) than for females (20.9%) between 1990 and 1994. The proportion of convictions involving a juvenile was about 15% in 1990 and in 1994, with some fluctuations in 1991 (14.0%), 1992 (6.5%), and 1993 (12.6%). No data are available on the gender distribution of convictions for adults and juveniles.

**Table 2. Number of persons convicted.**

	1990	1991	1992	1993	1994
Intentional homicide (incl. Attempts)	62	70	74	160	163
(Major) Assault	123	98	102	67	86
Robbery	64	82	157	204	166
(Major) Theft (Burglary included)	353	672	1,827	2,010	1,081
Rape	25	30	20	18	23
Drug-related crime	17	44	93	315	534

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	29.1	109.0
Prisoner rate		-	-
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only) <sup>1</sup>	Adults	57.4	101.5
	Juveniles	2.8	1.6
% of females of convicted prisoners	Adults	2.4	3.0
	Juveniles	-	-
% of juveniles		4.7	1.5

<sup>1</sup> Only deprivation of liberty

**Table 4. Trends in sentencing**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	3,335	100	4,678	100	6,006	100
Imprisonment	1,026	30.8	2,016	43.1	4,077	67.9
Fine	832	24.9	502	10.7	1,023	17
Control in freedom	1,921	57.6	1,901	40.6	1,808	30.1
Capital punishment	3 (1 pardoned)	0.1	4 (execution suspended)	0.1	9 (execution suspended)	0.1

The total figures are lower than the sum of the individual sanctions, probably because multiple sanctions may be imposed (for example, fine plus a conditional sentence). The total number of convictions increased by 80.1% between 1990 and 1994. There has been a disproportionate increase in the use of imprisonment, however. While in 1990 less than one-third of the sanctions involved a prison sentence; in 1994 this was the case with about two-third of all sanctions. The use of fines increased slightly (by +23.0%), while the use of conditional sentences decreased (by -5.9%).

**Prison population**

Consistent with the increasing use of incarceration, there was a substantial increase in the number of persons admitted to prison during the year, from 2,131 (1990) to 3,864 (1994) (+81.3%). The increase in females admitted to prison was faster than the increase in males (+141.7% versus +79.9%) between 1990 and 1994. Even so, only a very small proportion of all new

prison admissions involved a female (2.2% in 1990, 1.2% in 1992, and 3.0% in 1994). Armenia has only one juvenile prison; only 4.7% of all prison admissions in 1990 involved a juvenile (100). The proportion of juveniles admitted to prison decreased even more in 1992 (1.1%, 23 males) and 1994 (1.5%, 59 males). No female juveniles were admitted to prison.

There is no information on the number of people incarcerated in pre-trial detention. The average length of time spent in detention awaiting trial was 9 weeks in 1990 and 10 weeks in 1994. It appears that the average length of prison sentence actually served by adults in prison increased between 1990 and 1994. For example, in 1990, an average of 85 months was spent for intentional homicide; in 1994, this figure increased to 96 months. The average time spent in prison for a rape conviction was 50 months in 1990, and 78 months in 1994. The time spent for drug-related convictions increased from 20 months in 1990 to 26 months in 1994. The exception to this overall pattern are sentences for bribery and/or corruption: in 1990, the average prison time was 74 months, in 1994 it was 73 months. Fewer people were placed on probation in 1994 (367) than in 1990 (457). Even so, more people were on probation in 1994 (1,237) than in 1990 (879). In 1990, 189 people were paroled from prison; in 1994, 247 people were paroled from prison.

Statistics on the number of convicted prisoners indicate an increase from 2,131 (1990) and 2,114 (1992) to 3,864 (1994) – an increase of 81.3%. No information is available on the number of prisons for adults, but the total number of beds increased from 2,850 in 1990 to 5,651 in 1994. The total floor area per person did not increase, however (2 square meter per person).

## 2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	482.7	405.1
	% female	17.1	16.5
Prosecutors	total / 100,000	11.2	11.0
	% female	5.0	4.6
Judges	total / 100,000	2.6	2.5
	% female	22.0	23.2
Prison staff	total / 100,000	24.8	28.4
	% female	6.6	6.2

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, between 1990 and 1994 the total number of offences reported to the police in Armenia decreased from 12,110 to 9,923 (18%). However, this simple statement masks a considerable fluctuation, since there was an increase in several categories of offences in particular during 1992 and 1993, and then a decrease in 1994. Since Armenia has not yet participated in the ICVS, it is difficult to know how to assess the information on offences reported to the police. In the light of the police statistics, Armenia ranks among the lowest with respect to the per capita recorded total volume of offences.

Armenia has a high level of homicide. It is in the top quartile among the European and North American countries. Although its rank (80) on the homicide index is below that of Estonia, Georgia, Kazakhstan, Kyrgyzstan, Northern Ireland, Russian Federation and the United States, most other European countries and Canada have a lower level of homicide. Due to the lack of data, Armenia's ranking on the index of other violent crimes could not be calculated.

Due to the lack of data, Armenia's ranking on the index of burglary, petty crimes and offences against motor vehicles could not be calculated.

No data are available on the amount of corruption in Armenia, aside from the court statistics.

### 3.2 Determinants of crime

According to the UN Compendium on Human Settlements, 68% of the population of Armenia live in urban areas. The 1997 Human Development Report assigns the country a relatively low HDI development index of 0.65 (the fifth lowest among the European and North American countries), and the World Bank reports a GNP of USD 670 per capita (1994), which is fifth lowest among the 44 European and North American countries for which the data are available.

Due to the lack of data, the indices for Armenia in respect of the opportunity for crime could not be calculated.

According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.65, placing the country sixth lowest among the 47 European and North American countries for which the data are

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

available. Only 6% of the parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that no females are at the top levels of government in Armenia. Only a very low number of rapes were reported to the police. However, due to the absence of victimisation data, it is not clear whether the low level of recorded rapes reflects reality.

### 3.3 Operation of the criminal justice system

Armenia is situated in the bottom quartile on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system). The moderate rank is no doubt influenced by the very low number of judges and correctional staff per capita. Armenia is among the three lowest ranking countries on both of these counts.

The number of police officers is somewhat above the mean of all countries but their productivity is ranked to be in the bottom quartile, at the same time as the rates of violent crimes are ranked in the top quartile. Armenia has 405 police officers per 100,000. This is above the EU mean (341), but below the mean for Central and Eastern Europe (484).

Armenia has 9 prosecutors per 100,000. This is above the EU mean (6) and below the mean for Central and Eastern Europe (11). Armenia has 3 judges per 100,000 in population; this is the second lowest among the 37 countries for which data are available. It is considerably below the EU mean (13) and the mean for Central and Eastern Europe (12).

Armenia has 28 correctional staff per 100,000. This is the third lowest among the 37 countries for which data are available. It is thus below the EU mean of 53, and the Central and Eastern European mean of 67. Armenia has 445 criminal justice employees (police, prosecutors, judges, and correctional staff) per 100,000 population, which is below the mean of 478 for the 25 countries for which data on this variable were available. More than 91 per cent of the total criminal justice work force in Armenia consist of the police, the highest proportion among the 25 countries for which all the data are available. However, because of the relatively small size of the other components of the criminal justice system, overall Armenia ranks very low in the Law Enforcement Resources Index: it is ranked seventh.

Although Armenia lies in the bottom quartile on our gender balance index, the share of female police officers is above the mean of all countries. The very low share of female judges and prosecutors is what makes the scale tip in the other direction. In Armenia, females make up 17% of the police, which is above the EU mean (14%) and the Eastern and Central Europe mean (12%). However, the situation is different for the prosecutors: 5% of the prosecutors are female (the EU mean is 31% and the Central and Eastern European mean is 31%). With 23% of the judges in Armenia female, Armenia is at the EU mean, but far below the mean for Central and Eastern Europe (45). Armenia ranks in the bottom quartile with respect to the overall gender balance in the

criminal justice workforce. It has a Criminal Justice Personnel Gender Balance Index value of 20, which places it as the tenth lowest country among the 43 countries for which data are available.

Since Armenia has not participated in the ICVS, no data are available on citizen satisfaction with the police.

Interpol data indicate a clearance rate of 73%.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed. (See part I, pp. 95-100). For Armenia, the proportions are relatively high. For each offence reported, there are 0.82 suspects identified, 0.65 prosecutions, 0.61 convictions and 0.41 sentences of imprisonment; the means for the region are 0.49, 0.31, 0.23 and 0.09, respectively. There are 0.79 prosecutions per 100 suspects and 0.94 convictions per prosecution; the regional means are 0.65 and 0.63, respectively. Finally, two out of three (0.68) convictions result in a sentence of imprisonment; the regional mean is one out of three (0.35).

# Austria<sup>1</sup>

## 1 Background

The codification of Austrian criminal law began under Archduchess Maria Theresia. Her sons and successors, Joseph II and Leopold II (the latter in his capacity as grand-duke of Tuscany), promulgated in 1787 and 1786, respectively, the first criminal codes in the Western world which abolished capital punishment. Although their more conservative successors restored capital punishment, Austria maintained a tradition of independence and innovation in criminal legislation throughout its history.

When the remaining German-speaking parts of the former Empire became independent as the Republic of Austria in 1919, most legislation adopted under the former regime remained in force, including the criminal code of 1852. Several times amended, this code remained effective until 1974 when the current Criminal Code was enacted.

At the time of its enactment, the new Criminal Code of 1974 was very innovative. It considerably restricted the scope of criminal law in sensitive areas such as sexual offences and abortion, legalising abortion in principle during the first three months of pregnancy. The Criminal Code of 1974 also abolished prison sentences of only a few months, following on this point the trend in German legislation to which Austrian professors contributed in several ways. The most prominent sanction became the day-fine, i.e. a fine the amount of which is fixed according to the defendant's daily income.

The age of criminal responsibility in Austria is 14 years. Between the ages of 14 and under 19 years (before 1989: 18), suspects are considered juveniles and handled by courts for minors.

Traditionally and over many decades, Austria had one of Europe's highest prison rates, with more than 100 inmates per 100,000 in population. Interestingly, the Code of 1974 did not have the effect of reducing the number of inmates. It is true that there was a substantial drop in short-term incarceration, but the effects on the prison population were largely compensated by a trend towards imposing longer sentences under the new Code. In more recent years, however, there has been a sudden drop in prison population (to a low of 85 in 1995) as a result of a change in the conditions for obtaining parole. The law has also been amended to allow the granting of parole after only one-half of the sentence had been served, instead of the earlier two-thirds. It remains to be seen whether this change will lead in time to longer sentences,

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<sup>1</sup> This profile benefited from comments made by Dr. Tellian, Interpol Vienna, Austria.



since judges may anticipate the effects of the new law in sentencing. However, the prisoner rate has remained relatively stable during the early 1990s.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Austria and the major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: results from the 1996 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	1.6	0.9	4.2	0.15
Major cities	2.6	0.2	6.5	0.0

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	457,623	5929.3	502,440	6372.9	504,568	6282.8
Homicide	254	3.3	286	3.6	283	3.5
Assault	29,739	385.3	33,822	429.0	33,667	419.2
Rape	533	6.9	555	7.0	553	6.9
Robbery	2,318	30.0	2,728	34.6	2,442	30.4
Theft	133,579	1730.7	130,264	1652.3	127,076	1582.3
Theft of cars <sup>1</sup>					10,871	135.4

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	71,722	75,155	74,419	74,937	69,485
Intentional homicide (incl. Attempts)	40	49	61	74	67
Causing death by negligence	345	303	275	254	219
Aggravated assault	1,312	1,445	1,641	1,714	1,645
Other assault	9,489	9,721	9,799	9,614	8,568
Robbery	413	483	461	502	595
Aggravated theft (not including burglary)	1,948	1,845	2,042	1,788	1,891
Other theft (not including burglary)	12,479	13,586	12,931	11,735	10,414
Burglary	2,877	2,798	2,731	2,680	2,428
Drug offences	1,131	1,468	1,720	2,683	3,275

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	83.1	81.5
Prisoner rate <sup>1</sup>		90.0	85.0
% women in the prison population <sup>2</sup>		4.8	5.4
Prisoner rate / 100,000 (convicted only)	Adults	56.2	62.0
	Juveniles	0.8	1.1
% of females of convicted prisoners	Adults	3.6	5.0
	Juveniles	4.9	1.2
% of juveniles		1.4	1.7

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

**Table 5. Trends in sentencing**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	68,092		70,064		66,136	
Life imprisonment	6	0.0	11	0.0	13	0.0
Other imprisonment	6,410	9.4	6,463	9.2	6,529	9.9
Control in freedom	12,139	17.8	13,018	18.6	12,537	19.0
Fine	49,216	72.3	50,786	72.5	46,700	70.6
Warning	321	0.5	326	0.5	357	0.5

The primary sanction used in Austria, according to the statistics, is the fine. Considerable use is also made of control in freedom. Less than 10% of the sanctions imposed are imprisonment.

On 31 December 1990, 3,026 adults and 2,278 juveniles were on probation. At the end of 1994, the corresponding figures were 2,607 adults and 2,936 juveniles.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Austria, 14% of the respondents would have favoured a fine, 8.3% a suspended sentence, 65% community service and only 10% imprisonment. This suggests that Austrian respondents were more apt than respondents in other countries to prefer non-custodial sanctions in this case, and is in line with Austrian sentencing practice. The strong support for community service is significant, given the very little use made of this sanction in Austria; this support was the highest out of all of the European and North American countries for which national data are available. (France and (West) Germany, with 63%, were in second place.)

The total number of persons held in incarceration increased slightly from 6,982 in 1990 to 7,351 in 1994. About one-fifth of the sentenced prisoners are foreign citizens. The response estimates that some 10% of all sentenced prisoners are drug dependent, and one percent has been detected to be HIV-positive or have AIDS.

In 1992, the average length of pre-trial custody was 11 weeks. In 1994, it was 10 weeks. Data on the average length of prison sentence actually served are not available.

During 1990, 1,630 persons were paroled from prison. In 1994, the corresponding figure was 1,547 persons.

In both 1990 and 1994, Austria had 47 adult prisons (with about 8,000 beds) and two juvenile prisons (with about 200 beds).

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	361.2	367.0
	% female	10.0	13.6
Prosecutors	total / 100,000	2.6	2.5
	% female	13.8	16.0
Judges	total / 100,000	20.0	19.8
	% female	19.5	18.6
Prison staff <sup>1</sup>	total / 100,000	42.3	43.8
	% female	10.7	12.5

<sup>1</sup> Data only for adult prisons

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the total number of reported offences increased from 1990 to 1992, after which the rate stabilised. By and large, however, the figures for the main categories of offences noted in section 2.1 remained relatively stable.

According to the results of the 1996 ICVS, 19% of the respondents in Austria had been the victim of a crime during the preceding year, the second lowest proportion found during the 1996 sweep (the same proportion was found in Finland; the lowest, 17% was in Northern Ireland). For individual offences, the victimisation rate was 0.9% for burglary, 2.1% for assault or threat, 1.8% for theft from or of a car, and 0.2% for robbery. In an international perspective, all are low rates, and the rate for robbery is the lowest in Europe and North America.

Austria has a very low ranking in respect of the index of violence in general (lowest out of 36 countries), and in respect of the index of serious violence (fifth lowest out of 49). Austria had a below average ranking on the index of homicide.

The general low level of violence is reflected in the fact that only 19.9% of the ICVS respondents stated that they tend to avoid certain places in their

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

neighbourhood at night, the third lowest rate in any of the responding countries in Europe and North America.

Internationally speaking, Austria appears to have a moderately low amount of burglary and a low amount of offences directed against motor vehicles. Austria falls in the middle range in respect of petty crimes.

On the index of the amount of corruption, Austria was in the middle range. The Transparency International index for Austria is 7.1 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook, on asking respondents their assessment of the extent to which such improper practices as bribing and corruption prevail in the public sphere (again on a scale of zero, does prevail, to ten, does not prevail) elicited the result of 6.8.

According to data collected by the Dutch Ministry of Justice, there are some 10,000 hard drug addicts in the country; this is proportionately the third lowest number among the EU countries.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the results of the ICVS, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”), the result in Austria was a high 3.22 among the respondents (third highest out of the 33 countries for which comparable urban data are available). In 1995, unemployment was a relatively low 6.5% of the active labour force. This was slightly higher than the corresponding figure five years previously (5.4%) (The Economist Pocket Europe in Figures, 1997). The “strain index” calculated for Austria was 2.5, which is relatively low for Europe as a whole, but in line with that of the other European Union countries (the EU mean was 2.3).

According to the UN Compendium on Human Settlements, 55% of the population in Austria live in urban areas. The 1997 Human Development Report assigns Austria with a high “human development index” of 0.93 (twelfth highest in the world), and the World Bank reports a GNP of USD 24,950 per capita (1994), the seventh highest in Europe and North America. According to the ICVS, 55.2 % of the population live in detached housing; internationally speaking, this is a moderately high percentage. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) 37% of the urban population report the use of special door locks, 11.5% the use of special window grills, and 6.1% the use of burglar alarms in their household – rates which are in the middle range among European and North American countries. Six out of seven households in Austria (84,4) report that they have a motor vehicle. The ICVS also indicated that the population in Austria is moderately active in spending their leisure time outside of the home, with respondents reporting spending an average of

3.21 evenings per week away. This is the tenth highest out of 23 European and North American countries for which national data are available.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Austria’s score of 68.1 reflects a slightly greater opportunity than the EU mean (64.6).

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. According to the ICVS, 8.1% of the respondents in Austria stated that their household had a handgun - the third highest national rate among the 36 European and North American countries in which the study has been carried out.<sup>3</sup> Alcohol consumption, according to the World Drink Report, is somewhat above average, with a per capita consumption of 1.40 litres of strong alcohol, 117 litres of beer and 33 litres of wine. All three factors, therefore, would suggest the possibility of a higher than average rate of violence.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Austria has a somewhat above average rating. According to ICVS data, 5.6% of the respondents were divorced; internationally, this is above average. According to the 1997 Human Development Report, the so-called gender-related development index in Austria in 1994 was 0.89, placing it fifteenth in the world, and twelfth among the 47 European and North American countries for which the data are available. 25% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that 24% of persons at the top levels of government are female. In this light, it is of interest to note that Austria appears to have a high reported rate of violence against women. Although Austria’s ranking on the violence against women index was in the middle range, the results of the ICVS show that 3.8% of the female respondents reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. The proportion in urban areas was 6.4%. Both proportions are the highest reported in Europe and North America; this is in marked contrast to the over-all victimisation rates and to the victimisation rates for most other offences in Austria which, as noted above, were among the lowest in Europe and North America. One possible and presumably only partial

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<sup>3</sup> However, the highest and second highest were considerably higher – 27.4% in the United States and 13.8% in Switzerland.

explanation for the high reported level of sexual offences in a country noted for its attempts to promote sexual equality is the greater awareness of such violence, which can well translate into a greater propensity to report violence in surveys to researchers.

According to the World Values Study attitude survey, respondents in Austria were about in the middle range (when compared with respondents in other European and North American countries) in respect of their tolerance for deviance: 30% of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. The same was true in respect of tolerance for minorities. This tolerance was somewhat less evident in respect of misdemeanours and petty crimes; respondents in Austria were, internationally speaking, in the low range in respect of their readiness to justify the commission of misdemeanours under certain conditions (13 and 12, respectively). Indeed, the results of the ICVS showed that respondents in Austria were, on the whole, more apt than respondents in most other countries to report offences to the police.

All in all in respect of the data on determinants of crime, Austria had a high negative loading in respect of strain-related violence (-.99) and in respect of serious property crime in urban settings (-1.05), and a positive loading in respect of opportunistic petty crime (+.75) (see Table 100 in part I, p. 49).

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 21, which is less than the mean for all countries for which the data are available (27) or for the EU countries (26). The number of public police officers (367 per 100,000 in population) is slightly above the EU mean of 341, and was further augmented by 75 private policemen per 100,000. Austria had 2 prosecutors, 20 judges and 44 correctional personnel per 100,000 in population. (The corresponding EU means were 6, 13 and 53; Austria had the lowest number of prosecutors per capita of any of the countries in Europe and North America.)

Austria's position in the second quartile on the index of criminal justice personnel gender balance (a score of 21; the regional mean was 28 and the EU mean was 25) can also be explained by the remarkably low share of female prosecutors. On all other variables used for the index of gender balance Austria has scores that are well above the mean.

On the Citizen Evaluation of Police Performance Index Austria (with a score of 26) is situated near the mean in spite of its high position on a number of related indicators. Apparently the satisfaction of the public with the police force is negatively affected by the perceived performance in handling crimes

of serious violence. According to the ICVS, 47% of victims reported the offence to the police, a proportion which is in the low middle range internationally. 41% of victims in Austria who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, again a middle-range result. Only 27% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which places Austria in the low range for all European and North American countries, and in the middle range for European Union countries. Overall, the “citizen evaluation of police performance index” for Austria was 26 out of 50, a middle-range result.

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police “productivity” (see part I, pp. 102–105). This proportion in Austria – 685 – is somewhat above the EU mean of 621.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed. (See part I, pp. 95-100). In general, Austria’s rates are about the mean for the European Union countries. According to Interpol data, the clearance rate for offences is 49.6, which is one of the higher rates for the European Union countries.

The prisoner rate has somewhat declined over the period under review, from 90 in 1990 to 85.0 in 1995. This is below the EU mean of 85.7.



# Azerbaijan

## 1 Background

Azerbaijan declared its independence from the USSR on 30 August 1991. Its development has been marred by conflict between Azerbaijan and its constituent part, Nagorno-Karabakh, an autonomous region inhabited primarily by Armenians. An amendment was introduced into the Constitution of Azerbaijan abolishing this autonomous region. However, military conflict between Azerbaijan and Nagorno-Karabakh (which declared its sovereignty) continued throughout the period under review, ending in the announcement of a temporary cease-fire in May 1994.

The Criminal Code of the Azerbaijan dates back before independence, when Azerbaijan was part of the Soviet Union. The Criminal Code was adopted on 8 December 1960 and entered into force on 1 March 1961. Up to the time of independence, it was subsequently amended in line with changes in the Soviet criminal legislation.

The modifications and amendments now being introduced into the criminal legislation of Azerbaijan reflect the formation of an independent state, its transition to a market economy, as well as the on-going military conflict with Nagorno-Karabakh. For example, on 9 December 1991, numerous amendments were introduced. These amendments provided a new interpretation for certain offences, including smuggling, evasion of active military service, evasion of recruitment according to mobilisation, illegal travel abroad, and violation of international flight regulations. On 18 August 1992, legislation was passed which expanded the scope of penal sanctions, and stipulated criminal liability for tax evasion, profit concealment, violation of state-regulated prices, and involvement in activities either prohibited or requiring special permission. At the same time certain modifications and amendments were incorporated into the 1960 Criminal Procedure Code, which expanded the investigatory powers of interior bodies. The Militia, a basic part of these bodies, was converted into the police force, and its functions and organisational structures were further clarified.

Full adult criminal responsibility begins at the age of seventeen. The minimum age of criminal responsibility for most crimes is sixteen years or older at the time of the offence. However, for negligent homicide and for certain offences committed under aggravating circumstances (such as homicide, rape, theft and intentional grievous bodily injury) juveniles can be prosecuted at age fourteen.

## 2 Statistics<sup>1</sup>

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Azerbaijan.

### 2.2 Reporting and recording

**Table 1. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	15,411	215.4	22,450	303.7	18,553	248.3
Homicide	514	7.2	794	10.7	667	8.9
Assault	255	3.6	805	10.9	418	5.6
Rape	65	0.9	82	1.1	77	1.0
Robbery	221	3.1	508	6.9	295	3.9
Theft	3,315	46.3	8,474	114.6	4,859	65.0
Theft of cars					-	-

The amount of reported crime increased considerably during the second half of the 1980s. This increase continued to 1992, after which the rates stabilised. The increase in crimes was particularly large for homicides and thefts.

The Criminal Code of Azerbaijan does not contain the offence of “unlawful breaking and entering” (burglary). However, an estimate can be made on the number of such offences, based on the data available on theft from private premises.

The number of suspects has tended to increase throughout the period under review. The increase is greatest for persons suspected of drug offences; in 1994, 13% of suspects were brought into contact with the criminal justice system for such offences

<sup>1</sup> In assessing crime in Azerbaijan, it should be noted that the war between Azerbaijan and its constituent part Nagorno-Karabakh has had a negative effect on the submission of crime data from Nagorno-Karabakh. Therefore, the overall crime rate in Azerbaijan is higher than reported here.

## 2.3 Sanctions

In 1990, 28 adults per 100,000 population were convicted to custodial sentences in Azerbaijan. In 1994, the corresponding figure was 62 adults per 100,000 inhabitants.

**Table 2. Trends in sentencing**

Sentenced	1992		1993		1994	
	N	%	N	%	N	%
Total	6,741	100.0	7,332	100.0	11,563	100.0
Imprisonment	2,017	29.9	2,797	38.1	4,612	39.9
Control in liberty	2,583	38.3	2,211	30.2	4,103	35.5
Warning	12	0.2	8	0.1	12	0.1
Fine	1,035	15.4	435	5.9	807	7.0
Reformatory labour	691	10.2	1,035	14.1	1,484	12.8
Other	403	6.0	848	11.6	545	4.7

The proportionate use of imprisonment has increased somewhat during the period under review. Since the less serious offences are often dealt with outside the court system, the proportionate use of warnings and fines as reflected in the court statistics is low.

No data were provided in the response to the Fifth United Nations Survey on prisons or the prison population.

## 2.4 Personnel and resources

There were 9.3 prosecutors per 100,000 inhabitants in Azerbaijan in 1990. 2.7% of these were women. In 1994, there were 16.5 prosecutors per 100,000 population, with 3.1% of these being women. All in all, the total number of prosecutors was 665 in 1990 and 1,232 in 1994.

No data were supplied on the number of police officers, judges or prison staff.

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the amount of reported crime increased considerably during the second half of the 1980s. This increase continued to 1992, after which the rates stabilised. The increase in crimes was particularly large for homicides and thefts. The total number of offences reported decreased from 1992 to 1993.

Azerbaijan is one of the few countries in Europe and North America that have not participated in any of the sweeps of the International Crime Victim Survey, a fact which seriously hampers the drawing of a crime and criminal justice profile for the country from an international perspective.

On the index of homicide, Azerbaijan had a moderately highest ranking. Azerbaijan also had a moderately high ranking in respect of the index of serious violence. There were insufficient data to calculate a ranking in respect of the index of violence in general.

Among the 45 European and Northern American countries for which the data are available, Azerbaijan appears to have the lowest amount of burglary. (However, as noted above, burglary does not exist as a separate legal category, and the data supplied referred to theft from private premises.) There were insufficient data to calculate a ranking for Azerbaijan on the indices for petty crimes or for offences directed against motor vehicles.

There were insufficient data to calculate a ranking for Azerbaijan on the index of the amount of corruption.

### 3.2 Determinants of crime

Data related to motivation and the opportunity to commit offences (similar to what were used in connection with other countries in the present report) were not available for Azerbaijan.

According to the UN Compendium on Human Settlements, 54% of the population in Azerbaijan live in urban areas. The 1997 Human Development Report assigns Azerbaijan with a “human development index” of 0.64 which, together with Georgia and Kyrgyzstan, is the third lowest in Europe and North America. The World Bank reports a GNP of USD 500 per capita (1994), the third lowest in Europe and North America.

The “opportunity scale” for property crimes developed for this study could not be used in the case of Azerbaijan, due to the lack of data.

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. However, data on these factors were not available from Azerbaijan.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. Regrettably, UNESCO data on female educational attainment are lacking for Azerbaijan. The divorce rate is 1.6 per 1,000 in population per year, which is relatively low (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in Azerbaijan in 1994 was 0.63 (the same as in Kyrgyzstan), the third lowest among the 47 European and North American countries for which the data are available. 12% of Parliamentary seats are held by women. The UNICEF "The Progress of Nations" report states that only 8% of persons at the top levels of government are female. In this light, it is of interest to note that, according to the reported data, Azerbaijan appears to have a relatively low rate of violence against women. Azerbaijan's ranking on the violence against women index was fourth lowest out of 44 countries. Only 1 rape was reported per 100,000 in population in 1994, the lowest reported rate in Europe (Armenia, Cyprus, Georgia and Turkey also reported only 1 rape per 100,000).

### 3.3 Operation of the criminal justice system

Azerbaijan has a very high score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) but, since data are missing on the number of police, judges and correctional personnel, it is difficult to draw any conclusions on this basis. In the light of the available data it seems that the proportionate number of prosecutors is one of the highest in Europe and North America, topped only by Kazakhstan and the Russian Federation. This is in sharp contrast with the fact that at the same time the rank of Azerbaijan on the Criminal Justice Gender Balance Index is the lowest of all, and only 3% of all prosecutors are women.

The index for Citizen Evaluation of Police Performance could not be computed for Azerbaijan due to the lack of data.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of "attrition" in the criminal justice system can be developed. (See part I, pp. 95-100). In general, the proportions were rather high in Azerbaijan, suggesting very little such attrition. There were 0.79 suspects for every reported

offence (also Interpol data suggest a clearance rate for offences of 78.8%, two out of three offences reported to the police led to prosecution and three out of five (62%) led to conviction, and one out of four offences led to imprisonment of the offender. Almost all suspects (85%) were prosecuted, and almost all persons prosecuted (92%) were convicted. (As has been noted in part I, international comparison of crime statistics is risky. The fact that so few offences were reported to the police, a total of 18,533 in 1994, suggests that only the more serious offences tend to be reported in Azerbaijan, and understandably there will be a greater focus on the investigation and prosecution of all offences.)

Although no data are available on the prisoner rate in Azerbaijan, it can be noted that only 61.7 sentences of deprivation of liberty are imposed per 100,000 in population, the fourth lowest rate in the region (the mean is 138.9).

# Belarus

## 1 Background<sup>1</sup>

Belarus declared its independence from the USSR on 27 July 1990. Simultaneously it was renamed as the Republic of Belarus, while its new national emblem and flag were adopted. On 8 December 1991 the founder-countries of the Soviet Union, i.e. Belarus, Russia and Ukraine, established the Commonwealth of the Independent States (CIS) which was subsequently joined by nine other former USSR Republics. The new Constitution was adopted on 15 March 1994. On 2 April 1996, Belarus and the Russian Federation signed an agreement on consolidation of their respective economic and political systems.

The Criminal Code of the Republic of Belarus was adopted before its independence was declared, when it was part of the Soviet Union, on 29 December 1960, and entered into force on 1 April 1961. Subsequently it comprised numerous amendments and modifications in connection with the gradual improvement of the fundamentals of the Soviet criminal legislation.

Along with the constitutional changes associated with the achievement of independence, a number of legislative acts was adopted aimed at activation of crime control activities. Among these were the Decrees by the President of the Supreme Council and the laws of the Republic of Belarus, which improved and supplemented the Criminal Code with the new articles, as well as contributed to strengthening of the governmental authority and rule of law. Thus in February 1991 criminal liability was introduced for the following types of offences: resisting a militia official; insulting or threatening with violence militia officials or representatives of the authorities; and encroachment upon the lives of a militia officials and their close relatives. At the same time the law has introduced the criminal liability for illegal manufacturing or sale of gas weapons and other devices used for applying tear gas and other substances affecting the nervous system. In addition, criminal liability was introduced for conspiracy with the purpose of seizing power, call-up to overthrow or change the constitutional order, and establishment of armed formations outside structure of the Armed Forces.

In March 1991 the Law on Militia was adopted in accordance with which the militia of the country consists of the criminal militia, the militia of public safety and the special-purpose militia. The criminal militia is empowered

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<sup>1</sup> The background part of the profile has been amended according to the suggestions provided by Deputy Minister Galina J. Gasjuk at Minstat of the Republic of Belarus

with the functions of detecting and clearing up offences with regard to which preliminary investigation is required. The criminal militia includes units of criminal police, economic crime control, organised crime control, criminalistics, as well as other units and establishments necessary for carrying out operative and search activities. The criminal militia is a constituent part of the territorial divisions and departments of the interior, as well as of the Ministry of the Interior. A militia of public safety is established by the district, city and regional councils of deputies. The militia of public safety comprises duty units, those of patrol and post, road patrol, passport and visas, inquiry service, militia beat inspectors, isolators of temporary detention of the apprehended and suspected of having committed offences. The special-purpose militia, its bodies and units are established by the Ministry of the Interior and are accountable to it. The special-purpose militia comprises transport militia, militia for contracted security services and state automobile inspection, as well as training, research and educational institutions.

The age of full adult responsibility is 18 years. Offenders between the ages of 14 and 17 are dealt with as young offenders.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities.

**Table 1. Victimization rates (in %) according to the ICVS, major cities: results from the 1997 survey**

	<b>Contact crimes</b>	<b>Burglaries</b>	<b>Violence against women</b>	<b>Car theft</b>
Major cities	3.5	1.5	5.2	0.7



## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	<b>1990</b>	<b>rate/ 100,000</b>	<b>1992</b>	<b>rate/ 100,000</b>	<b>1994</b>	<b>rate/ 100,000</b>
All recorded crimes	75,699	737.8	96,637	937.0	120,254	1161.3
Homicide	667	6.5	775	7.5	1,029	9.9
Assault	2,463	24.0	2,820	27.3	3,221	31.1
Rape	766	7.5	710	6.9	672	6.5
Robbery	3,747	36.5	5,715	55.4	7,013	67.7
Theft	38,014	370.5	59,081	572.9	72,372	698.9
Theft of cars <sup>1</sup>					2,263	21.9

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

Since 1986, the total number of offences reported to the police has more than doubled. The increase continued throughout the period under review. The increase was particularly marked for robbery, theft and burglary. (The Criminal Code of Belarus does not contain the offence of “unlawful breaking and entering” (burglary). However, an estimate can be made on the number of such offences, based on the data available on theft from private premises.)

There has, similarly, been an increase in the number of persons brought into formal contact with the criminal justice system. Again, the increase is greatest for robbery, theft and burglary.

**Table 3. Number of persons convicted**

	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>
Total	29,840	32,814	36,990	47,610	53,401
Intentional homicide (incl. attempts)	420	410	445	669	613
Causing death by negligence	76	70	83	103	91
Aggravated assault	737	801	841	1,144	1,063
Other assault	1,078	1,148	1,037	1,208	1,259
Robbery	2,278	2,191	2,948	3,983	4,125
Theft (incl. burglary)	9,957	13,655	17,885	24,051	28,709
Drug offences	217	265	415	606	809

Data source: Ministry of Foreign Affairs

Along with the increase in reported crime, there has been a rapid increase in the number of persons brought to court and convicted.

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	75.4	151.4
Prisoner rate <sup>1</sup>		-	-
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	149.4	352.0
	Juveniles	6.6	11.4
% of females of convicted prisoners	Adults	3.7	3.4
	Juveniles	0.0	3.3
% of juveniles		4.2	3.1

<sup>1</sup> Data from Walmsley 1997. The data refer to the year 1995.

**Table 5. Trends in sentencing**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	25,480	100.0	32,284	100.0	47,317	100.0
Imprisonment	7,740	30.4	9,893	30.6	15,679	33.1
Control in freedom	2,426	9.5	3,542	11.0	5,212	11.0
Warning	10,425	40.9	14,180	43.9	21,823	46.1
Fine	4,825	18.9	4,566	14.1	4,331	9.2
Other	64	0.3	103	0.3	272	0.6

The proportionate use of imprisonment has increased somewhat during the period under review. However, the use of warnings has increased even more, and in 1994 these accounted for almost one half of all sanctions imposed.

1,647 adults were placed on probation during 1990. In 1994, the corresponding figure was 5,212.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Belarus, 17.4% of the respondents would have favoured a fine, 1.7% a suspended sentence, 32% community service and 45% imprisonment. Among those favouring imprisonment, the average suggested sentence was 39 months. The support for community service is significant, given that such a sanction is not used in Belarus.

Of the sentenced persons held in incarceration at the end of the year, almost all were adult males. The total number of sentenced persons increased from 10,027 in 1990 to 21,463 in 1994. The number of sentenced juveniles in

incarceration increased from 677 in 1990 to 1,143 in 1994, and the number of sentenced adult women in incarceration increased from 562 in 1990 to 1,245 in 1994. (There were no sentenced juvenile women in prison at the end of 1990, 1991 or 1992. There were 37 juvenile women in prison at the end of 1993, and 39 at the end of 1994.)

According to the response to the Fifth United Nations Survey, the average length of prison sentence actually served for all offences was 3.8 years in 1990, 4.1 years in 1992 and 4.6 years in 1994. This average has thus been increasing throughout the 1990s.

746 persons (all adults) were released from prison on parole during 1990. During 1994, the corresponding figure was 4,861, again a sizeable increase. Of these 4,861 persons, 570 were juveniles.

Belarus reports 18 adult prisons, with a total of 24,040 beds, in 1990. The number had increased to 21 prisons, with 28,280 beds, in 1994. For juveniles, there were 2 prisons (with 1,270 beds) in 1990, and 3 prisons (with 1,780 beds) in 1994.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	11.5	14.4
	% female	19.9	18.8
Judges	total / 100,000	4.8	6.6
	% female	34.9	41.1
Prison staff	total / 100,000	18.8	34.9
	% female	39.2	32.3

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the rates of reported crime have increased considerably during the period under review. Total recorded crime has increased from 75,699 in 1990 to 120,254 in 1994. There have been corresponding increases in most of the individual offence categories.

According to the results of the ICVS, 21% of the urban respondents in Belarus had been the victim of a crime during the preceding year, the second lowest urban proportion in Europe and North America (Croatia, with 20%, had the lowest proportion of the urban population reporting victimisation). For individual offences, the urban victimisation rate was 1.5% for burglary, 3.5% for assault or threat, 3.4% for theft from or of a car, and 2.0% for robbery.

Belarus had a moderately high ranking in respect of the index on homicide and the index of serious violence, and was in the middle range in respect of the index of violence in general.

In a comparison among the European and Northern American countries, Belarus has the second lowest ranking on the amount of burglary (out of 45 countries) and the lowest ranking on the amount of petty crimes (out of 36 countries). Belarus also had the sixth lowest ranking in respect of offences directed against motor vehicles, out of 47 countries

On the index of the amount of corruption, Belarus fell in the middle range. However, this ranking was calculated on the basis of limited data, since there were no Transparency International or World Competitiveness Yearbook data for the country.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the ICVS, the rate of dissatisfaction in urban areas in Belarus was a very low 2.02 on a scale of 1 (“not satisfied”) to 4 (“very satisfied”), the fifth lowest out of the 33 countries for which comparable urban data are available. In 1995, unemployment was the third lowest reported figure in Europe, 1.8% of the active labour force

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

(The Economist Pocket Europe in Figures, 1997).<sup>3</sup> The “strain index” calculated for Belarus was 8.7, which is above average for Europe and North America.

According to the UN Compendium on Human Settlements, 67% of the population in Belarus live in urban areas. The 1997 Human Development Report assigns Belarus with a human development index of 0.81, and the World Bank reports a GNP of USD 2,160 per capita (1994). According to the ICVS, 93% of the urban population lives in flats; internationally speaking, this is a very high percentage. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) Only 13.1% of the urban population report the use of special door locks, 1.0% the use of special window grills, and 6.1% the use of burglar alarms in their household - all relatively low reported rates. The results of the ICVS also indicated that the urban population in Belarus are among the least active in Europe and North America in spending their leisure time outside of the home, with respondents reporting spending an average of 2.66 evenings per week away. This is the eighth lowest among 36 European and North American countries.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, the score of Belarus was 33.3, which reflects a below average opportunity to commit property offences. (The mean for Europe and North America was 51.4.)

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. According to the ICVS, 3.7% of the respondents in urban areas in Belarus stated that their household had a handgun, the ninth lowest urban rate among the 36 European and North American countries in which the study has been carried out.<sup>4</sup> No data on alcohol use are available.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Belarus has a somewhat below average rating. According to urban ICVS data, 5.7% of the respondents were divorced; internationally, this is above average. According to the 1997 Human Development

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<sup>3</sup> However, since unemployment benefits are not very large, the motivation to report to an unemployment office and be registered may tend to be low.

<sup>4</sup> The highest rate, 24.5%, was in Yugoslavia. The second highest rate, 23.9%, was in the United States.

Report, the so-called gender-related development index in Belarus in 1994 was 0.79, which would fall in the middle range, internationally. The UNICEF “The Progress of Nations” report states that only 5% of those at the top levels of government in Belarus are women. In this light, it is of interest to note that Belarus appears to have a relatively low rate of violence against women. Belarus was in the middle range in respect of the violence against women index (26th highest out of 44 countries, the same ranking as Switzerland). This is supported by the results of the 1997 ICVS: 1.9% of the female respondents in urban areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This is the ninth lowest among the 31 countries for which urban data are available.

According to the World Values Study attitude survey, respondents in Belarus were in the middle range internationally among European and North American respondents in respect of tolerance for deviance: one third (33%) of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. Also in respect of minorities, tolerance among respondents in Belarus was in the middle range. This tolerance was more evident in respect of misdemeanours and petty crimes; respondents in Belarus were among the most likely to indicate a readiness to justify the commission of misdemeanours and petty crimes under certain conditions (20 and 19, respectively).

All in all in respect of the data on determinants of crime, Belarus had a high positive loading in respect of strain-related violence (+.76), a high negative loading in respect of serious property crime in urban settings (-1.01), and a very high negative loading – indeed, the greatest negative loading - in respect of opportunistic petty crime (-1.66) (see Table 10 in part I, p. 49). The dominant characteristics of the crime situation in Belarus, therefore, appear to be the high level of strain, the high level of violence, the relative absence of the opportunity for property crime and petty crime, and accordingly the low level of serious property crime and petty crime.

### 3.3 Operation of the criminal justice system

The score of Belarus on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 23, slightly below the mean for Europe and North America of 25. Given the increase in the amount of reported crime, it is not surprising that there has been a significant increase in the number of prosecutors, judges and in particular correctional staff. (No data are available on the number of police.)

In spite of the position of Belarus on the Law Enforcement Resources Index, the number of prosecutors is well above the fourth quartile and both the proportion of female judges and the proportion of female prison staff are above the mean of all countries. It is probably for this reason the Belarus is situated in the third quartile on the index of criminal justice personnel gender balance. Measured by the number of correctional staff, however, Belarus is

situated in the first quartile, which inevitably leads to the highest inmate/staff ratio seen among the countries studied.

The score of Belarus on the Criminal Justice Practitioner Gender Balance Index (34; see part I, pp. 78-80) is well above the mean for the region of 28. Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than do the EU countries, reflecting their high shares of female prosecutors and judges.

The lack of resources in the criminal justice system probably contributes to the fact that Belarus has a very low score on the Citizen Evaluation of Police Performance Index (13). Unfortunately it was not possible, due to the lack of information, to assess the impact of the number of police officers in this equation. According to the ICVS, only 29% of victims in urban areas reported the offence to the police, the sixth lowest rate among those 36 European and North American countries from which comparable data are available. 68% of victims in Belarus who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, the fifth highest proportion. 64% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, again a relatively high proportion. All three rates suggest that more work needs to be done in increasing public confidence in the police.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed. (See part I, pp. 95-100). In general, Belarus has above-average indicators, suggesting that relatively few cases are diverted or otherwise fall out of the criminal justice system before conviction and possible imprisonment.

The prisoner rate has been on a steady climb and is now (505.0 in 1995), along with the United States (600.0) and the Russian Federation (694.0), considerably above the rates of other countries in the region.

In general in the light of the various indicators, it can be said that Belarus has a relatively low crime problem, and is not exceptional in the staffing or operation of the criminal justice system. Two points of concern are the low confidence of the public in the performance of the police, and the increasing prisoner rate.

# Belgium<sup>1</sup>

## 1 Background

### 1.1 History

Belgium inherited French criminal procedure (the 1808 “Code d’Instruction Criminelle”) and the 1810 French Penal Code from the period when it was united with France (1795-1815). Belgium declared its independence in 1830. The 1831 Constitution established the basic principles also for penal law.

The country continued to apply the 1810 French Penal Code until a new one was adopted in 1867. Supplementary laws were added, containing for example provisions dealing with young offenders. A partial revision of the Penal Code is currently underway, formally since 1976.

Criminal procedure continues to be based on the 1808 French code, with a major reform in 1878 and, in the 1990s, the passing of supplementary legislation on, inter alia, pre-trial detention, suspended sentences and the acceleration of the procedure and penal mediation. A committee to study possible revisions to criminal procedure was set up in 1991. The Act of 12 March 1998 brought changes to the procedure for preliminary and judicial investigations.

The penal system may be roughly qualified as a dual system, inquisitorial in its preparatory phase and accusatorial in its adjudicatory phase. However, the new Act of 1998 tends to reduce the inquisitorial aspects of the preparatory phase of the trial. This law makes a clear distinction between the pre-trial investigation led by the public prosecutor (information) and the investigations led by the investigating judge (instruction). It also gives more rights to victims of crimes, e.g. by giving them the right to ask the investigating judge to arrange for certain investigation steps, or the right to request access to the files of the case. This law entered into force on October 2, 1998.

Recently (1998), agreement has been reached between eight political parties to reform the police and justice system. Proposals regarding the criminal justice system have been introduced in Parliament. One of these reforms is for the creation of a federal prosecution office.

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<sup>1</sup> This profile has benefited from comments made by Professor Georges Kellens, Faculty of Law and School of Criminology, University of Liège, Mr Frederik Decruyenaere, Ministry of Justice, Ivo Aertsen, Department of Criminal Law and Criminology, Catholic University of Leuven, Ms Kristel Beyens, Ms Sonja Snacken and Mr Chris Eliaerts, Department of Criminology, Free University, Brussels, Ms Monique Beuken and Mr Alexander van Liempt, Service de la Politique Criminelle, Department of Justice, Brussels.



## 1.2 Organisation and major principles

The police forces consist of the gendarmerie, the national judicial police and the communal police. In addition, the police forces have special units that become operational under some circumstances. A major reform towards a more integrated police organisation has been initiated in 1998. The distinction between the gendarmerie, judicial police and communal police will disappear. There will be a unified federal police, with local police forces.

At present, the police forces have administrative and judicial functions. The functions of the judicial police may be exercised by certain other civil servants.

The administrative police forces are charged with the maintenance of public order. They operate under the responsibility of the administrative authorities. The judicial police functions consist of the recording and investigation of criminal offences and are exercised under the responsibility of the prosecutorial authorities. Both the administrative and judicial functions may in practice be exercised by the same persons, who therefore act under different authorities depending on their function.

In Belgium, the local authorities (the regions and communities) have the statutory right to create criminal offences by law, within the limits of their material competence. A law adopted in July 1993, designed to complete the federal structure of the Belgian institutions, extended this possibility. However, the investigation and prosecution of criminal offences remains an exclusive federal competence.

Prosecution is usually initiated by the public prosecutor. However, the prosecutorial authority does not have a monopoly in initiating prosecution. Several administrative authorities as well as the victim himself or herself may also initiate legal proceedings by presenting the case directly to the court or to the investigating magistrate (*juge d'instruction*).

When the case comes to the prosecutor, he or she decides, if necessary after a preliminary inquiry, whether or not the case is to be prosecuted. The case may be dismissed for technical reasons (the offender is unknown or has escaped, no offence has been shown, etc.) or for reasons of policy (the offence was minor, prosecution would not be in the public interest, etc.).

In the case of certain offences where the harm that had been caused (if any) has been repaired, the offender may be offered the possibility of a "transaction", which involves the payment of a fine. This possibility is primarily offered in cases of traffic violations. Another way by which the public action can be extinguished is the procedure of "penal mediation", which has been possible since 1994. In such a procedure, there is no prosecution if the offender accepts and fulfils one or more of the following conditions: reparation to the victim, undergoing training or therapy, or community service.

Other cases are transmitted directly to the court. Since 1994 the public prosecutor may summon the suspect through an ‘accelerated’ procedure to appear before the court in a very short time span of a few days or weeks. If further inquiries are needed, the case is transmitted to the investigating magistrate. It is this magistrate who decides, where appropriate, on pre-trial detention. This decision is taken after having heard the arrested person and necessarily within the 24 hours following the arrest. Pre-trial detention must be confirmed within five days by a specific jurisdiction. The law fixes no time limit but the detention must be “absolutely necessary” for public security and the offence must be punishable by imprisonment for one year or more. The 1990 law on pre-trial detention introduced the possibility of liberty under supervision, i.e. under specific conditions.

The different levels of criminal courts are as follows:

- police courts for petty offences and all traffic offences,
- correctional courts for misdemeanours, and
- court of assizes for felonies.

Decisions of the police and correctional courts are subject to appeal. Action may be brought before the court of cassation for all procedural questions.

Probation is possible as a mode of either the deferral of the pronouncement of a sentence or the postponement of the execution of a sentence. In 1994 the application of probation has been extended and now probation conditions may include community service and training as well. After prisoners have served a certain proportion of their sentence, they may be released on parole. The law on conditional release has been fundamentally reformed in 1998.

Since 1965, the law on the protection of juveniles sets the minimum age of criminal responsibility at 18 years. This limit may be lowered to 16 years in some cases where specific juvenile measures are deemed inadequate. Juveniles are dealt with by juvenile courts responsible for investigation, prosecution, judgement and execution of “measures”. These measures include the possibility of detention, when no other measures are deemed appropriate (cf. art. 38 of the law of 1965). The detention of a minor may not exceed 15 days and is forbidden after sentence. This possibility has nevertheless been strongly criticised in Belgium and plans for its abolition have been announced.

## 2 Statistics

The statistical system in Belgium has been under reform, and the response to the Fifth United Nations Survey indicates that the data necessary for answering some of the questions covered are not available. In addition, the response notes that the data on some points are incomplete, mainly because of the on-going reforms in the systems of gathering statistical data.

## 2.1 Victimisation

The breakdown below presents the victimisation rates in Belgium and its major cities.

**Table 1. Victimisation rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989 and 1992 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	1.7	2.2	3.6	0.9
Major cities	3.8	2.7	3.9	0.6

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1994	rate/ 100,000
All recorded crimes	577,902	5733.2
Homicide	343	3.4
Assault	33,329	330.6
Rape	899	8.9
Robbery	1,448	14.4
Theft	275,484	2733.0
Theft of cars <sup>1</sup>	29,178	289.5

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

The Belgian response to the Fifth United Nations Survey did not provide statistics on offences reported to the police between 1990 and 1993. As noted, 1994 was the starting year for the new system of collecting integrated interpolice criminal statistics in Belgium. INTERPOL sources note that 332,041 offences were reported in 1990. However, these data are presumably not comparable with the 1994 data.

Despite the increase in reported crime, data provided in the response to the Fifth United Nations Survey suggests that the number of persons brought before courts is much less than the number of persons prosecuted, and the number has in fact decreased. This can reflect the large-scale use of the transaction and of other prosecutorial measures, but more probably the difference is due to statistical bias, e.g. the fact that the traditional criminal statistics of Belgium only take into account the last conviction of a person during one year, is the reason for the low numbers of persons prosecuted. In

1994, the new Criminal Policy Service of the Department of Justice analysed data on 138,874 convicted persons.

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	46,498	52,367	42,117	35,647	40,056
Intentional homicide (incl. attempts)	111	108	91	113	146
Causing death by negligence	530	540	503	461	337
Aggravated assault	651	1,326	903	-	2,609
Other assault	3,888	3,465	2,694	4,352 <sup>1</sup>	2,490
Robbery and theft	4,600	5,139	3,762	9,482 <sup>2</sup>	8,450
Burglary	3,237	4,014	3,011	-	5,095
Drug offences	2,316	3,234	3,079	4,520	6,419

<sup>1</sup> includes aggravated assault

<sup>2</sup> includes burglary

The statistical system has been under reform during the period covered by the Fifth United Nations Survey, with some categories being combined during certain years. For the most recent year covered by the Survey, 1994, data are available separately on robbery (2,312) and theft (6,138).

The total number of persons convicted increased from 1990 to 1991, but then decreased. The trend for the different categories, however, has varied: for example, the number of persons convicted of drug offences has increased significantly during the period under review.

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	-	103.5
Prisoner rate <sup>1</sup>		65.0	75.0
% women in the prison population <sup>2</sup>		4.8	4.9
Prisoner rate / 100,000 (convicted only)	Adults	30.6	37.3
	Juveniles	0.0	0.0
% of females of convicted prisoners	Adults	4.6	4.3
	Juveniles	0.0	0.0
% of juveniles		0.1	0.1

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996

**Table 5. Trends in sentencing**

Sentenced (adults)	1994	
	N	%
Total	40,056	
Life imprisonment	38	0.1
Imprisonment	10,390	25.9
Control in freedom	2,005	5.0
Fine	10,270	25.6
Warning	19,680	34.2

No data were provided in the response to the Fifth United Nations Survey on sentences imposed in 1990 and 1992. The response notes that the offenders may be sentenced to several sanctions, and so the figures provided for 1994 do not add up to the total number of persons sentenced.

During all of 1990, 3,517 adults were placed on probation, and at the end of the year a total of 3,733 were on probation. During 1994, 4,824 adults were placed on probation, and at the end of 1994 a total of 5,025 were on probation.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Belgium, 14% of the respondents would have favoured a fine, 8.2% a suspended sentence, 49% community service and 25% imprisonment. Among those favouring imprisonment, the average suggested sentence was 21 months. These rates fall within the middle range when compared with other countries participating in the ICVS.

### **Prison population**

In 1990, Belgium had 32 prisons for adult offenders, with a total of 5,246 beds. In 1994, the number of prisons had decreased to 31, but the number of beds had increased to 6,002. There are no juvenile prisons in Belgium. However, it was noted that in Flemish-speaking Belgium, there were 250 beds in 1990 and 208 beds in 1994 in institutions for young offenders. In French-speaking Belgium, there were 208 beds (among which 22 in closed regime) in 1990, and 200 (22 closed) in 1994.

The total number of persons admitted to prison has remained relatively stable, with 17,406 in 1990 and 16,976 in 1994. However, there has been a significant increase in the number of persons admitted to prison for drug offences; this proportion has increased from 31% in 1990 to 41% in 1994.

A significant proportion of the persons entering prison are foreign citizens. This proportion was 39.9% in 1990, 51.4% – over half – in 1992, and 48.8% in 1994.

The size of the prison population has increased during the period under review, from 5,872 in 1990 to 7,468 in 1994, continuing a trend that was

already apparent during the 1980s. According to data provided in the response to the Fifth United Nations Survey, the average length of pre-trial detention has remained relatively stable: 62 weeks in 1990, 69 weeks in 1992 and 68 weeks in 1994. However, the average length of prison sentence actually served has increased from 73 weeks in 1990, to 70 weeks in 1992 and to 82 weeks in 1994.

The two main systems of parole in Belgium are “voorwaardelijke invrijheidstelling”, which is applied to prisoners with longer sentences (from 18 months until life), and “voorlopige invrijheidstelling” (provisional release) which is applied to short-term prisoners (up to 18 months). During 1990, 1,351 long-term prisoners were paroled from prison, and at the end of the year 2,963 persons were on such parole. During 1994, 872 long-term prisoners were paroled, and at the end of the year 2,888 such persons were on parole. The annual number of short-term prisoners released on parole was 1990: 3517, 1991: 2805, 1992: 3532, 1993: 4031, and 1994: 4824.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	328.0	344.4
	% female	2.6	5.5
Prosecutors	total / 100,000	6.7	7.7
	% female	25.0	32.7
Judges	total / 100,000	11.6	11.9
	% female	23.3	29.1
Prison staff	total / 100,000	51.7	55.6
	% female	-	-

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, 1994 was the starting year for a new system of collecting integrated police crime statistics in Belgium, and thus no data are available on the trends. According to the results of the 1992 ICVS, 22% of

<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

the urban respondents in Belgium had been the victim of a crime during the preceding year, placing Belgium in the low range internationally. For individual offences, the victimisation rate was 2.2% for burglary, 1.9% for assault or threat, 3.9% for theft from or of a car, and 1.0% for robbery (averaged national rates for 1989 and 1992).

On the index of homicide, Belgium fell in the middle range. Belgium was in the low middle range in respect of the index of serious violence, and moderately low in respect of the index of violence in general.

The relatively low level of violence is reflected in the fact that only 21.3% of the ICVS respondents stated that they tend to avoid certain places in their neighbourhood at night, one of the lowest rates in any of the responding countries in Europe and North America.

Internationally speaking, Belgium appears to have a moderately high amount of burglary and a low amount of petty crimes. In respect of offences directed against motor vehicles, Belgium fell in the middle range.

On the index of the amount of corruption, Belgium is above average. The Transparency International index for Belgium is 6.9 on a scale of zero (considerable corruption) to ten (no corruption). However, the World Competitiveness Yearbook, on asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero (prevails) to ten (does not prevail) – elicited the result of 4.0.

According to data collected by the Dutch Ministry of Justice, there are some 17,500 hard drug addicts in the country, which is proportionately less than the mean for all European Union countries.

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the ICVS, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”), the result in Belgium was a relatively high 3.13 rate of satisfaction among the urban respondents. In 1995, unemployment was in the middle range for Europe, 9.4% of the active labour force. This was somewhat higher than the corresponding figure five years previously (7.2%) (The Economist Pocket Europe in Figures, 1997). The “strain index” calculated for Belgium was 1.6, which is very low even among the European Union countries.

According to the UN Compendium on Human Settlements, almost the entire population in Belgium – 97% – live in urban areas. The 1997 Human Development Report assigns Belgium with a high “human development index” of 0.93 (thirteenth highest in the world), and the World Bank reports a GNP of USD 22,920 per capita (1994), the eleventh highest in Europe and North America. According to the ICVS, 35.7 % of the population live in

detached housing and a further 47.6% in row housing. Internationally speaking, this is a moderately high percentage. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) 33.5% of the urban population report the use of special door locks, 4.0% the use of special window grills, and 13.9% the use of burglar alarms in their household – figures which would fall more or less in the middle range among European and North American countries. On the “opportunity index” for property crime, Belgium, at 56.9, is somewhat below the Western European average of 64.7. Six out of seven households in Belgium (84.0%) report that they have a motor vehicle. The ICVS also indicated that the population in Belgium is relatively inactive in spending their leisure time outside of the home, with respondents reporting spending an average of 2.82 evenings per week away for entertainment purposes. This is the seventh lowest rate among the European and North American countries.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households, and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Belgium’s score of 56.9 reflects a somewhat lesser opportunity than is the mean in the European Union (64.7). On the other hand, only 25.1% of the urban population report the use of special door locks, and 4.0% the use of special window grills; both are relatively low rates for Europe and North America. 13.9% report the use of burglar alarms in their household, which is an above average rate.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. According to the ICVS, 6.5% of the respondents stated that their household had a handgun – the fifth highest national rate among the 23 European and North American countries in which the study has been carried out on a national level. Alcohol consumption, according to the World Drink Report, is somewhat above average, with a per capita consumption of 1.20 litres of strong alcohol, 102 litres of beer and 24 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Belgium has the highest rating in Europe. According to urban ICVS data, 6.9% of the respondents were divorced; internationally, this is above average. According to the 1997 Human Development Report, the so-called gender-related development index in Belgium in 1994 was 0.891, placing it eleventh among the 47 European and North American countries for which the data are available. 15% of Parliamentary seats are



held by women. The UNICEF “The Progress of Nations” report states that 11% of persons at the top levels of government are female. In this light, it may be noted that Belgium appears to have a relatively low rate of violence against women. Belgium’s ranking on the violence against women index was seventeenth lowest out of 44 countries. This is supported by the results of the 1991 ICVS: 1.4% of the female respondents reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This falls in the middle range.

According to the World Values Study attitude survey, respondents in Belgium showed relatively high tolerance for minorities. This tolerance was less evident in respect of misdemeanours and petty crimes; respondents in Belgium were, internationally speaking, among the least ready to justify the commission of misdemeanours and petty crimes under certain conditions (13 and 11, respectively). Indeed, the results of the ICVS showed that respondents in Belgium were, on the whole, more apt than respondents in most other countries to report offences to the police.

All in all in respect of the data on determinants of crime, Belgium had a high negative loading in respect of strain-related violence (-.86), a high positive loading in respect of serious property crime in urban settings (+.81), and a very high negative loading in respect of opportunistic petty crime (-1.24) (see Table 10 in part I, p. 49). This can be interpreted to mean that the opportunity for such crimes as burglary and serious theft is unusually high in Belgium, while the various factors related to petty crime and to strain-related violence are weak.

### 3.3 Operation of the criminal justice system

Belgium’s score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 26, which is slightly less than the mean for all countries for which the data are available (27) but the same as the EU mean. The number of public police officers (344 per 100,000 in population) was very close to the EU mean of 341, and was further augmented by 109 private police per 100,000. Belgium had 8 prosecutors, 12 judges and 52 correctional personnel per 100,000 in population. (The corresponding EU means were 6, 13 and 53.) The number of police officers has increased from 327,992 in 1990 to 344,365 in 1994, and the number of prosecutors has correspondingly increased from 6,702 to 7,679.

The score of Belgium on the Criminal Justice Practitioner Gender Balance Index (23; see part I, pp. 78-80) is below the mean of 28 or the EU mean of 25. The proportion of female police officers is considerably lower in Belgium (2.6% in 1990; increasing to 5.5% in 1994) than in other EU countries but this is partly offset in the index of criminal justice gender balance by the close-to-average percentages of females as judges and prosecutors.

On the Citizen Evaluation of Police Performance Index Belgium has a score of 37, which is the same as the mean for the European Union countries. According to the ICVS, 60% of victims reported the offence to the police, a very high proportion. 37% of victims in Belgium who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a proportion which falls in the middle range internationally. 32% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which places Belgium in the middle range internationally, but high for EU countries.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed (see part I, pp. 95-100). In general, Belgium has low to very low proportions, suggesting an above-average rate of attrition or diversion.

Although the prisoner rate has been increasing (65 in 1990, 75 in 1995) as has indeed been the case in the majority of the countries covered in the present report, the Belgian figures are and have always been below the EU mean. On the inmate/staff ratio Belgium is below average.

## 4 Further reading

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# Bulgaria<sup>1</sup>

## 1 Background

### 1.1 History

After the Bulgarian state became sovereign in 1878, it set out to evolve its own system of criminal legislation. The Penal Act adopted in 1896 marked the beginning of modern criminal legislation in Bulgaria. It was modelled after the Hungarian Penal Act and the Russian Penal Bill. The principles of the European tradition of criminal legislation in the spirit of the classical school have persisted up to the present despite the political changes in Bulgaria.

The difficult crime situation after World War I prompted the adoption of legislative acts directed against corruption in the state administration, profiteering and crimes against person and property. Laws of a political nature were enacted to counter political instability after 1923-1925. During World War II certain legislative acts were adopted to ensure better protection against profiteering.

The political and social changes after 1944 necessitated steps towards the adoption of criminal legislation based on the socialist model. A new Penal Act was adopted in 1951, followed by a new Penal Code in 1956. The entire penal field was codified, precluding the adoption of criminal legislation outside the Penal Code in the future.

Twelve years later, in 1968, a new Penal Code was adopted. The 1968 Penal Code retains the basic principles and agencies of classical Western European criminal law, as developed in the 1956 Penal Code. Its special part, however, adopts and elaborates elements typical of the new type of socialist law: the phases of social development, more rigorous protection of state property, etc. Some of the subsequent amendments to the Penal Code formed part of an effort to harmonise the national legislation with the international instruments ratified by Bulgaria. Following the major economic and political changes at the end of the 1980s and the beginning of the 1990s, revisions and additions have been designed to provide protection against crimes which

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<sup>1</sup> This profile has benefited from comments made by Dr. Boyan Stankov, Director, Council for Criminological Research, Mr Dimitar Dimitrov, Deputy General Prosecutor, Prosecutor's Office, Mr Rumen Georgiev, Deputy Director, National Investigation Service and Mr Alexander Hadzhijski, President of the National Statistics Institute.

were not typical of the social system in the past. For example, a Money Laundering Act entered into force in 1997.

The law of criminal procedure evolved in close connection with substantive law. The Criminal Court Proceedings Act 1897 has been amended repeatedly, especially as crime increased in 1935-1937.

During the transition to the socialist state system after the Second World War, temporary procedural legislation was adopted. This legislation was revised thoroughly later on. The three-level system of courts and cassation proceedings were abolished, and a two-level system of courts was established in 1948. A new Code of Criminal Procedure was adopted in 1975. Later on this Code underwent revisions and additions designed to humanise the criminal procedure and to safeguard the rights and defence of the accused.

In 1993 elements of Anglo-Saxon procedure were introduced, for example in police investigation and in the form of faster and more effective criminal proceedings against perpetrators of minor offences. The Execution of Punishments Act 1969 regulates the organisation and operation of agencies responsible for the execution of punishments.

The transition to democratic rule required a reform in legislation. A draft Penal Code was prepared in 1992, and has been undergoing further study since then. A draft of a Code of Criminal Procedure and an Execution of Punishments Bill are under preparation. The existing Code of Criminal Procedure was amended for example in 1997, increasing the police role in the investigation, and affecting considerably the powers of the prosecutors and examining magistrates' powers.

In 1995, a National Programme for the Control and Prevention of Crime was adopted, focusing in particular on organised crime.

The 1994 Law on Special Intelligence Means was followed by a new law in 1997. Permission for using special intelligence means is, for the time being, given by the court.

The Central Commission on controlling anti-social activities of juvenile delinquents and of minors has been part of the Council of Ministers since 1996.

The age of full adult criminal responsibility is 18 years. From the ages of 14 to 18 years, persons who could understand the nature and meaning of the criminal act and who could control their own actions are dealt with as juvenile offenders.

## 1.2 Organisation and major principles

### **Police**

According to the Ministry of the Interior Act 1990 and the National Police Act 1993, the police is a specialised department of the Ministry of the Interior which maintains public order, prevents and detects crimes and other offences, participates in the investigation of crimes, protects the property of individu-

als, the state and organisations, organises and controls road safety, enforces passport regulations, etc. The National Police consists of the National Police Directorate, police departments with the Sofia Directorate and the Regional Directorates of the Interior, regional police departments and police stations.

A new Law on the Ministry of Internal Affairs and a Law on the National Police were passed in 1997. The 1997 Law on the Ministry of Internal Affairs sets out the principles, activities, organisation, management organs, rights, obligations and responsibilities of the personnel. The same law provides the Ministry of Internal Affairs with certain powers to protect the national security and preserve public order. The Law further stipulates the national and regional police structures. On the national level, for example, there is a Security National Service, a Police National Service, a National Service for the Fight Against Organised Crime, a Fire and Alarm Security National Service, a Frontier Police National Service, and a Gendarmerie National Service. Civil control over the activities of the Ministry of Internal Affairs is exercised by bodies provided for by the Constitution and by the Law in question.

The police consists of officers, sergeants and part-time civilian staff. University and secondary-school graduates are eligible for service in the police as officers and sergeants. Newly recruited police receive special training. Members of the police who have committed crimes are liable to prosecution in civil courts as of 1994.

The powers of the police are defined by statute and regulations. The police carry firearms and may use a pistol in case of an armed attack by an offender. Firearms may not be used against pregnant women and children under 14 years of age. In all other cases the police may use physical force and handcuffs, rubber truncheons and straitjackets. The police may check the identity of suspects while investigating a crime. They may detain, for up to 24 hours, offenders, persons who wilfully obstruct police actions, etc. Arrests may be made only with a warrant issued by a prosecutor. There is a statutory right for suspects to have legal advice on arrest.

### **Judicial bodies**

The judiciary is independent under Article 117 (2) of the 1991 Constitution. The judiciary consists of courts, prosecutor's offices and investigative agencies.

### **Investigative agencies**

The investigative agencies are part of the judiciary. They conduct preliminary investigation into criminal cases (Article 128 of the Constitution).

Under the Judiciary Act (26 July 1994), there is an investigative service with the regional and district courts, which try criminal cases as the first instance. The investigative agencies are the National Investigative Service and the regional and district investigative services, which are independent of the court. The investigators are law graduates. Assistant investigators have

been included in the investigative agencies in 1994. They are appointed by the director of the National Investigative Service.

### **Prosecutor's office**

The prosecutor's office has been independent of the court and the executive since 1947. Its structure corresponds to the structure of the courts (Article 126 of the Constitution). The prosecutor's office consists of the Prosecutor General's Office, and appellate, district and regional prosecutor's offices.

The Prosecutor General supervises the observance of legality in person and through the rest of the prosecutors. The prosecutor's office has the following powers:

- 1) to bring charges against criminals and sustain the charges in criminal trials;
- 2) to oversee the execution of punishments and other measures of compulsion;
- 3) to act for the repeal of unlawful acts of the ministries, agencies, public organisations and local authorities; and
- 4) to take part in civil and administrative lawsuits when provided for by the law.

Prosecutors have broad discretionary authority under the law. They may decide not to institute preliminary proceedings for minor crimes (if juvenile offenders are involved), or to dismiss preliminary proceedings, thus freeing the offender from criminal liability, and decide in favour of reformatory measures or an administrative penalty enforced by the prosecutors themselves or through other agencies.

The Criminological Research Council at the Prosecutor General's Office is the principal research centre in the field of crime in Bulgaria. The Prosecutor General's Office also has a Central Committee for Combating the Anti-Social Conduct of Minors and Juveniles.

### **Courts**

Justice is administered by the Supreme Court of Cassation, the Supreme Administrative Court, and the appellate, military, district and regional courts. Specialised courts may be set up only by law. Extraordinary courts are prohibited by the Constitution.

The courts supervise the legality of the regulations and actions of the administrative bodies. They try crimes of the general type, prosecuted by a public prosecutor, and of the private type, in which criminal proceedings are instituted on the basis of a complaint by the victim. The criminal procedure is accusatorial. As a rule, criminal cases are tried in open court, unless provided otherwise by the law. Cases involving juveniles are tried behind closed doors. Criminal cases are tried by judges and lay judges who have the same powers as judges.

The Supreme Court of Cassation exercises supreme judicial oversight over the application of the law by all courts. The Supreme Administrative Court supervises the application of the law by administrative courts. The Law on the Supreme Administrative Court was passed in 1997 (Official Gazette, No. 122/ 19 December 1997).

In 1998, the Code of Criminal Procedure was amended to provide for three levels of proceedings. This resulted in the establishment of courts of appeal and of an Appellate Prosecutor's Office. On 31 September 1998 Parliament passed a new Law on Judicial Power, which, after coming into force, radically changes the judicial system. The new law provides that the existing system of investigation organs will be abolished. The law was voted on in Parliament without the participation of the opposition and with the expressed disagreement on the part of most people working in the justice organs. It is possible that the President of the Republic will use his right of suspensive veto, and the matter may be referred to the Constitutional Court. Under these circumstances it is difficult to say when and to what extent the new system of judicial organisation will be implemented.

### **Supreme Judicial Council**

The Supreme Judicial Council (SJC) was set up under the 1991 Constitution and a special Act of Parliament. The SJC has 25 members, of whom eleven are elected by Parliament and another eleven by the judicial bodies. The Chairmen of the Supreme Court of Cassation and the Supreme Administrative Court and the Prosecutor General sit on the SJC *ex officio*. The SJC is chaired by the Minister of Justice who does not have the right to vote. The elected members serve on the SJC for five years.

The SJC appoints, promotes, demotes and dismisses judges, prosecutors and investigators. The listed officials must be legally qualified. They become unsubstitutable after three years in office. The Chairmen of the Supreme Court of Cassation and the Supreme Administrative Court and the Prosecutor General are appointed for a seven-year term by the President of the Republic on the motion of the SJC. Judges, prosecutors and investigators enjoy the same immunity as Members of Parliament.

The judiciary has an independent budget (Article 117 (3) of the Constitution).



## 2 Statistics

During the 1990s, reported crime has reached its highest level this century. Crimes new to this country have been recorded. Organised crime has emerged. Clear-up rates are rather low. Only a small proportion of offenders are brought to trial, which is the reason why data on convicted offenders and the crimes committed by them do not reflect the actual state of crime.

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities.

**Table 1. Victimization rates (in %) according to the ICVS, major cities: results from the 1997 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	5.0	5,8	7.3	1.3

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	67,303	748.6	203,890	2387.5	199,318	2360.7
Homicide	382	4.2	963	11.3	986	11.7
Assault	159	1.8	749	8.8	1,079	12.8
Rape	524	5.8	993	11.6	903	10.7
Robbery	1,220	13.6	5,484	64.2	6,597	78.1
Theft	51,606	574.0	185,525	2172.4	178,994	2120.0
Theft of cars					-	-

The response to the Fifth United Nations Survey notes that “data for crimes and their perpetrators during the period 1991-1994 are not compatible with the previous periods, due to changes in the methodology of reporting.”

The amount of reported crime increased from 1991 to 1992, after which the rate stabilised. The trend was dominated by the trend in reported cases of theft, which accounted for 77% of the cases in 1990, and 90% in 1994.



**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	12,403	12,417	10,845	6,935	9,474
Intentional homicide (incl. attempts)	175	175	179	180	196
Causing death by negligence	100	90	40	38	50
Assault	434	523	420	241	349
Robbery	289	360	375	340	450
Theft (incl. burglary)	3,839	4,928	5,370	3,332	4,632
Drug offences	7	4	-	4	9

The table above reflects the steady decrease in the number of cases being dealt with in court. However, towards the end of the period there was an increase in the number of persons convicted.

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	100.0	92.0
Prisoner rate		123.7	99.1
% women in the prison population <sup>1</sup>		4.9	3.0
Prisoner rate / 100,000 (convicted only)	Adults	103.7	67.7
	Juveniles	1.6	0.4
% of females of convicted prisoners	Adults	6.7	3.8
	Juveniles	4.9	0.0
% of juveniles		1.5	0.5

<sup>1</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

Punishments are imposed by the court, which passes a sentence. As a rule, criminal cases are tried in open court, although several exceptions to this are specified by the law. A first instance court panel consists of one judge and two lay judges. When an offence carries over 15 years' imprisonment or the death penalty, the court panel consists of three judges and four lay judges. Second instance court panels consist of three judges.

A special criminal procedure is followed in cases involving juveniles (between 14 and 18 years of age).

The Penal Code provides for the following sanctions:

- 1) imprisonment;
- 2) corrective labour without imprisonment;
- 3) confiscation;

- 4) fine;
- 5) compulsory settlement without imprisonment;
- 6) disbarring from office;
- 7) revocation of the right to practise a certain profession;
- 8) internal exile;
- 9) revocation of decorations and titles;
- 10) demotion in rank of military officers; and
- 11) public censure.

The execution of the death penalty was suspended de facto in late 1989, and a moratorium was imposed de jure in 1990. The death penalty was abolished in 1998. Life imprisonment was introduced into the penalty system of the Criminal Code in 1995.

**Table 5. Trends in sentencing.**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	12,403		10,845		9,474	
Imprisonment	8,990	72.5	8,550	78.8	7,766	82.0
– of which conditional	(5,788)	(46.7)	(5,726)	(52.8)	(5,207)	(55.0)
Fine	1,262	10.2	1,379	12.7	999	10.5
Work obligation	1,593	12.8	469	4.3	192	2.0
Compulsory settlement	373	3.0	260	2.3	432	7.7

The number of persons sentenced for offences has decreased gradually throughout the period under review. At the same time, the proportionate use of imprisonment had increased.

During 1990, 677 adults and 50 juveniles were placed on probation. During 1994, 825 adults and 28 juveniles were placed on probation.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Bulgaria, 3.6% of the urban respondents would have favoured a fine, 5.6% a suspended sentence, 46% community service and 41% imprisonment. Among those favouring imprisonment, the average suggested sentence was 48 months, which is relatively long in an international comparison.

### **Prison population**

The Execution of Punishments Act defines the type of establishment in which sentences are served. These include special institutions for junior offenders, and open, semi-open and closed corrective-labour institutions and prisons. The type of establishment to which a convicted person is committed is stated in the sentence. Convicted prisoners are separated from persons awaiting trial

or with indeterminate sentences. Inmates are given education and work experience free of charge. Prisoners are eligible for remission of their sentence.

For both 1990 and 1994, Bulgaria reported 12 adult prisons (with 9,000 beds) and one juvenile prison (with 250 beds). The corrective institutions are subordinate to the Ministry of Justice. There are no privately run prisons in Bulgaria. The Central Penitentiary Administration manages all corrective establishments.

Data on the number of persons admitted to prison, classified by offence, were not provided in the response to the Fifth United Nations Survey. The response did note that the total number of persons admitted under sentence was 2,091 in 1990, 1,987 in 1991, 1,819 in 1992, 1,314 in 1993 and 1,450 in 1994.

At the end of the year, the total number of convicted prisoners was as follows: 1990: 9,464; 1991: 6,035; 1992: 5,801; 1993: 6,067; and 1994: 5,749. Relatively few of these prisoners were foreign nationals (for example, 53 at the end of 1990, and 44 at the end of 1994).

The Code of Criminal Procedure specifies the cases in which pre-trial detention is possible. An offender may be taken into custody when the crime is punishable by over ten years' imprisonment or death. A warrant for pre-trial detention or custody is issued by the prosecutor. The relatives of the arrested person are notified of the arrest. The police may detain a person for 24 hours without a prosecutor's warrant.

The response to the Fifth United Nations Survey provides exact data for 1994 on the average length of prison sentence actually served by adults in prison. (There is no provision for parole in Bulgaria.) For intentional homicide, this period was 9 years, 8 months and 20 days; for rape, 4 years, 1 month and two days; for robbery, 3 years, 9 months and 19 days; and for theft, 1 year, 4 months and 2 days. For all offences, the average was 1 year, 8 months and 27 days.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	6.3	7.0
	% female	-	41.4
Judges	total / 100,000	7.8	11.7
	% female	57.7	67.8
Prison staff	total / 100,000	31.9	33.6
	% female	22.2	14.6

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the amount of reported crime increased from 1991 to 1992, after which the rate stabilised. The trend was dominated by the trend in reported cases of theft, which accounted for 77% of the cases in 1990, and 90% in 1994.

According to the results of the ICVS, 38% of the respondents in urban areas in Bulgaria had been the victim of a crime during the preceding year, the second highest urban proportion in Europe and North America (a ranking shared with urban populations in Finland, the Netherlands and Ukraine). For individual offences, the urban victimisation rate was 5.8% for burglary, 4.9% for assault or threat, 13.4% for theft from or of a car, and 3.1% for robbery.

On the index of homicide, Bulgaria had an above average score. Bulgaria had a very high score on the index of serious violence and on the index of violence in general.

Internationally speaking, Bulgaria also appears to have a very high amount of burglary and offences against motor vehicles. Bulgaria had an above average amount of petty crimes.

On the index of the amount of corruption, Bulgaria had the second highest rank out of 45 countries. However, this was calculated on the basis of limited data, since there were no Transparency International or World Competitiveness Yearbook data for the country.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the ICVS, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”), urban respondents in Bulgaria gave a low result of 2.32 (13th lowest out of the 33 countries for which comparable urban data are available). In 1995 Bulgaria had the eighth highest reported unemployment figure in Europe, 13.3% of the active labour force. This was several times higher than the corresponding figure five years previously (1.7%) (The Economist Pocket Europe in Figures, 1997). The “strain index” calculated for Bulgaria was 7.5, which is somewhat above average for Europe as a whole.

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

According to the UN Compendium on Human Settlements, 68% of the population in Bulgaria live in urban areas. The 1997 Human Development Report assigns Bulgaria with a “human development index” of 0.78, and the World Bank reports a GNP of USD 1,160 per capita (1994), the tenth lowest in Europe and North America. According to the ICVS, 80 % of the urban population lives in flats; internationally speaking, this is a moderately high percentage. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) The ICVS also indicated that the population in Bulgaria are about average among European and North American respondents in spending their leisure time outside of the home, with respondents reporting spending an average of 3.07 evenings per week away.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index” Bulgaria, at 33.3, is somewhat below the Central and Eastern European mean of 37.89, which would thus suggest a below average risk of property offences. (However, as noted, Bulgaria has an unusually high burglary rate.) 23.7% of the urban population report the use of special door locks, 12.5% the use of special window grills, and 4.7% the use of burglar alarms in their household; these rates are about the mean for Europe and North America.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. According to the ICVS, 8.1% of the respondents in urban areas in Bulgaria stated that their household had a handgun – the sixth highest urban rate among the 36 European and North American countries in which the study has been carried out. Alcohol consumption, according to the World Drink Report, is above average, with a per capita consumption of 2.84 litres of strong alcohol, 56 litres of beer and 22 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Bulgaria has one of the lowest ratings in Europe and North America. According to urban ICVS data, 5.2% of the respondents were divorced; internationally, this is somewhat above average. According to the 1997 Human Development Report, the so-called gender-related development index in Bulgaria in 1994 was a modest 0.77, placing it in the middle range, internationally. 13% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that only 5% of persons at the top levels of government are female. This can be compared with the fact that Bulgaria appears to fall in the middle range of countries in respect of violence

against women. Although Bulgaria's ranking on the violence against women index was thirteenth highest out of 44 countries (the same ranking as Scotland), the results of the ICVS showed that only 2.1% of the female respondents in urban areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This is the thirteenth lowest among the 31 countries for which the 1991 data are available.

According to the World Values Study attitude survey, respondents in Bulgaria showed about average tolerance among European and North American respondents for deviance: 31% of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. Similarly, respondents in Bulgaria were, internationally speaking, in the middle range in respect of their readiness to justify the commission of misdemeanours and petty crimes under certain conditions (14 and 14, respectively). In respect of minorities, however, respondents in Bulgaria showed very high intolerance.

All in all in respect of the data on determinants of crime, Bulgaria had a very high positive loading in respect of strain-related violence (+1.05), a very high positive loading – indeed, the highest loading – in respect of serious property crime in urban settings (+1.79), and a negligible loading in respect of opportunistic petty crime (+.02) (see Table 10 in part I, p. 49). This can be interpreted to mean that there is an above-average propensity for strain-related violence and for serious property crime in Bulgaria, and the potential for petty crime is about average. Bulgaria's high loading in respect of serious property crime is an oddity, in that in almost all the other countries with high loadings (England and Wales, the United States, Scotland, Canada, Spain, France and Italy; an exception is Estonia) are relatively affluent Western countries where many people live in metropolitan areas and where motor vehicles are the most common means of transportation.

### 3.3 Operation of the criminal justice system

On the Law Enforcement Resources index (which, broadly speaking, reflects expenditure on the criminal justice system) Bulgaria has a score of 26, just below the regional mean of 27. The main determinant here is the number of correctional staff per 100 000, 34 in 1994 (data on the number of police are lacking). This contributes also to the position of Bulgaria in the fourth quartile when measured by the ratio of inmates and correctional staff, although the prisoner rate is not exceptionally high. The score on inmates/staff scale, 3.1 in 1994, is actually considerably lower than the regional mean. (It seems that there is a great difference between regions when calculating the inmate/staff ratio.)

On the criminal justice gender balance index Bulgaria is well in the fourth quartile (39; the regional mean was 28). Especially the share of female judges is very high, surpassed only by Latvia. The percentage of the female correc-

tional staff, in turn, is lower than the mean of all countries, let alone the Central and Eastern European mean. Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than do the EU countries, reflecting their high shares of female prosecutors and judges.

The “citizen evaluation of police performance index” for Bulgaria was 21 out of 50, a low result. According to the ICVS, only 33% of victims in urban areas reported the offence to the police, a low proportion. 61% of victims in Bulgaria who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a relatively high proportion when compared with the results from other countries participating in the ICVS. Moreover, 62% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, again a high proportion. All three rates suggest that more work needs to be done in increasing public confidence in the police.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed (see part I, pp. 95-100). In general, and with the exception of the number of suspects in proportion to the number of offences (which was relatively close to the mean) Bulgaria has low or very low proportions. It would seem as if an “average” number of suspects are identified, but then tend to drop out of the criminal justice for one reason or another.

The prisoner rate and the number of custodial sentences imposed per 100,000 in population have decreased during the period under review, from 123 in 1990 to 99.1 in 1994, and from 99,989 in 1990 to 91,982 in 1994, respectively.

All in all, the dominating feature of crime and criminal justice in Bulgaria appears to be the high level of crime, whether measured by the number of offences reported to the police or by the results of the International Crime Victim Surveys. The low level of confidence in the police is presumably connected with this. At issue may be the belief of the public that the police as such can bring about a marked reduction in crime, and their disappointment that this has not (yet) happened. Nonetheless, the police can point to the stabilisation of the number of reported crimes, done at a time when the criminal justice system has been suffering from a shortage of resources.

## 4 Further reading

Stankov, Boyan (1996). *Criminal Justice Systems in Europe and North America: Bulgaria*. Helsinki: HEUNI.



# Canada<sup>1</sup>

## 1 Background

### 1.1 History

Canada is a federalist country consisting of ten provinces and two territories, governed by a parliamentary democracy. Responsibility for the various parts of the criminal justice system is shared and divided among all levels of government: federal, provincial, and municipal. The Constitution Act of 1867 defines and establishes the division of power and authority between the federal and provincial levels of government. The two territories receive their power from the federal authority, while the ten provincial governments may grant certain powers to the local or municipal governments. For example, the provinces have the power to create police forces that have provincial or municipal jurisdiction, while the federal police force, the Royal Canadian Mounted Police (RCMP), is concerned mainly with the enforcement of federal statutes (e.g. the Customs Act and the Narcotic Control Act).

Under Section 91 of the Constitution Act, the Canadian Parliament has the exclusive jurisdiction to pass criminal laws and legislate rules for criminal procedures. The provinces, under Section 92 of the Constitution Act, have jurisdiction over the administration of justice in each province (and thus excepting the system of federal courts). This includes the maintenance and organisation of provincial courts in both civil and criminal jurisdictions, and civil procedure as applied in provincial courts.

The Canadian legal system emerges from both Roman law and English common law traditions. “New France” was established in 1664 in accordance with the laws of France. English common law came to Canada via the English settlers and was partially introduced into Quebec when this province became part of Canada in 1763. Today, civil law in Quebec is based on the Code Civil du Quebec which is derived from the French Napoleonic Code. In the other Canadian provinces, civil law is based on English common law. There have been some statutory modifications in both cases.

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<sup>1</sup> This profile was originally prepared by Ms Debra Cohen and Ms Sandra Longtin, both at the School of Criminal Justice, State University of New York at Albany. The profile benefited from comments made by Professor Emeritus Ezzat A. Fattah, Mr. Andrew Kohut, Executive Director and Ms Shelley Crego, Senior Information Officer, Canadian Centre for Justice Statistics, Statistics Canada, Professor Irvin Waller, Director General, International Centre for the Prevention of Crime and Mr Ole Ingstrup, Commissioner, Correctional Service Canada.



Criminal law is based on the Canadian Criminal Code, submitted to Parliament and enacted in 1892. Over the years numerous amendments and revisions have been made, including substantial revisions in 1955. In 1985, a substantially modernised and amended Criminal Code came into force. Although the concept of a separate Code (as opposed to common law offences) derives from Canada's French heritage, the Criminal Code is derived almost exclusively from the principles of English criminal jurisprudence and is uniform across the country (Van Loon and Whittington, 1976: 160). Under the terms of the Constitution Act (1867), the federal government has exclusive jurisdiction to legislate criminal law, which applies to every jurisdiction in Canada. The Constitution Act also empowers the provinces to pass laws but only in those areas where they have been assigned responsibility, such as the provincially regulated Highway Traffic Act and the Liquor Control Act.

The Constitution (the Constitution Acts of 1867 and 1982) is the "supreme law of Canada." Even Parliament and the Legislatures are bound by its provisions. Laws inconsistent with the Constitution are legally invalid. The courts are responsible for deciding whether certain laws are inconsistent. The courts interpret the Constitution and decide how its provisions apply to particular circumstances. The Constitution set limits on the powers of Parliament and the Legislatures, and establishes other governing requirements.

In April 1982, a new dimension was added to the Constitution. The Canadian Charter of Rights and Freedoms became Part I of the Constitution Act. For the first time in Canada, the supreme law included guarantees of certain rights and freedoms which, subject to certain limitations, had to be observed by all who make or administer the law. The courts now had to decide whether legislation or actions by officials offended any of the rights and freedoms guaranteed in the Charter, as well as the other elements of the Constitution.

The Parole Act created the National Parole Board. The NPB makes the decision to grant, deny, or revoke parole for all federal inmates. The Act was amended in 1977 to allow provinces to establish their own parole boards for provincial inmates.

The Narcotic Control Act (1970) was designed to control the flow of narcotics by making narcotics offences a federal crime.

The Bail Reform Act, enacted in 1971, constrains the warrantless arrest powers of the police by requiring that suspects be released if the police have no reasonable or probable grounds to believe that the public interest or safety would be in jeopardy.

## 1.2 Organisation and major principles

### Police

Police forces are generally divided into provincial, municipal, and federal units. To an extensive degree, decisions on policy are made on the municipal level.

The Royal Canadian Mounted Police (RCMP) is primarily responsible for enforcing federal statutes (such as the Criminal Code of Canada) and executive orders, providing protective services, policing airports and government buildings, and policing remote geographical territories. The RCMP is the single policing agency serving the Yukon and Northwest territories, the area of which accounts for more than one-third of Canada. The RCMP Commissioner (with Deputy Minister rank) is directly responsible to the Solicitor General of Canada (the acting Minister of Justice). Although the RCMP primarily enforces federal statutes, it sometimes combines efforts with municipal or provincial forces (e.g. in respect of organised crime and narcotics). The RCMP has also been contracted out by eight provinces to provide provincial police services. In these provinces, the RCMP derives its authority both from its headquarters in Ottawa and from the provincial attorney generals. Thus, although the RCMP is a federal agency, its jurisdictional responsibility can extend into the provinces as well. In this respect, therefore, the RCMP also enforces provincial and municipal legislation.

Municipal police forces have jurisdiction over the most heavily populated areas (e.g. Metropolitan Toronto), utilise the largest amount of police resources, and are comprised of city, village, county, and township police forces. Most are organised along lines similar to the Ottawa municipal police force, with the Chief of Police reporting to the Attorney General of the province. The Chief of Police is served by the Deputy Chief of Field Operations (traffic and patrol), the Deputy Chief of Staff Operations (investigations), and the Deputy Chief of Administration and Staff Services. The provinces, by law, must financially support municipal police forces. Municipal forces enforce all laws in their area of jurisdiction, including the Criminal Code, provincial statutes, the bylaws of the municipality and certain federal statutes, such as the Narcotic Control Act and the Food and Drugs Act.

Provincial policing is largely decentralised. Ontario and Quebec are currently the only provinces which operate their own provincial police. Generally their duties cover those geographic areas not already covered by the municipal police although there are continuous exchanges of information between the two agencies. The Ontario Provincial Police is headed by the Ontario Provincial Police Commissioner, who is supervised by the Solicitor General. The Commissioner oversees three separate department heads: the Provincial Commander of Field Operations, the Provincial Commander of Services, and the Provincial Commander of Investigations (*Ontario Provincial Police 1989 Annual Report*, 1990: 3).

The Provincial Minister of Justice supervises the Commissioner of the Quebec Police Force. The Commissioner has a “chief inspector or inspector” responsible for each of the eight district divisions. The Criminal Investigations Bureau, the anti-terrorist Security Service, the Special Intelligence Service, and the Scenes of Crime Service are a few of the departments operating under the Operations Service division of the force (Kurian, 1989: 54-55).

Other types of policing agencies include the RCMP Marine Services, the Air Section of the RCMP, the Canadian Pacific Railway Police, the Canadian National Railway Police, and the National Harbors Board Police. Although the Department of National Revenue, the Department of Justice, the Post Office Department and the Immigration Service primarily only have investigative powers, they may collaborate with the RCMP in law enforcement efforts. As of 1985, there were at least 18 private security/policing agencies.

### **Investigation of offences**

Police can make an arrest (i.e. take into custody) with or without an arrest warrant. An arrest warrant may be issued by the Justice of the Peace if probable grounds exist that the public interest would be served by this action, such as there is a high risk that the suspect will leave the area. Arrest warrants are mainly used for persons who fail to appear in court, are at-large, or fail to pay a fine. Under Criminal Code Section 28, police are required to inform the suspect about the reason for the arrest.

### **Serious and petty offences**

Crimes are generally divided into summary and indictable offences. Indictable offences include only the most serious crimes, which are punishable by at least two years imprisonment in a federal penitentiary, such as murder, sexual assault, and robbery. Since the Canadian Criminal Code is applied in all provinces, territories, and municipalities, the definition of indictable offences is uniform in all jurisdictions. Summary offences are less serious, such as motor-vehicle offences and creating a disturbance. Sentences can range from fines (maximum of CAD 2,000) and probation to a maximum of six months incarceration in a provincial prison. Unlike indictable offences, summary offences are most often defined by provincial or municipal legislation, although the Criminal Code also contains many summary offences.

### **Arrest warrants**

Most arrests are made without a warrant (although no official statistics exist as to the exact proportion). Warrantless arrests can occur if the police are certain or have probable grounds to believe the suspect has committed or is about to commit an indictable offence, is committing a crime within view of

the police officer, or has an outstanding arrest warrant. Except for very serious offences, police are constrained under the Bail Reform Act of 1971 toward making warrantless arrests only if they believe that an arrest is the only way a suspect will show up for trial or if the “public interest” necessitates it (e.g. preventing the suspect from committing future offences or destroying evidence) (Birkenmayer, 1993; Griffiths et al 1980: 84).

Warrantless arrests are made at the discretion of the police officer, who can bring the suspect before the Justice of the Peace (the lowest ranking judicial officer). The Justice then decides whether or not to grant bail. The bailing process can last up to eight days (Birkenmayer, 1993), although in general a bail hearing would proceed either immediately before the Justice of the Peace, or the next morning before a provincial court judge. An alternative to arrest is the “appearance notice” which a police officer can issue. The appearance notice (which is used, for example, in the case of offences that are indictable but in the absolute jurisdiction of the provincial court) ensures the suspect will appear for trial by specifying a time and place (e.g. court house or police station) for attendance. Another option the police may exercise is to request that the Justice of the Peace issue a summons for the suspect to appear at trial (Griffiths et al, 1980: 85).

### **Search and seizure of property**

Police are allowed to search the person in the course of making an arrest in order to locate further evidence relating to the charge in question or to locate any item which might assist this person to escape from custody or permit him or her to cause any violence. Without an arrest being made, the police generally require authorisation for the search from a Justice of the Peace. The search must usually be conducted during the daylight. However, evidence obtained by an illegal search can still be introduced as evidence at trial.

A citizen must answer the questions of a police officer and may be subject to arrest for obstructing justice for refusal to do so. (However, suspects must be advised of their right to counsel, and cannot be compelled to give a statement.) In some provinces, drivers of motor vehicles are required, when stopped, to give their name and address to the police officer. A confession can be entered into court as evidence of a crime only if it can be proved that it was given voluntarily. Although not required by law, the arresting police officers will inform a suspect of the right to remain silent and the right to counsel so as to prove that a confession statement was made voluntarily.

### **After the arrest**

The suspect must be brought before the Justice of the Peace (or the provincial court judge) within 24 hours for further processing. At that point, the Justice of the Peace decides whether to detain the suspect further or release him or

her before the appearance at trial. Barring public safety risks, pre-trial detention is discouraged and most suspects are released after arrest.

### **Prosecution (information and indictment)**

The first step in prosecution is to charge the suspect with a crime. The word “charge” does not have any precise meaning in law, but merely means that steps have been taken that will, in the normal course of things, lead to criminal prosecution. Once charged with an indictable offence, the person must appear in court personally to set a date for trial. However, an accused who is charged with a summary conviction offence may appear through an agent (a person who can legally represent the accused, e.g. lawyer, tutor, curator). An accused charged with a summary conviction offence may not have to appear at trial, but technically have an agent appear instead. Although a lawyer can appear without a client at trial, the trial judge can order that the accused be present.

### **Preparatory judicial procedures**

Before a suspect can be criminally prosecuted, another person must put forth information before a Justice of the Peace in which he or she swears the accused has committed a specified offence or that there are reasonable grounds to believe that someone has committed a specified offence. In most cases, the person who swears on the information presented to the justice will be a police officer, but any private person having knowledge of a criminal offence may be the informant. (However, in practice the Crown will normally not allow private information to proceed.)

Once the justice of the peace having jurisdiction has received the information, he or she must decide whether a case has been presented that warrants prosecuting the alleged offender. This is the first judicial determination in the prosecution process. It is not a determination of whether the alleged offender is guilty or not; it is only a determination that there are grounds that, absent any explanation or defence, would warrant the alleged offender being put on trial (Mewett, 1988: 13-14). Once the justice of the peace decides there are grounds to support a prosecution, he or she can “issue process” (e.g. issue a summons) which is an order directed to the accused requiring him or her to appear on a certain date at a particular court.

Finally there is a judicial interim release hearing, in which the accused is put in temporary custody while waiting to be brought before the justice. This generally occurs if the police believe that it would be in the best interest of the public to hold the accused or when the offence is of a serious nature.

Each province of Canada has an organised state prosecution machinery under control of the provincial Attorney General. Those offences prosecuted by the federal government have a similar federal prosecution machinery operating under the control of the Minister of Justice and Attorney General

for Canada. Part of this machinery consists of staff members (lawyers) of various localities (counties, district or cities) with various titles (e.g. Crown Attorney, Crown Prosecutors, City Prosecutors, Federal Prosecutors, and part-time “agents”). They fulfil many duties and functions, one of which is to prosecute criminal offences on behalf of the Queen.

## **Trial**

Crimes are considered to be offences committed against the state, symbolised by the Queen of England. Since the state is regarded as the aggrieved party, all criminal trials are conducted in its name (i.e. Regina v. John Doe). At the trial an accused person may testify in his or her own defence, but cannot be compelled to testify. The accused cannot be forced to help incriminate himself or herself by being compelled to be a witness at the trial. The right of the accused not to be forced to testify also generally applies to the accused’s spouse. A spouse must testify for the accused if called as a witness, but cannot be called as a witness for the prosecution. In this respect, however, there are certain exceptions concerning sexual offences and offences involving a victim under the age of 14, in which a spouse can be compelled to testify for the prosecution (Mewett, 1988: 26).

## **Assistance to the accused**

The systems for legal aid vary from province to province. In general, the province appoints an attorney to assist an accused who meets certain financial hardship requirements and who, if convicted, may be imprisoned. If an accused, when first appearing at trial, has not retained a lawyer, he or she will be given an opportunity to hire one.

## **Judicial principles and safeguards**

The Canadian Charter guarantees that any person charged with an offence has the right:

- a) to be informed without unreasonable delay of the specific offence;
- b) to be tried within a reasonable time;
- c) not to be compelled to be a witness in proceedings against that person in respect of the offence;
- d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
- e) not to be denied reasonable bail without just cause;
- f) to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
- g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or

- international law or was criminal according to the general principles of law recognised by the community of nations;
- h) if finally acquitted of the offence, not to be tried for it again, if finally found guilty and punished for the offence, not to be tried or punished for it again; and
  - i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment (Mewett, 1988: 23).

Appeals at the level of indictable offences are made to the court of appeal. Persons appealing the sentence for a summary offence must go to the district or county court judge.

### **Alternatives to trial**

In absolute indictable offences (e.g. murder, treason, piracy) the accused has no choice but to stand trial by a superior court of criminal jurisdiction sitting with a jury (unless both the accused and the Attorney General consent to trial without a jury). However, there is another group of indictable offences that are not considered serious enough to require a trial either by judge and jury or by a federally appointed judge. In these cases, the accused must be tried by a provincial court judge unless, for some exceptional reason, the judge decides otherwise. These types of offences include theft under CAD 1000 (when prosecuted as an indictable offence), most gaming and betting offences and some other fraud and property offences of a relatively minor nature.

For all other indictable offences, the accused can choose (“elect”) one of the three different courts of criminal jurisdiction available. Under the Criminal Code, there are three levels of trial courts: the superior court of criminal jurisdiction, the court of criminal jurisdiction, and the summary conviction court. Only about 10% of all cases are brought to trial before a judge and jury. Pre-trial diversion programs also exist to enable the diversion of charged young offenders who have not yet been convicted, out of formal criminal proceedings to an alternative method of case resolution. (Adult diversion programs, largely modelled after the alternative measures provided under the Young Offenders Act, are used to assist with sentencing, or included as part of an absolute or conditional discharge. They include personal service programs such as restitution and helping the victims repair property damage, as well as alcohol/drug rehabilitation and educational programmes.)

### **Pre-trial detention**

Interim release of persons awaiting trial is encouraged. However, legislation has attempted to define the circumstances where pre-trial detention is necessary. Criminal Code section 515(19) provides that, in the cases of ordinary



offences, the detention of an accused in custody is justified on the primary ground of ensuring attendance in court, or on the secondary ground of the public interest or public safety, including any substantial likelihood that, if released, the accused will commit a criminal offence or interfere with the administration of justice.

### **Bail procedure**

The principle governing bail hearings, generally, is that an accused charged with other than certain very serious offences is entitled to be released but must return to appear in court on the day of trial. This principle applies unless there is reason to believe that additional measures must be taken to ensure appearance at trial. If the Crown Attorney can show cause why the accused should be detained in custody or why the accused should not be released on his or her unconditional undertaking, the accused will not be released. If the Crown prosecutor cannot show cause why the accused should be detained in custody, but can convince a judge that the accused should not be released without conditions, a justice or a judge will release the accused only under certain conditions.

### **Structure of the courts**

Administration of the court system varies by the particular province or territory. There are presently twelve judicial jurisdictions: Newfoundland, Prince Edward Island, Nova Scotia, British Columbia, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, Yukon, and the North West Territories. Generally, the hierarchy of courts is as follows (highest to lowest): Supreme Court of Canada (appeals for summary and indictable offences), Court of Appeal (appeals for summary and indictable offences), District/County Court (summary appeals and indictable trials), Provincial Court-Criminal Division (summary and indictable trials; summary appeals; preliminary hearings), summary offences / municipal offences / provincial offences / Traffic Safety Court (summary trials).

### **Trial courts**

The Criminal Code provides for three levels of trial courts: the superior court of criminal jurisdiction, the court of criminal jurisdiction, and the summary conviction court. The superior court of criminal jurisdiction is the highest level of trial court in each province. Its actual designation differs from province to province. It may be called the Supreme Court of the Province, the Superior Court, or the Court of Queen's Bench. It is always presided over by a federally appointed court judge. The Superior Court of criminal jurisdiction has jurisdiction to try all indictable offences and, in criminal cases,



usually sits with a jury, though with the consent of the Attorney General and the accused, trial in a superior court of criminal jurisdiction may be held without a jury.

The court of criminal jurisdiction has jurisdiction to try all indictable offences except those which must be tried by a superior court of criminal jurisdiction (e.g. murder). The court of criminal jurisdiction usually includes a jury, to be presided over by a federally appointed judge (e.g. district or county court judge). Cases can also be tried in this court without a jury, so long as it is presided over by a federally appointed judge. The third, and lowest, level of criminal court is the summary conviction court. This is a court with limited territorial jurisdiction presided over by a provincial court judge or magistrate with jurisdiction to try only summary conviction offences (Mewett, 1988: 67-68).

### **Special courts**

Youth Courts process cases involving young persons, described by the Young Offenders Act of 1985 to be offenders between 12 and 17 years of age. Offenders under twelve years of age can not be charged with a crime. They are usually dealt with by the child welfare authorities. Family courts exist in some provinces, but they do not handle domestic violence cases. Domestic violence cases are handled by criminal courts in all jurisdictions (Birkenmayer, 1993). "Circle Courts" are used in criminal cases exclusively involving native Canadian defendants, which tend to arise in the more remote regions of Canada. Circle courts attempt to integrate native culture with modern Canadian law. Generally, the court actors (e.g. judge, prosecutor, defence attorney, defendant and victim) sit in a circle along with the defendant's peers. The panel of the defendant's peers (usually the elder statesmen in the group) can then help determine sentences by making recommendations to the sentencing judge. Their recommendations are almost always adhered to by the judge.

75 or 80 percent of persons elect trial by provincial court judge. This means that the offender gives up his or her right to a preliminary inquiry and proceeds directly to trial. About 80 percent of defendants tried by a provincial court judge plead guilty.

### **Age of criminal responsibility**

The Young Offenders Act (1984) raised the age of minimum criminal responsibility to twelve years for all provinces and territories. It also set the age of adult criminal culpability at 18 years across the country.

## Juveniles

The Young Offenders Act provides that only Criminal Code and federal statute offences are prosecuted in youth courts, which handle young offenders aged 12 to 17. Young offenders may, on the application of the Crown and at the recommendation of the youth court judge, be transferred to an adult court. They may also avoid formal prosecution and be put into a diversion or alternative measures programme at the request of the prosecutor. Should formal prosecution occur, there is a broad range of sentencing options under this Act, from probation, community service, restitution, treatment, secure custody or open custody to absolute discharge. The provinces are given responsibility to handle cases involving persons under twelve years old through a social service agency.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Canada and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989, 1992 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	2.9	3.3	6.6	1.2
Major cities	3.7	4.0	7.8	1.5

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	2,946,730	11084.6	3,171,226	11152.2	2,919,557	9982.1
Homicide	1,561	5.9	1,786	6.3	1,518	5.2
Assault	235,174	884.6	267,265	939.9	268,270	917.2
Rape	27,843	104.7	34,355	120.8	31,690	108.3
Robbery	28,109	105.7	33,201	116.8	28,888	98.8
Theft	1,014,572	3816.5	1,090,333	3834.3	1,003,322	3430.4
Theft of cars					-	-

The “theft” category includes shoplifting and “misappropriation of money held under direction”; the latter offence is partly related to the offence known in other jurisdictions as embezzlement. Theft together with burglary account for roughly one-half of all reported offences.

The total number of reported offences has remained on much the same level throughout the period under review. The same is true of most of the different categories of offences. The Canadian crime statistics do not include traffic offences. Also, as of 1992, data on municipal by-law incidents are not available. When comparing previous years to 1992 or later, municipal by-law data should be excluded.

## 2.3 Sanctions

No data on adult custodial sentences, prisoner rate and convicted prisoners were available for 1990. For 1994, the rate of adults convicted to custodial sentences was 108.7 per 100,000 population. The prisoner rate was 115 per 100,000 inhabitants in 1995 (Walmlsey 1997).

### **Sentencing**

It is in the discretion of the trial judge to pass sentence, regardless of whether a jury is present. However, for certain offences, the judge may be limited by the maximum, minimum, or fixed penalty provided under statute (Criminal Code Section 717). The sentence may be imposed at the date of the verdict or a subsequent date (Code of Penal Procedure, 1990: 228).

In certain cases, the psychological profile of an offender may constitute an important consideration in sentencing. The report of a psychologist or a psychiatrist is important in this regard. If there are indications the offender is psychologically handicapped and requires treatment, the judge will consider this mental deficiency when imposing sentence. The judge can recommend to the penal authorities that such treatment be arranged or provided for in an institution.

### **Types of penalties**

The range of penalties typically in use is life imprisonment, deprivation of liberty, control in freedom, warnings and admonitions, fines, community service orders and restitution.

Deprivation of liberty includes various forms of detention, including security measures, combined or split sentence (where at least one part of the sentence involves deprivation of liberty) and all other sanctions involving deprivation of liberty (i.e. where the person is forced to stay at least one night in an institution of any kind). Some inmates with a sentence of 90 days or

less are given intermittent sentences, which is mandated by the court, in which they serve time in prison on the weekends. The maximum term of imprisonment is life for indictable offences and 6 months for summary offences (Birkenmayer, 1993; Kurain, 1989: 56).

Control in freedom includes a probation order, a conditional sentence with additional supervision requirement and other forms of so-called liberty (i.e. cases where the person is required to fulfil special requirements with regard to supervision). Some probation conditions may include having to attend a government sponsored community correctional centre or a privately run community-based residential centre, both aiming towards offender reintegration into the community through guidance, supervision, and training. In addition, government sponsored Attendance Centre programs are used alone or as a condition of probation. They require the offender to attend a specified program on a regular basis. Probation orders vary across Canadian jurisdictions, with some offenders having very little contact with the probation agency (Annual Report, 1991; Ekstedt and Griffiths, 1988: 83).

Warnings and admonition include suspended sentences, conditional sentences, finding of guilt without sanctions, formal admonitions, formal warnings, imposing of duties without control, conditional dismissal, and conditional discharge.

If a fine is imposed, and the offender is unable to pay the fine, the offender has the option of participating in a Fine Option Program. Under this program, an offender can work toward fine payment by donating time and effort toward community service (Ekstedt and Griffith, 1988: 84).

Often as a probation condition, an offender may be ordered to donate time and effort to the community by performing an assigned task or contributing a certain number of hours towards the completion of a service-oriented task (Ekstedt and Griffiths, 1988: 84). For restitution, offenders are required to repay their victim(s) for costs incurred as a result of their crime (Ekstedt and Griffith, 1988: 84).

Prisons are typically used as a last resort in sentencing. Barring a serious crime such as murder, it is unusual for a first-time offender to be incarcerated. The majority of offenders have served four or five probationary terms before they are given prison sentences. The emphasis in Canadian corrections on reintegrating the offender into the community has led community-based corrections (e.g. probation, Attendance Centre Programs) to be used most frequently as a sentencing option. The following table displays the use of types of penalties.

**Table 3. Trends in sentencing**

Sentenced adults (incomplete data) <sup>1</sup>	1994-1995
(adults)	N
Total	270,874
Life imprisonment	0
Imprisonment	88,690
Control in freedom	66,973
Community service, warning	4,041
Fine	103,178
Restitution	151

<sup>1</sup> The data on the number of persons sentenced are based on the Adult Criminal Court Survey. These data only cover 1994-95, and refer to cases heard in provincial courts in seven of the ten provinces and in territorial courts. These correspond approximately to 80% of the activity of national and provincial adult court activity.

As noted, the data provided in the above table are incomplete. In particular it should be noted that persons sentenced in Superior Court are not included; this court deals with more serious offences.

According to the response, 66,097 adults were placed on probation during fiscal year 1990/1991, and 78,639 during fiscal year 1994/95. Data on the number of youths placed on probation during these years are not available. At the end of fiscal year 1990/1991, 82,901 adults and 27,525 youths were on probation. At the end of fiscal year 1994/1995, the corresponding figures were 99,910 adults and 32,264 youths.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Canada, 10% of the respondents would have favoured a fine, 9.8% a suspended sentence, 34% community service and 40% imprisonment. Among those favouring imprisonment, the average suggested sentence was 14 months.

### **Prison population**

Canada reports a total of 221 adult prisons as of both 31 March 1991 and 31 March 1995. The number of beds in 1991 was 32,916. In 1995, there were 34,984 beds. Corresponding data on youth prisons are not available.

The total number of persons admitted to Federal penitentiaries at first increased somewhat, from 4,296 in 1990 to 5,583 in 1992/93, and then decreased to 4,758 in 1994/95.

The average length of time spent in detention awaiting trial, for all offences, was reported to be six days in 1990, four days in 1992 and six days in 1994. The average length of prison sentence actually served (provincial/territorial institutions only) was 20 days in fiscal year 1990/91, 18 days in 1992/93 and 27 days in 1994/95. This increased length in time actually served partly explains the increase in the prison population.

According to partial data, during fiscal year 1990/1991, 12,503 adults were paroled from prison, and at the end of the fiscal year 9,430 adults were on parole. During the fiscal year 1994/1995, 13,625 adults were paroled from prison, and at the end of the fiscal year 10,733 adults were on parole. These data, however, do not include day parole in Quebec, Ontario and British Columbia.

## 2.4 Personnel and resources

**Table 4. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	271.1	249.0
	% female	20.6	23.5
Prosecutors	total / 100,000	-	-
	% female	-	-
Judges	total / 100,000	-	-
	% female	-	-
Prison staff <sup>1</sup>	total / 100,000	101.3	92.7
	% female	-	-

<sup>1</sup> Data only for adult prisons

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the total number of reported offences has remained on much the same level throughout the period under review. The same is true of most of the different categories of offences. According to the results of the ICVS in 1995, 25% of the respondents in Canada had been the victim of a crime during the preceding year, placing Canada in the middle range internationally. For individual offences, the victimisation rate was 3.3% for burglary, 4.3% for assault or threat, 7.9% for theft from or of a car, and 1.2% for robbery (averaged national rates for 1989, 1992 and 1996).

On the index of homicide, Canada fell within the middle range. Canada was moderately high in respect of the index of serious violence, and high in respect of the index of violence in general.

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

Although the over-all level of violence was thus moderately high, only 23.6% of the ICVS respondents stated that they tend to avoid certain places in their neighbourhood at night. This is a relatively low rate among the responding countries in Europe and North America. (The lowest rate, 16.6%, was in Northern Ireland.)

Canada appears to have a very high amount of burglary and of petty crimes. Canada had an above average amount of offences directed against motor vehicles.

On the index of the amount of corruption, Canada had a very low ranking. The Transparency International index for Canada is 8.9 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook, on asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero (prevails) to ten (does not prevail) – elicited the result of 8.0.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the ICVS, urban respondents in Canada appeared to be relatively satisfied with their income (a mean of 3.15 on a scale of 1 (“not satisfied”) to 4 (“very satisfied”)); this was the fifth highest out of the 20 countries for which comparable national data are available). In 1992, unemployment was relatively high, 11.3% of the active labour force. The “motivation index” calculated for Canada was 2.4, one of the lowest in Europe and North America.

In the international perspective, Canada is a highly developed country. According to the UN Compendium on Human Settlements, 77% of the population in Canada live in urban areas. The 1997 Human Development Report assigns Canada with a “human development index” of 0.96, which is the highest in the world, and the World Bank reports a GNP of USD 19,570 per capita (1994), the thirteenth highest in Europe and North America. According to the ICVS, 68.2 % of the population live in detached houses, and a further 9.3% in row houses. The proportion living in detached housing is one of the highest among European and North American countries. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) Nine out of ten households in Canada (89.1%) report that they have a motor vehicle, the second highest rate in Europe and North America among those countries for which the data are available. The ICVS also indicated that the population in Canada is very active in spending their leisure time outside of the home, with respondents reporting an average of 3.53 evenings per week away from home. This is the third highest proportion among the European and North American countries (after Northern Ireland and the United States).

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Canada’s score of 77.8 reflects a greater opportunity than is the mean in Western Europe (64.7), and indeed, as noted, for example the rate of burglary and petty crime is high. This is so despite the relatively high extent to which the population of Canada uses protective measures. 47% of the population report the use of special door locks, 23% the use of special window grills, and 16% the use of burglar alarms in their household – among the highest reported rates in Europe and North America.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. As for gun ownership, according to the ICVS, only 3.8% of the respondents in Canada stated that their household had a handgun – a moderately low percentage. Alcohol consumption, according to the World Drink Report, is about average, with a per capita consumption of 1.70 litres of strong alcohol, 68 litres of beer and 8 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Canada has a relatively high rating. According to the ICVS data, 7.8% of the respondents were divorced, the second highest proportion in Europe and North America. According to the 1997 Human Development Report, the so-called gender-related development index in Canada in 1994 was 0.94, the highest in the world. 19% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that, similarly, 19% of persons at the top levels of government are female. In this light, it is of interest to note that Canada appears to have a very high rate of violence against women. Canada, together with the Czech Republic, had the highest ranking on the violence against women index. 108 rapes were reported per 100,000 in population in 1994, the highest rate in Europe and North America, and almost three times the second-highest rate (39, in the United States). However, the exceptional nature of Canada’s high rate of violence against women was not supported by the results of the ICVS: 2.7% of the female respondents reported having been the victim of a sexual offence (including sexual harassment), and 6.6% of the female respondents reported having been the victim of violence during the preceding year. Although both proportions can be considered high, they were not the highest reported rates. One possible and presumably only partial explanation for the high level of reporting of violence against women, in a country noted for its attempts to promote sexual equality, is the greater awareness of such vio-



lence, which can well translate into a greater propensity to report violence either to the authorities or, in surveys, to researchers.

According to the World Values Study attitude survey, respondents in Canada showed very high tolerance for deviance (when compared with other European and North American respondents): 38% of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. Also in respect of minorities, respondents in Canada showed relatively high tolerance (second only to respondents in Switzerland). This tolerance was somewhat less evident in respect of misdemeanours and petty crimes; respondents in Canada were, internationally speaking, in the middle range in respect of their readiness to justify the commission of misdemeanours and petty crimes under certain conditions (17 and 15, respectively). This could also be seen in the results of the ICVS, which showed that respondents in Canada were, on the whole, in the middle range in respect of reporting offences to the police.

According to the 1997 World Competitiveness Yearbook, respondents in Canada rated their country very highly in respect of the extent to which they believed that the person and property is protected in their country: the result was 8.17 on a scale of zero to ten. The ranking of Canada on the indicator of the extent to which there was full confidence in the fair administration of justice in society was slightly lower, 7.62.<sup>3</sup>

All in all in respect of the data on determinants of crime, Canada had a negative loading in respect of strain-related violence (-.67), a positive loading in respect of serious property crime in urban settings (+.92), and an even higher positive loading in respect of opportunistic petty crime (+1.18) (see Table 10 in part I, p. 49). This can be interpreted to mean that, internationally speaking, Canada provides an above-average propensity for serious property offences and petty offences, but a considerably below-average propensity for violence.

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 28. This is slightly above the median for all countries for which the data are available (27). When computing this index, though, only data on the number of police personnel and correctional personnel were available, so the real situation may deviate somewhat from this. Canada has 249 police officers per 100,000 in population (the mean was 390) and 93 correctional officers

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<sup>3</sup> In this Survey, 25 European and North American countries were covered, including all 15 EU countries. The highest on the "protection" indicator was Austria, with 9.06, and the highest regarding the "fair administration" indicator was Denmark, with 8.29.

per 100,000 (the mean was 64; the Canadian data refer to 1994-1995, and includes a community corrections staff of 3,610 and 1,445 full-time equivalent positions in one province, British Columbia).

The score of Canada on the Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78-80) is one of the highest in Europe and North America (48; the mean is 28), but since this is based solely on the female share of police personnel, it cannot be used to make assessments about the gender balance in the Canadian criminal justice system as a whole.

On the Citizen Evaluation of Police Performance Index Canada scores very high (47), indicating very high public satisfaction with police performance. As a point of comparison, the mean score for the EU countries is 37, and the mean score for all countries is 27. Only Scotland and Switzerland receive higher scores from the general public on this index. In Canada the number of police officers is remarkably low but at the same time the local police force lies in the top quartile on most performance indicators. According to the ICVS, 54% of victims reported the offence to the police, a proportion which falls in the middle range internationally. 25% of the victims who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, the fifth lowest proportion among the 23 European and North American countries for which national data are available. Only 12% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which is clearly the lowest of any of the participating countries. (The second lowest rate of dissatisfaction, 15%, was in Norway; the mean was 37%.)

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police “productivity” (see part I, pp. 102-105). This proportion in Canada – 964 – is the third highest among those European and North American countries for which data are available.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed. (See part I, pp. 95-100). In general, Canada has low or very low proportions. Given what is known about the operation of the criminal justice system, these low proportions would presumably be largely a reflection of the propensity to divert cases away from the criminal justice system.

The prisoner rate is modest (115 per 100,000 population), lower than the mean for Europe and North America (158) but nonetheless above the mean for the EU countries (86). The prisoner rate has remained on about the same level during the entire period under review, although the different indicators provide mixed indications on this. The proportion of persons in prison who are awaiting trial (16% in 1994) is one of the lowest among the European and North American countries.

The average length of sentences in Canada in 1994 was only 4 weeks, clearly the lowest among all the European and North American countries for which the data are available. As a point of comparison, the EU mean was 37 weeks. (Data on the average length of sentences are missing from some EU countries: Austria, Germany, Italy and Portugal.)

## 4 Selected Issues

### **Victim assistance**

The primary responsibility for supporting victims and witnesses rests with the office of the Crown Attorney. According to the Canadian Criminal Code, it is society that is deemed the victim of an offence, and claims have been made that the “victim of the crime” is ignored (Baril, 1984: 259; Weiler and Desgagné, 1984: 19).

Most police departments and judicial districts have victim-witness assistance programs. There are also both private and government sponsored victim service agencies. All the provinces, except for Prince Edward Island, have Criminal Injuries Compensation Boards, through which victims are compensated by the government for distress, out-of-pocket expenses, salary loss etc. Health expenses are covered by the universal health care system in effect in Canada.

The administration of these programs varies among jurisdictions. These variations mainly occur in the type of crime a victim may be compensated for or how compensation is awarded (e.g. total sum or periodic instalments). Generally, property damage is not covered by such programs.

### **Special correctional programs**

Offenders in the Northwest Territories are often placed in a Land Program. This program is designed to accommodate the hunter-gatherer culture and lifestyle still prevalent among the native people of those regions. The inmates, mostly Eskimo, are allowed to be armed for the purpose of hunting caribou. The caribou they hunt provides meat for themselves, their families, and the community. Spouse and child support is counted by the number of caribou obtained (they would otherwise starve if the primary hunter was incarcerated and not allowed to hunt). The guards are not armed themselves, but oversee the inmates. Since the program’s establishment in 1990, there have been no escapes or incidents of violence (Birkenmayer, 1993).

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# Croatia<sup>1</sup>

## 1 Background

Prior to 1918, much of what is today Croatia was part of the Austrian-Hungarian monarchy, and the Austrian Criminal Code (1852) was in force. At the end of the nineteenth century a draft for a Croatian Criminal Code (the so-called Derencin draft) was prepared, but the proposed Code never entered into force. However, due to the autonomy enjoyed in the area, the Croatian Parliament adopted a number of significant amendments to the Austrian Criminal Code between 1872 and 1918. In 1875, the first Croatian Code of Criminal Procedure was enacted.

In 1918, Croatia became part of the Kingdom of Serbs, Croats and Slovenes (which was named Yugoslavia in 1929). The criminal legislation consisted of a Criminal Code (adopted in 1929) and Code of Criminal Procedure (1930).

After the Second World War, Yugoslavia became a socialist federative republic. A statute issued in 1946 repealed legislation given by the so-called Independent State of Croatia (a pro-Nazi government during the Second World War), and the earlier Yugoslav legislation remained in force to the extent that it was not in conflict with the Constitution or the new legal order. In 1947 the general part of a new Penal Code prepared under the influence of Soviet penal law was adopted. A need for reform was soon felt, and work began in 1948 on a new Penal Code, which was issued in 1951. It represents a partial return to the legislation of 1930. A series of gradual changes followed up to 1960. Among these, the most important is the amendment of 1959. This amendment was influenced by the new social defence movement. It brought more up-to-date provisions on the treatment of minors, a reduction of maximum prison terms and the abolition of life imprisonment.

In 1974 a new Constitution was adopted. Penal legislation had to be brought into line with this. Partial decentralisation of penal law was introduced, and thus in 1977 six republican and two regional Penal Statutes came into operation in addition to the Federal Penal Statute, which dealt primarily with the general part of penal law. The basic tenets of the Code of Criminal Procedure remained as promulgated in the amendment of 1967.

After the disintegration of Yugoslavia in 1991, Croatia declared its independence, which was recognised by January 1992. Most Yugoslav legislation remained in force, with some modifications as necessary. In 1993, Parliament

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<sup>1</sup> This profile benefited from comments made by Dr Ivo Josipovic.

passed two pieces of legislation which consolidated the old Yugoslav criminal law with significant amendments; one dealt with the general part of criminal law and the other with the special part.

A completely revised Criminal Code and Code of Criminal Procedure were adopted in 1997, and entered into force on 1 January 1998.

## 2 Statistics

### 2.1 Victimisation

The breakdown below presents the victimisation rates in the major cities of Croatia.

**Table 1. Victimisation rates (in %) according to the ICVS, major cities: results from the 1997 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	2.4	1.0	5.5	0.9

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	66,737	1396.8	91,712	1915.1	64,051	1422.1
Homicide	363	7.6	707	14.8	367	8.1
Assault	1,190	24.9	972	20.3	1,168	25.9
Rape	162	3.4	107	2.2	94	2.1
Robbery	495	10.4	743	15.5	389	8.6
Theft	40,105	839.4	48,701	1016.9	31,081	690.1
Theft of cars <sup>1</sup>					2,060	45.7

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

In comparison with the authorities of many other European and North American countries, the authorities of Croatia have been able to provide an extensive amount of statistics on crime and criminal justice.

During the years of internal conflict in the area of former Yugoslavia, there was a significantly higher rate of reported crime than during other years.

Otherwise, the data on recorded crime suggest that the amount of crime during the period in question has not changed considerably. In the absence of research, little can be said with assurance about the impact of the internal conflict on reporting behaviour.

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	25,346	19,146	15,015	18,015	18,546
Intentional homicide (incl. attempts)	254	152	241	217	231
Causing death by negligence	6	9	24	31	21
Assault	245	166	98	64	158
Robbery	121	118	132	162	152
Aggravated theft (burglary included)	4,107	2,697	1,830	2,831	2,843

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	72.35	-
Prisoner rate		40.3	47.0
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	31.1	36.3
	Juveniles	0.3	0.4
% of females of convicted prisoners	Adults	3.2	2.8
	Juveniles	0.0	6.3
% of juveniles		0.9	1.0

**Table 5. Trends in sentencing**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	24,248	100.0	-	-	-	-
Imprisonment	3,457	14.3	-	-	-	-
Fine	7,283	30.0	2,938	-	2,975	-
Condit. Sent.	12,860	53.0	8,278	-	11,280	-
Warning	559	2.3	210	-	223	-
Other	89	0.4	72	-	81	-



The break-down among the different types of sanctions suggests that the penal policy of Croatia has emphasised non-custodial sanctions. The most common sanction imposed in 1990 was the conditional sentence. The data also suggest an abrupt decrease in the use of fines between 1990 and 1992 (the number and relative proportion of the different sanctions had remained much the same between 1986 and 1990). The reduction in the use of formal warnings is almost as sharp, although this sanction accounts for a considerably smaller proportion of sanctions.

The response to the Fifth United Nations Survey did not provide data on the total number of sanctions and on the use of imprisonment for 1992 and 1994. Since the data in the preceding table shows that a total of 15,015 persons were convicted in 1992, and a total of 18,546 persons were convicted in 1994, the inference can be drawn that some 3,500 persons were sentenced to imprisonment in 1992, and some 4,000 persons were sentenced to imprisonment in 1994. If so, this would mark a substantial shift towards the use of imprisonment. However, the number of admissions to prison *decreased* significantly between 1990 and 1994, from 3,080 to 1,377.

In 1995, there were 55 prisoners per 100,000 in population. This rate, which is on the same level as in four other countries (Greece, Ireland, Malta and Norway) is the third lowest in Europe and North America.

Another measure of punitiveness is the proportion of persons convicted, who are sentenced to imprisonment. In Croatia in 1990, this was 14%, the fourth lowest proportion in Europe and North America. (However, the difficulties in comparing such statistics from different countries should be recalled; these difficulties are reviewed briefly in section 1 of the accompanying report on the general analysis of the responses to the Fifth United Nations Survey.)

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar (In Croatia, the survey was carried out only in urban areas). In Croatia, 7.4% of the respondents would have favoured a fine, 5.9% a suspended sentence and 15% imprisonment. A remarkable result was that 69% of the respondents stated that community service would have been appropriate. This was the highest proportion among any of the European and North American urban respondents – *despite* the fact that (according to the response to the Fifth United Nations Survey) Croatia does not use community service orders.

Among those favouring imprisonment for the recidivist burglar in question, the average suggested sentence was 11 months. Only the urban respondents in Germany, Norway and Switzerland suggested a lower sentence. All in all, therefore, the ICVS results suggest strong support for the Croatian practice of favouring non-custodial sanctions.

Although the number of persons admitted to prison during a year has decreased significantly between 1990 and 1994, the number of persons held in incarceration has in fact increased, from 1,926 in 1990 to 2,247 in 1994.

2,742 persons were released on parole during 1990. The corresponding figure for 1994 was 910.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	461.1	669.6
	% female	16.3	20.6
Prosecutors	total / 100,000	-	7.0
	% female	-	31.2
Judges	total / 100,000	-	23.0
	% female	-	-
Prison staff	total / 100,000	46.3	48.5
	% female	22.9	25.0

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

Croatia is still recovering from the severe internal conflict that coincided with the disintegration of former Yugoslavia, and therefore all references to reported crime and the operation of the criminal justice system during the period under review (1990-1994) must take into consideration the effect of such exceptional circumstances as open and guerrilla warfare, and massive internal migration, on the reporting of crime and on the capacity of the criminal justice system to prevent and control crime.

As noted in section 2.2 above, there was an upsurge in reported crime during the years of internal conflict. Following this conflict, the rates have by and large returned to the pre-conflict level.

According to the indices of violence, Croatia has a modestly high rate of homicide (8 per 100,000 in 1994). However, Croatia is only in the middle range in respect of the index of serious violence. Moreover, in respect of the index of violence in general, Croatia has the fourth lowest rate in Europe and North America.

The indices of property crime show Croatia to have a relatively low amount of burglary (12th lowest among 45 countries) and of offences directed against

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

motor vehicles (16th lowest among 47 countries). On the index of petty crimes, Croatia has the fifth lowest rank among 36 countries.

According to the results of the 1995 ICVS, only 20% of the respondents in urban areas in Croatia reported having been the victim of a crime during the preceding year - the lowest urban rate in any of the 31 countries for which these data are available from the 1995 sweep. For individual offences, the victimisation rate was only 1.0% for burglary, 3.3% for assault or threat, 5.1% for theft from or of a car, and 0.8% for robbery.

On the index of the amount of corruption, Croatia has a relatively high rank. For example, 16% of the urban respondents to the ICVS reported that a government official had accepted or demanded a bribe from them during the preceding year. This is the fourth highest rate in Europe and North America.

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one criminologically relevant factor is the rate of unemployment. Unemployment in 1992 was a relatively high 17.0% (1994 UN Statistical Yearbook). Croatia's score on the "strain index" is 6.6, somewhat above the regional mean of 5.2.

According to the UN Compendium on Human Settlements, 60% of the population in Croatia live in urban areas. The 1997 Human Development Report assigns Croatia with a HDI development index of 0.76, and the World Bank reports a GNP of USD 2,530 per capita (1994), which places Croatia below average among the European and North American countries.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On the "opportunity index" for property crime, Croatia, at 48.6, is above the mean for Central and Eastern Europe (37.9), reflecting a larger potential for property crime. According to the ICVS, only 10.2% of the urban population report the use of special door locks, 4.0% the use of special window grills, and 2.5% the use of burglar alarms in their household – among the lowest reported rates in Europe and North America.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. As noted, Croatia has undergone severe internal conflict, which may well inure the population – and especially those actively engaged in the hostilities – to violence. Internal conflict increases the availability of weapons; it may thus not be surprising that, according to the ICVS (which in Croatia was carried out only in urban areas), 11.6% of the respondents stated that their household had a handgun – the third highest urban rate among the 36 European and North

American countries in which the study has been carried out.<sup>3</sup> All in all, therefore, these factors would give cause for concern – and yet, as noted, the level of violence in Croatia appears low.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. In respect of female educational attainment, Croatia is relatively low among the European and North American countries. According to the ICVS data, 4.5% of the respondents were divorced, a relatively low figure. According to the 1997 Human Development Report, the so-called gender-related development index in Croatia in 1994 was 0.741, placing it thirtieth among the 47 European and North American countries for which the data are available. A relatively modest 68% of women are employed in the primary, secondary and tertiary economic sectors. 7% of Parliamentary seats are held by women, and the female economic activity rate, as a percentage of the corresponding male economic activity rate, is 72 (op.cit.). The UNICEF “The Progress of Nations” report states that only 12% of persons at the top levels of government are female. In this light, it is of interest to note that Croatia has a relatively low rate of violence against women. Only two rapes were reported per 100,000 in population in 1994, among the lowest reported rates in Europe. Here, the results of the ICVS point in a different direction: 3.4% of the female respondents in urban areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This is the 13th highest among the 36 countries for which the data are available, and suggests a considerable amount of hidden sexual victimisation. (However, it should immediately be noted that Croatia, together with Hungary and Northern Ireland, were the only countries where *none* of the urban respondents reported having been the victim of sexual assault during the previous year. Given the large sample used in the survey, this is an unusual result.)

All in all in respect of the data on determinants of crime, Croatia had a negligible loading in respect of strain-related violence (.11), and a high negative loading in respect of serious property crime in urban settings (-.72) and in respect of opportunistic petty crime (-.62) (see Table 10 in part I, p. 49). Given the context, this can be interpreted to mean that Croatia has considerably less of a problem with serious violence than the other Central and Eastern European countries, and has considerably less burglary, motor-vehicle related offences and petty crime than do the Western European countries.

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<sup>3</sup> The highest rate, 24.5%, was in Yugoslavia.

### 3.3 Operation of the criminal justice system

Croatia's score on the Law Enforcement Resource Index (which essentially measures spending on law enforcement) is 35. This means that the country's spending on law enforcement is among the highest in the region, higher than the mean for the amount of spending for all Central and Eastern European countries (29), and for Europe and North America as a whole (27). This is in line with the high numbers of police officers (670 per 100,000 population) and judges (23 per 100,000 population). Only the Russian Federation and Kazakhstan have a higher number of public police per capita. The low prisoner rate (55 per 100,000 population) reflects the low number of correctional staff. Croatia's crime rates are relatively low, reflecting the amount of financial resources allocated to the criminal justice system.

Croatia is above average on the Criminal Justice Practitioner Gender Balance Index (34). Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than the EU countries, reflecting the high shares of female prosecutors and judges.

On the index of Citizen Evaluation of Police Performance, Croatia is low (18), indicating relatively low public satisfaction with police performance. In view of the low crime rate, a higher score could have been expected. Croatia is, however, very close to the Central and Eastern European mean (17) which in turn is very low compared to the EU countries (37). According to the ICVS, only 39% of victims in urban areas reported the offence to the police, a relatively low proportion. 60% of victims in Croatia who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a relatively high proportion when compared with the results from other countries participating in the ICVS. Both rates suggest that more work needs to be done in increasing public confidence in the police. 44% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which places Croatia in the middle range.

A very rough indicator of the crime clearance rate can be obtained by comparing the number of offences recorded by the police with the number of persons formally brought into contact with the criminal justice system. This "clearance rate" in Croatia, 0.88, is one of the highest for all the European and North American countries for which data are available, and considerably above the mean (0.49). Also according to Interpol's data (which are based on somewhat different calculations), Croatia's clearance rate of 69.1 is considerably above the mean of 48.8.

In respect of the number of prosecutions per offences reported, Croatia has a higher rate (0.43) than the mean for the region (0.31).

Although the prisoner rate in Croatia has increased during the period under review (from 40.3 in 1990 to 47.0 in 1994), these rates remain low. The 1994 figure is considerably lower than the regional mean of 157.9 or even the EU mean of 85.7. Also other indicators indicate that Croatia makes relatively little use of imprisonment when compared with other countries in the region:

in respect of the number of sentences of deprivation of liberty, the use of pre-trial detention and the proportion of sentences of imprisonment out of all sentences, Croatia falls in the first quartile.

As noted, the results of the ICVS in Croatia suggest strong support for non-custodial sanctions, and in particular for the introduction and wide application of community service orders.

Overall, the data suggest that Croatia has emerged from an extraordinarily difficult period of transition, one involving political change, internal conflict and massive internal migration, with a perhaps surprisingly low crime rate and with a criminal justice system that performs relatively well.

# Cyprus<sup>1</sup>

## 1 Background

As a former British colony, Cyprus after its independence in 1960 retained many of the basic structures of English law. Minor offences are dealt with in district courts. The assize courts have jurisdiction for more serious offences. Appeals are heard by the Supreme Court of Cyprus.

Precedents set by superior courts are binding on lower courts. Because of the common law background, judgements by English courts are also, within some limitations, respected.

The minimum age of criminal responsibility in Cyprus is 12 years. Between the ages of 7 and 12 there is no criminal responsibility unless it is proved that at the time of the act or omission, the person had the capacity to know that he or she should not commit the act or, in the case of an omission, should have acted. The age of adult responsibility is 16 years.

The police are not empowered to officially terminate a criminal case by their own decision. Prosecutors have no criminal investigative duties. A significant proportion of all prosecutions is initiated exclusively at the request of a private individual.

The crime statistics of Cyprus deal with serious offences only. Thus, for example, malicious injuries are held as minor offences, and are not included in the statistics. (The fact that only serious offences are included should be borne in mind when making international comparisons based on these statistics.)

Most reported offenders are young males. The reported criminality of women is relatively low. Foreigners constitute a sizeable proportion of the reported adult offenders especially as regards drug offences.

## 2 Statistics

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Cyprus.

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<sup>1</sup> This profile benefited from comments made by Mr G. Panayiotou, Acting Chief Superintendent for Chief of Police, Ministry of Justice, Nicosia.

## 2.2 Reporting and recording

**Table 1. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	3,684	541.0	3,811	539.8	4,330	589.9
Homicide	17	2.5	10	1.4	12	1.6
Assault	284	41.7	720	102.0	976	133.0
Rape	1	0.1	6	0.8	7	1.0
Robbery	12	1.8	14	2.0	14	1.9
Theft	1,293	189.9	1,185	167.8	990	134.9
Theft of cars <sup>1</sup>					291	39.6

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

Much of the criminality is concentrated in the largest town, Nicosia. Thus in 1994, 30% of the reported assaults, 27% of the reported major assaults and 21% of the reported robberies took place in Nicosia.

One rape was reported in 1990 and seven in 1994. In 1995, 291 car thefts were reported.

## 2.3 Sanctions

**Table 2. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	28.6	30.8
Prisoner rate		32.1	25.2
% women in the prison population <sup>1</sup>		3.2	6.4
Prisoner rate / 100,000 (convicted only)	Adults	23.1	19.3
	Juveniles	5.7	2.0
% of females of convicted prisoners	Adults	3.2	1.4
	Juveniles	0.0	0.0
% of juveniles		19.9	9.6

<sup>1</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996

The number of convictions for selected offences between 1990 and 1994 is given in the breakdown below.



**Table 3. Number of persons convicted**

Offence	1990	1991	1992	1993	1994
Intentional homicide	5	1	10	3	3
Non-intentional homicide	1	0	1	0	0
Assault	42	38	34	32	26
Robbery	6	7	5	2	7
Thefts	185	183	237	179	150
Burglary	99	111	117	101	119

A total number of 766 persons were convicted in 1994. Of the total, 5% were female and 5% were juveniles (all males).

The number of person convicted in the criminal courts has remained fairly stable from 1990 to 1994. The respective figures were 665, 580, 793, 656, and 766.

In 1990 only one life sentence of imprisonment was passed. No life sentences were imposed in 1992 and two were imposed in 1994. In 1994, 181 sentences classified as warnings or admonitions, 203 fines, and 226 deprivations of liberty were imposed.

**Table 4. Convictions by type of sentence, and prisoner rate per 100,000 in population, 1990-1994**

	1990	1994
Custodial sentences	195	226
Deprivation of liberty	194	224
Life imprisonment	1	2
Prisoner rate	32.0	25.1

The **prison population** on 1 September 1994 was 184. This gives a prisoner rate of 25.2 per 100,000 inhabitants, which is the lowest rate in Europe and North America. Of the total, 142 were sentenced, 27 were awaiting trial or adjudication, 12 were imprisoned for non-payment of a penal fine, and 3 were civil law detainees. Persons who have been sentenced in a court of first instance and who have appealed the verdict are included in the category "awaiting trial or adjudication". The average length of time spent in detention awaiting trial was 4,9 weeks in 1994 and the average length of prison sentence actually served in prison was 9.3 weeks.

Among the 484 persons admitted into prison in 1994, 20 (4.1%) were women, 59 (12.2%) juveniles between 16 and 21 years old, and 112 (23.1%) were foreign citizens.

There is only one prison for adults on Cyprus and a separate facility for juveniles. No system of parole exists, but prisoners receive remission of sentence according to the Prison Regulations. In addition, when they have served most of their sentence they may receive permission to work in civilian jobs during the day and return to prison at night.

The Constitution grants the President of the Republic the right, on the recommendation of the Attorney General, to remit, suspend or commute any sentence passed by a Court in the Republic.

## 2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	558.7	522.9
	% female	2.5	5.0
Prosecutors	total / 100,000	-	9.7
	% female	-	33.8
Judges	total / 100,000	5.7	9.1
	% female	7.7	9.0
Prison staff <sup>1</sup>	total / 100,000	30.8	29.4
	% female	3.8	4.2

<sup>1</sup> Data only for adult prisons

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, during the period under review the rates of the individual categories of reported crime in Cyprus have varied from year to year, but have nonetheless remained on the same general level.

Cyprus is one of the few countries in Europe and North America that have not participated in any of the sweeps of the International Crime Victim Survey, a fact which seriously hampers the drawing of a crime and criminal justice profile for the country from an international perspective. Due to this lack of data, Cyprus' score on several of the indices of crime could not be calculated.

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

On both the indices of homicide and serious violence, Cyprus had a ranking among the lowest in Europe and North America (third lowest out of 47 countries on the first, and second lowest out of 49 countries on the second). There were insufficient data to calculate the ranking of Cyprus on the index of violence in general.

Internationally speaking, Cyprus appears to have a very low amount of burglary and of offences against motor vehicles. There were insufficient data for the calculation of the ranking on the index of petty crimes.

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Although data are available on unemployment – according to the United Nations Statistical Yearbook, unemployment in 1994 was a very low 1.8%, while The Economist Pocket Europe in Figures gives a rate of 2.7 for 1995 – there were otherwise insufficient data to calculate the overall “motivation index” for Cyprus.

According to the UN Compendium on Human Settlements, one-half (51%) of the population in Cyprus live in urban areas. The 1997 Human Development Report assigns Cyprus with a “human development index” of 0.91 (24th highest in the world), and the World Bank reports a GNP of USD 8,040 per capita (1990), which is in the low middle range for Europe and North America.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Regrettably, there were insufficient data from Cyprus to calculate its score on this “opportunity index” for property crime.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women (the amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society). No data are available in respect of female educational attainment. The Economist data (The Economist Pocket Europe in Figures, 1997) suggests that the divorce rate on the national level – 0.6 divorces per 1,000 in population per year – is among the lowest in Europe. The 1997 Human Development Report calculates the so-called gender-related development index in Cyprus in 1994 to be 0.84, placing it 23rd among the 47 European and North American countries for which the data are available, and 33rd globally. Only 5% of Parliamentary seats are held by women. In this light, it is of interest to note that Cyprus ranks second lowest on the index of violence against women (after Turkey).

Only one rape was reported per 100,000 in population in 1994, among the lowest reported rates in Europe.

No data are available in respect of bribery or corruption in Cyprus.

### 3.3 Operation of the criminal justice system

Cyprus' score on the Law Enforcement Resources Index (which essentially measures spending on law enforcement; see part I. pp. 72–75) falls in the third quartile (29), and is slightly above the mean for the European and North American countries (27). The number of police per 100,000 in population (523) is considerably above the mean for the region (390). Given the very low prison rate, it is scarcely surprising that Cyprus has far fewer correctional staff (29 per 100,000) than is the mean for the region (64). Even given this low rate, however, there are as many correctional staff members as there are prisoners.

Cyprus falls in the first quartile on the Criminal Justice Practitioner Gender Balance Index (15). Thus Cyprus has proportionately fewer female criminal justice practitioners than do most other countries in the region. Accordingly, the share of female police officers and judges is very low (5% and 9% respectively) while 34% of the prosecutors are women.

There were insufficient data available on Cyprus to calculate its score on the index of Citizen Evaluation of Police Performance.

Only 31 sentences of deprivation of liberty were imposed per 100,000 in population in 1994. This is the lowest of any of the countries in the region for which the data are available. It is thus also no surprise that the prisoner rate is very low, 25.2 per 100,000 population, again the lowest figure in the region and considerably lower than the regional mean of 157.9 or even the EU mean of 85.7. Cyprus' low use of imprisonment can also be seen in the average length of sentences, which was 9 weeks in 1994. The regional median (for the 21 countries for which data are available) was 48 weeks. It is only in respect of the indicator of the number of custodial sentences imposed per 100 suspects that Cyprus, with 61, is over the regional median - and yet this is readily explained by the fact that the country's statistics only include serious offences.

In general, Cyprus has had a relatively stable rate of recorded crime and a stable (or even decreasing) prisoner rate. The reported crime rate and the prisoner rate are among the lowest in the world. The only particular concern that emerges from the data – other than the fact itself that there are very little empirical data related to crime and criminal justice in Cyprus – is that the number of sentences of imprisonment per 100,000 population has increased somewhat, from 28 in 1990 to 31 in 1994. The significance to be attached to this is clearly a matter of perspective; three more sentences per 100,000 in population is an almost negligible increase in absolute numbers, but nonetheless constitutes a 10% increase over a period of four years.

# Czech Republic<sup>1</sup>

## 1 Background

When Czechoslovakia was established on 28 October 1918, it inherited two codes, the Austrian Penal Code of 1852 in Bohemia and Moravia, and the Hungarian Penal Code of 1878 in Slovakia and Transcarpathian Ukraine. The new state thus inherited an obsolete but liberal criminal law adequate to a state ruled by law, of the standard usual in Central Europe. A modern Criminal Code that would cover the entire country was not created until after World War II, although three drafts were submitted in 1921, 1926 and 1937. Nonetheless, the two codes were amended several times and supplemented by a number of penal statutes.

After the Communist take-over in February 1948, Czechoslovak criminal law was brought in line with principles of criminal law applied in the USSR. The Penal Code of 1950 was the first unified Penal Code to have an effect in the territory of the entire state and to include all material law. It was used as a political tool, to repress the political opposition, persons of different political and moral opinions, and persons who practised their religious beliefs. This law was also applied to suppress individual attempts at political and especially economic reform. At the same time, there was an exaggerated belief in the capacity of criminal law and the possibilities of punishment to protect society.

After strong criticism concerning the misuse of the criminal law during the Stalinist period, an amendment of the Penal Code was passed in Czechoslovakia in 1956, which eased the situation somewhat, but the existing system with its politically repressive ideology was not changed.

The Penal Code of 1961 (No. 140/1961 which entered into force on 1 January 1962) evidenced some features of modern legal thinking. However, after the suppression of the “Prague Spring” in 1968, the situation worsened significantly. During the period of so-called normalisation the criminal law was expanded to cover a number of new offences, primarily of a political character. The repressive elements of a prison sentence were reinforced and so-called preventive surveillance (which in fact was a kind of police surveillance) was introduced through amendments adopted in 1969 and 1973.

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<sup>1</sup> This profile benefited from comments made by Ph.Dr. Jana Válková, Institute of Criminology and Social Prevention, Prague and JUDr. Jindřich Babický, Director of International Department, Ministry of Justice, Prague.

After the political and social changes in November 1989 an urgent need for elaboration of a new criminal law emerged that would conform with the principles of a liberal and humane state ruled by law. As early as in December 1989, Act no. 159/1989 abolished regulations that violated human rights (such as the offence of leaving the republic, breach into state territory) and regulations used to suppress the influence of the church. The substantial amendment of the Criminal Code put into the force in 1990 (Act no. 175/1990) essentially changed old rules through decriminalisation and de-penalisation, and also by considerably removing the influence of ideology on the legal system. The other amendments of the Criminal Code and of the Criminal Procedure Act, passed in 1991, brought these two laws into accordance with the Charter of Human Rights and Basic Freedoms, and with the international agreements by which the Czech Republic has been bound.

Two amendments in 1993 (laws no. 290/1993 and 292/1993) introduced some new offences related to new forms of crime, and the existing differentiation in the execution of custodial sentences was abolished. The amendment enacted by Act no. 152/1995 introduced community service as an independent penalty. (This entered into force on 1 January 1996.) This amendment also introduced measures to respond effectively to new types of crime. Furthermore, the Criminal Code was amended in 1997 (Act. no. 253/1997, which entered into force on 1 January 1998). New non-custodial alternatives that include the element of supervision were introduced, namely conditional waiver of punishment with supervision and suspended sentence with supervision. The amendment also modified the provisions dealing with conditional release, and criminalised some new economic crimes. Three amendments were adopted in 1998, dealing with petty offences (misdemeanours) and criminalisation of the possession of drugs for personal use (Acts no. 92/1998, 112/1998 and 113/1998).

The Criminal Procedure Act has been subject to nine amendments since 1989. The most important are the provisions dealing with simplification and acceleration of criminal proceedings, and the introduction of higher effectiveness into the legal process. Significant progress was made through the introduction of conditional discontinuance of criminal prosecution (entered into force on 1 January 1994) and of mediation (entered into force on 1 September 1995). These measures are significant means of diversion from criminal proceedings. Today, minor criminal cases are handled in the district courts by a single judge. The possibility of handling cases in the absence of the offender has been created through the re-introduction of the so-called criminal order (entered into force on 1 January 1994). The conduct of criminal proceedings is based on the principles of legality, officiality, equality, proportionality, and oral proceedings.

The process of legislative amendment of criminal legislation has not been completed yet, and a preparation of the new Criminal Code and the Criminal Procedure Act is under way.

## **Legal system**

The Czech Republic, as a continental European legal system, is characterised by the use of written, generally recognised normative acts that have been issued by the legitimate bodies of the legislative or executive power and that are recognised as the source of law.

The Constitution of the Czech Republic is the most important source of law. It declares (article 1) that the Charter of Human Rights and Basic Freedoms constitutes a part of the constitutional system. The Constitution also declares the international treaties concerning the human rights and basic freedoms that have been ratified and promulgated, as generally binding on the territory of the Czech Republic (article 10).

Control over the observance of laws is ensured by the Constitutional Court which, among others, makes decisions concerning the abolition of laws or of their individual provisions if they are not in accordance with the constitutional law and/or the international treaties.

## **Police**

The police are subordinated to the Ministry of the Interior. The police consist of the Police Presidium of the Czech Republic, sections operating over the entire territory of the state, and sections whose operations are confined to limited regions. The police force is divided into the uniformed and plainclothes police. The uniformed police consist of the traffic police, border police, railway and airport police. The criminal police and the investigators are considered plainclothes police. The last two types of policemen differ by their position and their role within preparatory proceedings: the criminal police detect and apprehend offenders while the police investigators investigate a crime, gather the evidence and bring charge against a suspected person.

In addition, the police have special squads (units), which include the Service for Investigation and Disclosure of Corruption, and the Unit for Disclosure of Organised Crime and Serious Crimes. Except for these special squads, all types of police departments operate on the regional and district levels. The Police President is appointed and recalled by the Minister of the Interior in accordance with the advice of the Government. The investigators are appointed and recalled by the Minister of the Interior as well.

The police fulfil the following duties: ensuring the protection of persons and their property, helping maintain peace and order; investigation of crimes and bringing charge against a suspected person; fighting against terrorism and organised crime; handling petty offences, supervising road traffic, and performance of some administrative tasks.

A policeman is authorised to apprehend and hold a person caught when committing an offence, for as long as necessary, but not longer than for 24 hours.



A policeman is authorised to detain a person who is endangering the life or health or property of the citizens; a person who is attempting to escape when being apprehended by a policeman; and a person who is caught when committing a crime and/or a person who is justifiably suspected of the preparation or of an attempt to commit a crime. Any person can be detained for 24 hours.

There are three reasons for remanding in custody: the suspect

- a) seeks to escape or evade justice;
- b) seeks to tamper with the evidence or influence witnesses; or
- c) continues his or her criminal activity.

If any of those reasons for remand custody exists and a suspected person cannot be summoned, apprehended or arrested to be present at a hearing, the judge may issue a warrant. This detention is carried out by the police on the basis of warrant. In this connection the police is also obliged, if necessary, to find a suspected person's place of residence. The police officer is obliged to turn an accused over to the court within 48 hours (until 1998 within 24 hours).

Pre-trial detention may only last for the period that is absolutely necessary. Should it exceed six months and should there be a danger that the release of the accused person could frustrate or impede the accomplishment of the purpose of criminal prosecution, the judge may, upon the motion of the public prosecutor, extend remand custody for a maximum period of one year. The period may be further extended only by a panel of judges, but even this may not exceed three years. Should it be impossible, due to other serious reason, to complete a criminal prosecution within the period mentioned, and the release of the accused person might frustrate or substantially impede the attainment of the purpose of criminal prosecution, the Supreme Court may extend the preliminary detention for a period which is absolutely necessary, but this may not exceed four years (in case of especially grave offences.)

In general, the suspect may also be subjected to bail as a substitute for preliminary detention that has been ordered on the grounds of suspicion of escape or continuing a criminal activity (with certain exceptions specified by law). The minimum bail is 10,000 Czech crowns. The upper limit is not determined. A court may decide about binding over the offender, and accept the guarantee of appearance given by a civic association as well.

When safeguarding the life or health of persons and their property, the police are entitled to conduct a bodily search and search of the premises, intercept communications, and prohibit a suspect from leaving his or her residence.

In addition to the state police (paid from a state budget) there is also a municipal police (paid by a municipality). The municipal police co-operate with the police of the Czech Republic and their position and relationship to the state police are specified by a special Act issued by the Government. In particular, the municipal police maintain the peace and order in a municipal-



ity, protect persons and property, and handle some transgressions (e.g. in road traffic). The municipal police are entrusted with considerably fewer powers in comparison with the state police. For example, they are not empowered to investigate a crime or to bring charges against a suspect.

### **Criminal proceedings and trial**

In accordance with the principle of legality, the public prosecutor is bound to prosecute all crimes that come to his or her attention. Exceptions to this are based only on law or a declared international treaty. Prosecution may not be initiated (and if initiated, may not be continued) if the suspect is under the age of criminal liability, in the case of the offender's death, *res judicata*, and in cases where the consent of the injured party is required. Such consent is required in the case of violence against a group of inhabitants and against individuals; slander; failure to provide help; damaging the rights of others; injury; exposure to the danger of venereal disease; restriction of personal liberty; extortion; violation of the freedom of domicile; larceny; embezzlement; unauthorised use of another person's property; fraud; participation; usury, concealment; fraud against a creditor; and rape (if the victim was the offender's wife or partner). In case death was caused by a crime, criminal prosecution must be initiated. There are no criminal offences which would be the subject of private prosecution.

In addition to the police investigators, offences may be investigated by the investigators of the public prosecution offices.

The public prosecutor supervises the observance of legality.<sup>2</sup> In the frame of this supervision the public prosecutor is entitled to give binding instructions related to the investigation of crimes, to demand files, documents, materials and reports from the investigator or the police in order to inspect whether a criminal prosecution is initiated in time and is duly proceeded with; to take part in performing the acts of the police or public prosecution office investigators; to make decisions concerning any matter related to investigation; to refer the file with his or her instructions back to the investigator; and to cancel unlawful or wrong decisions and measures taken by the investigator, and to replace them with his or her own decisions and measures.

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<sup>2</sup> Until 1993 the "Prokuratura" (procuracy) existed in the Czech Republic. The Soviet-model Prokuratura was well-suited for enforcing the will of the totalitarian regime, because it had broad powers (e.g. to oversee the decision-making of the courts) and had a military-like organisation. The Prokuratura was abolished by the Act on Public Prosecution, which entered into force in 1994. This Act has been amended in 1994 and 1997.

The new Public Prosecutor's Office, with more reduced powers when compared with the former Prokuratura, was established. The Public Prosecutor's Office does not oversee the decision-making of the courts, nor does it have so many tasks in the area of civil procedure. Its main task consists of public prosecution. The transformation of the Prokuratura into the Public Prosecutor's Office is considered to be a basic democratic reform in the field of criminal justice.

The court proceedings are initiated on the basis of an indictment, which is submitted and represented by the public prosecutor. (Until a final decision is made by a court, the prosecutor may withdraw the indictment and refer a case back to preliminary proceedings.) Initially, the court examines the indictment to find out whether it constitutes a reliable basis for further proceedings. The court especially considers whether the preliminary proceeding was conducted in accordance with the Criminal Procedure Act and whether its results sufficiently justify bringing the accused person before the court. These issues are examined within the preliminary hearing. If the case is referred back, the court must clarify what facts or evidence should be obtained by the investigator.

As a general rule, the district court is the court of first instance. Cases are commonly heard by a panel consisting of one professional judge and two lay judges. The district courts deal with offences punishable by up to five years of imprisonment. If the offence is not very serious, it is handled by a single judge who issues a so-called criminal order without hearing the matter in a trial, if the facts have been proved beyond any doubt by the existing evidence. Objections to a criminal order may be raised by the defendant and the public prosecutor. In such a case, the criminal order shall be cancelled and a single judge shall order a trial. The sanctions that may be imposed on the offender include a sentence of up to one year, prohibition of the performance of certain activity for up to five years, a fine or forfeiture of property.

The accused must have an advocate in the preliminary proceedings, if he or she is in pre-trial detention, in a prison or under observation in a medical institution, if he or she is deprived of the capacity to perform legal acts or if his or her capacity to perform legal acts is restricted, and if the criminal proceedings is conducted against a juvenile or a fugitive. If the accused person cannot afford the advocate, such an advocate is appointed *ex officio*.

When the judicial examination by a panel of judges is completed, the court proceeds with the hearing of the parties. The discussion is opened by the statement of the public prosecutor, followed by the statement of the advocate and other participants in the court proceedings; finally, the accused person is granted the last word.

Court hearings are open to the public with some exceptions specified by the Criminal Procedure Act. The sentence is pronounced in open court.

The sentence of the court of first instance is subject to appeal by the accused person or the public prosecutor to a regional court, which commonly operate as a court of second instance. The appeal is heard by a panel of three professional judges. The appeal court checks whether the facts are correct and whether the law has been applied properly. The appeal court may not gather new evidence except in writing. It also may not impose a more severe sentence than the one imposed by a district court unless the appeal has been lodged by the public prosecutor.

The regional courts also play a role as courts of first instance in the most serious offences (with a minimum term of five years of imprisonment). Such

cases are heard by a panel of two professional judges and three lay judges. Appeals against a sentence of the regional court are dealt with by the Higher Court.

The Supreme Court decides about extraordinary appeals against a decision of the Higher Court; it decides on the interpretation of the laws and other legal norms; and it decides other cases specified by the law.

The Constitutional Court consists of 15 judges (of a minimum age of forty) nominated for a period of ten years. They are appointed by the President of the Czech Republic (on the basis of a proposal submitted by the Senate).

Other judges are appointed by the President for an unlimited period. The judges must have a graduate degree in law, and must be at least twenty-five years of age. They must have three years practice within the judicial system, and they must pass a special exam to qualify as a judge.

### **Crimes committed by juveniles**

The Criminal Procedure Act stipulates that a person under the age of 15 years who commit a crime shall not be criminally responsible. Persons between 15 and 18 years of age who commit a crime are defined as “juvenile offenders”. The criminal liability and criminal prosecution of such offenders is governed by special regulations (chapter VII of the general part of the Criminal Code and chapter XIX of the Criminal Procedure Act – Proceedings against a juvenile). The most important elements of a treatment of juvenile offenders are as follows:

- An act whose features are specified in the Criminal Code shall not be considered to be a crime, if committed by a juvenile and if the degree of its danger to society is small.
- The court may impose on a juvenile only the penalties of imprisonment, community service, forfeiture of a thing, expulsion, and, if he or she is gainfully occupied, a pecuniary measure; prohibition of an activity can be imposed only if this does not restrain his or her preparation for his or her future profession (maximally up to five years).
- The terms of imprisonment set in the Criminal Code shall be reduced to one-half in the case of juvenile offenders, but the maximum term shall not exceed five years and the minimum terms shall not exceed one year.
- In cases where a juvenile commits a crime which may be punished by an exceptional sentence under the provisions of the Special Part of the Criminal Code (from fifteen to twenty-five years for adult offenders) and where the degree of danger arising from such crime to society is exceptionally high in view of the especially contemptible manner in which the crime was committed or of its especially contemptible motive, or its especially grave consequences which cannot be corrected, the court may sentence the juvenile offender to a term of five to ten years imprisonment, if it believes that the penalty fixed within the above-mentioned range would not sufficiently serve the purpose of punishment.

- In the case of individuals who have not passed the age of eighteen years, prison sentence shall be served in the correctional institutions for juveniles. The court may decide that also a juvenile offender who has reached the age of eighteen years should serve his or her prison sentence in a correctional institution for juveniles; in so doing it shall take into consideration in particular the length of the penalty and the degree and character of the blameworthiness of the offender. The court may also decide that a juvenile offender who has reached the age of eighteen years and is imprisoned shall be sent into a correctional institution for adults, taking into consideration the same circumstances as when deciding about keeping such an offender in the correctional institution for juvenile.
- When imposing a suspended sentence on a juvenile, the court shall set a probationary period of one to three years (five years maximum for adult offenders). If a juvenile who received a suspended sentence has not attained the age of twenty years at the time he or she gave cause for the execution of the suspended sentence, the court may let the suspended sentence stand in view of any exceptional circumstances of the case. However, it may at the same time appropriately extend the probationary period, but not by more than two years.
- If the court is sentencing a juvenile, it may order his or her protective education, provided that:
  - a) the education of the juvenile is not properly provided for,
  - b) the previous education of the juvenile was neglected, or
  - c) this is required by the environment in which the juvenile is living.
- If a person who is older than twelve and younger than fifteen years commits a crime which under the provisions of the special part of the Criminal Code may be punished by an exceptional sentence, the court shall order his or her protective education in civil law proceedings; the court may do so also if such a move is necessary for ensuring the proper upbringing of a person younger than fifteen years who commits an act which would otherwise be considered a crime.
- An advocate must be appointed for a juvenile offender from the moment a charge is brought against him or her.
- A representative of a child-care department of a local council and the public prosecutor must be present at the trial.
- A trial cannot be held in absence of a juvenile defendant.

There are no juvenile courts in the Czech Republic. Particular benches of judges are, however, designated to deal with cases of alleged juvenile offending.

The cases of juvenile delinquency which do not appear before the court, are dealt with by educational or welfare authorities.

### **Classification of criminal offences**

The Austrian Criminal Code of 1852 distinguished between three categories of punishable acts: felonies, misdemeanours and transgressions. These acts were judged according to their gravity. The Penal Code of 1950 abolished this classification and introduced, as a universal term, a criminal offence. So-called “local people courts” were established by Act no. 38/1961, which introduced a new category of criminal act called “wrongdoings” (acts of little dangerousness to a society). A new category of punishable act, “misdemeanours”, was re-introduced in 1969 (the Misdemeanours Act, no. 150/1969) which came into effect in 1970. At the same time the category of “wrongdoings” and local people’s courts were abolished. The amendment to the Penal Code of 1961 enacted by Act no. 175/1990 abolished the Misdemeanours Act; at present the Czech criminal law in force recognises only the general category of criminal offence. In addition, there are transgression (violations of administrative regulations) which cannot be punished by deprivation of liberty and which are handled by the local authorities or the police.

### **Penalties and their imposition**

Article 39 of the Convention on Human Rights and Basic Freedoms stipulates that any penalty may be imposed only in accordance with law. Under paragraph 27 of the Criminal Code, the following penalties may be imposed on the offender: imprisonment; suspended sentence with supervision; community service; loss of honorary titles and awards; loss of military rank; prohibition of certain activity; forfeiture of property; pecuniary sentence; forfeiture of a thing; expulsion; and prohibition of residence.

The Criminal Code allows the imposition of most penalties both as a separate and additional sentence (except for the loss of honorary titles and distinctions, and the loss of military rank, which cannot be imposed separately).

The death penalty was abolished in 1990 and was replaced by the possibility of imposing an exceptional sentence of imprisonment ranging from fifteen to twenty-five years, and life sentence, for the most serious offences specifically listed.

Three forms of diversion from standard criminal procedure have been incorporated into the Criminal Procedure Act, a criminal order, conditional discontinuance of criminal prosecution, and mediation.

A criminal order represents a form of simplified criminal proceedings. It may be issued by a single judge without the need to consider the case in a trial, if there is reliable evidence to proceed.

Conditional discontinuance of criminal prosecution was introduced by Act No. 292/1993. Such conditional discontinuance is allowed provided that the maximum punishment for the offence in question is imprisonment for five years; the offender compensated the damage he or she had caused through

the offence or he or she has agreed on the compensation with the injured party, or he or she has made any other necessary measures for compensation of such damage; in view of the personality of the offender and the circumstances of the case there are reasonable grounds to consider this measure to be sufficient; and the offender approves the conditional discontinuance.

The public prosecutor may decide on conditional discontinuance before the indictment is brought before the court, or the court may decide on it after the indictment has been brought. Conditional discontinuance comes with a probation period ranging from six months to two years. Suitable restrictions may be imposed on the offender.

Mediation was introduced by an amendment to the Criminal Procedure Act of 29 June 1995 (entered into force on 1 September 1995). This provision may be applied provided that the maximum punishment for the offence in question is imprisonment for five years; the defendant pleads guilty to the offence for which he or she is being prosecuted at the trial; the defendant compensated the damage he or she had caused through the offence or he or she has agreed on the compensation with the injured party, or he or she has made any other necessary measures for compensation of such damage; the defendant deposits with the court the sum of money for the concrete recipient for the benefit of the community; both the defendant and the injured party consent to this procedure; and the court considers such settlement of the case to be sufficient.

The court decides about the approval of mediation at a pre-trial stage on the proposal of the public prosecutor.

### **Victims of Crime**

Czech criminal legislation does not recognise the term “victim of crime”. Instead, the term used is “injured party”. The first time that the term “victim of crime” has been mentioned in legislation is in the Financial Assistance to Crime Victims Act.

The injured party is a person who suffers property loss or injury, or who suffers moral or other harm as a result of crime. Such a person has the right to take part in the criminal proceedings, and to make suggestions in order to help in the consideration and in the reaching of a decision. The injured party may be either a natural or a legal person. Having the status as injured party does not prevent him or her from giving evidence as a witness.

Two groups of injured parties are distinguished: those who may claim damages, and those who do not have a right to claim damages. The injured party is not entitled to bring a private indictment, to take over criminal prosecution or to make suggestions concerning the issues of guilt and punishment. The injured party may institute criminal prosecution by lodging a complaint. The injured party has the right to read the file, to submit a proposal concerning evidence and to take part in appellate proceedings (however, only in respect of his or her claim for damages). An injured party

who is authorised to claim damages from the defendant is entitled to ask for compensation for such loss. Within the scope of criminal proceedings the court may decide on property loss which is specified by the injured party only. If other damage is caused by a crime or if the injured party does not specify a loss, his or her claims shall be dealt with in civil proceedings. The same procedure shall be applied if the defendant is acquitted by a court or if the injured party specifies his or her loss only in part; for the rest of claim he or she shall be referred to a civil court.

In 1991 a non-governmental organisation, the White Circle of Safety, was established to provide assistance and advice to crime victims. A number of crisis centres, centres for raped women, shelters, advice centres, victim hotlines, and hotlines for children and youth are available as well.

In 1997 the Financial Assistance to Crime Victims Act was approved. It entered into force on 1 January 1998.

## 2 Statistics

### 2.1 Victimization rates

The breakdown below presents the victimisation rates in the Czech Republic and its major cities in the light of the responses to the International Crime Victim Survey.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1992 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	3.5	3.1	6.8	1.0
Major cities	4.1	4.0	8.3	1.8

### 2.2 Reporting and recording

There are no special statistics on the number of crime victims registered by the police or other criminal justice system bodies. However, the police gather statistical data on so-called “objects of attack”. According to these statistics, there were 31,412 “objects of attack” in 1990. The number increased steadily during the period under review, to 32,668 in 1991; 34,837 in 1992; 38,725 in 1993 and 40,006 in 1994. (Due to the ambiguities in the application of this concept, these statistics should be interpreted only as indicating the minimum number of victims that have come to the attention of the authorities during the year in question. No break-down by type of offence, sex or other characteristics is available.)



**Table 2. Number of crimes recorded in the criminal police statistics**

	<b>1990</b>	<b>rate/ 100,000</b>	<b>1992</b>	<b>rate/ 100,000</b>	<b>1994</b>	<b>rate/ 100,000</b>
All recorded crimes	216,852	2092.6	345,205	3345.7	372,427	3604.2
Homicide	212	2.0	258	2.5	286	2.8
Assault <sup>1</sup>	8,819	85.1	8,093	78.4	7,293	70.6
Rape	-	-	712	6.9	736	7.1
Robbery	3,855	37.2	3,915	37.9	3,826	37.0
Theft (simple theft)	86,540	835.1	152,264	1475.7	168,844	1634.0
Theft of cars					-	-

<sup>1</sup> Only intentional assaults

Source: the Statistics of the Police Presidium

In interpreting the statistics on reported crime, it should be noted that there have been significant changes to the Criminal Code during the period under review. Nonetheless, the statistics reflect the sharp increase in crime that has occurred in the Czech Republic during the period under review. There has in particular been a significant increase in property crimes, which account for about three-quarters of all offences.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		<b>1990</b>	<b>1994</b>
Custodial sentences / 100,000	Adults	54.9	107.7
Prisoner rate <sup>1</sup>		80.0	190.0
% women in the prison population <sup>2</sup>		1.7	3.7
Prisoner rate / 100,000 (convicted only)	Adults	38.1	94.7
	Juveniles	1.0	1.4
% of females of convicted prisoners	Adults	3.0	3.2
	Juveniles	0.9	0.0
% of juveniles		2.6	1.4

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

The number of convictions for selected offences between 1990 and 1994 is given in the breakdown below.



**Table 4. Number of convictions, 1990-1994**

<b>Offence</b>	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>
Total	16,520	27,837	31,016	35,148	51,930
Intentional homicide	73	69	75	105	105
Assault	1,402	2,080	1,804	1,814	2,556
Rape	186	159	140	136	159
Robbery	514	866	741	878	989
Major thefts	3,586	10,009	11,458	13,786	17,651
Fraud	207	599	1,016	1,335	2,073

In line with the number of offences reported and persons prosecuted, the number of convictions increased dramatically between 1990 and 1994. The same is true for the custodial sentences, which increased from 5,322 in 1990 to 11,128 in 1994. In 1994, as in 1990, one life sentence was imposed. (No sentences of life imprisonment were imposed from 1991 to 1993.) The average length of time spent in pre-trial detention more than doubled between 1990 and 1994.

At the beginning of 1990 the President of the Republic proclaimed a mass amnesty, substantially decreasing the number of persons held in prison under sentence (in 1989 there were approximately 29,000 persons in prison; after the 1990 amnesty fewer than 7,000 remained in prison) and halting prosecution in a great number of cases. The impact of this amnesty can be clearly seen in the trends in the number of persons prosecuted and convicted in the following years.

In 1994, 21% of the convictions involved deprivation of liberty, 65% control in freedom, and 11% fines. In the same year, 8.9% of the adults and 6.7% of the juveniles (persons between 15 and 18 years) convicted in the criminal courts were women. The above-mentioned increase in convictions is approximately the same for each category of convicted persons.

In this light, it is of interest to note that one of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In the Czech Republic, 9% of the respondents would have favoured a fine, 10.8% a suspended sentence, 29% community service (a measure that was not introduced into the Czech penal system until 1995) and 50% imprisonment. Among those favouring imprisonment, the average suggested sentence was 21 months. This can be considered to be in the middle range internationally.

An increase also appears in the prison statistics: from 11,389 in 1990, the number of admissions into prison increased to 16,501 in 1994 (+45%). From 8,231 detainees on 31 December 1990, the prison population rose to 18,753 detainees four years later (+128%). The prisoner rate increased from 79.4 inmates per 100,000 inhabitants in 1990 to 181.5 in 1994. Among the persons deprived of their liberty, 50.6% were awaiting trial or adjudication in 1990

and 47.1% in 1994. Furthermore, the average length of time spent in prison by adults awaiting trial more than doubled between 1990 and 1994.

### The prison system

In 1993, there were a total of 28 remand facilities and prisons in the Czech Republic. Since 1 January 1994 a new classification of prisons have been into effect. In accordance with the new regulations, pre-trial detention is served either in one of nine remand facilities, or in one of fourteen special sections of the existing prisons.

There are four types of prisons depending on a degree of their security: prisons with supervision, prisons with surveillance, prisons with security, and maximum security prisons.

These prisons include one prison for women and two prisons for juveniles. All prisons are closed ones.

All prisons are run by the State, and there are no plans for the establishment of private prisons. The prisons are governed by the General Directorate of Prison Service subordinated to the Ministry of Justice.

A prisoner can be conditionally released after having served one-half of his or her term (after submitting a request; there is no automatic early release), or on the basis of a pardon given by the President (if other conditions specified by the law are complied with). Those convicted of certain serious offences (e.g. treason, murder, terrorism or genocide), and offenders serving an exceptional sentence can apply for conditional release after having served two-thirds of their term. In the case of a life sentence a request for conditional release can be made after twenty years have been served. A probation period ranging from one to seven years is imposed on the offender.

## 2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	9.5	8.2
	% female	-	55.4
Judges	total / 100,000	13.8	19.9
	% female	55.8	61.6
Prison staff	total / 100,000	-	78.5
	% female	-	19.6

## 3 Crime and criminal justice profile<sup>3</sup>

### 3.1 The crime situation

As noted in section 2.2, there has been a significant increase in reported crime during the period under review. Some three-quarters of the reported crimes are property offences, and there has been a considerable increase especially for thefts, burglary and fraud.

The Czech Republic fell in the middle range in respect of the index of homicide, the index of serious violence and the index of violence in general. Despite this middle-range score, the ICVS suggested a relatively high level of fear of crime. 41.2% of the ICVS respondents stated that they avoid certain areas at night; this proportion was considerably above the median for all European and Northern American countries of 28.5%.

According to the indices of property crime, the Czech Republic appears to have a relatively high amount of burglary, a very high rate of petty crimes, and a relatively high rate of offences directed against motor vehicles.

On the index of the amount of corruption, the relatively high rank of the Czech Republic suggests some problems with corruption, or at least the perception of corruption. The World Competitiveness Yearbook, on asking respondents their impression of the extent to which such improper practices as bribing and corruption prevail in the public sphere – on a scale of zero (“do prevail”) to ten (“do not prevail”) – elicited the result of 3.7, a relatively low result.

According to the results of the 1995 ICVS, 33% of the respondents in the Czech Republic had been the victim of a crime during the preceding year, placing the Czech Republic eighth highest (together with four other countries) among the 36 countries for which national data are available. For individual offences, the victimisation rate was 3.1% for burglary, 3.0% for assault or threat, 8.1% for theft from or of a car, and 1.2% for robbery (averaged rates for 1992 and 1996).

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or who are unemployed (see pp. 35-36 of part I). According to the ICVS, satisfaction with income among urban respondents, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was 2.51, which is somewhat below the median for all European and North American countries (2.9). Registered

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<sup>3</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

unemployment in 1995 was 3.1% of the active labour force, which is relatively low (The Economist Pocket Europe in Figures, 1997). The overall “motivation index” for the Czech Republic was 4.1, which is below average.

Strain can also emerge as intolerance; according to the World Values Study attitude survey, respondents in the Czech Republic showed very high intolerance (when compared to the European and North American average) towards minorities, ranking, together with Bulgaria, third after Turkey and Slovenia.

According to the UN Compendium on Human Settlements, 65% of the population in the Czech Republic live in urban areas. The 1997 Human Development Report assigns the Czech Republic with a “human development index” of 0.88 (39th highest in the world), and the World Bank reports a GNP of USD 3,210 per capita (1994), which is relatively low for the European and North American region.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index” for property crime, the Czech Republic, at 61.1, was far above the mean for Central and Eastern Europe (37.9) and close to the mean for Western Europe (64.66), suggesting a high potential for property crime. 43% of the population report the use of special door locks, 3.6% the use of special window grills, and 3.3% the use of burglar alarms in their household; all three are relatively low rates. In the light of these results, the relatively high degree of property crime noted in section 3.1. above is not particularly surprising. On the other hand, two factors speak for a lower risk of certain forms of property crime. According to the ICVS, 46.3 % of the population nation-wide lives in flats; this is the sixth highest percentage found among the participating countries. (Criminological theory suggests a positive correlation between the proportion of detached and row housing, and burglary.) Furthermore, according to the ICVS, 66.3% of the population have a car in their household; among European and North American countries, this is a relatively low rate.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. The results of the ICVS noted that 16.2% of the respondents stated that their household had a firearm, and 2.9% had a handgun. The firearm rate is about the mean for the region, and the handgun rate is relatively low. Alcohol consumption, according to the World Drink Report, is above average, with a per capita consumption of 1.65 litres of strong alcohol, 160 litres of beer (the highest in Europe) and 17 litres of wine.<sup>4</sup>

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<sup>4</sup> This compares with highs of consumption of strong alcohol in Hungary (3.06 liters per capita), Poland (3.50) and the Russian Federation (4.40 liters) and a reported low of 0.40 liters in Turkey; highs of consumption of beer (following the Czech Republic) in Ireland (135 liters per capita) and Germany (140) and a reported low of 8 liters in Turkey; and highs of consumption of wine in Switzerland (44 liters per capita), Portugal (51), Italy (59), Luxembourg (61) and France (63), and reported lows of 0.1 in Turkey, 0.2 in Ukraine and

The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. In respect of female educational attainment, the Czech Republic is relatively high among the European and North American countries. According to the ICVS data, 7.2% of the respondents were divorced, one of the highest figures for the region. Also the Economist data (The Economist Pocket Europe in Figures, 1997) suggests that the divorce rate on the national level – 2.9 divorces per 1,000 in population per year – is relatively high in Europe.

According to the 1997 Human Development Report, the so-called gender-related development index in the Czech Republic in 1994 was 0.86, placing it nineteenth among the 47 European and North American countries for which the data are available (on the same level as Slovakia). In this light, it is of interest to note that the Czech Republic appears to have a very high rate of violence against women; indeed, the Czech Republic (together with Canada) had the highest rankings on the index of violence against women. This is not particularly supported by the results of the 1996 ICVS: 2.2% of the female respondents reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This falls in the middle range among the 15 countries for which national data are available.

In a factor analysis of the data on determinants of crime, the Czech Republic had a negligible positive loading in respect of strain-related violence (only +.29), a moderately high positive score in respect of serious property crime in urban settings (+.75), and a very high positive score in respect of opportunistic petty crime (+1.53) (see Table 10 in part I, p. 49). This can be interpreted to mean that, internationally speaking, there is no particular propensity in the Czech Republic to engage in violence, but there is a constellation of factors which correlate with petty crime.

### 3.3 Operation of the criminal justice system

The score of the Czech Republic on the Law Enforcement Resource Index (which essentially measures spending on law enforcement; see part I pp. 72-74) falls in the third quartile (30), slightly above the mean for the European and North American countries (27). The country's spending on law enforcement is close to the mean for the Central and Eastern European countries (29). This is in line with the high number of judges (20 per 100,000

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0.3 in the Russian Federation.

population) and correctional staff (79 per 100,000 population); the Czech Republic is in the fourth quartile on both indicators.

The Czech Republic falls in the fourth quartile on the Criminal Justice Practitioner Gender Balance Index (42). This is the highest score of all countries covered. Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than do the EU countries, reflecting their high shares of female prosecutors and judges. 56% of the prosecutors, 62% of the judges and 20% of the correctional staff in the Czech Republic are women.

On the index of Citizen Evaluation of Police Performance, the Czech Republic has a middle-range score (second quartile, 23), indicating, internationally speaking, average public satisfaction of police performance. According to the ICVS, one half (49%) of victims reported the offence to the police, which again would place the Czech Republic in the middle range internationally. 47% of victims in the Czech Republic who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a result that lies in the high middle range for Europe and North America. However, 67% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, the third highest proportion among the participating countries. In particular this last rate suggests that more work needs to be done in increasing public confidence in the police.

The Czech Republic's rate of convictions per prosecution, 0.59, is somewhat below the regional mean of 0.63.

The prisoner rate is quite high (190 per 100,000 population). However, the prisoner rate is lower than the mean for all the Central and Eastern European countries (263). In general, whatever the reasons for the increasing rate of persons prosecuted and convicted – an actual increase in crime, or an increase in the efficiency of the law enforcement authorities (or both) – this has led to an increasing prison population, with its attendant problems. Between 1990 and 1994, the number of persons prosecuted increased by 55.3% whereas the number of prison admissions increased by 265% and the number of prisoners by 128%. Moreover, the average length of the time spent in prison has also increased. Given the problems that result from such a development, means might be explored to halt the increase in the prison population without endangering public safety. This can be done by exploring the possibility of expanding the use of non-custodial sanctions, and of using shorter prison terms. Those measures could help prevent the entrance of some (petty) offenders into prison, and reduce the length of the sentences of others.

The prison data also show that about 50% of persons held in prison have not yet been convicted, and are awaiting trial or adjudication. This suggests a need for acceleration of the criminal justice system, for example through an increase in the number of judges and/or the use of accelerated procedures, with due respect for fundamental human rights.

# Denmark<sup>1</sup>

## 1 Background

The Danish Criminal Code dates from 1930. The rules governing criminal procedure are found in the Administration of Justice Act 1916. Both these codes have been revised and supplemented.

Investigations concerning criminal offences are handled by the police and only rarely by other authorities (such as the customs authorities). The less serious cases (the vast majority of cases where the prosecution service demands punishment of less than 4 years of imprisonment), are dealt with by the chiefs of police and police lawyers (acting as prosecutors). It is usually in the hands of the police to decide whether a suspect should be charged; it is, however, always in the hands of the prosecution to decide whether a suspect charged with a crime should be presented before the court. The Danish system of prosecution follows the principle of opportunity, which means that the chief of police (acting as prosecutor in misdemeanour cases) and the prosecutors may decide to close cases when the “public interest” does not call for adjudication and punishment.

The police in Denmark, the Faeroe Islands and Greenland constitute one national force. Concerning the executive management level of the police it is provided that the Minister of Justice is the supreme authority, exercising his powers through the National Commissioner of Police, the Commissioner of the Copenhagen Police and the chief constables. Similarly, prosecutors are organised nationally under the Director of Public Prosecution. Both organisations are under the direct supervision of the Minister of Justice.

The court system comprises district courts, high courts and the Supreme Court. The most serious cases (where the prosecution service demands punishment of 4 years of imprisonment or more) are brought directly before the high courts where the question of guilt is decided by a jury. The less serious cases are brought before the district court where the question of guilt is decided by one professional judge acting together with two lay judges. Misdemeanour cases and cases where the suspect has confessed are handled by a single judge in the district court.

The minimum age of criminal responsibility is 15 years. Children under this age are dealt with by the local welfare authority. Also cases involving

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<sup>1</sup> This profile has benefited from comments made by Mr Jens Henrik Højbjerg, Deputy National Commissioner, National Commissioner of Danish Police, Ms Britta Kyvsgaard, Ministry of Justice, and Mr Ebbe Frørup, Statistics Denmark.



youths between 15 and 18 years may be dealt with by such authorities should the prosecutor decide to waive prosecution.

## 2 Statistics

### 2.1 Victimisation

The International Crime Victim Survey has not been conducted in Denmark.

### 2.2 Offences

Although this point was not specified in the response of Denmark to the Fifth United Nations Survey, it may be assumed that the data below cover only Denmark proper, and do not cover the Faeroe Islands or Greenland.

**Table 1. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	527,416	10261.0	536,827	10383.5	546,928	10507.7
Homicide	230	4.5	245	4.7	263	5.1
Assault	7,702	149.8	8,736	169.0	9,881	189.8
Rape	486	9.5	556	10.8	481	9.2
Robbery	5,446	106.0	5,608	108.5	4,880	93.8
Theft	198,836	3868.4	205,207	3969.2	206,278	3963.1
Theft of cars <sup>1</sup>					36,737	705.8

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

**Intentional homicide.** During the period covered by the Fifth Survey, the number of intentional homicides has increased from 234 cases in 1990 to 256 cases in 1994. Most of these cases are attempts (58 committed homicides in 1990 and 79 in 1994). In 1990, 39 people were found guilty of intentional homicide, and 22 of non-intentional homicide. In 1994, there were 36 persons convicted for intentional homicide and 30 for non-intentional homicide.

**Assault.** There has been an increase in the number of reported cases of assault, from 7,698 cases in 1990 to 9,880 in 1994. The number of persons convicted also increased from 4,380 persons in 1990 to 7,503 in 1994.

**Robbery, theft and burglary.** Thefts show an increasing trend whereas robberies and burglaries decrease slightly between 1990 and 1994. The number of persons found guilty of theft was 35,168 in 1994, which is 11% higher than the corresponding number in 1990; the number of persons



convicted of robbery stayed stable at about 700 persons; and the number of those convicted for burglary was 5,002 in 1994, which is 16% lower than the corresponding number in 1990. In 1995, there were 36,737 car and motorbike thefts (35,652 car thefts).

## 2.3 Sanctions

**Table 2. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	-	-
Prisoner rate		62.1	67.4
% women in the prison population <sup>1</sup>		4.8	6.0
Prisoner rate / 100,000 (convicted only)	Adults	45.2	49.6
	Juveniles	-	-
% of females of convicted prisoners	Adults	4.5	3.8
	Juveniles	-	-
% of juveniles		-	-

<sup>1</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

The Danish prison population increased from 3,192 in 1990 (62.1 per 100,000 inhabitants) to 3,508 in 1994 (67.4 per 100,000 populations), whereas the number of admissions decreased from 15,421 in 1990 to 15,071 in 1994. Between 1990 and 1994, the number of persons placed on probation throughout the year decreased from 2,142 to 1,687, the average length of sentences increased from 14.4 to 14.8 weeks whereas the length of time spent in pre-trial detention decreased from 8.0 to 7.1 weeks, and the number of persons who were paroled from prison throughout the year increased from 2,907 to 3,033. The total number of persons held in incarceration increased slightly, from 3,192 in 1990, to 3,327 in 1992 and 3,508 in 1994.

## 2.4 Personnel and Resources

**Table 3. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	250.8	237.7
	% female	18.8	19.3
Prosecutors	total / 100,000	6.9	7.4
	% female	57.2	41.7
Judges	total / 100,000	-	-
	% female	-	-
Prison staff	total / 100,000	67.1	74.8
	% female	-	-

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the rates of reported crime have tended to increase slightly during the period under review. The total of offences reported to the police increased slightly, from 592,711 in 1990 to 618,255 in 1994. The proportionate increase in the number of assaults and thefts was somewhat greater, while the number of robberies and burglaries decreased somewhat.

Denmark is one of the few countries in Europe and North America that have not participated in any of the sweeps of the International Crime Victim Survey, a fact which seriously hampers the drawing of a crime and criminal justice profile for the country from an international perspective.

Denmark had a somewhat below average score on the index of homicide and on the index of serious violent crime. The score on the index of violence in general could not be calculated due to insufficient data.

Internationally speaking, Denmark appears to have a moderately low amount of offences directed against motor vehicles. There were insufficient data to calculate the ranking in respect of the amount of burglary or of petty crimes.

On the index of the amount of corruption, Denmark has the lowest rank out of 45 countries. The Transparency International index for Denmark is 9.3 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook, on asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero (“does prevail”) to ten (does not prevail”) – elicited the result of 9.5. Both are the highest readings recorded in any of the participating European and North American countries, and suggest that bribery and corruption are at the most limited to isolated incidences.

According to data collected by the Dutch Ministry of Justice, there are some 10,000 hard drug addicts in the country; this is proportionately an above average rate among the EU countries for which the data are available.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). In 1995, unemployment (which presumably correlates with strain) was in the middle range for Europe, 8.0%

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

of the active labour force. This was somewhat lower than the corresponding figure five years previously (9.1%) (The Economist Pocket Europe in Figures, 1997). For Denmark, data on dissatisfaction with income were not available, and thus the “motivation index” could not be determined.

According to the UN Compendium on Human Settlements, 85% of the population in Denmark live in urban areas, which is a relatively high proportion. The 1997 Human Development Report assigns Denmark with a “human development index” of 0.93 (18th highest in the world), and the World Bank reports a GNP of USD 28,110 per capita (1994), the third highest in Europe and North America.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). There were insufficient data from Denmark to calculate this “opportunity index”.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. ICVS data on gun ownership are regrettably not available. However, on the basis of the United Nations survey related to the regulation of firearms, it would appear that Denmark has one of the highest rates of firearms per 100,000 in population, after the other Nordic countries of Finland and Sweden, and after Canada. Alcohol consumption, according to the World Drink Report, is about average, with a per capita consumption of 1.09 litres of strong alcohol, 122 litres of beer and 26 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Denmark has one of the highest ratings in Europe and North America. The divorce rate is 2.5 per 1,000 in population per year, which is in the middle range for Europe (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in Denmark in 1994 was 0.916, placing it tenth highest in the world. 33% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that 29% of persons at the top levels of government are female. Both rates are among the highest in the world. In this light, it is of interest to note that Denmark appears to have a relatively high rate of violence against women, the tenth highest ranking (together with Slovenia, and out of 44 countries) on the index of violence against women. One possible and presumably only partial explanation for the high level of violence against women in a country noted for its attempts to promote sexual equality is the greater awareness of such violence,

which can well translate into a greater propensity to report violence either to the authorities or, in surveys, to researchers.

Due to the lack of data, Denmark's loadings in respect of strain-related violence, serious property crime in urban settings and opportunistic petty crime could not be calculated (see Table 10 in part I, p. 49).

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 30. This is slightly above the mean for all countries for which the data are available (27) and above the mean for the EU countries (26). Denmark has a below average number of police officers (238; the EU mean is 341) and of prosecutors (7; the EU mean is 9). (The number of public police officers is supplemented by an almost equal number of private policemen; there are 238 public policemen and 193 private policemen per 100,000 in population.) There are, however, considerably more correctional staff members than is the mean for the EU countries (75, as compared to 53). However, Denmark's figure includes the staff of the national Department of Prisons and probation and local probation offices. No data are available on the number of judges.

The score of Denmark on the Criminal Justice Practitioner Gender Balance Index (40; see part I, pp. 78-80) is considerably above the regional mean of 28 or the EU mean of 25.

In particular because the ICVS has not been carried out in Denmark, there were insufficient data for calculation of the Citizen Evaluation of Police Performance Index.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of "attrition" in the criminal justice system can be developed. (See part I, pp. 95-100). The only indicators available for Denmark are the number of prosecutions for each reported offence (0.27), the number of convictions for each reported offence (0.14) and the number of convictions for each prosecution (0.51). On all three, Denmark is very close to the EU mean.

The prisoner rate is very low (66 per 100,000 population), significantly lower than the mean for the EU countries (86) and in line with the other Nordic countries. The prisoner rate has been slightly increasing, although this increase has been from what was, internationally speaking, a very low base line.

Given the low prisoner rate, it is of interest to note that the imprisonment rate per 100,000 in Denmark is 290, considerably higher than the EU mean of 203. This anomaly of more sentences but a lower prisoner rate can probably be explained to a large part by the sentences in Denmark being considerably shorter than the norm in the EU: the average length of sentences

in Denmark is only 15 weeks, while the EU mean is 37 weeks. (Data on the average length of sentences is missing from some EU countries: Austria, Germany, Italy and Portugal.)

In general, therefore, the data (which is admittedly limited) suggest a relatively low crime problem in Denmark. However, while between 1990 and 1994 the total crime rate increased by 2.4%, the total number of convictions increased by 10.2% and the prison population by 9.9%. That would suggest either a large increase in the number of serious crimes, or a relative increase in the use of imprisonment. Both of those explanations can be sustained on the basis of the Danish data. Homicides increased by 14.3%, major assaults increased by 18.4%, and major thefts increased by 15.9%, but robberies decreased by 10.4% and burglaries decreased by 13.1%. On the other hand, the number of suspended sanctions (probation) decreased by 21.2% between 1990 and 1994, suggesting that the judges have become more inclined to impose imprisonment.

# England and Wales<sup>1</sup>

## 1 Background

England and Wales do not have a unified penal code. The criminal law is a mixture of statutes and common law. Statutes go through the Parliamentary process. Statutory instruments are supplements to law which are promulgated by Government Departments but have to be approved by Parliament. Common law is a body of precedent built up over many centuries, and summarised in legal textbooks. Some of the most important offences, such as murder, are offences under the common law, though the penalties for such offences are generally prescribed by statute. Each year, Parliament adds legislation, much of it creating new offences, often of a highly specific kind.

Frequent Criminal Justice Acts make or consolidate major changes in the criminal justice system. Up to the 1990s, new Criminal Justice Acts were enacted every two years or so. The volume of legislation has increased rapidly during the 1990s. The Criminal Justice Act 1991 created a new structure for sentencing, encouraging a more limited use of imprisonment and making the seriousness of the offence (as distinct from, for example, rehabilitation or deterrence) the principal consideration which the court should take into account. Amending legislation and subsequent judgements by the courts have modified the effects of this Act, but in general the principle of proportionality remains. More recent Acts of Parliament have increased the powers of the police and the courts in relation to public disorder, changed the rules of evidence and procedure, created mandatory minimum sentences for certain types of repeated offences, and created comprehensive new arrangements for dealing with offences for juveniles.

Responses to public opinion surveys typically show that at least a quarter of people see crime as one of the main problems in Britain. Particularly lively debate currently (1998) surrounds youth crime and the perceived lack of adequate sanctions against young offenders.

The police have discretion to issue a formal caution to an offender, subject to the satisfaction of three criteria:

- a) the evidence must be strong enough to support a prosecution;
- b) the person must admit that he or she committed the offence in question; and

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<sup>1</sup> This profile benefited from comments made by Professor Roger Hood and Mr David Faulkner, Centre for Criminological Research, University of Oxford, Mr Gordon C. Barclay, Ms Pat Mayhew, Mr Chris Nuttall, Mr Roy Walmsley and Mr John Graham, Research & Statistics Directorate, Home Office, London.

- c) he or she must agree to the caution (as must his or her parents if the person is under 17).

The Crime and Disorder Act 1998 replaces these arrangements with a statutory structure of reprimands and final warnings.

Police forces have the discretion to deal with minor traffic offences by issuing fixed penalty notices. These are in effect fines which do not have to be ratified by a court, unless contested by the alleged offender. The majority of other cases for prosecution are referred to and taken forward by the Crown Prosecution Service, which was brought into existence by the Prosecution of Offences Act 1985. The Crown Prosecution Service may discontinue cases on the grounds of the insufficiency of evidence or on the grounds that a prosecution is not in the public interest. About 10 per cent of cases submitted by the police to the Crown Prosecution Service are now discontinued. In particular cases, other agencies may prosecute, most notably the Customs and Excise Service and the Television Licensing Authority. A major restructuring of the Service is now taking place.

Most of those brought before the courts plead guilty, in which event only the sentence is at issue. Where guilt is denied, trials are adversarial, with prosecution and defence lawyers examining witnesses. Historically, the defendant has had a right to silence on arrest or at the trial, so that silence could not be interpreted as an indication of guilt. Recent legislation (1994 Criminal Justice and Public Order Act) has meant that although defendants may still remain silent, courts and juries may take this silence into account in reaching their verdict. Thus, silence can now be interpreted in some circumstances as casting doubt on the accused person's line of defence.

Most cases proceeding to court are heard before benches of lay magistrates who are not normally legally qualified. Typically, three magistrates sit together. They are advised on points of law and procedure by justices clerks, or court clerks responsible to justices clerks. Justices clerks are legally qualified and are also in charge of the courts' administrative arrangements. The clerk's advice is only binding on points of law, but it is almost universally acknowledged that he or she is very influential in setting the tone of a court and its sentencing practice.

In some busy magistrates courts in large cities, stipendiary magistrates are appointed. They are full-time, salaried and legally qualified. They can and usually do sit alone.

In 1994, 95 % of offenders were sentenced in magistrates courts. Less serious (summary) offences are dealt with exclusively by such courts. More serious offences of some kinds *may*, and all the most serious (indictable) offences *must*, be subsequently dealt with by the Crown Court. These are known as "sitting away" or "indictable only" offences. Business at the Crown Court is usually presided over by a single judge. Virtually all contested trials in the Crown Court have guilt adjudicated by a jury of twelve citizens, aged



between 18 and 70. Some professions (principally those concerned with the enforcement of law and the administration of justice) are exempt from jury service. Unanimous verdicts are encouraged, but majority verdicts of 10-2 are permitted. Guilt must be established beyond a reasonable doubt.

The presiding judge decides on sentence. All cases dealt with by the Crown Court arrive there via a magistrates court (which is thus the court of first instance). Magistrates courts make preliminary inquiries into a serious case to see whether there is sufficient evidence for committal for trial in the Crown Court. The inquiry is often perfunctory, and following the Criminal Procedure and Investigation Act 1996, no defence evidence or oral examination of prosecution witnesses is allowed. The same Act provides that magistrates must assume jurisdiction if a defendant intends to plead guilty. Thus, defendants only retain the option of jury trial if pleading not guilty. Having heard a case, a magistrates court that judges its sentencing powers to be inadequate to reflect the seriousness of the offence, may commit the case to the Crown Court for sentence.

Magistrates courts may not impose a sentence of more than six months imprisonment in respect of a single offence, or of more than twelve months in total.

Children are held criminally responsible from the age of 10 (the condition that those under 14 must be shown to be capable of distinguishing right from wrong was abolished by the Crime and Disorder Act 1998). Since October 1992, defendants under 18 have their cases heard in youth courts, which are specially constituted magistrates courts which sit apart from other courts. There are restrictions on the identification of juveniles involved in court proceedings. If a person under 18 is charged jointly with someone of 18 or over, the case is heard in the ordinary magistrates courts.

Appellate review of conviction or sentence is possible. Cases decided in the magistrates court can be appealed to the Crown Court for a rehearing or to the Divisional Court on points of law, and those in the Crown Court to the Court of Appeal (Criminal Division). A further appeal to the House of Lords may be made under limited circumstances. For the most serious offences, the Attorney General has the power to refer apparently lenient sentences to the Court of Appeal, which may quash the original sentence and substitute another. The major mechanism designed to reduce disparity is the guideline sentence. When the Lord Chief Justice is minded to give guidance to judges about appropriate sentencing criteria and levels, he presides at the Court of Appeal (Criminal Division) to hear one or more cases of the kind in question, and having dealt with the specific appeal, goes on to outline the general principles and particular circumstances which should underpin sentencing in cases of the same offence type. There is some scepticism among legal scholars about the extent to which guideline judgements shape sentencing generally.



## 2 Statistics

### 2.1 Victimisation

The breakdown below presents the victimisation rates in England and Wales and its major cities.

**Table 1. Victimisation rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989, 1992 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	2.5	2.7	4.1	2.7
Major cities	3.4	4.5	4.9	3.2

### 2.2 Offences

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	4,543,611	8986.1	5,591,717	10942.8	5,249,478	10205.2
Homicide	669	1.3	687	1.3	726	1.4
Assault	178,684	353.4	194,458	380.5	210,311	408.9
Rape	3,391	6.7	4,142	8.1	5,067	9.9
Robbery	36,195	71.6	52,894	103.5	59,765	116.2
Theft	2,327,587	4603.4	2,801,802	5483.0	2,501,778	4863.6
Theft of cars <sup>1</sup>					509,104	989.7

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

In what follows, the years compared are 1990 and 1994, unless otherwise specified.

**Homicide.** As intentional and non-intentional homicides (e.g. manslaughter) are not counted separately, the above numbers include both. However, the figure does not include attempts, which increased from 476 to 640 between 1990 and 1994.

**Assault.** The number of offences recorded as assault rose by 17.6% over the period, from 178,684 to 210,311. The rise in major assaults was 23.5%.

**Rape.** Recorded offences of rape of a female increased from 3,391 in 1990 to 5,067 in 1994, a rise of 49.4%. There is almost certainly a recording effect consequent upon the more sensitive handling of rape complainants.

**Robbery, theft, and burglary.** There was a 65% increase in recorded robberies over the period, from 36,195 to 59,765. The total number of theft increased by 7.5% between 1990 and 1994 (from 2,327,587 to 2,501,778), whereas major thefts rose by 8.4%. With regard to burglary, the increase during the period was almost 25%. Car theft rose by 8.6% over the same period.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	81.8	101.8
Prisoner rate <sup>1</sup>		90.0	100.0
% women in the prison population <sup>2</sup>		3.7	4.1
Prisoner rate / 100,000 (convicted only)	Adults	56.3	58.4
	Juveniles	12.4	10.1
% of females of convicted prisoners	Adults	3.8	3.8
	Juveniles	2.4	2.7
% of juveniles		17.8	14.8

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

Between 1990 and 1994, the total number of persons prosecuted rose from 1,865,948 to 1,928,806, an increase of 3.4%, but the total number of those convicted over the period declined from 1,493,936 to 1,395,299 (-6.6%). Convicted adult offenders (21 years or older) were sentenced as follows:

**Table 4. Trends in sentencing**

Sentence type	1990	1992	1994
Life imprisonment	182	209	212
Unsuspending imprisonment	39,644	42,089	52,165
Partially suspended imprisonment	1,544	623	-
Community sentences	51,166	57,555	83,674
Warning, admonition	102,093	114,413	94,508
Fine	988,228	1,033,574	939,295

The number of sentences of imprisonment increased dramatically (+31.5%) when partially suspended imprisonment was abolished in October 1992. Fines, warnings and admonitions decreased between 1990 and 1994, and sentences of control in freedom (called community sentences and including community service orders and probation) rose by 63%. The number of

persons placed on criminal supervision under the probation service in 1990 was 89,672, and rose to 111,746 in 1994 (+24.6%). In 1994 the number commencing a probation order was 49,500. Another 48,200 commenced a community service order.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In England and Wales, 10% of the respondents would have favoured a fine, 5.9% a suspended sentence, 37% community service and 43% imprisonment. Among those favouring imprisonment, the average suggested sentence was 34 months. Relatively speaking, this suggests above-average support of imprisonment in such a case.

The annual number of admissions into prisons increased from 129,444 in 1990 to 156,509 in 1994 (+20.9%) and the number of inmates on June 30 rose by 9.8% from 44,523 to 48,879. The proportion of those inmates awaiting trial or adjudication also rose from 20.5% in 1990 to 25.6% in 1994. Nevertheless, those numbers include persons who have been sentenced in the court of first instance but have appealed the verdict.

Between 1990 and 1994, the average length of time spent in custody awaiting trial increased from 7.6 to 8.4 weeks for men and from 5.7 to 6.3 weeks for women. Nevertheless, the average length of prison sentences actually served in prison decreased from 32.0 to 29.2 weeks for males and from 23.2 to 19.6 weeks for females, while the number of persons paroled declined by 85%. Both these changes reflect new early release arrangements introduced in October 1992 by the 1991 Criminal Justice Act.

2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	342.2	346.7
	% female	-	-
Prosecutors	total / 100,000	-	4.1
	% female	-	47.2
Judges	total / 100,000	1.6	1.9
	% female	-	6.5
Prison staff	total / 100,000	-	74.7
	% female	-	-

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the total amount of reported crime has increased between 1990 and 1994. There has been an increase in the categories of assaults, major assaults, rapes (presumably largely due to a recording effect consequent upon the more sensitive handling of rape complainants), robbery, theft, major theft, burglary and car theft.

According to the results of the 1996 ICVS, (the ICVS data cited herein are the averages for three sweeps of the survey) 27% of the respondents in England and Wales had been the victim of a crime during the preceding year, a rate which is above average for the European and North American countries. For individual offences, the victimisation rate was 2.5% for contact crimes, 2.7% for burglary with entry, 4.1% for violence against women and 2.7% for car theft.

On the index of homicide, England and Wales had very much the lowest rank out of 47 countries. England and Wales was in the low middle range in respect of the index of serious violence, and moderately high in respect of the index of violence in general.

Perhaps the moderately high score on the index of violence helps to explain why 30.0% of the ICVS respondents in England and Wales stated that they tend to avoid certain places in their neighbourhood at night, a rate which is slightly above the median for Europe and North America of 27.8%.

Internationally speaking, England and Wales appears to have a very high amount of burglary and of offences against motor vehicles and a moderately high amount of petty crimes.

On the index of the amount of corruption, England and Wales has a relatively low rank, twelfth lowest out of 45. The Transparency International index for England and Wales is 8.6 on a scale of zero (considerable corruption) to ten (no corruption). This suggests that bribery and corruption, when they occur, are limited to isolated incidents.

According to data collected by the Dutch Ministry of Justice, there are some 150,000 drug addicts in residential treatment in all of the United Kingdom. Proportionately, this is among the highest rate among the European Union countries.

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the results for urban ICVS respondents in England and Wales, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) satisfaction was 2.99, which would place the country in the middle range internationally. In 1995, unemployment (which presumably correlates with strain) in the United Kingdom was in the middle range for Europe, 8.7% of the active labour force. This was somewhat higher than the corresponding figure five years previously (6.9%) (The Economist Pocket Europe in Figures, 1997). The “motivation index” calculated for England and Wales was 2.4, which is relatively low when compared with other European countries in general, but in line with the index in the other European Union countries.

According to the UN Compendium on Human Settlements, 89% of the population of the United Kingdom live in urban areas, a relatively high proportion. The 1997 Human Development Report assigns the United Kingdom with a “human development index” of 0.93 (15th highest in the world), and the World Bank reports a GNP of USD 18,410 per capita (1994), the fifteenth highest in Europe and North America. According to the ICVS, 88 % of the population lives in detached or row housing; internationally speaking, this is a very high percentage. (Criminological theory suggests a positive correlation between the proportion of detached and row housing, and burglary.) The ICVS also indicated that the population in England and Wales is relatively active in spending their leisure time outside of the home, with respondents reporting spending an average of every other evening away for entertainment purposes. This would place England and Wales near the top quartile among the European and North American countries.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, the score for England and Wales was 64.8, which is almost precisely the mean among the European Union countries (64.7). The difference between an average opportunity for property offences and a relatively modest property offence rate may be linked with the relatively high extent to which the population of England and Wales uses protective measures. 68% of the urban population report the use of special door locks, 27.1% the use of special window grills, and 24.5% the use of burglar alarms in their household – all three the highest reported rates in Europe and North America.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. The averaged

results for the three sweeps of the ICVS show that 4.2% of the respondents stated that their household had a firearm; most of these were shotguns, and only 0.5% had a handgun – among the lowest rates for the European and North American countries in which the study has been carried out. Alcohol consumption, according to the World Drink Report, is above average, with a per capita consumption of 1.56 litres of strong alcohol, 103 litres of beer and 13 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. The divorce rate in the United Kingdom is 3.0 per 1,000 in population per year, which is relatively high (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index for the United Kingdom as a whole in 1994 was 0.90, placing it thirteenth highest among all countries in the world for which the data are available. Only 8% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that only 8% of persons at the top levels of government are female. In this light, it is of interest to note that England and Wales appears to fall in the middle range (21st lowest ranking out of 44 countries) on the index of violence against women. 10 rapes were recorded by the police per 100,000 in population in 1994, somewhat higher than average in Europe. This above-average position is somewhat contradicted by the results of the ICVS (averaged national rate, 1988-1995): only 1.7% of the female respondents areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year.

According to the World Values Study attitude survey, respondents in England and Wales showed about average tolerance (in the European and North American perspective) for deviance: one third of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. Also in respect of misdemeanours and petty crimes, respondents in England and Wales showed about average tolerance. This tolerance was much more in evidence in respect of minorities; on this indicator, the respondents in England and Wales were more tolerant than average.

In a factor analysis of the determinants of crime, England and Wales had a high negative loading in respect of strain-related violence (-.75), the second highest positive loading in respect of serious property crime in urban settings (+1.61), and a negligible loading in respect of opportunistic petty crime (-.19) (see Table 10 in part I, p. 49). This could be interpreted to mean that, comparatively, for example the high rate of urbanisation and the high rate of motor vehicle ownership suggest a high propensity to serious property crime.

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 23, which is less than the mean for all countries for which the data are available (27) or for the EU countries (26). The number of public police officers (347 per 100,000 in population) was very close to the EU mean of 341, and was further augmented by 155 private policemen per 100,000. England and Wales had 4 prosecutors, 2 judges and 75 correctional personnel per 100,000 in population. (The corresponding EU means were 6, 13 and 53.)

The score of England and Wales on the Criminal Justice Practitioner Gender Balance Index (28; see part I, pp. 78-80) was the same as the mean for the entire region, and above the EU mean of 25.

On the index of Citizen Evaluation of Police Performance, England and Wales score very highly (44; the EU mean was 37), suggesting very high public satisfaction with police performance. According to the ICVS, 61% of victims reported the offence to the police, among the highest proportions encountered in the Survey. Only 26% of victims in England and Wales who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, in turn one of the lowest proportions internationally. Among those respondents expressing an opinion, only 24% were dissatisfied with the way in which the police controlled crime in their neighbourhood in general. All of these suggest that, in an international perspective, the law enforcement community in England and Wales has succeeded in gaining the confidence and support of the population.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of "attrition" in the criminal justice system can be developed. (See part I, pp. 95-100). In general, England and Wales have higher than average proportions, suggested relatively little attrition. Nonetheless, it is notable that an unusually low proportion of convictions result in imprisonment (0.04, where the EU mean is 0.32). (As has been noted in several other connections in this report, international comparisons of crime and criminal justice statistics are fraught with possible error. A more detailed comparison of this point would require an analysis of how widely the term "conviction" is understood in the different countries.)

In general, it can be seen from the data that more crimes have been recorded by the police in 1994 than in 1990, there has been a smaller rise in the number of people who have been prosecuted, while fewer people have been convicted. Nevertheless, the prison population increased between 1990 and 1994. There are at least three possible explanations for this:

- a) a rise in the number of convictions for offences which can result in imprisonment;

- b) an increase in the use of imprisonment; and
- c) a rise in the average sentence length or in the average time served in prison.

In fact all three play a part. There has been a steady rise in convictions for certain serious offences, e.g. an 18% rise in convictions for drug trafficking offences. The use of imprisonment has risen at both magistrates' courts and the Crown Court, with overall the use of imprisonment for all sentenced offenders rising from 3.8% in 1990 to 4.9% in 1994. Although the average sentence length fell slightly over this period, recent trends will be affected by a change introduced in 1992 in the arrangements for early release. Prisoners are now eligible half-way through their sentences (rather than one-third) with parole available only for those serving sentences of four years or more.

## 4 Further reading

Barclay, Gordon C. (1995). *The Criminal Justice System in England and Wales*, third edition (48 pages), Home Office Research and Statistics Department, Dissemination Unit, Room 1804, Lunar House, 40 Wellesley Road, Croydon, Surrey, CR0 9YD, UK.



# Estonia<sup>1</sup>

## 1 Background

On 20 August 1991, Estonia declared its independence. On 7 May 1992, the Criminal Code of the Estonian Republic was adopted, and it entered into force on 1 June 1992. This new Code considerably modified criminal law in comparison with the Criminal Code of the Estonian Soviet Socialist Republic, which had been adopted on 6 January 1961 and had entered into force on 1 April 1961. For example, the reform sought to remove the imprint of socialist ideology from the Criminal Code. Over forty articles were deleted, and many other articles were amended; for example, references to socialist property and socialist rule of law were deleted. Individuals previously convicted for ideological (“anti-socialist”) crimes were released, and cleared of all charges.

Furthermore, the wide range of punishment previously stipulated by the Criminal Code was reduced to four types of sanctions: fines; curtailing the right to hold certain positions and engage in specific types of activities; “arrest” and deprivation of liberty for a term of up to 15 years; and the death penalty for certain first degree crimes such as intentional homicide. Capital punishment was abolished in March 1998<sup>2</sup> and replaced by life imprisonment. (The last sentence of capital punishment to be executed in Estonia was in 1991, before independence.)

Modifications to the Criminal Procedural Code were introduced on 7 May 1992. The essence of these modifications were similar to amendments made to the Criminal Code, including changes with regard to investigatory powers. Despite the introduction of modifications, the Estonian Criminal Code is already facing further systematic alterations.

In March 1991, the Police Force was restored in Estonia.

On 28 June 1992, following a referendum, the new Constitution of the Estonian Republic was adopted. It came into force on 3 July 1992. The Constitution includes provisions on the criminal liability of citizens, and on justice. For example, Article 23 contains the principle of *nulla poena sine lege* (no one may be convicted of an offence unless such an act is recognised by the law as criminal at the time); and Articles 148-151 state that justice in

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<sup>1</sup> This profile has benefited from comments made by Ms Priidu Pärna, Vice-Chancellor, Ministry of Justice of Estonia, Mr Andri Ahven, Ministry of Internal Affairs, Mr Aavo Heinlo, Head of Section of Education, Science, Culture and Justice Statistics, Statistical Office of Estonia and Ms Anna Markina, Research Centre for Criminology and Sociology of Law, Estonian National Defence and Public Service Academy.

<sup>2</sup> The Convention on Human Rights, Protocol No. 6, concerning the Abolition of the Death Penalty was ratified on 18 March 1998 by the Estonian Parliament.

Estonia may only be administered by the court. The court is independent in its activities and administers justice in accordance with the Constitution and law. Judges are appointed for life, by the President of the Republic.

The first instance courts in Estonia are the county, city and administrative courts. Three regional courts serve as courts of appeal. The State Court is the highest judicial authority and is responsible for cessation procedure and constitutional supervision.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Estonia and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1992 and 1995 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	5.1	5.0	5.7	1.3
Major cities	7.7	7.2	7.3	2.0

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	23,807	1515.4	41,254	2671.9	35,739	2384.2
Homicide	150	9.5	256	16.6	385	25.7
Assault	289	18.4	377	24.4	411	27.4
Rape	53	3.4	2,649	171.6	2,981	198.9
Robbery	-	-	-	-	-	-
Theft	13,243	843.0	33,209	2150.8	24,719	1649.0
Theft of cars <sup>1</sup>					1,955	130.4

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

Between 1990 and 1994, the total number of crimes in Estonia increased by 50.7%. This table shows that a dramatic increase occurred between 1990 and 1992, and that the number of crimes decreased since 1993. Nevertheless, the latter is not true for homicides, assaults and frauds which increased steadily. (In the years following 1994 the number of homicides has decreased substantially.) The general trend follows the trend in the number of thefts.

**Homicide.** The total number of homicides increased by 156% between 1990 and 1994. In 1994 there were 20 (5.2%) non-intentional homicides, 63 (16.4%) attempts and 302 (78.4%) completed homicides.

**Fraud.** The fraud figure underwent the biggest increase in Estonia (with the exception of the number of cases of bribery or corruption which increased from 3 in 1990 to 42 in 1994; +1300%). During the same period, the number of frauds rose by 385%.

**Theft.** Between 1990 and 1992 the number of thefts almost doubled, but then decreased by 26% between 1992 and 1994. Nevertheless, there was still an increase by 45% from 1990 to 1994.

**Car theft.** After a sharp jump from 1990 to 1992, the number of car thefts steadily decreased: 1,140 in 1990, 1,735 in 1992, 1,261 in 1993, 1,094 in 1994 and 801 in 1995. The number of “taking a motor vehicle without authorisation” (“joy-riding”) also remained relatively stable: 1042 in 1990, 1193 in 1992, 1359 in 1993, 1442 in 1994 and 1154 in 1995.

**Robbery.** The Estonian Criminal Code distinguishes between theft with violence (sec. 140 of the CC) and robbery (sec. 141 of the CC). “Theft with violence” is typically an offence where the victim is held immobile, and the offender or offenders take his or her property. If the victim is not physically injured, and the offenders do not explicitly threaten to injure him or her, then the offence is “theft with violence”; if there is injury or an explicit threat, the offence is robbery.

The number of robberies increased from 249 to 786 between 1990 and 1994. The number of “thefts with violence” increased from 1,079 in 1990 to 2,195 in 1994.

**All recorded crimes.** The total number of crimes recorded by the police rose by 50.7% between 1990 and 1994. If one excludes theft, the number of recorded crimes increases even more, by 69.0% (from 6,520 in 1990 to 11,020 in 1994).

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	58.4	111.0
Prisoner rate		280.6	293.6
% women in the prison population <sup>1</sup>		-	-
Prisoner rate / 100,000 (convicted only)	Adults	204.7	170.8
	Juveniles	5.2	2.3
% of females of convicted prisoners	Adults	3.7	1.9
	Juveniles	0.0	5.9
% of juveniles		2.5	1.3

<sup>1</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

Between 1990 and 1994 the total number of persons convicted increased by 106% (male: +103%; female: +153%). The increase among adults (+116%) was bigger than the increase among juveniles (+67%). If looked at by type of crimes, the increase in the number of persons convicted in criminal courts is the highest for bribery and/or corruption (+600%) followed by fraud (+592%), theft (+190%), intentional homicide (+181%), and robbery (+126%).

With regard to the type of sentence imposed on adults, the fines increased from 482 in 1990 to 1,922 in 1994 (+299%), sentences of imprisonment increased from 917 to 1,664 (+81%) (none of these were life sentences), and the warnings or admonitions increased from 1,415 to 2,489 (+76%). Sentences of capital punishment have been imposed three times in 1990, once in 1992, and twice in 1994. (As noted, no executions had taken place since independence, and capital punishment was abolished in March 1998.)

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Estonia, 7% of the respondents would have favoured a fine, 8.7% a suspended sentence, 37% community service and 42% imprisonment. Among those favouring imprisonment, the average suggested sentence was 34 months. In an international comparative, this shows relatively strong support for the use of imprisonment. However, it is of interest to note the wide support for community service, even though the Estonian system does not include such a sanction.

Unexpectedly, the increases referred to above in crime, convictions and sentences of imprisonment are not reflected in the prison population. The latter stays relatively stable between 1990 and 1994. That seems to indicate that the length of the sentences decreased between 1990 and 1994. Regrettably, this hypothesis cannot be examined, due to a lack of data.

Although the Estonian prisoner rate stayed relatively stable between 1990 and 1994, this stability has occurred at a record high of about 290 inmates per 100,000 inhabitants (280.6 in 1990; 293.6 in 1994).

Given that the number of inmates has remained stable, the number of those awaiting trial or adjudication increases dramatically to account for 39% of the inmates in 1994, whereas the number of sentenced detainees decreases. (Subsequent to the period under review, the proportionate number of persons awaiting trial has decreased.) (The number of detainees awaiting trial or adjudication includes persons who have been sentenced in the court of first instance but have appealed the verdict.)

## 2.4 Personnel and resources

**Table 4. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000		436.2
	% female	-	-
Prosecutors	total / 100,000	11.7	8.2
	% female	45.1	65.9
Judges	total / 100,000	6.0	12.3
	% female	46.8	60.5
Prison staff	total / 100,000	-	176.3
	% female	-	32.9

## 3 Crime and criminal justice profile<sup>3</sup>

### 3.1 The crime situation

As noted in section 2.2, between 1990 and 1994 the total number of crimes in Estonia increased by about one-half. There was a dramatic increase between 1990 and 1992, followed by a decrease. However, the number of assaults and frauds continued to increase.

According to the results of the 1995 ICVS, 30% of the respondents had been victimised during the preceding year. The victimisation rates for selected individual offences were 5.0% for burglary and attempted burglary, 5.4% for assault or threat, 8.0% for theft from or of a car, and 3.3% for robbery (averaged rates for 1992 and 1995). These are, internationally speaking, rather high.

<sup>3</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

On the index of homicide, Estonia was second only to the Russian Federation (out of 47 countries). In respect of both the index of serious violence (calculated for 49 countries) and the index of violence in general (36 countries), Estonia had the highest ranking. The level of violence reflected in such scores is presumably linked with the level of fear of crime. For example, 45.6 % of the urban ICVS respondents stated that they avoid certain areas at night; this proportion was somewhat above the median for all European and Northern American countries of 43.4%.

Internationally speaking, Estonia appears to have a very high amount of burglary (highest ranking among 45 countries) and of petty crimes (fourth highest ranking among 36 countries), and a moderately high amount of offences directed against motor vehicles.

On the index of the amount of corruption, Estonia falls in the middle range for European and North American countries.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or who are unemployed (see pp. 35-36 of part I). According to the ICVS, among urban respondents in Estonia satisfaction with income on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was 2.11, which places the country in the bottom quartile. (The regional mean was 2.64.) In 1995, unemployment was among the lowest in Europe, 2.3% of the active labour force (The Economist Pocket Europe in Figures, 1997).<sup>4</sup> The over-all “motivation index” for Estonia is 8.5, which is above the mean for the region.

According to the World Values Study attitude survey, respondents in Estonia showed about average tolerance (in the European and North American perspective) for minorities, and were about average in their readiness to justify the commission of small crimes under certain circumstances.

According to the UN Compendium on Human Settlements, 72% of the population in Estonia live in urban areas. The 1997 Human Development Report assigns Estonia with a “human development index” of 0.78, which would place it in the low middle range, and the World Bank reports a GNP of USD 2,820 per capita (1994), again a relatively low figure for the European and North American region.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the

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<sup>4</sup> However, the statistical authorities of Estonia note that this figure refers only to recorded unemployment. Since unemployment benefits are very low in Estonia, many unemployed persons do not register. The Statistical Office conducts regular Labour Force Surveys, which provide the following unemployment rates: 1990: 0.6%; 1991: 1.5%; 1992: 3.7%; 1993: 6.7%; 1994: 7.6% and 1995: 9.7%.

proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index” for property crime, Estonia, at 51.4, falls about half-way between the mean for Central and Eastern Europe (37.9), and the mean for Western Europe (64.66). According to the 1995 ICVS, only 17.2% of the urban population report the use of special door locks, 2.6% the use of special window grills, and 2.8% the use of burglar alarms in their household, among the lowest reported rates in Europe and North America. (However, the first two rates mentioned mark a significant increase over the corresponding rates only two years earlier, in 1993.) Again according to the ICVS, 48.7% of the urban population have a car in their household; among European and North American countries, this is a relatively low rate.

Factors which may influence the opportunity for violent offences include the availability of suitable weapons, the use of alcohol, and the degree to which stranger-to-stranger contact occurs in surroundings that may be conducive to assault. According to the ICVS, 8.5% of the respondents stated that their household had a firearm, and 2.5% had a handgun - both relatively low rates. The ICVS also indicated that the population in Estonia is less likely than the European and North American average to spend their leisure time outside of the home, with respondents reporting spending an average of 2.81 evenings per week away. With the exception of the “satisfaction with income” factor, therefore, these background factors would not project a particularly serious problem with violence, a projection that is at odds with Estonia’s scores on the various indices of violence mentioned above in section 3.1.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. In respect of female educational attainment, Estonia is relatively high among the European and North American countries. According to the ICVS data, only 1.8% of the respondents were divorced, a very low figure. However, the Economist data (*The Economist Pocket Europe in Figures, 1997*) suggests that the divorce rate – 3.7 divorces per 1,000 in population per year – is among the highest in Europe. According to the 1997 Human Development Report, the so-called gender-related development index in Estonia in 1994 was 0.764, placing it seventeenth lowest among the 47 European and North American countries for which the data are available. 13% of Parliamentary seats are held by women. Estonia ranks 15th highest out of 44 countries on the index of violence against women. Eight rapes were reported per 100,000 in population in 1994. This is somewhat contradicted by the results of the 1995 ICVS: only 2.0% of the female respondents reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This is lower than the average among the participating countries.

In a factor analysis of the determinants of crime, Estonia had a very high positive loading in respect of strain-related violence (+1.42) and serious property crime in urban settings (+1.45), and a high positive loading in



respect of opportunistic petty crime (+1.06) (see Table 10 in part I, p. 49). These can be interpreted to mean that, in an international comparison, the propensity to commit these types of crime in Estonia is unusually high.

### 3.3 Operation of the criminal justice system

Estonia's score on the Law Enforcement Resource Index (which essentially measures spending on law enforcement; see part I, pp. 72-74) falls in the fourth quartile (38). The country's spending on law enforcement is the fourth highest of all countries covered. Estonia accordingly ranks in the third and fourth quartiles on all the rates of criminal justice personnel. The number of police per 100,000 in population (436) is above the mean for the region (390), but below the mean for Central and Eastern Europe (484). Given the high prisoner rate, it is scarcely surprising that Estonia has one of the highest rates of correctional staff in the region (176 per 100,000), far above the mean for the region (64).

Estonia falls in the fourth quartile on the Criminal Justice Practitioner Gender Balance Index (50), and indeed has the region's highest proportion of women working in the criminal justice system. More than 60% of Estonian prosecutors and judges are women, and 33% of the correctional staff are female.

On the index of Citizen Evaluation of Police Performance, Estonia scores very low (first quartile, 13). According to the ICVS, only 36% of victims in urban areas reported the offence to the police, a relatively low proportion. 69% of victims in Estonia who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, the second highest proportion among the countries participating in the ICVS. An even higher proportion – 79% – of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood. All of these rates suggest that more work needs to be done in increasing public confidence in the police. In this connection, it may be noted that, according to Interpol statistics for 1994, the clearance rate of all offences in Estonia is 57%, which internationally speaking is relatively high.

Another rough way of measuring the clearance rate is by comparing the number of offences recorded by the police and the number of persons formally brought into contact with the criminal justice system as a suspect. For Estonia, this rough "clearance rate" is 0.26, again very low among the European and North American countries for which data are available, and considerably below the mean (0.49). However, the rate of prosecutions per offences reported is the same (0.26), suggesting that some misunderstanding may have arisen in connection with data entry on suspects and persons prosecuted.

Estonia's rate of convictions per offences reported (0.17) was also somewhat below the regional mean (0.23). On the other hand, the number of convictions per prosecution (0.65), is slightly above the regional mean (0.63).



A somewhat below average proportion of cases result in a sentence of imprisonment; 18 custodial sentences are imposed for every 100 suspects entering the “system”, while the regional mean is 24.1. Nonetheless, the prisoner rate is higher than the mean for the Central and Eastern European countries (294 and 263 respectively). The difference is largely attributable to the length of sentences actually imposed: the average length of custodial sentences in Estonia was 238 weeks, while the regional median was less than half of this, only 107 weeks. (However, it should be noted that data on this point are missing from most of the countries in the region.)

In general, a rising crime rate can either be the result of an increasing number of committed crimes, or of a better working and more efficient police. Whatever the reasons for the increasing crime rate, the above data suggests the need for increased attention to prevention, especially in order to try to avoid further increases in crimes of fraud, bribery or corruption, as well as in homicides.

One point of concern is the large number of persons in custody who have not yet been convicted, and are awaiting trial or adjudication. In order to deal with this matter, consideration might be paid to the possibility of more rapid criminal justice proceedings (for example through the use of more judges and simplification of procedure, with due respect to fundamental legal rights), and to the greater use of pre-trial release. (As noted, the proportion that is in pre-trial custody has been decreasing after the period under review.)

Since the Estonian prisoner rate is one of the highest in the world (293.6 inmates per 100,000 in population in 1994), this strongly suggests that means should be found to reduce the prison population to the general level in Europe, which is under 100 per 100,000 in population. To do so, the possibility of using non-custodial sanctions might be explored, and means should be studied for reducing the length of sentences of imprisonment imposed. One step in this direction was the adoption of the Probation Act on 17 December 1997; entered into force on 1 May 1998.

# Finland<sup>1</sup>

## 1 Background

The Finnish Criminal Code, which was enacted in 1889, was decisively influenced by the Criminal Code of Sweden, of which Finland was a part until 1809. The Criminal Code is presently undergoing a total revision. The first part of the revision dealing i.a. with property offences and economic crime entered into force on 1 January 1991. The second part which mainly deals with crimes of violence and crimes against the state came into force on 1 September 1995. Additional chapters, i.e. on perjury and sexual crime, were reformed in 1998. The remaining chapters on particular offences, the general part of the criminal law and the revision of the system of criminal sanctions are under preparation.

Crimes are usually investigated by the police. Certain offences are investigated by customs and tax authorities. The Ministry of the Interior supervises the police. If the case is to be tried in court the results of police investigations are turned over to the prosecutor, who is a full-time prosecutor. All prosecutors are under the supervision of the Prosecutor General. (Following a 1997 reform, prosecutors are independent full-time civil servants, and the highest prosecutor authority is the State Prosecutor's Office.)

The most severe punishment alternative is imprisonment for life, which can be imposed for murder. Fixed term prison sentences normally fall into the range of 14 days to 12 years, subject to the latitude prescribed for the offence in question. Prison sentences of up to two years can be suspended (conditional sentence).

There are two types of fine sentences. Minor traffic offences are dealt with by a "petty fine" set by the police. Petty fines cannot be converted to imprisonment in case of default.

"Ordinary" fines are calculated according to the day-fine system. (Finland was the first Nordic country to adopt this system, in 1921.) Day-fines can be issued by the court which has tried the case or it can be set through a summary penal order. The penal order is formally approved by the public prosecutor (before 1994 a judge approved the penal orders). In practice the police issues the penal order after which the typical offender pays the fine through a bank,

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<sup>1</sup> This profile has benefited from comments made by Professor Raimo Lahti, Faculty of Law, University of Helsinki, Mr Kauko Aromaa, Research Director, National Research Institute of Legal Policy and Mr Tuomo Niskanen, Statistics Finland.

although he or she has the option of challenging it in court. Defaulters may be sentenced to prison.

The Pre-trial Investigation Act and the Coercive Means Act, which entered into force at the beginning of 1989, significantly changed earlier procedures, for example by introducing a shorter maximum limit for the time the police can hold an arrested suspect in custody. Following a 1990 law amendment, the maximum is four days, after which the arrested person must be released, unless a court decides to remand him or her in custody.

During the time a Court of Appeals reviews a criminal case adjudicated in a primary court, a person remanded in custody retains his or her status and privileges. Convictions by primary courts can always be appealed to the one of the six Courts of Appeal that has geographical jurisdiction. A subsequent final review in the Supreme Court is possible only if the Supreme Court decides to grant leave of review.

The Finnish system is relatively legalistic. The exercise of discretion is closely circumscribed, and plea-bargaining is unknown. The system is based on mandatory prosecution, where the prosecutor is allowed to waive prosecution only on certain conditions stipulated in law. (However, the conditions for the waiving of prosecution were considerably broadened in 1990.) If the offence is a so-called complainant offence, the consent of the complainant is a prerequisite for prosecution.

The minimum age of criminal responsibility is 15 years. Offenders below this age are dealt with solely by the social welfare authorities. If the offender was under 18 at the time of the offence a more lenient set of sanctions is available.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Finland and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989, 1992, and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	2.9	0.6	6.6	0.5
Major cities	4.5	0.4	10.2	0.6

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	437,700	8778.6	392,872	7792.0	383,351	7524.1
Homicide	429	8.6	461	9.1	533	10.5
Assault	20,654	414.2	19,086	378.5	19,836	389.3
Rape	381	7.6	369	7.3	387	7.6
Robbery	2,627	52.7	2,194	43.5	2,122	41.6
Theft	110,467	2215.5	123,086	2441.2	115,234	2261.7
Theft of cars <sup>1</sup>					20,580	403.9

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

### Offences

The total volume of offences recorded by the police in Finland declined between 1990 and 1994 by 12.4%. However, this decline in the total volume of offences is presumably an artefact caused by the 1991 change in the rules for counting (credit card) frauds. Additionally, nearly half of the offences (of the total volume) are traffic offences. With this in mind, there were only minor fluctuations in the volume of recorded crime between 1991 and 1994. On the other hand, there was some variation in the trends in individual offences. First, the number of homicides shows a marked increase (+24.2%) between 1990 and 1994; however, this increase is the result of a growth in attempted homicides only (from 244 in 1990 to 365 in 1994). The number of committed homicides remained fairly stable between 1990 (152) and 1994 (147). The number of non-intentional homicides (including involuntary manslaughter in connection with assault) declined by 36.4% between 1990 and 1994. The annual variations in non-intentional homicide are rather large. Declines are also noted in (major) assault (-13.6%), robbery (-19.2%), and major theft (-3.5%). Police reports of rape, on the other hand, remained fairly stable in the 1990-1994 time period. Reports of burglary increased by 38.2%, with the sharpest increase in 1991 (from 71,405 to 91,261). Drug-related crimes were reported 2.3 times more frequently in 1994 (5,936) than in 1990 (2,546). However, it should be noted that in 1994, the regulation of narcotics offences was transferred from the Narcotics Act to the Criminal Code, and this may have affected the definition and reporting of such offences.

### Convictions

The number of convictions in courts of first instance also has declined between 1990 and 1994, by almost 10% (from 94,521 to 85,460). More people were convicted for homicide in 1994 than in 1990 (+16.2%), for rape

(+20.8%), and for drug-related crimes (+132.6%). Robbery convictions declined by almost one-fourth between 1990 and 1994. Convictions for (major) assault remained relatively unchanged.

**Table 3. Number of persons convicted (including attempts)**

Number of persons convicted (including attempts) <sup>1</sup>	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts)	185	222	222	189	215
(Major) Assault	731	728	754	767	727
Robbery	668	522	667	516	505
(Major) Theft	991	867	875	846	924
Rape	53	63	56	67	64
Drug relater crime	745	958	1,466	1,624	1,733

<sup>1</sup> The data refers to persons convicted in the criminal courts of first instance. Data includes persons "found guilty".

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	224.0	143.4
Prisoner rate <sup>1</sup>		60.0	60.0
% women in the prison population <sup>2</sup>		3.5	4.8
Prisoner rate / 100,000 (convicted only)	Adults	55.9	49.2
	Juveniles	2.7	2.1
% of females of convicted prisoners	Adults	2.9	4.0
	Juveniles	0.7	0.9
% of juveniles		4.6	4.0

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

In Finland, there has been a decrease in the number of sanctions of imprisonment between 1990 and 1994. In 1994, the number of prison sentences imposed was almost one-third lower than in 1990. The decrease in the number of prison sentences does not only reflect a decline in prosecutions and convictions during the 1990-1994 period, but also is a result of a lesser inclination to select imprisonment as punishment. In 1990, prison sentences still made up 13.5% of all imposed sanctions; this proportion had decreased to less than 12% in 1994. In 1994, the figure (7,306) reflects the wider introduction of community service, which can be imposed in place of an

unconditional sentence of imprisonment; in 1990 and 1992, the imprisonment figures reflect simply an unconditional sentence of imprisonment. (In 1994, 1,442 community service orders were imposed; in theory, these “replaced” an equal number of unconditional sentences of imprisonment. They are listed in the “others” category.) On the other hand, although the volume of fines imposed remained virtually constant between 1990 and 1994, proportionally fines became a more common sanction (72.9% in 1994, compared to 67.9% in 1990). The figures in the row ‘conditional sentence’ include conditional (i.e. suspended) sentences of imprisonment, conditional fine, finding of guilt without sanction, and – only for civil servants and soldiers – a warning.

**Table 5. Trends in sentencing**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	82,851	100	86,361	100	76,474	100
Imprisonment	11,167	13.5	10,840	12.6	7,306	9.6
Fine	56,227	67.9	61,200	70.9	55,749	72.9
Condit. Sentence	15,457	18.7	14,321	16.6	11,977	15.7
Other (Community Service <sup>1</sup> )	-	-	-	-	1,442	1.9

<sup>1</sup> Community service is formally a replacement for an unconditional imprisonment sentence.

### Prison population

The number of people admitted to prison between 1990 and 1994 declined slightly (-1.4%, from 8,831 to 8,711). Consistent with trends noted earlier, however, the number of females admitted to prison increased by almost one-fourth between 1990 and 1994. No data are available for the gender distribution of juveniles admitted to prison.

The number of people held in incarceration at any given time was lower than the number of people admitted to prison, reflecting fairly short prison sentences. Around 10% of the incarcerated persons are in prison awaiting adjudication. In Finland, in 1994, 248 people were incarcerated because of non-payment of fine. The number of people held in incarceration decreased slightly between 1990 and 1994 (-6.0%).

In 1994, there were 23 adult prisons or correctional institutions in Finland, with a total of 3,606 beds available – a slight decrease from the 3,777 beds available in the 21 adult institutions in 1990. In 1994, there was only one juvenile prison in Finland, with room for 176 juveniles.

In 1994, 2,215 people were on probation in Finland, and 1,304 people were on parole in that same year. A larger number of people were actually paroled from prison. However, only a handful of people (primarily those who are

sentenced to preventive detention, and those who refuse military service) serve their prison sentence from the first to the last day in prison.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	239.5	231.9
	% female	22.5	23.5
Prosecutors	total / 100,000	6.8	6.6
	% female	7.4	7.5
Judges	total / 100,000	20.2	18.2
	% female	-	-
Prison staff <sup>1</sup>	total / 100,000	52.3	52.6
	% female	-	-

<sup>1</sup> Data only for adult prisons

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, there were only minor fluctuations in the volume of recorded crime between 1991 and 1994. There was an increase in attempted homicides, and considerable fluctuations in the number of non-intentional homicides. Declines were reported in the number of serious assaults, robbery and major theft, and considerable increases were reported in the number of burglaries and drug-related offences.

According to the ICVS (averaged rates for 1989, 1992 and 1996), 25% of the respondents in urban areas in the country had been the victim of a crime during the previous year, the eighth lowest urban rate in any of the 31 countries for which these data are available. The urban victimisation rate was 0.4% for burglary (second lowest together with Malta; only Austria has a lower burglary rate of 0.2%), 5.4% for assault or threat (the eighth highest rank), 4.5% for theft from or of a car (with Switzerland one of the lowest rates of victimisation; only Azerbaijan, Belarus, and Kyrgyzstan have rates lower than Finland and Switzerland), and 0.9% for robbery (the seventh lowest country).

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

The country ranks above average on the index of homicide. According to WHO statistics (1992) Finland has a homicide rate of 3.4. The Centers for Disease Control Study (1994) calculated Finland's homicide rate as 3.2 and calculated that Finland was 16th highest (with Slovenia and Yugoslavia) on the index of serious violence. With respect to the general violence index, the country ranks 18th highest.

Despite an above-average ranking on the various indices of violence, only 22.8% of the ICVS respondents stated that they tend to avoid certain places in their neighbourhood at night, a below average rate among the responding countries in Europe and North America.

Finland ranks relatively low with regard to offences directed against motor vehicles, on the index of petty crimes, and on the index of burglary.

On the index of the amount of corruption, Finland ranks very low; only Northern Ireland and Denmark rank lower on the Corruption Index. The Transparency International index for Finland is 9.1 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook 1997, in asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere, elicited a result of 9.2 – again on a scale of zero to ten.

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or who are unemployed (see pp. 35-36 of part I). According to the results of the ICVS, satisfaction with income, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was 3.00 among urban respondents, which is an above average result. Finland's level of unemployment (8.74%) may be considered relatively high. The “motivation index” calculated for Finland was 3.3, which is somewhat below average for Europe as a whole, but in line with that of the other European Union countries.

According to the UN Compendium on Human Settlements, 61% of the population live in urban areas. The 1997 Human Development Report assigns Finland a high HDI development of 0.94 (comparable to Iceland, Norway, Netherlands, Sweden, and the USA). The World Bank reports a GNP of USD 18,840 per capita (1994), which is the fourteenth highest among the 44 European and North American countries for which the data are available. According to the ICVS, 20% of the urban population in Finland live in detached housing; 66% live in a flat, and 14% in a row house. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) Further according to the ICVS, 73% of the urban Finnish population owns a car. Urban residents in Finland reported that they went out for entertainment purposes 3.1 nights weekly, slightly above average for the ICVS cities.



The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Although low on the proportion of detached housing, on this “opportunity index” for property crime Finland is above the mean for the European Union (64,66) at 75.46, and slightly below North America (80.09). Only Canada, Sweden, and the USA have a higher score on this scale than Finland. Finland has a high proportion of urban single households (25.7%, fifth highest among the ICVS countries), and a high proportion of urban females working (55.6%, fifth highest among the ICVS countries). Only 2.3% of the urban population report the use of burglar alarms (the third lowest of the countries for which data are available). With regard to the use of special door locks (36.3%), Finland occupies an intermediate position. On the other hand, Finland ranks highest with regard to the use of special window grills (35.4%). Consistent with expectations, Finland has, as noted, a relatively low amount of burglary.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. Finland ranks high with regard to the availability of firearms: the rate of firearms (411.2 per 1000) is the highest among the 16 countries involved in the UN Study on the Regulation of Firearms (1997). Fifty percent of the houses in Finland have at least one firearm. However, ICVS data suggest that, to a certain degree, firearms are more a rural than an urban phenomenon: 28% of the rural respondents indicated firearm ownership, compared to 11.9% of the urban respondents (ninth highest among the 36 countries for which ICVS data are available; note the discrepancy between the two sources). Handgun ownership among urban residents in Finland (5%) is fairly high. Finland’s above average level of alcohol consumption (and in particular the drinking patterns) may be a factor in the high degree of criminal violence.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Finland has a very high rating. The divorce rate is 2.4 per 1,000 in population per year, which is in the middle range for Europe (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.925, placing the country sixth highest among the 47 European and North American countries for which these data are available. One-third of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” Report states 36% of the persons at the top levels of government in the country are female. Despite these above-average indica-

tors of sexual equality, Finland has a relatively high level of violence against women (ninth highest among 44 countries, measured by the Violence against Women Index), which is rather surprising in view of the information already noted. One possible and presumably only partial explanation for the high level of reporting of violence against women, in a country noted for its attempts to promote sexual equality, is the greater awareness of such violence, which can well translate into a greater propensity to report violence either to the authorities or, in surveys, to researchers.

According to the World Values attitude survey, respondents in Finland rank in the middle range with regard to tolerance for minorities. Finnish people are, internationally speaking, quite tolerant with regard to the justification of misdemeanours and petty crimes under certain conditions. Finland also ranked second highest with regard to justification of deviant lifestyles. Overall, then, it appears that the Finnish people are quite tolerant.

In a factor analysis of the determinants of crime, Finland had a high negative loading in respect of strain-related violence (-.65) and in respect of serious property crime in urban settings (-.88), and a high positive loading in respect of opportunistic petty crime (+.84) (see Table 10 in part I, p. 49). This can be interpreted to mean that, in an international comparison and in view of the various background factors, Finland has a greater propensity for petty crime, but a below-average propensity for strain-related violence and serious property crime.

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 20. This low score is primarily due to the low number of public and private police per capita. Furthermore, there was even a decrease in the number of police officers during the period under review, from 240 per 100,000 in population to 232 per 100,000. On both counts Finland is situated in the first quartile, but at the same time Finnish police forces rank in the top quartile in accordance with measures of productivity. Finland has 7 prosecutors and 18 judges per 100,000 in population; the EU means are 6 and 13. A prisoner rate below the EU mean and a number of correctional staff per capita near the median result in a low inmate/staff ratio (1.1, in the first quartile).

For calculation of the Criminal Justice Gender Balance Index two indicators have been available for Finland: the female share of police officers and prosecutors. On the former Finland has a value well above the regional mean whereas the latter reveals that only three countries in our study have a smaller percentage of female prosecutors. Finland has a score of 27 on the Criminal Justice Personnel Gender Balance Index, which is very close to the overall mean for Europe (28).

On the Citizen Evaluation of Police Performance Index Finland (with 33) scores somewhat below the EU mean of 37, but above the regional mean of 27, indicating average public satisfaction with police performance. According to the ICVS, 44% of victims in urban areas reported the offence to the police, which is a middle-range result in an international comparison. 20% of the victims reported dissatisfaction with the manner in which the matter was dealt with. Only the respondents in Scotland indicated less dissatisfaction with police handling of their complaint. The Finnish public also appear to be quite satisfied with police crime control in their neighbourhood: 71% expressed satisfaction (the tenth highest among the 36 countries for which the data were available).

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police “productivity” (see part I, pp. 102-105). This proportion in Finland – 1,792 – is the highest of any of the countries for which corresponding data are available. (The EU mean was 621, and the second highest rate was from the United States, 1,519.)

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed (see part I, pp. 95-100). For almost all other countries, these rates tend to follow the same line. (For example, they may all tend to be low, or all tend to be high.) For Finland, however, all rates except those related to the use of imprisonment tend to be higher than average, while the number of sentences or imprisonment per offence, and the number of sentences of imprisonment per conviction, are considerably below the EU mean. This is a strong indication of a legalistic criminal justice system that nonetheless prefers to avoid the use of imprisonment.

There has been a considerable decrease in the number of custodial sentences per 100,000 during the period under review, from 224 to 143 per 100,000 in population between 1990 and 1994. However, the prisoner rate remained on the same level, some 60 per 100,000.

Given the low prisoner rate, it is of interest to note that in 1994 143 sentences of imprisonment were imposed in Finland per 100,000 in population; this is very close to the EU mean of 142. Moreover, the average length of sentences in Finland was 33 weeks; this again is close to the EU mean of 37 weeks. (Data on the average length of sentences is missing from some EU countries: Austria, Germany, Italy and Portugal.) The main difference between Finland and the EU mean was in respect of the number of custodial sentences imposed for every 100 suspects entering the system; this rate in Finland was 3.4, while the EU mean was 12.7.

All in all, Finland's crime and criminal justice profile appears to be distinguished by a high level of criminal violence, a relatively modest level of other types of crime, a legalistic criminal justice system and a low use of imprisonment.

## 4 Further reading

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# France

## 1 Background

### 1.1 History

The basic principles of present criminal law in France are to be found in the Human Rights Declaration of 1789. The first Penal Code, which was issued in 1810 and revised many times, has been replaced by a new Penal Code promulgated in 1992 and implemented as of 1 March 1994. This Code creates a new criminal sentence of 30 years and abolishes the use of imprisonment in case of contraventions.

The basis of criminal proceedings is to be found in the Procedural Code of 1959 which is a successor to the original “Code d’Instruction Criminelle” of 1808. The 1959 code has been substantially reformed by law in January 1993 and August 1993. A notable reform is the possibility for someone arrested, but still detained in police cells, to request a lawyer after 20 hours of detention. On the other hand, the August 1993 law introduced the possibility for the police to carry out identity controls for preventive purposes.

### 1.2 Organisation and major principles

The police forces are divided into two bodies, the Police Nationale operating under the supervision of the Ministry of the Interior and the Gendarmerie operating under the supervision of the Ministry of Defence. They both have general police functions. Specific investigation duties belong to the Police Judiciaire, which forms a part of the police forces.

The police are responsible for recording offences and preliminary investigations. The results are passed on to the prosecutor who is responsible for all further action. Investigations of offences are conducted by the police under the direction of the prosecutor, or the examining judge, if the prosecutor has brought the case before him or her (as must be done if the offence is classified as a crime).

The Police Nationale is responsible for all French territory. However, for towns with less than 10,000 inhabitants, the police forces are community forces (police municipale). In towns with more than 5,000 inhabitants, this police municipale is headed by a national police chief constable (commissaire).

The French system of administering criminal justice adheres to the principle of discretionary prosecution (the opportunity principle). The public prosecutor may charge a person with an offence or dismiss the case. Dismissal of a case may occur under condition of reparation, or after a “transaction” (agreement) with the victim.

The victim may also initiate legal proceedings either by presenting the case directly to the court (“citation directe”) or by constituting him or herself as a “partie civile” before the examining judge, who will investigate the case and may refer it to the court.

The police courts deal with contraventions. These are offences that are punishable by fines. Some of the so-called 1st to 4th class contraventions (primarily traffic violations), if not contested, are dealt without any judicial process, by the payment of fines. Those contraventions which pass through the judicial system will, in most cases, be dealt with, in the absence of court hearings, by the police judge.

If the offence is legally regarded as a misdemeanour (délit) and brought to trial, it will be dealt with by the correctional courts as general courts of first instance. Appeal may be made to an appeal court and, in case of procedural irregularity, leave may be requested to take the case to the cassation court.

The comparatively small number of serious felonies (crimes) is handled by the court of assizes. No appeal is allowed, only cassation in case of procedural fault.

Children under 13 cannot be sentenced or detained on remand. Full adult liability comes at the age of 18. Offences by those below 13, or by youths above this age, if their case is not to be dealt with by the criminal justice system, are dealt with by the social welfare authorities and the youth courts, which may impose educational assistance and control measures. Juveniles are subject to youth courts, which may pronounce educational assistance, control measures, reparation with the agreement of the youth, or sentences. The new penal code introduced a new specific scale of sentences.

Since 1989, no detention on remand in a correctional matter can be ordered for someone aged between 13 and 16. For criminal matters and correctional matters after 16, the duration of remand is limited.

## 2 Statistics

### 2.1 Victimization

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	1.8	2.4	3.8	2.0
Major cities	1.6	4.2	5.4	2.2

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	3,492,712	6156.2	3,830,996	6677.2	3,919,008	6786.5
Homicide	-		-		-	
Assault	-		-		-	
Rape	4,582	8.1	5,356	9.3	6,526	11.3
Robbery	60,189	106.1	70,061	122.1	73,310	127.0
Theft	2,305,600	4063.8	2,615,444	4558.6	2,573,074	4455.8
Theft of cars <sup>1</sup>					287,022	497.0

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

No data were provided on the number of persons convicted by offence.

## 2.3 Sanctions

The prisoner rate in France was 85 per 100,000 population in 1990 and 95 in 1994 (Walmsley 1997). The percentage of female prisoners was 4.1 in 1991 and 4.0 in 1995 (Tomasevski 1998).

No other data on sanctions were provided.

## 2.4 Personnel and resources

The rate of police officers per 100,000 inhabitants was 337 in 1990 and 349 in 1994. The percentage of female police officers decreased between 1990 and 1994 from 4% to 3%.

No data were provided on the number of prosecutors, judged or prison staff.

# 3 Crime and criminal justice profile<sup>1</sup>

## 3.1 The crime situation

The level of conventional crime is in France lower than the European and North American average. The total recorded crime rate was 6,173 per

<sup>1</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).



100,000 in 1996. This is lower than the rates in for example Germany, England and Wales, the Netherlands and most Nordic countries. The number of recorded violent crime is relatively low as well.

The homicide rate was 2 per 100,000 in 1996, which is near the average of the European Union.

The total recorded crime rate has by and large remained stable during the 1990s. The annual downward or upward fluctuations might well be the result of changes in recording practices.

The ICVS was carried out in 1989 and 1996. In that period the level of victimisation by conventional crime increased by twenty percent (Mayhew, Van Dijk, 1997). The over-all prevalence rate increased from 19.4 in 1989 to 25.3 in 1996. The increases were most pronounced concerning car vandalism, bicycle theft and threats/assaults.

The trend shown by the results of the ICVS is not much different from the trend in the total police figures since 1988.

By analysing the discrepancies between the number of crimes reported to the police according to the ICVS and the number of crimes recorded by the police, a measure was constructed of the recording accuracy of the police. France features among the countries with the highest score for police recording accuracy (see part I). This result implies that the French police statistics might be inflated compared to those of other countries. Or to put it differently, our analyses do not provide arguments for the assumption that the relatively low rate of recorded crime is an artefact of recording practices.

The French scores on the crime indices constructed for the present study are based on police data from 1994 and ICVS data from 1996. The scores of France for all indices of serious violence are in the lowest quartile. According to our dichotomy of low and high violence nations France definitely falls in the low category. In line with this rather low level of objective security risks, the percentage of French citizens who feel unsafe at night in their own neighbourhood is also fairly low.

The level of burglaries is close to the average. The only type of common crime which is more prevalent than in many other nations is vehicle-related crimes.

The number of hard drug addicts is also near to the European Union average. The estimated French rate of 2.6 per 1,000 is below the rates of most Southern European countries but higher than Germany, the Netherlands and the Nordic countries (Van Dijk, 1998).

It seems noteworthy that France, compared to other EU nations, ranks relatively high on the index for corruption of public officials (rank thirteen of 30 countries, e.g. above the United Kingdom, Germany and the North American countries).

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or



who are unemployed (see pp. 35-36 of part I). According to the ICVS, satisfaction with income, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was in the middle range, 2.86. Based on the UN Statistical Yearbook 1994, the unemployment rate in France (1994) of 10.3 is above average. The ICVS unemployment indicator gives France a score of 8.74. The “motivation index” for France calculated for this study was a low 2.2 (the mean for Europe and North America was 8.0).

The problems of violence by young unemployed North Africans have received much media and political attention lately. One reason for the public concern about violence might be the high visibility of the acts of violence committed as well as their political connotations. Several instances of riotous violence have taken place and attacks on police officers and other representatives of the state are not uncommon. These offences are widely regarded as acts of protest and defiance by young males who feel marginalised and excluded from conventional society. As discussed above, the available crime statistics do not yet reflect these problems.

According to the UN Compendium on Human Settlements, 73% of the population of France lives in urban areas (1990). Thus, according to our indicator of urbanisation the country is relatively strongly urbanised, although not that many people live in a large metropolis. The 1997 Human Development Report assigns France a very high development score of 0.95.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, France, at 68, is slightly above the EU mean of 65. According to the ICVS, the population is about average in the use of security devices; 14.6% of the urban population report the use of burglar alarms, 34% use special door locks and 14.4% use special window grills. (The corresponding EU means are 11.1, 42.1 and 14.1.).

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. France ranks high with regard to the availability of firearms: 23.9% of the ICVS respondents indicated that their household possesses a firearm. Most of these, however, are rifles and shotguns; only 5.5% of households were reported to have a handgun. (Also this was above the mean of 2.6%.). According to the World Drink Report, the average annual liquor consumption in France was 2.5 litres (the mean for Europe and North America was 2.6); beer consumption was 40 litres (the mean was 66), and wine consumption was 63 litres (the mean was 14).

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with

the extent of inequality between the sexes in society. In respect of female educational attainment, France is relatively high. In respect of divorce, in turn, the results of the ICVS suggest that France is somewhat above the mean for the region or for the EU. According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was a high 0.93. Only six per cent of Parliamentary seats are held by women. The UNICEF report “The Progress of Nations” states that 15 per cent of the persons at the top levels of government in France are female. France has a middle-range score of 54 on the Violence against Women Index (the mean for 44 countries for which data are available is 50).

According to the World Values attitude survey, respondents in France are fairly tolerant towards minorities compared to other countries in Europe and North America (a score of .40 compared to the mean of .52). The French population is – internationally speaking – above average in their readiness to justify petty crimes or deviant lifestyles under certain conditions.

Our analyses of the correlates of crime (presented in part I) showed France to have high scores on the factor serious property crime in an urban setting (z-score of +.89). The most dominant feature of the country’s crime profile is the combination of high car-ownership and high rates of car-related crimes. France shows negative scores on the factors “strain related violence” and “opportunistic petty crime”.

### 3.3 Operation of the criminal justice system

The score of France on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 27, which is the same as the mean for Europe and North America, and slightly above the mean for the European Union (26). The number of police officers per capita (349) is close to the European mean (341 per 100,000). The rate of private security officers (121 per 100,000 in population) lies just below the EU mean. Because France did not provide the UN with statistics on the courts, no data are available on the number of prosecutors or judges.

The Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78-80) for France is a very low 3. (The EU median was 25.) However, this is based on insufficient data; as noted, no data are available on prosecutors or judges.

On our measure of Citizen Evaluation of Police Performance, France, once again, shows a score (41) which is close to the EU mean of 37. The French score falls in the fourth quartile if all countries in the region are taken into account. In an international comparison crime victims in France were likely to report their victimisation to the police. According to the ICVS, 59% of victims reported the offence to the police, (mean reporting rate for all countries is 44%). 36% of the victims of contact crimes reported the matter to the police, above the average of 29% for all 36 ICVS countries. Dissatisfaction with the police is below average in France. 40% of the victims

reported dissatisfaction with the manner in which the matter was dealt with (the mean value for all ICVS countries is 48.71%). Only 25% of the respondents indicated dissatisfaction with the way the police controlled crime in their neighbourhood, which is a relatively low rate.

The rate of prisoners per 100,000 was 95 in 1995. This rate has increased markedly since 1990 and is somewhat above the EU mean.

The over all image which emerges from this analysis is that in terms of crime and criminal justice affairs France is the prototypical EU country. On almost all indices used, the French scores come close to the EU means.

# Georgia

## 1 Background

On 9 April 1991, the Supreme Soviet and the Government of the Republic of Georgia, as a result of the 1991 referendum, adopted the Act of the Restoration of the Independent State of Georgia. The formation of the independent Republic was, however, hindered by ethnic military conflicts. In the first instance, conflict occurred among the Ossets (from the South-Ossetian Autonomous region). Later, conflict involved a large-scale war between Georgia and its constituent part, the Abkhazian Autonomous Republic.

Some 70 years earlier, on 30 December 1922, Georgia had joined with other republics to form the USSR. The first constitution was ratified on 31 January 1924. The Constitution of the Union of Soviet Socialist Republics embodied the statement of principles and structure of the Soviet system of government. In essence, it provided the basic laws of the USSR and the Union Republics. While each Union Republic had its own constitution as well as its own legislative, executive and judicial institutions, these were aligned with and subject to those of the USSR. Thus, while the Constitution of the Union of Soviet Socialist Republics provided the basic principles for criminal legislation and procedure, the individual Union Republics were each responsible for establishing their own criminal legislation which would address features specific to them.

Russia established its criminal legislation in 1926. Prior to the creation of her own code, Georgia, as was the case with most other republics, adopted the criminal legislation of the RSFSR.

In accordance with the USSR Constitution, the first all-union criminal procedural law was enacted in 1924. While this legislation formally stipulated legal procedure to be followed in criminal cases, it was in fact often disregarded. Transgressions of criminal legislation and proceedings were particularly evident during the Stalin era (1924-1953), when a great deal of legal administration occurred outside of established judicial institutions, especially during campaigns against anti-Soviet sentiment.

Criminal law has been codified numerous times. In December 1958, the USSR ratified the Fundamental Principles of Criminal Legislation of the USSR and Union Republics. This legislation generally defined which acts were crimes and outlined appropriate punishments. The Criminal Code of the Soviet Socialist Republic of Georgia was adopted on 30 December 1960, and entered into force on 1 March 1961. Subsequent modifications and amendments to the Code correspond with changes in the Soviet criminal legislation.

The new criminal legislation of 1958 and 1960 was a critical step toward the introduction of legal humanitarian principles, for it rejected many extreme provisions of the Stalin period, and embodied important democratic principles. For example, Article 3 of the Fundamental Principles of Criminal Legislation stated that only a person who is guilty of having committed a crime specified in the criminal law was subject to criminal responsibility and punishment and that no one could be considered guilty or sentenced to criminal punishment without a court judgement in accordance with the law. The decision in 1990 to repeal Article 6 from the Constitution was of great significance; article 6 was a declaration of the absolute primacy of the Communist Party of the Soviet Union. Following the repeal of Article 6, the existence of opposition political parties was no longer illegal.

Criminal procedural codes were substantially revised in 1958, with the establishment of The Fundamental Principles of Criminal Procedure of the USSR and Union Republics. This new legislation stipulated the basic laws governing criminal procedure including the rights and responsibilities of the parties involved in criminal proceedings. Between 1959 and 1961, the Union Republics each passed their own criminal procedural codes. These were uniform with the Fundamental Principles of Criminal Procedure, but were designed to address features specific to the individual republics.

On independence, defence of Georgian sovereignty and territorial integrity, as well as the development of the legal regulation of various forms of property influenced the development of the criminal legislation. In June 1991 a number of laws were passed which strengthened criminal liability for the following activities: kidnapping; unlawful possession, storage, carriage, transfer, acquisition, manufacturing or sale of weapons, ammunition and explosives; insulting a militiaman, military serviceman or member of a voluntary militia brigade; violation of the trade regulations; and acquisition and sale of the property obtained illegally. The law also provides criminal liability for artificially inflating and maintaining prices, for illicit commercial activity, and for blocking the transmission of communications. Additionally, criminal liability for speculation has been narrowed.

## 1.2 Organisation

Following the disintegration of the USSR in 1991, the criminal justice system remained essentially the same in Georgia, with only minor modifications. However, further reforms are being prepared.

The militia is a centralised administrative and executive agency which is charged with a wide array of duties: maintaining public order, crime detection, apprehending criminals, supervision of the internal passport system, and traffic control. The militia is a constituent part of the Ministry of the Interior.

The Prosecutor General's office, along with corresponding prosecutors in the republics and territories, is authorised to supervise criminal investiga-

tions. Criminal investigations are carried out by investigators from the territorial and central bodies of the prosecutor's office as well as by Interior and State Security. The law determines which investigative body is responsible for which type of case. However, the majority of cases are dealt with by representatives from the Ministry of the Interior. For certain minor offences, the militia perform the pre-trial preparation without confirmation from the prosecution and submit the relevant information directly to the court.

If there is sufficient evidence indicating that a suspect committed a crime for which the law mandated the deprivation of liberty, the suspect can be detained. In such a case, the investigator or board of inquiry is obliged to inform the prosecutor in writing within twenty-four hours of the detention. The prosecutor then issues an arrest warrant within forty-eight hours or releases the detainee.

Arrest can only occur with a prosecutor's order. Prior to 1990, defendants had a right to the services of a defence counsel only after completion of the preliminary investigation, except in special circumstances (i.e. those cases involving a juvenile defendant).

Pre-trial detention typically lasts about two months. However, detention can be prolonged by the supervisory prosecutor if the investigation is particularly complex. Upon completion of the investigation, material relating to the case is submitted to the supervising prosecutor for approval and further submission to the court.

### 1.3 Criminal prosecution

The judge commissioned to oversee the case examines the material submitted by the prosecutor. Without determining guilt or innocence, the judge then has to decide whether or not the defendant should be brought to trial. In special circumstances, such as those involving juvenile defendants and in cases where punishment could include the death penalty, the court at the administrative session can be employed. In such cases, the court can choose from a number of alternative modes of proceeding: bring the defendant to trial, return the case for further investigation, suspend the case, submit the case to another appropriate court, or terminate the criminal proceedings.

If the decision is made to bring the defendant to trial, the case has to be initiated within fourteen days. In theory, equal rights of participation in the trial are exercised by the public prosecutor, the accused, the defence counsel, the victim and other relevant parties. Following examination of the evidence, the trial opens up for evidence and argument given by the public prosecutor, the defence counsel and other relevant parties. The last person to speak is the defendant.

The court passes sentence only on the basis of evidence which was examined at trial. In determining a sentence the court considers the following points:

- 1) whether the action of which the defendant was accused had actually occurred;
- 2) whether the given action was an offence as defined by the criminal law;
- 3) whether the defendant had committed the given act;
- 4) whether the defendant was subject to punishment for the crime committed;
- 5) the appropriate punishment.

The verdict can be either “guilty” or “not guilty”.

The defendant, his/her defence counsel and legal representative as well as the victim and his/her representative have the right to appeal against the sentence within seven days. Additionally, the prosecutor is authorised to lodge a protest against the sentence. If the sentence is not appealed or protested against, it enters into force at the end of seven days. If the sentence is not revoked by the court of cassation (to be discussed below) the sentence also enters into force.

Prior to the disintegration of the USSR, all criminal court proceedings were uniform. The court system was comprised of the USSR Supreme Court, Supreme courts of the Union and Autonomous Republics and territorial, regional, city and district people’s courts. Military personnel who committed crimes were subject to investigation by the military prosecutor’s office and brought to military tribunals of garrisons, armies, military districts, army groups and the Military Board of the USSR Supreme Court.

In criminal cases, there were two types of courts: People’s Courts (courts of first instance) and Supreme Courts (courts of second instance). Two lay assessors and a professional judge comprised People’s Courts while the Supreme Court consisted of a board of judges. The large majority of cases in the People’s Courts were heard by city and district courts, although some cases were heard by the regional, territorial and republic courts.

The Supreme Court followed an appellate procedure called cassation. This procedure occurs prior to the sentence entering force either through an appeal by the defendant and lawyer or by a protest from the prosecutor’s office. The cassation court does not retry the case, nor review the actual evidence. Rather, it reviews the investigative and judicial processes surrounding the case. The cassation court can confirm the initial ruling, set it aside and order a retrial, alter it, or bring the proceeding to a close. A sentence that has entered into force may be monitored by a superior court through a procedure known as judicial supervision.

The minimum age of criminal responsibility for most crimes is sixteen years or older at the time of the offence. However, for very serious crimes (such as homicide, rape, theft and intentional grievous bodily injury) juveniles can be prosecuted at age fourteen.

Juvenile criminal proceedings (where the defendant is aged eighteen or younger) vary somewhat from adult proceedings. For example, juveniles cannot be sentenced to death or subjected to exile or banishment, and the maximum term of deprivation of liberty cannot exceed ten years. If the crimes

were of a non-serious nature, measures outside of criminal punishment can be taken, such as educational programs. Many juveniles are thus sent to juvenile delinquency commissions for educational measures.

## 2 Statistics

### 2.1 Victimization rates

The breakdown below presents the victimisation rates in Georgia's major cities. The ICVS was not carried out on a national basis.

**Table 1. Victimization rates (in %) according to the ICVS, major cities: average results from the 1992 and 1996 city surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	5.3	4.3	5.8	1.5

### 2.2 Offences

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	19,711	361.0	24,172	441.7	17,643	323.3
Homicide	448	8.2	1,057	19.3	788	14.4
Assault	738	13.5	609	11.1	573	10.5
Rape	83	1.5	60	1.1	49	0.9
Robbery	374	6.8	475	8.7	328	6.0
Theft	5,727	104.9	10,010	182.9	5,988	109.7
Theft of cars					-	-

This table shows that for each category of crimes (except rapes) the number of offences first increase and then decrease between 1990 and 1994. The global outcome is a police recorded crime rate which is decreasing by 10.5% from 19,711 in 1990 to 17,643 in 1994. Nevertheless, the total number of persons prosecuted increases between 1990 and 1994 from 1,480 to 2,212 (+49.5%), mostly under the influence of an increase in prosecutions of assaults from 12 to 325 (+2608%) and of thefts from 35 to 254 (+626%).



## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	40.2	80.7
Prisoner rate		-	-
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	85.1 <sup>1</sup>	85.6
	Juveniles	-	1.3
% of females of convicted prisoners	Adults	-	1.1
	Juveniles	-	0.0
% of juveniles		-	0.9

<sup>1</sup> The data refer to the year 1992.

The following table reflects an increase in the number of adults convicted by type of sentence between 1990 and 1994. The number of sentences of imprisonment imposed doubled, whereas the number of fines decreased by more than half and the number of community service orders decreased by about one-third.

**Table 4. Adults convicted by type of sentence, 1990-1994**

Sentenced type	1990		1994		Trend
	N	%	N	%	%
Total	7,481	100.0	8,283	100.0	+10.7
Deprivation of liberty	2,196	29.4	4,404	53.2	+100.5
Control in freedom	546	7.3	644	7.8	+17.9
Warning, admonition	1,392	18.6	1,584	19.1	+13.7
Fine	1,584	21.2	620	7.5	-60.9
Community service orders	1,436	19.2	963	11.6	-32.9
Other	327	4.4	68	0.1	-79.2

With regard to the crime committed, the number of convictions increased for intentional homicide from 171 in 1990 to 233 in 1994 (+36%), for robbery from 146 to 323 (+121%), and for theft from 880 in 1990 to 2,860 in 1994 (+225%), but decreased by 61% for assault and by 29% for rape.

Data on convicted prison populations are only available for 1992 and 1994 in Georgia. In those two years, the convicted prisoner rate remained stable, while the average length of prison sentences actually served, as reported in the Fifth Survey response, decreased somewhat from 385 weeks (ca. 7.4 years) in 1992 to 370 weeks (ca. 7.1 years) in 1994. However, the number of

admissions throughout the year has stayed about the same: 6,030 in 1992, 5,998 in 1993 and 7,803 in 1994. Of the persons admitted during the course of the year, 4,629 in 1992, 3,138 in 1993 and 4,664 in 1994 had been convicted.

Most of the persons admitted to prison were men. Only 82 women were admitted in 1992, 77 in 1993 and 1994; all were noted to have been convicted prisoners.

Of the persons admitted during 1994, 57 were found to be drug dependent. 41 of the admitted persons were foreigners.

## 2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	6.8	7.0
	% female	4.8	5.5
Judges	total / 100,000	3.9	4.6
	% female	15.2	12.9
Prison staff	total / 100,000	-	36.8
	% female	-	24.6

## 3 Crime and criminal justice profile<sup>1</sup>

### 3.1 The crime situation

As noted in section 2.2, in general the number of offences increased during the years of peak transition (1991 and 1992), and then decreased.

On the index of homicide, Georgia had the eighth highest rank out of 47 countries. Georgia was in the high range (ninth highest out of 49 countries) also in respect of the index of serious violence, and moderately high in respect of the index of violence in general (11th highest out of 36 countries). This violence is presumably linked with the fear of crime. For example, 35% of

<sup>1</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

the ICVS respondents stated that they avoid certain areas at night. This proportion is in the top quartile, above the mean of 28.5% for the region.

In the light of the indices of property crime, Georgia appears to have a high amount of burglary (third highest ranking among 45 countries), a moderately high amount of offences directed against motor vehicles (ninth highest ranking out of 47 countries) but a very low amount of petty crimes (third lowest ranking, together with the Netherlands, among 36 countries).

On the index of the amount of corruption, Georgia has the highest ranking of all 45 countries, suggesting a serious problem with endemic corruption.

According to the results of the 1995 ICVS, 33% of the urban respondents in Georgia had been the victim of a crime during the preceding year, placing Georgia in the medium range internationally. For individual offences, the urban victimisation rate was 7.2% for pickpocketing, 4.3% for burglary, 10.3% for "other theft", 4.2% for assault or threat, 11.1% for theft from or of a car, and 3.8% for robbery.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or who are unemployed (see pp. 35-36 of part I). On a scale of 1 ("not satisfied") to 4 ("very satisfied"), the results of the ICVS show a very low (1.9) degree of satisfaction with income among the urban respondents (the second lowest among the 33 countries for which comparable urban data are available). The over-all "strain index" for the country was 13.3, which was the highest for any of the countries in Europe and North America (Romania and Kyrgyzstan were both second highest, at 10.7).

According to the UN Compendium on Human Settlements, 56% of the population in Georgia live in urban areas. The 1997 Human Development Report assigns Georgia with a "human development index" of 0.64, which falls in the low range for European and North American countries.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this "opportunity index" for property crime, Georgia, at 27.78, is much lower than the mean for Central and Eastern Europe (37.9), suggesting a lower potential for property crime. However, as noted in section 3.1, internationally speaking Georgia appears to have a relatively high amount of property crime. According to the ICVS, only 26.2% of the urban population report the use of special door locks, 13.0% the use of special window grills, and 3.5% the use of burglar alarms in their household, all relatively low reported rates for Europe and North America. The low degree of protection that this reflects undoubtedly contributes to the high level of property crime.

In respect of violent offences, one factor connected with opportunity is the availability of suitable weapons. The results of the ICVS noted that 17.7% of the urban respondents stated that their household had a firearm, and 8.0% had a handgun – the seventh highest urban rate among the 36 European and North American countries in which the study has been carried out.

The ICVS also indicated that the urban population in Georgia is less likely than the international average to spend their leisure time outside of the home, with respondents reporting spending an average of 2.75 evenings per week away. This is the tenth lowest among the 36 European and North American countries for which corresponding data are available.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. Regrettably, no data on female educational attainment were available from Georgia. According to the ICVS data, 3.7% of the urban respondents were divorced, a relatively low figure. According to the 1997 Human Development Report, the so-called gender-related development index in Georgia in 1994 was 0.63, fourth lowest among the 47 European and North American countries for which the data are available. 7% of Parliamentary seats are held by women. In this light, it is of interest to note that Georgia has the eleventh lowest ranking on the index of violence against women. Only one rape was reported per 100,000 in population in 1994, among the lowest reported rates in Europe. This is somewhat contradicted by the results of the 1996 ICVS: 3.9% of the female respondents in urban areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This is the sixth highest among the countries for which the data are available, and suggests a considerable amount of hidden victimisation.

All in all in respect of the data on determinants of crime, Georgia was very high in respect of strain-related violence (+1.50), high in respect of serious property crime in urban settings (+.76), but very low in respect of opportunistic petty crime (-1.09) (see Table 10 in part I, p. 49).

### 3.3 Operation of the criminal justice system

Georgia's score on the Law Enforcement Resource Index (which essentially measures spending on law enforcement; see part I, pp. 72-74) falls in the first quartile (15), and is the fifth lowest of all countries covered. The country's spending on law enforcement is thus very low. This is in line with the unusually low number of judges (5 per 100 000 population, far below the mean for all European countries of 14), and the low number of correctional staff (37 per 100,000, while the mean for the region is 64).

Georgia falls in the first quartile on the Criminal Justice Practitioner Gender Balance Index (18). Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than do the EU countries, reflecting their high shares of female prosecutors and

judges. However, only 5.5% of the prosecutors and 13% of the judges in Georgia are women.

On the index of Citizen Evaluation of Police Performance, Georgia scores very low (first quartile, 13), suggesting very low public satisfaction with police performance. Only Kyrgyzstan, Latvia, Romania and Russia have a lower level of satisfaction. According to the ICVS, only 21% of victims in urban areas reported the offence to the police, the lowest urban proportion (together with Kyrgyzstan) encountered in the Survey. 61% of victims in Georgia who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a relatively high proportion when compared with the results from other countries participating in the ICVS. 64% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, again a relatively high proportion. All three rates suggest that more work needs to be done in increasing public confidence in the police. (In this connection it is interesting to note that, according to Interpol statistics for 1994, the clearance rate of all offences in Georgia was as remarkably high as 97%.)

In respect of the number of prosecutions per offences reported, Georgia has a higher rate (0.48) than the mean for the region (0.31). Georgia's rates of convictions per offences reported, 0.47, and convictions per prosecution 0.99 (and thus almost 100%) are also much higher than the regional means (0.23 and 0.63, respectively).

A high proportion of cases result in a sentence of imprisonment; 56 custodial sentences are imposed for every 100 suspects entering the "system". (The regional mean is 24.1.) The average length of sentences is also very high, 370 weeks (over 7 years) while the regional mean was less than one-third of this, 107 weeks (two years). Nonetheless, the prisoner rate of convicted persons for 1994 (86) is much lower than the mean for all the Central and Eastern European countries (137). This apparent anomaly can largely be explained by the small number of cases recorded in the court statistics: as noted in section 2.3 above, according to the court statistics only 8,283 adults were convicted by the courts in 1994.

# Germany<sup>1</sup>

## 1 Background

During the “Ancien regime”, German criminal law was a mixture of common law principles (“jus commune”) and statutes of the many larger and often only tiny principalities and territories. Since the late 1700s and during the 1800s, most of the surviving principalities codified the criminal law in criminal codes. When the German Empire emerged in 1871, a new German Criminal Code (Reichsstrafgesetzbuch) was enacted which largely resembled the criminal code of the Kingdom of Prussia of 1851. Despite all the dramatic shifts in German history since 1871, and regardless of endless attempts to elaborate a new criminal code before World War I, during the 1920s and again since the 1960s, the code of 1871 has remained in effect up to today.

The Criminal Code, of course, has undergone considerable revision during its long history, for example concerning the treatment of juveniles, the sanctions (the restrictive use of short prison terms and the introduction of day-fines), the scope of certain offences (e.g. concerning sexual behaviour), and so on. The major reforms of the Penal Code of 1969, 1975, 1990, 1994, 1997 and 1998 have in particular changed the sanctions system to a great extent. The 1969 and 1975 reforms restricted short term imprisonment, extended the scope of fines, moved to the day-fine system, and extended the scope of suspended sentences and probation services. The 1990 reform of the Juvenile Justice Act extended diversion and community sanctions (mediation, social training courses, community service orders), suspended sentences, and probation, and reduced pre-trial detention. The 1994 reform introduced mediation into the sentencing provisions. The 1997 reform extended the scope of indeterminate preventive detention (*Sicherungsverwahrung*) in cases of sexual offences in general; other major amendments in 1997 concentrated on anti-corruption legislation. In 1998 the Criminal Code has been extensively revised in order to harmonise the sentencing provisions, and to clarify and extend the crime definitions in the field of violent and property offences. At the same time, penalties for violent crimes have increased, and the penalties for property offences have partly decreased.

The minimum age of criminal responsibility is 14. Full adult criminal responsibility begins in every case at 21. Young adults, aged 18-21, since

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<sup>1</sup> This profile benefited from comments and corrections provided by Prof. Dr Jörg-Martin Jehle, School of Law, Georg August University of Göttingen, Prof. Dr Frieder Dünkel, Faculty of Law and Economy, Ernst Moritz Arndt University of Greifswald, Mr Elmar Weitekamp, Institute of Criminology, University of Tübingen and Mr Stefan Brings, Federal Statistical Office Germany.

1953, are dealt with by juvenile courts. According to their offence and/or their personal development they are either sentenced according to the special provisions of the Juvenile Justice Act or the general Criminal Code. In practice 2/3 of all young adults are sentenced under the (in general milder) Juvenile Justice Act (in cases of serious crimes more than 90% are sentenced under this Act). In recent years, the use of detention of juveniles in foster homes or prisons has been considerably reduced.

When the Federal Republic of Germany was established in 1949, Germany remained a federalist country, with 10 provinces (Länder; 11 when West-Berlin is included) which are autonomous in the area of police and administration of justice, although the procedural rules have been codified on a national basis since 1877. In October 1990, when the former German Democratic Republic was “reunified” with West Germany, five new “Länder” were established. These Länder largely shape criminal justice policies in general, and especially in the area of policing and corrections.

Traditionally, German criminal procedure was dominated by the so-called legality principle. According to this principle, prosecution is compulsory whenever, *prima facie*, the evidence would appear to be sufficient to convict a suspect. During the last decades, the scope of prosecutorial discretion has been considerably extended. Despite some statements to the contrary in the literature, there is no negotiated settlement of procedures in the sense of the American plea bargaining model. However, the discretion that prosecutors have to dismiss cases against payment of informal “fines” (“transactions”) either to the victim or third parties (e.g. charitable organisations) has increased considerably over the last years (based on section 153a of the Penal Procedure Code). About 45% of all cases are dismissed because of the petty nature of the crime (including dismissals against payment of informal “fines”, *Geldbussen*). In the field of juvenile justice 67% of all cases in 1996 have been dismissed (in comparison to 43% in 1980).

Over the last 20 years, Germany has followed a policy of reduced use of imprisonment. The minimum prison sentence to be imposed was set at one month. Short sentences of less than six months, quite common in earlier periods, can now be imposed only under very restrictive conditions. Whenever possible, courts should impose, instead of a short prison sentence, a day-fine, which is determined on the basis of the gravity of the offence and the defendant’s income and revenues. This system has made fines the most prominent sanction in Germany, and restricted considerably the number of persons entering the correctional system. Between 80 and 85 percent of all convicted adults are sentenced to a day-fine. Some commentators have concluded on the basis of the statistics that, for example for traffic offences (such as drunken driving) this reform has indeed led to the replacement of some short-term imprisonment by fines. According to these commentators, the parallel increase in the use of longer sentences of imprisonment has not been due so much to a shift among judges to longer sentences for the same types of offences, but instead at least in part to an increase in violent crimes,

such as robbery, and in more serious other crimes, especially drug offences. At the same time, incarceration for non-payment of fines has become a major problem.

The possibility of replacing serving day fines in prison by community service only works to a limited extent. However, considerable efforts are underway in this direction, and the German legislator is giving serious consideration to the introduction of community service as an independent sanction.

Thus, it seems that the reforms of the early 1970s have led to a gradual “redistribution” of imprisonment, in so far as the middle class do indeed no longer go to prison as often as before, whereas people who are unable to pay fines continue to do so in great number. The possibility to pay fines in the form of community service does not seem to have substantially reduced this problem.

On 31 December 1990, (West) Germany, including West Berlin, had a population of 63,725,653. Its GNP in 1990 was 2429.2 billion German Marks (=1504 billion USD; the average exchange rate during 1990 was 1 USD = 1.62 DM). In 1995, the population of Germany (now including Eastern Germany) was 84,068,216.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in West Germany and its biggest cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: results from the 1989 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	2.4	1.3	6.2	0.4
Major cities	3.4	1.8	8.6	0.5



## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics<sup>1</sup>**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	-		-		6,537,748	8030.6
Homicide	-		-		3,751	4.6
Assault	-		-		88,037	108.1
Rape	-		-		6,095	7.5
Robbery	-		-		57,752	70.9
Theft	-		-		3,924,088	4820.2
Theft of cars <sup>2</sup>	-		-		190,779	234.3

<sup>1</sup> Data for the year 1994 from *International Crime Statistics*, Interpol, 1995

<sup>2</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

**Persons prosecuted**

The breakdown below presents the number of persons prosecuted and judged (the data below does not include cases prosecuted and brought to an end using other disposals) by crime.

Between 1990 and 1994, the grand total of persons prosecuted increased from 576,338 to 637,531. To the extent that the number of prosecutions is an acceptable way of operationalizing the crime rate, it seems that crime (all types of crimes) has tended to increase somewhat in Germany. The number of juveniles prosecuted, however, has decreased. Fewer offenders were convicted because of the extension of the dismissals according to the principle of opportunity, referred to above. It is widely presumed that the increase during the early 1990s is partly due to the opening of the borders and the influx of foreigners, refugees etc. During the 1980s also the police recorded figures show a decrease rather than an increase of (violent) crimes, whereas in the 1990s there are serious increases in juvenile (violent) offending in both Eastern and Western Germany.

In 1995, there were 201,493 car thefts recorded by the police in the whole of Germany. In 1995, there were 38,538 German suspects and 38,542 non-German suspects for car thefts. Car theft decreased considerably in the 1990s because of technical crime prevention measures such as electronic security arrangements and *Wegfahrsperre*.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	34.5	37.7
Prisoner rate <sup>1</sup>		80.0	85.0
% women in the prison population <sup>2</sup>		4.3	4.1
Prisoner rate / 100,000 (convicted only)	Adults	-	-
	Juveniles	-	-
% of females of convicted prisoners	Adults	-	-
	Juveniles	-	-
% of juveniles		-	-

<sup>1</sup> The figures for 1990 relate to FRG only. Data from Walmsley 1997. The data refers to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refers to the years 1993 and 1996.

The increasing number of persons prosecuted has been reflected in a rising number of convictions. In 1990, 433,682 persons were convicted, whereas the total in 1994 was 501,386 (+16%). The number of sentences of life imprisonment increased by 54%, from 56 in 1990 to 86 in 1994. The number of sentences of imprisonment also increased from 27,349 to 30,665 (+12%), and the number of fines rose from 292,855 to 348,526 (+19%).

These numbers may partly explain why, after a decrease in prisoner rates since 1983, Germany has since 1991 undergone a relatively sharp increase in its prison population. According to the response to the Fifth United Nations Survey, the 1994 prisoner rate is 75.1 inmates per 100,000 inhabitants, whereas according to the Council of Europe data it is 83.0. Based on a HEUNI study the 1995 prisoner rate is 85.0 (Walmsley, 1997).

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Germany, 9% of the respondents would have favoured a fine, 12.9% a suspended sentence, 63% community service and 14% imprisonment. Among those favouring imprisonment, the average suggested sentence was 11 months. In an international comparison, this shows unusually strong public support for community service. The response can be seen to be in line with the sentencing policy of the courts of Germany.

## 2.4 Personnel and resources

**Table 4. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	4.9	6.6
	% female	19.4	28.9
Judges	total / 100,000	22.6	27.2
	% female	19.2	26.3
Prison staff	total / 100,000	-	-
	% female	-	-

3 Crime and criminal justice profile<sup>2</sup>

## 3.1 The crime situation

As noted in section 2.2, no data were provided in the response of Germany to the Fifth United Nations Survey on the number of offences reported to the police. Between 1990 and 1994, the grand total of persons prosecuted increased from 576,338 to 637,531.

According to the results of the ICVS, 25% of the respondents in Germany had been the victim of a crime during the preceding year, placing the country in the medium range internationally. For individual offences, the victimisation rate was 2.4% for contact crimes, 1.3% for burglary, 6.2 for violence against women and 0.4 for car theft.

However, on the index of homicide, Germany had a moderately low ranking. Germany was in the low middle range in respect of the index of serious violence, and moderately low in respect of the index of violence in general.

Internationally speaking, Germany appears to have a very low amount of burglary and a middle-range amount of petty crimes. However, Germany had a moderately high rate of offences directed against motor vehicles.

On the index of the amount of corruption, Germany fell in the low middle range. The Transparency International index for (Western) Germany is 8.1 on a scale of zero (considerable corruption) to ten (no corruption). The World

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime). In this crime and criminal justice profile, most of the demographic and other background data refer to the "old" Federal states.

Competitiveness Yearbook, on asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero (does prevail) to ten (does not prevail) – elicited the result of 6.7. Also these latter two indicators fall in the middle range for European and North American countries.

According to data collected by the Dutch Ministry of Justice, there are some 110,000 hard drug addicts in Germany. Proportionately, this is below the mean for the EU countries.

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Regrettably, ICVS data on satisfaction with income are not available for Germany. In 1995, unemployment (which presumably correlates with strain) was in the middle range in comparison with other European countries, 8.2% of the active labour force. This was considerably higher than the corresponding figure five years previously (4.8%), largely due to the impact of the reunification with the eastern part of the country (The Economist Pocket Europe in Figures, 1997). Due to lack of data, the “motivation index” could not be calculated for Germany.

In the international perspective, Germany is a highly developed country. According to the UN Compendium on Human Settlements, 85% of the population in Germany live in urban areas, a relatively high rate. The 1997 Human Development Report assigns Germany a “human development index” of 0.92 (19th highest in the world), and the World Bank reports a GNP of USD 25,580 per capita (1994), the sixth highest in Europe and North America. According to the ICVS, roughly one half of the population lives in flats, and one half in detached or row housing. (Criminological theory suggests a positive correlation between the proportion of detached and row housing, and burglary.) The ICVS also indicated that the population in (Western) Germany is, in the international perspective, about average in the extent to which they spend their leisure time outside of the home, with respondents reporting spending an average of 3.2 evenings per week away for entertainment purposes.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, (West) Germany’s score of 66.7 is very close to the mean for the European Union (64.7). 9.5% of the respondents in (West) Germany report the use of burglar alarms in their household, which falls in the medium range in Europe and North America. No ICVS data on the use of special door locks or security grilles on windows are available.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. The results of the ICVS noted that 8.8% of the respondents stated that their household had a firearm, and 6.7% had a handgun. Although not near the highest rate detected in Europe and North America, this latter rate is nonetheless rather high.<sup>3</sup> Alcohol consumption, according to the World Drink Report, is considerably above average, with a per capita consumption of 2.4 litres of strong alcohol, 140 litres of beer and 23 litres of wine.<sup>4</sup>

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Germany has an above average rate. The divorce rate is 1.7 per 1,000 in population per year, which is relatively low (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in Germany in 1994 was 0.89, placing it sixteenth highest among all countries in the world for which the data are available. 26% of Parliamentary seats are held by women. The UNICEF "The Progress of Nations" report states that 11% of persons at the top levels of government are female. In this light, it is of interest to note that (Western) Germany appears to have a relatively high rate of violence against women. One possible and presumably only partial explanation for the high level of violence against women in a country noted for its attempts to promote sexual equality is the greater awareness of such violence, which can well translate into a greater propensity to report violence either to the authorities or, in surveys, to researchers.

According to the World Values Study attitude survey, respondents in (Western) Germany showed somewhat greater than average tolerance (in the European and North American perspective) for deviant lifestyles and of minorities. This somewhat greater than the "international" average level of tolerance also emerged in respect of the readiness of the respondents to accept justifications for the commission of misdemeanours or petty offences under certain conditions.

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<sup>3</sup> The highest rate of possession of handguns, 24.5%, was in Yugoslavia. The second highest rate, 23.9%, was in the United States.

<sup>4</sup> This compares with highs of consumption of strong alcohol in Hungary (3.06 litres per capita), Poland (3.50) and the Russian Federation (4.40 litres) and a reported low of 0.40 litres in Turkey; highs of consumption of beer in Ireland (135 litres per capita), Germany (140) and the Czech Republic (160) and a reported low of 8 litres in Turkey; and highs of consumption of wine in Switzerland (44 litres per capita), Portugal (51), Italy (59), Luxembourg (61) and France (63), and reported lows of 0.1 in Turkey, 0.2 in Ukraine and 0.3 in the Russian Federation.

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 31, which is above the mean for all countries for which the data are available (27) and for the EU countries (26). The number of public police officers (320 per 100,000 in population) was very close to the EU mean of 341, and was further augmented by 217 private policemen per 100,000. Germany had 7 prosecutors, 27 judges and 37 correctional personnel per 100,000 in population. (The corresponding EU means were 6, 13 and 53.)

The score of Germany on the Criminal Justice Practitioner Gender Balance Index (21; see part I, pp. 78-80) is below the mean of 28 or the EU mean of 25.

On the index of Citizen Evaluation of Police Performance (West) Germany, with 33, scores above the mean for the region of 27, but below the EU mean of 37. According to the results of the ICVS, 55% of victims reported the offence to the police, a proportion that is in the medium range internationally. 41% of victims in Germany who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a somewhat low proportion when compared with the results from other countries participating in the ICVS. Only 26% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which again places Germany in a positive light.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of "attrition" in the criminal justice system can be developed (see part I, pp. 95-100). For Germany, the only such indicators available are the number of convictions per prosecution (0.48) and the number of sentences of imprisonment per conviction (0.07). The former is somewhat below the EU mean (0.54), and the latter is considerably below the EU mean (0.32). The latter suggests an above-average tendency to prefer non-custodial sanctions.

The 1995 prisoner rate (85 per 100,000 population) is slightly lower than the mean for the EU countries (86). It can be explained in part by the low number (38) of sentences of imprisonment imposed per 100,000 in population; this is considerably less than the EU mean of 142.

All in all in the international perspective, Germany appears to have a proportionately low problem with crime and the operation of the criminal justice system.

## 4 Further reading

On the sanction and prison population topic, see for example:

Kuhn, A. (1996). "Étude des fluctuations de la population carcérale allemande". Pp. 59-83 in *Déviance et Société* 20/1 (1996).

Dünkel, F., A. van Kalmthout, H. Schüler-Springorum (eds.) (1997). *Entwicklungstendenzen und Reformstrategien im Jugendstrafrecht im europäischen Vergleich*. Münchenengladbach: Forum-Verlag.

Dünkel, F. (1996). *Empirische Forschung im Strafvollzug*.

Dünkel, F. (1997). Pp. 24-33 in *Neue Kriminalpolitik*, No. 2/1997.

Feeney, Floyd (1998). *German and American Prosecutions. An Approach to Statistical Comparisons*. A Bureau of Justice Statistics Discussion Paper, Washington, D.C.

Jehle, Jörg-Martin (1997). *Criminal Justice in Germany: Facts and Figures*. German Federal Ministry of Justice.

*Polizeiliche Kriminalstatistik 1995*

# Greece<sup>1</sup>

## 1 Background

### 1.1 History

The Greek legal system belongs to the Continental European family of law. Especially penal law has been influenced by German penal law and legal doctrine. Penal procedure has been influenced by French, German and (former) Italian models. The criminal justice system is based on two main Codes, the Penal Code and the Code of Penal Procedure. Both were enacted in 1950 and entered into force on 1 January 1951. These Codes replaced the initial Codes from 1833 and 1834, although some elements of these earlier Codes were taken into account by the modern lawmakers, particularly in the special part of the Penal Code and in penal procedure. The criminal justice system is also based on a number of special penal statutes, such as the Code of Traffic Regulations, the Code of Market Regulations, the Military Penal Code, and the Laws related to Drugs, to Firearms, to Antiquities, to Labour Matters etc. Offences (felonies and misdemeanours) covered by these special penal statutes constitute 70% to 75% of the total number of convictions.

The Codes of 1950 have been amended several times since their enactment. In these amendments, one can sometimes detect the influence of the legislation, legal doctrine and case law of other countries, such as Germany and Switzerland, and more recently, France and England.

The Greek Penal Code follows a bifurcated system of sanctions which includes penalties (main and supplementary) and security measures. The most severe punishment is imprisonment for life, which is imposed rarely (on approximately one individual per 100,000 inhabitants). In 1990 the overwhelming majority of sentences involved short custodial sentences of imprisonment (71.8% were up to one month, and 11.3% were for one to three months). In 4.9% of the cases, security measures (see below), educational measures intended for minors, and the penal sanction of institutionalisation in a correctional institution for juveniles 13-18 years of age were imposed. Finally, in approximately 10% of the cases a pecuniary sentence (from the beginning) was imposed.

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<sup>1</sup> This profile has benefited from comments made by Prof.Dr. Calliope D. Spinellis, Director, Centre for Penal and Criminological Research, Law School, University of Athens and Ms Anna Papakyriakou, Head of the Division, Statistical Information and Publications Division, Ministry of National Economy.



Prison sentences of up to two years can either be suspended or converted into a pecuniary penalty. The suspended sentence is applied in approximately 12.4% of the cases. The conversion constitutes an institution that resembles the day-fine system and has been applied in Greece in various forms since 1911. It covers most of the rest of the cases, so that only 3% of the custodial sentences are in fact executed in prison.

Pecuniary penalties are of two kinds: i) pecuniary penalties proper (circa USD 210-21,000) and fines (circa USD 40-833). These penalties are collected as public revenues and they can be enforced even by civil detention for debt (as a last resort). By contrast, custodial sentences converted into pecuniary ones are executed immediately until the money is paid.

Supplementary penalties (e.g. permanent or temporary deprivation of civil rights, prohibition to exercise a profession or an occupation, publication of the conviction, confiscation of the instruments or products of crime, etc.) presuppose a main penalty.

Penalties (main and supplementary) are imposed only on criminally responsible offenders for offences imputable to them. Measures of security are imposed either as substitutes for penalties for persons who are not criminally responsible (e.g. detention of dangerous mentally insane offenders in special psychiatric institutions, educational or therapeutic measures for minors) or for persons criminally responsible in addition to penalties. In the latter case, supplementary measures include the referral of alcoholics or drug addicts to special therapeutic institutions, prohibition of residence in certain areas, expulsion of alien criminals upon their release from prison, and confiscation of dangerous objects.

Children up to twelve years of age are not criminally responsible. Children of 7-12 years may be subjected only to educational or therapeutic measures. The same applies to adolescents of 12-17 years, but only as a general rule; in their cases the juvenile court may consider whether or not they are criminally responsible. If the court deems that they are criminally responsible, it may impose on them the special indeterminate custodial penalty of institutionalisation in a correctional institution.

The Code of Penal Procedure provides for the following criminal courts:

- a) mixed courts — composed of judges and jurors — which try the most serious felonies;
- b) courts of appeals which are also competent to try several felonies as the first instance;
- c) one-member and three-member misdemeanour courts;
- d) petty violations courts;
- e) juvenile courts, competent to try all kinds of offences; and
- f) the Supreme Court (Areios Paghos) sitting on appeals for error of law from all lower criminal courts.

## 1.2 Organisation and major principles

Although certain offences may be investigated by other authorities, such as the customs, the tax authorities, the harbour service, and the fire brigade, most cases enter the Greek criminal justice system through the police and the public prosecutor. The public prosecutor has the monopoly of competence in the prosecution of offences, and is bound by the principle of mandatory prosecution. The public prosecutor can neither abstain from prosecution nor waive prosecution once it has started. Therefore, plea bargaining is not possible in Greek penal procedure. The expediency principle is unofficially operative only by police officials in limited cases of petty offences. The police form a unitary service under the competence of the Ministry of Public Order. The Ministry of Justice, in turn, is competent for the administration of the justice, including the judiciary, the prosecutor's office and prison administration.

The act of prosecution is effected by ordering one of the following procedures:

- a) a summary investigation by a magistrate or a police officer under the supervision of the prosecutor;
- b) an "ordinary" investigation carried out by a judge; and
- c) a direct referral of the case to trial (this takes place when the misdemeanour is not a serious one, and the facts are clear).

The ordinary investigation is mandatory when the offence is a felony, when the accused must be put in temporary detention or when a summary investigation needs completion. In all other cases, the summary investigation is followed.

Both investigation procedures (a summary investigation and an "ordinary" investigation) are governed by the principles of secrecy and written procedure. It is possible to impose on the accused various conditions restricting his or her freedom of movement in order to secure his or her presence during the investigation, the trial and the execution of the sentence (e.g. a prohibition from visiting a certain area or from leaving a certain area). According to two recent amendments (art. 2, Law 2403/1996) a suspect may be placed in pre-trial detention only when:

- a) sufficient grounds of suspicion exist that the suspect has committed a felony (punished by not less than five years),
- b) the suspect has no permanent domicile or has absconded in the past or it is very probable that the suspect will commit new offences if he or she remains free, and
- c) restrictive conditions can not be imposed.

The duration of pre-trial detention cannot exceed 18 months. In spite of the severe conditions provided, until recently approximately 30% of the persons held in prisons were temporarily detained. (For example, on 1 December

1997 the total prison population was 6,075, of whom 1,873 were temporarily detained awaiting trial.)

The victim of the crime, i.e. the natural person or legal entity which has been directly harmed by the crime, may participate in the criminal proceedings and pursue a civil claim for reparation of material or immaterial damages. In many respects the civil claimant has the same rights as the defendant.

The trial is governed mainly by the principles of publicity, immediacy, oral proceedings and continuous procedure (only short recesses of a few days at the most are permitted).

There are two kinds of appeals, an appeal de novo and an appeal on the grounds of an error in law. The appeal de novo lies from the decisions of courts of first instance and for any ground related to the law or to the facts. Such an appeal is submitted to the court of second instance, which retries the case under the same principles with a few exceptions. The appeal on the grounds of an error in law from all criminal courts lies with the Supreme Court (Areios Pagos).

## 2 Statistics

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Greece (however, a pilot study has been conducted).

### 2.2 Reporting and recording

**Table 1. Number of crimes recorded in the criminal police statistics**

	<b>1990</b>	<b>rate/ 100,000</b>	<b>1992</b>	<b>rate/ 100,000</b>	<b>1994</b>	<b>rate/ 100,000</b>
All recorded crimes	330,803	3255.6	379,652	3677.7	303,311	2909.2
Homicide	233	2.3	309	3.0	298	2.9
Assault	6,610	65.1	6,817	66.0	7,566	72.6
Rape	191	1.9	276	2.7	258	2.5
Robbery	660	6.5	1,033	10.0	812	7.8
Theft	43,623	429.3	50,626	490.4	57,343	550.0
Theft of cars <sup>1</sup>					12,814	122.9

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

Between 1990 and 1994, the total number of offences recorded by the police in Greece decreased by 8.3% (from 330,803 to 303,311). However, the table above shows that there was an increase in all offences listed. Intentional homicide

increased by 29.4%, non-intentional homicide by 17.2%, assault by 14.5%, robbery by 23%, rape by 35%, theft by 38.9%, burglary by 25.2%, and drug-related crime by 8.6%. This suggests that the decrease in reported offences must have taken place in offences not listed in the questionnaire. Statistics provided on convictions indicate a large decrease in ‘violation of special penal statutes’ which in 1990 accounted for about three-fourth of all convictions.

The response to the Fifth United Nations Survey reports that in 1994, a grand total of 273,840 persons were brought into formal contact with the criminal justice system – a decrease of 11.8% from 1990. In 1990, a total of 223 intentional homicides and 37 non-intentional homicides were reported to the police. Taking 1990 as the point of comparison, the number of suspected offenders for intentional homicides increased by 24.6%, and the number of non-intentional homicides remained the same. Consistent with the trends in crimes reported to the police, the number of persons reported to the police increased between 1990 and 1994 with the exception of suspected offenders for non-intentional homicide and for rape (for assault (+13.1%), robbery (+64.5%), theft (+33.2%), burglary (+21.5%), drug-related crime (+9.6%).

In Greece, in 1990 a total of 109,190 people were convicted in criminal courts. In 1992 the number decreased to 107,564. In 1994, the total number of people convicted in criminal courts was 83,818 – a decrease of 23.2% from 1990.

Between 1990 and 1994, the number of people convicted for intentional homicide increased by one-third (37.8%), whereas the number of people convicted for non-intentional homicide decreased by 60%. The number of persons convicted for assault decreased as well (-27.1%). Yet, there was a significant increase in convictions for robbery (+65.9%), and drug-related crimes (+19.2%). Convictions for rape increased significantly in 1992, but declined again after that, reflecting a very small over-all increase of 3.7% (compared with 1990). The theft category includes thefts of every kind and no distinction is made between theft and burglary in court and police statistics. Convictions for the theft category declined between 1990 and 1994 (-19.2%). In 1990, 72% of all convictions concerned ‘violations of special penal statutes’; in 1994, 75.6% of convictions involved ‘violations of special penal statutes’. Overall, however, convictions for this category declined by 20% between 1990 and 1994.

Overall, the number of people convicted decreased in Greece by 23.2% between 1990 and 1994. (One reason for the decrease was that all attorneys abstained from their duties for 75 days during 1994. This “strike” paralysed the criminal justice system.)

**Table 2. Number of persons convicted**

	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts)	37	34	49	45	51
Non-Intentional homicide	363	404	308	246	145
Assault <sup>1</sup>	3,816	2,937	3,101	4,630	2,779
Robbery	47	49	84	80	78
Rape	27	28	48	25	32
Drug-related crime	861	939	1,065	1,058	1,026
Theft (burglary included)	2,921	3,051	2,897	2,499	2,359

<sup>1</sup> Data provided by the Statistical Information and Publications Division state that the number of persons convicted for assault was 2,739 for 1990, 1,614 for 1991, 1,430 for 1992, 2,548 for 1993, and 1,551 for 1994. These figures exclude non-intentional assault and non-intentional assault by car.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	919.2	726.7
Prisoner rate <sup>1</sup>		50.0	55.0
% women in the prison population <sup>2</sup>		4.6	3.5
Prisoner rate / 100,000 (convicted only)	Adults	34.0	36.2
	Juveniles	1.3	2.0
% of females of convicted prisoners	Adults	3.2	7.2
	Juveniles	0.7	0.5
% of juveniles		3.8	5.3

<sup>1</sup> Data from Walmsley 1997. The data refers to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refers to the years 1993 and 1996.

In Greece, the definition of 'adult' differs depending on whether one uses penal law or penitentiary law. In penal law, an adult is a person who is 18 years or older, while in penitentiary law, an adult is defined as a person who is 21 years of age or older. The table below presents statistics on sanctions imposed on adults in Greece between 1990 and 1994. Imprisonment appears to be the most common sanction in Greece: in 1994, 95.9% of all sanctions involved some form of incarceration.

Although the total number of sentences of imprisonment declined between 1990 and 1994 by 18.9% (from 93,401 to 75,768), incarceration made up a greater proportion of all sanctions in 1994 (95.9%) than in 1990 (89.9%). These statistics refer only to the persons convicted, not simply to people detained. Statistics on detainees include persons convicted and persons awaiting trial. The bulk of all prison sentences was rather short: in 1990, only

2,548 of the prison sentences involved imprisonment for 12 months to 5 years; 17 sentences were for life. In 1994, the proportion of prison sentences for more than a year increased slightly (3,323), the number of life sentences was 14. However, it should be stressed that most short sentences are converted to a pecuniary penalty (see 1.1, above). The number of fines decreased by two-thirds (69.3%) between 1990 and 1994: in 1994 about 4% of all sentences involved a fine.

**Table 4. Trends in sentencing**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	103,865	100	100,023	100	78,985	100
Imprisonment	93,401	89.9	90,652	90.6	75,768	95.9
Fine	10,464	10.1	9,371	9.4	3,217	4.1

### Prison population

In Greece, 4,869 persons were admitted to prison in 1994, which is an increase of 5.6% over 1990. In 1994, 6.3% of prison admissions in all institutions involved a juvenile (below 21 years), an increase over 1990, when 4% of admissions involved a juvenile. All juveniles admitted to an institution (special prison for juveniles) in Greece were male (no such institutions even exists for females). In 1994, about 11% of adult prison admissions were female (250), which is double the proportion of female prison admissions of 541 in 1990 (5.4%). Adult females represent the fastest growing category of prison admissions (a 116.4% increase between 1990 and 1994). The number of detained prisoners increased from 5,369 in 1990 to 6,884 in 1994. Prisoners awaiting trial increased from 1,433 in 1990 to 2,027 in 1994. The number of persons detained for debts was 81 in 1990 and 16 in 1994 (December 1<sup>st</sup>).

For prisoners awaiting trial and for those detained for debts, no data on age distribution is available.

**Table 5. Total number of persons awaiting trial and admitted to prison during the year**

	1990	1992	1994
Total	2,690	3,630	2,481
Females	217	193	130
Males	2,473	3,437	2,351

In Greece, there were 25 adult correctional institutions in 1994 (with a total of 4,332 beds available). This situation was the same in 1990 and 1994. There were 2 juvenile institutions. In 1990, there were 190 spaces available in juvenile institutions, in 1994, there were 350 spaces available.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	374.2	383.0
	% female	3.5	5.6
Prosecutors	total / 100,000	3.7	3.8
	% female	12.1	17.1
Judges	total / 100,000	13.3	13.1
	% female	32.8	37.0
Prison staff <sup>1</sup>	total / 100,000	16.8	18.1
	% female	8.8	10.2

<sup>1</sup> Data only for adult prisons.

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the total number of offences recorded by the police in Greece decreased by 8.3% during the period under review. However, there were increases in many of the major offence categories, such as intentional homicide (29%), non-intentional homicide (17%), assault (15%), robbery (23%), theft (39%), burglary (25%), and drug-related crime (9%).

Greece is one of the few countries in Europe where the International Crime Victim Survey has not been carried out. This hampers the drawing of international comparisons.

Greece has a relatively low level of homicide, with a score of 28 on the Homicide Index (the mean value for Europe and North America was 51). According to WHO statistics, Greece had a rate of 1.5 homicides per 100,000 (1992), a rate close to that provided by the CDC Study (1.14). Interpol reports a rate of 2.57 for Greece (1994).

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

Greece had a burglary rate of 356 per 100,000 (1994), a fairly low rate internationally speaking. Greece has a score of 39 on the Burglary Index, which is well below the overall mean of 51. Greece ranks in the medium range with regard to offences directed against motor vehicles: it has a score of 58 on the Motor Vehicle Crime Index (the mean is 50). The HEUNI Study reports that 12,814 motor vehicles were misappropriated in Greece, and 7,683 were not traced. Because the ICVS was not conducted in Greece, no data are available on the degree of victimisation by petty crimes.

On the index of the amount of corruption, Greece ranks relatively high; only Bulgaria, Georgia, Italy, Kyrgyzstan, the Russian Federation, and Turkey rank higher on the Corruption Index. The Transparency International index for Greece is 4 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook 1997, on asking respondents their assessment of the extent to which such improper practices as bribing and corruption prevail in the public sphere, elicited a result of 3.1, which is quite low internationally. Finally, Greece ranked in the medium range on the World Competitiveness Study 1997 questions on whether the respondents have full confidence that the person and property is protected in their country and whether they had confidence in the fair administration of justice.

According to data collected by the Dutch Ministry of Justice, there are some 35,000 hard drug addicts in Greece; proportionately, this is relatively high among the EU countries for which the data are available.

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). ICVS data on dissatisfaction with income is not available. Based on the UN Statistical Yearbook 1994, Greece's unemployment rate (1992; combining four individual measures) of 8.2% is moderately high, compared to other countries in the region.

According to the UN compendium on Human Settlements, 63% of the population lives in urban areas. The 1997 Human Development Report assigns Greece a high development score of 0.92 (comparable to Germany and Italy), among the top one-third of the countries in Europe and North America. The World Bank reports a GNP of USD 7,710 per capita (1994), which is in the medium range among the European and North American countries for which the data are available. No ICVS data were available on housing structure or car ownership in Greece.

The "opportunity scale" for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Due to the fact that Greece has not participated in the ICVS, this "opportunity index" could not be calculated for the country.



In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. The UN Study on the Regulation of Firearms (1997) reports a total of 3,150 firearm owners, but an estimate of 805,000 firearms in Greece. Due to this obvious anomaly – which may result from the provision of incorrect data to the UN study – the rate of firearms owners is less than one per 1,000 in population, but the estimated rate of firearms is 77 per 1000. Additional information is needed to interpret these figures and their meaning for understanding violent crimes in Greece. According to the World Drink Report, Greeks on average consume 2.77 litres of liquor, which is well above the mean of 1.9 litres for the 29 countries for which data are available. Their beer consumption is quite low, however (42 litres per capita, compared to an average of 74 litres for the 29 countries for which data are available). With regard to the consumption of wine, Greece, with 34 litres per capita, is slightly above the European Union average of 31 litres per capita (the mean for Europe and North America is 22 litres).

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Greece falls within the middle range internationally. The divorce rate is 0.7 per 1,000 in population per year, which is quite low (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.873, placing the country above average (32) among the 47 European and North American countries for which these data are available. Six per cent of Parliamentary seats are held by women. However, the UNICEF “The Progress of Nations” Report states that no persons at the top levels of government in the country are female. The female economic activity rate (expressed as a proportion of male economic activity) is rather low (55%), with only three countries (Ireland, Malta and Spain) reporting a lower level of female participation in the workforce. Greece has a low rate of reported rapes (two per 100,000 population, with only Armenia, Azerbaijan, Cyprus, Georgia, and Turkey reporting lower rates). Greece has a comparatively low value of 22 on the Violence against Women Index (the mean for 44 countries for which data are available is 50), and is eighth lowest. However, in view of the absence of victimisation data (including data on the level of willingness to report violent victimisation to the police), this finding must be approached with caution.

Due to the lack of data, the loading of Greece in a factor analysis in respect of strain-related violence, serious property crime in urban settings and opportunistic petty crime could not be calculated (see Table 10 in part I, p. 49).

### 3.3 Operation of the criminal justice system

The very low position of Greece on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) can be explained by the low number of prosecutors and correctional staff per capita. The number of police officers per capita (383 per 100,000) is somewhat above the EU mean (343). The data indicate only 19 private police per 100,000 in population. Greece has by far the lowest number of correctional staff officers per 100,000 (18; the EU mean is 53), but as a result of the exceptionally low prisoner rate, the inmate/staff ratio is 2.9, which though considerably above the EU mean of 1.7 is not far from the mean for the entire region of 2.5.

Greece has a value of 20 on the Criminal Justice Gender Balance Index (the mean value is 28), placing the country in the second quartile with regard to the female proportion of criminal justice personnel. Greece can be found to exceed the EU mean only in the percentage of female judges.

No data are available to assess the level of citizen satisfaction with police performance.

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police “productivity” (see part I, pp. 102-105). This proportion in Greece – 686 – is about the EU mean of 621.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed (see part I, pp. 95-100). In general, Greece has quite high rates. The ratio of suspects per offences reported is the highest of all countries for which the data are available, 0.90. (According to Interpol data, the clearance rate for offences is 82.6, which is the highest among the EU countries for which the data are available.) Similarly, the ratio of convictions that lead to sentences of imprisonment is the highest, 0.96. (Such a high proportion strongly suggests that the data provided to the Fifth United Nations Survey only cover the most serious offences.)

The prisoner rate is very low (55 per 100,000 population in 1994), significantly lower than the mean for the EU countries (86) and more in line with the Nordic countries.

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# Hungary<sup>1</sup>

## 1 Background

During the period between the two World Wars, the Hungarian Penal Code of 1878 was in force. It was amended and supplemented for the first time in 1908, and twice after that, in 1928 and in 1948, although Acts of Laws, separate from the Penal Code, were created and amended several times. 1950 saw the General Part of the Penal Code replaced, and in 1961 a new Penal Code was adopted. The Code presently in operation is that of 1978. It came into force in mid-1979, but subsequently underwent modification several times. The most recent changes were made in 1997.

In 1968, the laws relating to transgressions were codified. Transgressions comprise violations of administrative regulations and non-serious criminal violations, such as petty theft. The most severe penalty generally available for transgressions is the fine, since deprivation of liberty as a penalty for a transgression was abolished by an Act of 1990.

According to the Code of Criminal Procedure of 1973 and its related legislation, the preliminary investigation is conducted by the police and the investigative functionaries of the public prosecutor's office, under the supervision of a public prosecutor. The public prosecutor acts in accordance with the legality principle, which requires prosecution to proceed when *prima facie* evidence against a suspect becomes available.

The public prosecutor presents the indictment in court. Some other agencies (such as the customs and tax authorities) also have limited prosecution powers in respect of customs and foreign exchange regulations and in relation to border control and immigration regulations. For some offences, the victim can initiate a private prosecution

The court system in criminal matters consists of local and county courts and the Supreme Court. A panel of one professional judge and two lay magistrates decides on the question of guilt or innocence, and passes sentence. Parliament adopted a new Code of Criminal Procedure in 1998. The Code will enter into force on 1 January 2000. This new Code will *inter alia* introduce a regional appellate court level between the county level and the Supreme Court.

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<sup>1</sup> This profile has benefited from comments made by Professor Miklós Lévay, Institute of Criminal Sciences, University of Miskolc, Dr. Endre Bócz, Chief Public Prosecutor of Budapest, Professor Ferenc Irk, National Institute for Criminology and Criminalistics, Dr. János Boros, Head of Department of International Relations, National Prison Administration, Professor József Vigh, Department of Criminology, Eötvös Loránd University, Budapest, Ms Katalin Gönczöl, Parliamentary Commissioner for Human Rights, Republic of Hungary and Dr. István Vavró, Head of Department, Ministry of Justice.

Full adult responsibility comes at the age of 18 years. The minimum age limit for criminal responsibility is 14 years. Offences by children under the age of 14 years are dealt with by child welfare authorities. There are no separate courts for juveniles. In the event of (serious) offences, juveniles are dealt with by the courts of general jurisdiction, which, however, then have a judge and panel that is specialised in juvenile cases.

The penalties for transgressions (petty offences) are meted out by the police or administrative agencies according to the nature of the violation. There is no right of appeal to a court against adjudication for a transgression. Since 1990 the police cannot conduct transgressional proceedings in police cells, only in penal institutions. The prison service operates under the aegis of the Ministry of Justice.

The great political changes at the end of the 1980s resulted in the first amendments to criminal law in May 1989. The Constitutional Court abolished the death penalty in 1990. In July 1989 “socially dangerous parasitism” – largely an ideological construct – was decriminalised. The legislation on political offences was amended in October 1989, when the very vague and imprecise criminalizations were abolished, and more precise definitions were introduced. In the early 1990s the criminal law was amended to protect the operation of the market economy and in 1994, money laundering was criminalised. In October 1989 criminal procedure was amended in order to improve the rights of the accused.

A new Police Law was adopted in 1994. This law sets out, for example, the procedures to be followed during pre-trial investigations, including the collection of information inter alia through undercover operations.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities.

**Table 1. Victimization rates (in %) according to the ICVS, major cities: result from the 1996 city survey.**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	1.4	2.5	1.8	1.8

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	<b>1990</b>	<b>rate/ 100,000</b>	<b>1992</b>	<b>rate/ 100,000</b>	<b>1994</b>	<b>rate/ 100,000</b>
All recorded crimes	341,061	3290.5	447,222	4331.9	389,451	3795.4
Homicide	347	3.3	466	4.5	477	4.6
Assault	9,066	87.5	10,585	102.5	11,077	108.0
Rape	751	7.2	738	7.1	828	8.1
Robbery	2,864	27.6	3,265	31.6	2,570	25.0
Theft	154,369	1489.3	174,238	1687.7	135,620	1321.7
Theft of cars <sup>1</sup>					13,185	128.5

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

No clear trend can be seen in the statistics on the number of offences reported to the police. The total number of offences increased by 29% from 1990 to 1991, but then stabilised, and subsequently decreased. This has largely been due to the development in respect of property offences (aggravated theft and burglary). The number of violent offences has increased somewhat during the period under review.

**Table 3. Number of persons convicted**

	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>
Total	46,555	64,365	76,212	73,368	77,318
Intentional homicide (incl. attempts)	240	223	314	285	345
Causing death by negligence	1	10	12	18	21
Aggravated assault	2,741	3,079	3,849	4,083	4,837
Other assault	118	149	1,186	187	240
Robbery	1,086	1,262	1,334	1,371	1,575
All theft	17,840	24,144	27,350	25,106	25,545

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	105.5	98.8
Prisoner rate <sup>1</sup>		120.0	120.0
% women in the prison population <sup>2</sup>		5.7	5.5
Prisoner rate / 100,000 (convicted only) <sup>1</sup>	Adults	80.8	83.3
	Juveniles	4.2	3.9
% of females of convicted prisoners	Adults	4.6	5.5
	Juveniles	4.8	2.8
% of juveniles		5.0	4.4

<sup>1</sup> Data from Walmsley 1997. The data refers to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refers to the years 1993 and 1996.

**Table 5. Trends in sentencing**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	41,399	100.0	69,314	100.0	69,781	100.0
Imprisonment	10,103	24.4	12,136	17.5	9,348	13.4
Parole <sup>1</sup>	6,001	14.5	10,807	15.6	12,043	17.2
Reformatory and educative labour	675	1.6	61	0.1	416	0.6
Fine	18,123	43.8	33,238	48.0	34,805	49.9
Other measures	416	1	708	1	664	1
On probation	6,081	14.7	12,319	17.8	12,505	17.9

<sup>1</sup> The response to the Fifth United Nations Survey specified this category as a sentence. Elsewhere in the response, it is noted that 4,716 persons were paroled from prison through 1990, and 5,009 persons were paroled throughout 1994. This figures thus appear inconsistent.

Between 1990 and 1994, the absolute number of persons sentenced to imprisonment remained about the same, but the proportionate use of imprisonment decreased considerably.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Hungary, 12% of the urban respondents would have favoured a fine, 5% a suspended sentence, 43% community service and 34% imprisonment. Among those favouring imprisonment, the average suggested sentence was 36 months. In an international comparison, this suggests above-average support for the use of imprisonment.



## Prison population

The response to the Fifth United Nations survey notes that Hungary had 32 adult prisons and 1 juvenile prison as of 31 December 1994. This is one adult prison fewer than in 1990.

Compared with the data for the 1980s, the number of persons entering prison, and the number being held in incarceration, have decreased considerably.

No data are provided on the average length of time spent in detention awaiting trial. Regarding the average length of prison sentence actually served, the response notes that this was 220 weeks in 1990, 200 weeks in 1992 and 250 weeks (slightly less than five years) in 1994.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	234.7	292.8
	% female	9.5	9.9
Prosecutors	total / 100,000	10.8	11.2
	% female	-	-
Judges	total / 100,000	17.6	21.4
	% female	-	-
Prison staff	total / 100,000	52.1	4.6
	% female	22.0	23.3

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, no clear trend can be seen in the statistics on the number of offences reported to the police. The total number of offences increased by 29% from 1990 to 1991, but then stabilised, and subsequently decreased. This has largely been due to the development in respect of property offences (aggravated theft and burglary). The number of violent offences has increased somewhat during the period under review.

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

According to the results of the ICVS, 25% of the urban respondents in Hungary had been the victim of a crime during the preceding year, placing Hungary in the low range internationally. For individual offences, the urban victimisation rate was 2.5% for burglary, 1.7% for assault or threat, 8.5% for theft from or of a car, and 0.7% for robbery.

Hungary fell in the middle range in respect of homicide and serious violence. However, in respect of the index of violence in general, Hungary had the second lowest ranking out of 36 countries. Hungary's placement in the middle range in respect of homicide and serious violence is reflected in the fact that 44.2% of the urban ICVS respondents stated that they tend to avoid certain places in their neighbourhood at night, which is close to the mean for all European and North American urban samples (43.4%).

Internationally speaking, Hungary appears to fall in the middle range in respect of burglary and of offences against motor vehicles. However, Hungary had a very low rank in respect of petty crimes.

On the index of the amount of corruption, Hungary has a relatively high rank. The Transparency International index for Hungary is 4.1 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook 1997, on asking the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero (does prevail) to ten (does not prevail) – elicited the result of 2.7.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). On a scale of 1 (“not satisfied”) to 4 (“very satisfied”), the mean response in Hungary to an ICVS question on such satisfaction was a low 2.12 among the urban respondents. In 1995, unemployment was the twelfth highest reported figure in Europe, 11.0% of the active labour force. This was several times higher than the corresponding figure five years previously (1.7%) (The Economist Pocket Europe in Figures, 1997). The “motivation index” calculated for Hungary was 8.5, which is above average (the mean was 5.2).

According to the UN Compendium on Human Settlements, 62% of the population in Hungary live in urban areas. The 1997 Human Development Report assigns Hungary with a high “human development index” of 0.86, and the World Bank reports a GNP of USD 3,840 per capita (1994), the second highest in Central and Eastern Europe. According to the ICVS, 38 % of the urban population lives in detached houses; internationally speaking, this is a moderately high rate. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) According to the ICVS, three out of five urban households in Hungary (61.2) report that they have a motor vehicle, which is slightly below the mean for

Europe and North America (65.9). The ICVS indicated that the urban population in Hungary is relatively inactive in spending their leisure time outside of the home, with respondents reporting spending an average of 2.21 evenings per week away. (Only the participants in urban areas in Romania reported a lower average, 1.97.)

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index” for property crime, Hungary, at 37.5, falls very close to the mean for Central and Eastern Europe (37.9). 49.6% of the urban population report the use of special door locks, 18.2% the use of special window grills, and 7.2% the use of burglar alarms in their household – again, proportions which fall in the middle range among European and North American countries.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. The results of the ICVS noted that only 1.9% of the respondents stated that their household had a handgun, one of the lowest urban rates among the 36 European and North American countries in which the study has been carried out. Alcohol consumption, according to the World Drink Report, was high, with a per capita consumption of 3.06 litres of strong alcohol, 103 litres of beer and 33 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Hungary ranks quite low. The divorce rate is 2.1 per 1,000 in population per year, which is in the middle range for Europe (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in Hungary in 1994 was 0.84, placing it in the middle range among the 47 European and North American countries for which the data are available. 11% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that 6% of persons at the top levels of government are female. In the light of these indicators, it is of interest that Hungary appears to have a relatively low rate of violence against women. The lowness of these rates was reflected in an anomaly in the results of the ICVS: not one single female respondent in urban areas in Hungary reported having been the victim of a sexual offence (including sexual harassment) during the preceding year.

According to the World Values Study attitude survey, respondents in Hungary showed moderately high tolerance (in comparison with other Euro-

pean and North American respondents) for deviance: one third of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. This tolerance was clearer in respect of misdemeanours and petty crimes; respondents in Hungary were, internationally speaking, the most prepared to justify the commission of misdemeanours and petty crimes under certain conditions (23 and 21, respectively; the respective means for Europe and North America were 17 and 16). However, in respect of minorities, respondents in Hungary showed less tolerance.

Tolerance, however, is not the same as acceptance, or as confidence in the criminal justice system. According to the 1997 World Competitiveness Survey, respondents in Hungary rated their country as very low in respect of the extent to which they believed that the person and property is protected in their country: the result was only 3.6 on a scale of zero to ten. The ranking of Hungary on the indicator of the extent to which there was full confidence in the fair administration of justice in society was also below average: 4.7.<sup>3</sup>

All in all in a factor analysis of the data on determinants of crime, Hungary had a positive loading in respect of strain-related violence (+.48), a negligible loading in respect of serious property crime in urban settings (-.03), and a negative loading in respect of opportunistic petty crime (-.88) (see Table 10 in part I, p. 49). This can be interpreted to mean that, although the situational factors in Hungary somewhat favour strain-related violence, Hungary is very much the norm in respect of serious property crime, and internationally speaking has a low propensity for petty crime.

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 36, which is above the mean for the region (27). The rate of police officers per 100,000 in Hungary is smaller than the mean but this is off-set in part on the Law Enforcement Resources Index by the relatively high number of judges and prosecutors. The number of correctional staff per 100,000 is above average. The figures for the Hungarian female criminal justice personnel are in accordance with the regional means in all respects except one: the rate of female police personnel per 100,000 (28.9 in 1994) remains far below the regional mean of 66.5. On the other hand, this mean is heavily influenced by the data from the Russian Federation, and may therefore not be a good point of comparison for the other Eastern and Central European countries.

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<sup>3</sup> In this Survey, 25 European and North American countries were covered, including all 15 EU countries. The highest on the "protection" indicator was Austria, with 9.06, and the highest regarding the "fair administration" indicator was Denmark, with 8.29.

Hungary's score of 29 on the Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78-80) fits in between the regional mean of 28 and the Central and European mean of 30. Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than the EU countries, reflecting their high shares of female prosecutors and judges.

Hungary's score of 23 on the Citizen Evaluation of Police Performance index is well above the mean for the Central and Eastern European countries (17), but is still below the regional mean (27). According to the ICVS results, 48% of victims in urban areas reported the offence to the police, a proportion which falls in the middle range internationally. 51% of victims in Hungary who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, again a middle-range rate when compared with the results from other countries participating in the ICVS. 62% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, a moderately high rate.

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police "productivity" (see part I, pp. 102-105). This proportion in Hungary – 398 – is above the mean for the Central and Eastern European countries of 201.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of "attrition" in the criminal justice system can be developed. (See part I, pp. 95-100). In general, Hungary has low or very low proportions, with the exception of the proportion of prosecutions to suspects (0.86) or the proportion of convictions to prosecutions (0.76), which are somewhat above the mean. Low proportions suggest an above-average "attrition" rate due to diversion or other factors.

The prisoner rate is relatively low (120 per 100,000 population), significantly lower than the mean for the Central and Eastern European countries (263) or for the region as a whole (158). Somewhat over one-fourth of the prison population are awaiting trial, a rate which is about the international mean.

Only 99 sentences of imprisonment are imposed in Hungary per 100,000 in population; this is below the regional mean of 139. However, in respect of the average length of sentences, Hungary, with 250 weeks (almost five years) is considerably above the regional mean of 107 weeks or the Central and Eastern European mean of 195 weeks, much less the EU mean of 37.2 weeks. (However, it should be noted that data on the average length of sentences is available from only ten Central and Eastern European countries, and is missing from four EU countries, Austria, Germany, Italy and Portugal.)

# Iceland<sup>1</sup>

## 1 Background

### 1.1 Structure of the criminal justice system

Iceland's legal system shares many features with that of the four other Nordic countries. At various times during the 1,100-year history of the country, Danish and Norwegian law codes had been adopted to regulate a wide variety of matters. For example, the 1683 Danish penal legislation was adopted in Iceland almost intact in 1838. The 1866 Danish Penal Code was translated, with minor amendments, to become the 1869 General Penal Code of Iceland. This, in turn, was replaced by the General Penal Code of 1940 (Act 19/1940), which continues to be largely in force today. Iceland declared its independence in 1944.

Supplementary legislation on criminal law is found in separate enactments, such as the Law on Alcoholic Beverages, the Traffic Act, the Law on Drugs of Dependence and Habituation, and the Customs Act.

The Code of Criminal Procedure is contained in Law no. 19/1991. It includes provisions on the investigation of criminal cases by the police.

The Icelandic police force was established in 1972, replacing the municipal police forces, which had operated during the post-war period. Iceland is divided into 26 police districts. In 1997 the office of the National Police Commissioner was established. The National Police Commissioner administers the country's police force per procuration of the Ministry of Justice. The State Criminal Investigation Police was established in 1977.

The Office of the Public Prosecutor was established in 1961.

Iceland has 8 judicial districts for the courts of first instance. Sessions in the court of first instance are presided over by a professional judge. However, if the judge deems the case to require specialist expertise, he or she can call two experts to serve on the court.

Iceland has one court of appeal, the Supreme Court. The Supreme Court has eight justices. Five justices constitute a quorum for a plenary session. The Supreme Court also works in panels of three judges.

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<sup>1</sup> This text has benefited from comments made by Mr Kolbeinn Árnason, Head of Section, Ministry of Justice and Ecclesiastical Affairs, Iceland.

## 1.2 System of sanctions

The basic sanctions are incarceration and fines. Incarceration can be imprisonment (for life, or from 30 days to 16 years). Sentences may also be imposed conditionally.

Iceland abolished the death penalty in 1940, and in fact the last enforcement of the death penalty was in 1830.

## 2 Statistics

Iceland did not respond to the Fifth United Nations Survey, and statistics were not otherwise available for the preparation of this profile.

# Ireland<sup>1</sup>

## 1 Background

The Irish criminal justice system today is a hybrid of the common law of England, historical practice and legislation of the modern Irish State. Originally an independent country made up of the four historical kingdoms of Ulster, Munster, Leinster and Connacht, Ireland was for centuries part of the Kingdom of Great Britain and Ireland.<sup>2</sup> During this period English common law and legislation adopted by the English Parliament was applied. When Ireland became independent in 1922, English law remained in full force unless repealed or amended by the Oireachtas (Parliament). Although the Oireachtas has adopted many criminal law statutes since 1922, there have been no major reforms.

Irish criminal law is composed of the common law and statutory law. Irish judges can look at modern interpretations of the common law by judges in other common law jurisdictions to guide them in their interpretation of the common law in Ireland.

The most important criminal law statutes are the Criminal Justice Act, 1964, the Criminal Justice Act, 1990, the Offences Against the Person Act, 1861, the Criminal Law (Rape) Act, 1981, the Infanticide Act, 1861, the Larceny Act, 1916, the Criminal Damage Act, 1991, the Road Traffic Act, 1961, the Misuse of Drugs Acts, 1977 and 1984, and the Offences Against the States Act, 1939, 1940, 1972 and 1985. Several of these Acts have been amended by later legislation.

Ireland does not have a Code of Criminal Procedure. Instead, the criminal justice system is regulated by statute, which has been interpreted by case law. The main statutes on procedural law are the Courts of Justice Act, 1924, the Criminal Justice (Administration) Act, 1924, the Criminal Procedure Act, 1967, and the Criminal Justice Act, 1984.

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<sup>1</sup> This profile is based on “Criminal Justice Systems in Europe - Ireland”, by Cliona J. M. Kimber, HEUNI Criminal Justice System Profile Series, Helsinki 1995. The profile has also benefited from comments made by Mr Brian Hamilton, Crime Division, Department of Justice, Equality and Law Reform, Dublin.

<sup>2</sup> The north-eastern part of Ireland, an area which roughly corresponds with the historical kingdom of Ulster, remains as part of the United Kingdom and has a separate criminal justice system.



## 1.2 Structure and principles of the criminal justice system

### **The elements of the criminal justice system**

The Irish criminal court system consists of district courts, criminal circuit courts, the Central Criminal Court and the Court of Criminal Appeal, and the Supreme Court. In addition, a Special Criminal Court deals exclusively with scheduled (terrorist) offences under the Offences Against the State Acts.

The district court is the lowest court. It can only hear cases from within a defined geographical area and relating to summary offences, minor offences (provided certain conditions are fulfilled) and certain indictable offences. On the next level, the eight criminal circuit courts have jurisdiction over all indictable offences, except those within the exclusive jurisdiction of the Central Criminal Court or the Special Criminal Court. It also hears appeals from the district court.

The Central Criminal Court (which is the name given to the High Court when exercising its criminal jurisdiction) has exclusive jurisdiction with regard to a limited number of very serious offences including murder and sexual offences. It can also hear appeals on a point of law from the criminal circuit court.

The Court of Criminal Appeal has appellate jurisdiction only in criminal matters and acts as a court of appeal for the Central Criminal Court, the criminal circuit court and the Special Criminal Court. The decision of this court on a criminal matter is usually final but there can be appeals to the Supreme Court if the case involves a point of law of exceptional public importance.

In respect of the police, the Garda Síochána were established by the Police Forces Amalgamation Act, 1925 which brought together the Dublin Metropolitan Police and the former Civic Guard who had replaced the Royal Irish Constabulary outside of Dublin. The prosecution of many less serious offences is a matter for the Garda Síochána. The Gardaí are responsible for the detection and investigation of criminal offences. The Commissioner of the Garda Síochána is appointed by the Minister for Justice, Equality and Law Reform. There are special divisions of the Gardaí for the investigation of narcotics offences (the Drugs Squad) and firearms/terrorist offences (the Special Branch).

The Office of the Director of Public Prosecutions (DPP) was established by the Prosecution of Offences Act, 1974, as an independent prosecuting body. This act transferred virtually all responsibilities of the Attorney General relating to criminal matters to the DPP. The office of the DPP now has the power to prosecute all summary offences and most indictable offences. Certain offences can only be prosecuted by the DPP after the consent of the Attorney General has been obtained, for example offences under the Official

Secrets Act, 1963. For other offences, the Attorney General is the only competent prosecutor. This is the case, for example, for offences under the Fisheries (Amendment) Act, 1978.

The Irish legal profession is divided into two branches, barristers and solicitors. Members of the Bar and solicitors must hold an academic degree either in law or some other discipline. They also attend a professional course in the Honourable Society of the Kings Inns (for barristers) or the Incorporated Law Society (for solicitors).

Barristers are members of the Irish Bar, which is a self-regulating body. There is a Code of Conduct, published regularly by the Bar Council (elected by all members of the Bar) which outlines the various duties and obligations owed by members of the Bar. Irish Solicitors are becoming increasingly regulated by statute. A new Solicitors Bill was published in 1994.

### **Fundamental principles**

A fundamental doctrine recognised in the Irish courts is that the criminal law must be certain and specific and that no person is to be punished unless and until he or she has been convicted of an offence recognised by law as a crime and punishable as such.

The original common law distinction between felonies and misdemeanours has now become unclear. The modern practice is simply to create offences and a distinction is then made between punishment on conviction on indictment, and punishment on summary conviction. Many lesser felonies may now be tried summarily, i.e. by a court of summary jurisdiction.

The position is confused further by the existence of an additional category of minor offences, which consist of the less serious felonies and misdemeanours. Their significance is that they cannot be tried on indictment. Article 38.2 of the Constitution provides that minor offences may be tried by courts of summary jurisdiction. There is no definition of a minor offence either in the Constitution or in legislation, but a body of case-law has developed which defines the ambit of minor offences. Whether or not an offence can be treated as a minor offence will be determined by taking account of the seriousness of the offence and the severity of punishment imposed.

The minimum age of criminal responsibility is seven years old. A child under seven is conclusively presumed to lack discretion and is therefore not punishable in any criminal prosecution. Between the ages of seven and fourteen a child is presumed not to have reached the age of discretion, but this presumption can be rebutted by strong evidence that the child was able to distinguish between right and wrong and that he or she knew that the action was morally wrong. Full criminal responsibility comes at the age of fourteen years. However, children between fifteen and seventeen are known as young persons and those over seventeen are known as juvenile adults and punished accordingly.

## Investigation and the initiation of criminal proceedings

The power of the Gardaí to arrest is derived from both common law and statute. Under common law, for example, (which does not require a warrant) a garda must arrest a person who is seen committing a treason, felony or inflicting a dangerous wound, is reasonably charged with the commission of a felony by some other person, or commits a breach of the peace. Correspondingly, a garda may arrest a person who he or she reasonably suspects of committing treason, a felony or inflicting a dangerous wound, he or she sees threatening to commit treason, a felony or a breach of the peace, or assaults him or her in the execution of their duty. Specific legislation, in turn, will often confer a power of arrest on a particular person or body. For example under the Road Traffic Act, 1963 a garda is permitted to arrest a driver who has driven a mechanically propelled vehicle whilst drunk.

Once a person is arrested, he or she must be taken immediately to a Garda station where the particulars of the alleged offence are set out on a charge sheet. The accused is given a copy and a copy is also lodged with the district court. The accused must be brought before a district justice as soon as possible. If the Gardaí are willing, the accused may be released on bail until the next sitting of the court. However, if the Gardaí oppose bail, there must be a special sitting of the court. The only valid reason for refusing bail is a reasonable belief that the accused will not turn up for trial or that he or she will interfere with witnesses or evidence. The likelihood of the accused committing further offences whilst on bail cannot be taken into account. Irish law does not recognise non-bailable offences.

If the Gardaí do not agree to station bail, the accused must be brought before a district justice as soon as possible, which can sometimes require a special sitting of the court. The district justice decides whether or not the accused may be released on bail. This decision may be appealed to the High Court. In relation to offences for which the High Court has exclusive jurisdiction (for example, murder) the application for bail must be made in the High Court and an appeal lies to the Supreme Court. Having decided whether or not to grant bail, the case will usually be remanded.

The Director of Public Prosecutions enjoys a wide discretion relating to the prosecution or institution of proceedings. There is a discretion to enter a *nolle prosequi* at the arraignment stage of indictment proceedings, thereby ensuring that a prosecution is discontinued. Certain offences (for example, explosives offences) require the consent of the DPP before a prosecution can be initiated.

Under common law, there is a right to prosecute offences available to a common informer, i.e. an ordinary member of the public. A common informer can prosecute summary common law offences, and statutory offences provided the statute does not expressly exclude the right of the common informer to prosecute the offence. As regards indictable offences, a common informer can only initiate proceedings, and once the district justice has

decided to send an accused forward for trial, the common informer must give way to the DPP.

Gardaí can act as common informers if they have not obtained the consent of the DPP prior to bringing charges. The Gardaí are then subject to the limits on the common informer's right to prosecute.

Occasionally statute may expressly reserve the right to prosecute a specific offence to a particular Government Minister or statutory body. This is only possible with summary offences and if the designated person fails to prosecute, the DPP can take up the prosecution.

### **The conduct of criminal proceedings**

The criminal procedure for the hearing of a criminal trial is different for summary and indictable offences. In summary proceedings, criminal procedure is initiated by the making of a complaint, which is a statement made orally on oath setting out the charges against the accused. If it is in writing it is known as an "information". It must be sworn within six months of the cause of complaint. This time limit does not apply to indictable offences, which are dealt with summarily.

On the basis of the complaint, a district justice will decide whether or not to issue a summons. If it is a serious offence and it is likely that a summons would prove ineffective in securing the attendance of the accused in court, the district justice has a discretion to issue a warrant for the arrest of the accused, rather than a summons. In that case the complaint must be made on oath and in writing.

Summary cases are heard in the district court by a judge alone. While counsel have the right to be heard in the district court, representation is usually by solicitors. Free legal aid for summary offences will usually only be available where there is a serious risk that if the accused is convicted he or she will be sentenced to a term of imprisonment. Even then, free legal aid in the district court would usually only allow for representation by a solicitor.

There is no time limit for the issuing of a summons for an indictable offence, whether dealt with summarily or upon indictment. The accused is subject to a preliminary examination by the district justice. This process is to enable the judge to decide whether a sufficient case is disclosed by the prosecution evidence. After hearing an outline of that evidence the judge may:

- a) Send the accused forward for trial to the relevant court;
- b) Charge the accused with some other indictable offence and send him or her forward for trial;
- c) Charge the accused with a summary offence. If the accused pleads guilty, the district justice can deal with it there and then. Otherwise he or she will set a date for the summary trial;
- d) Order the accused to be discharged.

The accused may waive his or her right to a preliminary examination and consent to being sent forward for trial on a plea of not guilty. The accused may also plead guilty and be sent forward for sentence only.

Having been sent forward for trial, the prosecution must prepare an indictment. The indictment must contain a statement of the specific offence(s) for which the accused is charged and the particulars of the charges. The indictment may be amended at any time before or during the trial by the court, if it appears to be defective.

The next stage is the arraignment of the accused, whereby he or she is called before the court of trial. The indictment is read to the accused and he or she is asked whether they plead guilty or not guilty. The next steps are as follows:

- the State may enter a *nolle prosequi*, thereby discontinuing the prosecution;
- an application may be made to transfer the case from outside Dublin to the Dublin Circuit Court;
- the case may be postponed or adjourned;
- the fitness of the accused to plead may be considered;
- there may be a motion to quash the indictment because it is bad on its face or it is insufficient;
- there may be pleas in bar of indictment of *autrefois acquit* and *autrefois convict* where the accused has already been convicted or acquitted of the offence with which he or she is charged;
- there may be an application for separate trials for co-accused;
- the accused may plead guilty in which case he or she will be sentenced; and
- the accused may plead not guilty in which case a jury must be empanelled to try him or her.

The judge presides over the court and directs its procedure, and is responsible for all adjudication on matters of law. The jury is the sole arbiter of fact. The pre-trial phase has an inquisitorial character, but there is an accusatorial element as the function of the preliminary examination is to decide whether or not the accused has a case to answer. This pre-trial stage ends when the accused is sent forward for trial. The trial itself has a purely accusatorial character. The judge in the Irish criminal justice system is not an examining judge.

The rules of evidence are not codified in Irish criminal law. The common law does, however, contain a detailed body of law concerning the kinds of evidence which are admissible in court, and various aspects have been dealt with by statute, such as the Criminal Evidence Act, 1992.

An accused has a constitutional right to legal representation in a criminal trial. For serious offences this would include access to a barrister for consultation in the pre-trial period and representation at the preliminary examination. A suspect has a constitutional right to access to a solicitor immediately upon apprehension or arrest by the police. This was established

by the Supreme Court in 1989. If he or she is refused access to a solicitor, any confession made may be inadmissible.

Free legal aid is only available to accused persons when they appear in court. There is no right to free legal aid at the apprehension / arrest / pre-trial detention period. Whether a person is entitled to such legal aid depends on his or her financial means.

The victim has a minimal role in the prosecution and sentencing of offences. In the pre-trial proceedings, the victim has no official role in either the presentation of evidence or the questioning. If the Gardaí make a decision not to prosecute, the victim has no legal remedy against this decision. The victim's only right is to prosecute a case as a common informer. This procedure is limited to summary offences and once the accused is returned for trial, the prosecution must be handed over to the DPP who may enter a *nolle prosequi*. While it would be open to a victim to bring a claim for damages for assault in the civil courts, in practice there might be considerable difficulties in obtaining the relevant and necessary documentation from the Gardaí.

The victim does not have a right to counsel, nor any right to appeal against an acquittal or sentence. The State does not provide any assistance in gaining damages from the offender unless the victim would be entitled to free civil legal aid in the usual manner.

There is, however, a limited right to compensation from the State for criminal damage. The State compensation scheme for injuries or loss caused by crime is limited to out-of-pocket expenses, i.e. loss of earnings and medical expenses (including broken spectacles and dental expenses). There is no compensation for damage or loss to clothing or property or pain and suffering. This position has been changed somewhat by the Criminal Justice Act, 1993.

### **Sentencing and the system of sanctions**

Like much Irish criminal law, sentencing and the system of sanctions has developed piecemeal through common law and statute. There is no clear legislative or judicial sentencing policy and much is left to the discretion of the judiciary. Although there are a number of different sanctions available, there is no express classification of sanctions, and no express distinction drawn in legislation between principal and additional punishments or between punishments and measures - in fact the words are often used interchangeably.

The principal sanctions in practice are imprisonment, probation, community service and fines. Other sanctions include adjournment sine die, deferred sentences, disqualification, compensation, confiscation and suspended sentence. Capital punishment was abolished by the Criminal Justice Act, 1990.

At common law there is no limit to the term of imprisonment which may be imposed. This remains true for all common law offences. For offences

created by statute, maximum and minimum sentences are laid down. Maximum sentences are reserved only for the most serious cases. For summary offences tried in the District Court, the maximum sentence which may be imposed is twelve months, except in certain circumstances where an aggregate sentence increases it to twenty-four months. At common law there is no minimum sentence of imprisonment which may be imposed, but again statute often prescribes minimum sentences which must be imposed upon conviction of certain offences.

Deprivation of liberty for an indeterminate period is a sentence which can arise from the combination of a life sentence and the statutory minimum sentence for another offence. It then becomes an indeterminate sentence beyond a minimum base.

A person may still be sentenced to penal servitude under the Penal Servitude Act, 1857. This is an older form of imprisonment, originally introduced as a substitute for deportation to convict colonies. For all practical purposes however, there is no difference between penal servitude and a sentence of imprisonment, and it is today an anachronism, imprisonment being favoured over penal servitude.

Probation is governed by the Probation of Offenders Act, 1907, which gives the court power to discharge the offender unconditionally.

Community service has been available in Ireland as a sanction following the enactment of the Criminal Justice (Community Service) Act, 1983. In relation to any offender over sixteen who has been convicted of an offence which attracts a custodial sentence, the court has discretion to make a community service order which requires the offender to perform unpaid work for a specified number of hours. The maximum number of hours is 240 and the minimum is 40. If the offender does not comply with the order he or she will be brought before the court and a different sanction may then be imposed.

The court has discretion to impose fines upon conviction for any misdemeanour and there is no limit on the amount of the fine that may be imposed. In cases of felony the court has no such power except where the crime is manslaughter. In most cases, however, fines are set out in the statute that creates the offence, the maximum amount of the fine and the imprisonment that may be imposed being expressly stated.

## 2 Statistics

### 2.1 Victimisation

The International Crime Victim Survey has not been conducted in the Republic of Ireland.



## 2.2 Reporting and recording

**Table 1. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	87,658	2504.5	95,391	2687.0	101,036	2822.2
Homicide	34	1.0	49	1.4	34	0.9
Assault	1,076	30.7	635	17.9	532	14.9
Rape	89	2.5	127	3.6	184	5.1
Robbery	1,646	47.0	2,559	72.1	2,307	64.4
Theft	45,103	1288.7	46,163	1300.4	49,628	1386.3
Theft of cars					-	

## 2.3 Sanctions

**Table 2. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	-	-
Prisoner rate <sup>1</sup>		60.0	55.0
% women in the prison population <sup>2</sup>		1.6	2.2
Convicted prisoners	Adults	51.3	51.8 <sup>3</sup>
	Juveniles	2.0	1.9 <sup>3</sup>
% of females of convicted prisoners	Adults	0.9	0.9 <sup>3</sup>
	Juveniles	1.4	0.0 <sup>3</sup>
% of juveniles		3.8	3.5 <sup>3</sup>

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

<sup>3</sup> Data for the year 1993.

## 2.4 Personnel and resources

**Table 3. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	302.9	302.7
	% female	3.8	5.4
Prosecutors	total / 100,000	1.4	1.5
	% female	10.4	14.8
Judges	total / 100,000	2.4	2.4
	% female	6.0	11.8
Prison staff	total / 100,000	61.7	69.7
	% female	8.2	-



## 3 Crime and criminal justice profile<sup>3</sup>

### 3.1 The crime situation

As noted in section 2.2, the rates of reported crime have tended to increase during the period under review. According to the indices of violence, Ireland has the lowest rate of homicide among all European and North American countries.

Regrettably, the International Crime Victim Survey has not been carried out in Ireland, which seriously hampers the calculation of indices.

On the index of the amount of corruption, Ireland ranks lower than average among Western European countries. The Transparency International index for Ireland is 8.6 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook 1997, in asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere, elicited a result of 8.1 – again on a scale of zero to ten.

According to statistics collected by the Dutch Ministry of Justice, Ireland has some 2,000 hard drug users. This is 60 per 100,000 in population, very much the lowest rate among European Union countries.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the United Nations Statistical Yearbook (which uses a combination of four different categories), unemployment in Ireland in 1994 was 16.3, which is relatively high. No ICVS data on dissatisfaction with income are available.

According to the UN Compendium on Human Settlements, 57% of the population lives in urban areas. The 1997 Human Development Report assigns Ireland a high HDI development of 0.93.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Regrettably, however, there were insufficient data to calculate this index for Ireland.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. Regrettably, no data are available on the prevalence of firearms. According to the World

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<sup>3</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

Drink Report, the annual alcohol consumption in Ireland was 1.70 litres of strong alcohol, 135 litres of beer and 12 litres of wine per person. The consumption of strong alcohol and wine was near the regional mean, and the consumption of beer was the second highest in Europe and North America.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Ireland has a relatively high rating. Data on the divorce rate were not available in the preparation of this study. According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.85. 14% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” Report states 21% of the persons at the top levels of government in the country are female.

According to the World Values attitude survey, respondents in Ireland are relatively intolerant of minorities. Irish people are – internationally speaking – also relatively intolerant with regard to the justification of misdemeanours and petty crimes under certain conditions. Ireland also appeared to be relatively intolerant of deviant lifestyles; indeed, the degree of intolerance was clearly the greatest among the 26 European and North American countries in which this study was carried out.

### 3.3 Operation of the criminal justice system

The country’s score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 28, which is slightly above the regional mean of 27. Ireland had 304 police officers per 100,000 in population, which is somewhat below the regional mean of 390, or the EU mean of 341. The police force is augmented by 143 private police per 100,000 in population.

The female share of police officers is 5.4% which is low, ninth lowest among all countries studied. Also the percentages of female prosecutors (14.8%) and judges (11.8%) are much lower in Ireland than the average numbers in all regions. (It should be emphasised that gender equality cannot be adequately measured in over-all terms only; basic statistical data do not reveal to what extent this gender balance is maintained on the different levels of the criminal justice system hierarchy.)

The prison population in Ireland has remained on a low level during the period under review, and in 1995 there were 55 prisoners per 100,000 in population.

## 4 Further reading

Kimber, Clíona J.M. (1995). *Criminal Justice Systems in Europe: Ireland*. Helsinki: HEUNI.

# Israel<sup>1</sup>

## 1 Background

The Israeli criminal justice system has many roots, including English common law, Ottoman Turkish Codes and the Napoleonic Code. A new Penal Law adopted on 25 July 1994 consolidates the basic principles (the “general part”) of criminal law.

The Israeli police was established on independence in 1948. Its statutory basis is the Police Ordinance (New Version) of 1971. The country is divided into three police districts and the frontier force. The total personnel in 1990 was 15 491. 1994 data are not available.

The prosecutorial service consists of 349 persons (1990), 90 % of whom are women. 1994 data are not available. The judiciary consists of 342 judges (1994), 35% of whom are women.

The court system includes local courts, higher courts (district courts) and the Supreme Court. Young offenders are dealt with by the juvenile courts.

A suspect taken into custody must be brought before a judge within 24 hours (Arrests Law of 1996). The judge may order his or her release with or without bail, or authorise further detention for up to fifteen days. Extension beyond this period requires the authorisation of the Attorney General. Suspects may be held incommunicado for up to seven days with the written authorisation of the Minister of Defence or the inspector general of the police.

### 1.2 System of sanctions

The Israeli system of sanctions include capital punishment (for treason or for Nazi war crimes), imprisonment, suspended sentences, community service, and fines. Imprisonment, which is mandatory for only a few exceptional crimes, may be imposed for life. A new chapter of the Penal Code introduced in 1987 enables a court to order prison terms of up to 6 months to be served in the community.

In 1994, an experimental mediation project was launched by the Be'er Sheva Juvenile Probation Service.

Violations of the regulations relating to corporate bodies, foundations and other such entities may be dealt with by civil fines.

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<sup>1</sup> This profile benefited from comments made by Prof.Dr. Leslie Sebba, Institute of Criminology, Faculty of Law, The Hebrew University of Jerusalem.

Juveniles between the ages of 12 and 18 come under the purview of the Juvenile Probation Service (JPS). The JPS prepares social inquiry reports and makes recommendations to the police and the courts on rehabilitation. The JPS is also responsible for therapeutic and rehabilitative work under probation orders and court treatment orders. The adult counterpart, the Adult Probation Service, is responsible for probation, the implementation of probation orders for the treatment of drug abusers and the implementation of community service. Released prisoners may receive assistance from the Prisoner Rehabilitation Authority.

When juveniles between the ages of 12 and 18 are committed to institutional care, they become the responsibility of the Youth Protection Authority, which administers a variety of facilities. The correctional treatment for youths and adults comes under the jurisdiction of the Ministry of Labour and Social Affairs.

Israel has 16 prisons. These are administered by the Prison Commission, which is part of the Ministry of Internal Security. Many of these were constructed during the 1930s by British Mandate authorities. Two new prisons were opened in the late 1990s, while others were ceded to the Palestinian authorities in the course of withdrawal from some of the occupied territories. The prison population in 1996 was 6518 Israeli residents (i.e., excluding residents of the occupied territories). These comprised 5,439 convicted adult males, 756 adult male detainees, 215 females and 108 minors.

Of the prison staff, 813 are classified as management, 2,272 as custodial, 404 as treatment and 581 as other, giving a total of 4,070 in 1994.

Interpretation of the statistics should take into account that Israel's population has increased substantially since 1990, primarily through immigration.

## 2 Statistics

### 2.1 Victimization

The International Victim Survey has not been conducted in Israel (Israel has conducted three national surveys, last of them in 1990).

## 2.2 Reporting and recording

**Table 1. Number of crimes recorded in the criminal police statistics**

	<b>1990</b>	<b>rate/ 100,000</b>	<b>1992</b>	<b>rate/ 100,000</b>	<b>1994</b>	<b>rate/ 100,000</b>
All recorded crimes	62,916	1350.1	70,863	1383.2	75,789	1407.9
Homicide	299	6.4	341	6.7	389	7.2
Assault	10,678	229.1	13,589	265.3	15,351	285.2
Rape	316	6.8	523	10.2	550	10.2
Robbery	409	8.8	456	8.9	450	8.4
Theft	8,251	177.1	9,722	189.8	9,815	182.3
Theft of cars <sup>1</sup>					32,000	594.5

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

The number of reported crimes has increased steadily during the period under review, by about 20%. The increase for assault and rape was even greater, 44% and 74%, respectively.

During 1994, a total of 40,881 suspects were brought before the court. Of these, 39,499 were convicted and 1,382 were acquitted.

## 2.3 Sanctions

In 1990, 156.1 adults per 100,000 population were convicted to custodial sentences. In 1994 the corresponding figure had dropped to 148.5 per 100,000 inhabitants.

Of the persons sentenced during 1994, 18 were sentenced to life imprisonment, and 7,976 otherwise to imprisonment. 31,574 were subjected to control in freedom, and 17,870 were fined. A community service order was imposed in 1,279 cases.

A total of 7,781 persons entered prison during 1994.

No data on the prison population were provided in the response to the Fifth United Nations Survey. According to the response to the previous survey, the number of persons in prison (as of 30 December 1990) was 9,571 persons. (These figures include Israeli citizens only.) Of these, 5,097 were convicted offenders. The average length of prison sentence actually served in prison in 1990 was 16 months. The average for selected offences (1990) was as follows: intentional and non-intentional homicide 33 months, assault 12.5 months, rape 22.6 months, and property offences (all categories) 17.2 months.

## 2.4 Personnel and resources

**Table 2. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	-	-
	% female	-	-
Judges	total / 100,000	6.4	6.4
	% female	30.0	35.4
Prison staff	total / 100,000	96.4	75.6
	% female	14.9	15.7

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the rates of reported crime have tended to increase slightly during the period under review. Israel has a relatively high rate of homicide among Western European countries. The number of rapes recorded by the police is relatively high. Theft of cars, as recorded by the police, is very high in Israel.

Regrettably, the International Crime Victim Survey has not been carried out in Israel. Since also the Fifth UN Survey data was missing for Israel during the preparation of the indices for the first publication, Israel lacks all of the indices used in the profiles.

The World Competitiveness Yearbook 1997, in asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere, elicited a result of 7.2 – on a scale of zero (considerable corruption) to ten (no corruption). This indicator suggests that the amount of corruption in Israel is relatively low. Unfortunately, other indicators of corruption are not available.

<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the United Nations Statistical Yearbook (which uses a combination of four different categories), unemployment in Israel in 1994 was 7.8%, which is an average level among European countries. No ICVS data on dissatisfaction with income are available.

Israel is a highly urbanised country. According to the Human Development Report, 1997, 91% of the population lives in urban areas. In the same report Israel has the 23rd highest score on the Human Development Index. The GNP of Israel is USD 16,023 (1994) per capita which is about average among the industrial countries.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Regrettably, however, there were insufficient data to calculate this index for Israel.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender equality and violence against women. The 1997 Human Development Report gives Israel on the 22<sup>nd</sup> highest score on the gender-related development index. In respect of female educational attainment, Israel has a somewhat lower rating than is the average among the industrial countries. According to the Human Development Report 1998, 24% of marriages ended in divorce, which is lower than in industrial countries on average. Only 7.5% of Parliamentary seats are held by women. According to 1997 Human Development Report female economic activity rate is 65% of that of male. The UNICEF “The Progress of Nations” report states that 13% of persons at the top levels of government are female. In this light, it is of interest to note that Israel has a somewhat higher than average rate of rape recorded by the police.

As to public confidence in the criminal justice system according to the 1997 World Competitiveness Survey, respondents in Israel rated their country somewhat higher than average in respect of the extent to which they believed that the person and property is protected in their country: the result was 7.3

on a scale of zero to ten. The ranking of Israel on the indicator of the extent to which there was full confidence in the fair administration of justice in society was rather high: 7.95.<sup>3</sup>

### 3.3 Operation of the criminal justice system

Israel had 6.4 judges per 100,000 in population, which is lower than the over-all mean of 14. 35.4% of the judges were women which is above the over-all mean. The number of prison staff per 100,000 in population was 75.6 which is higher than the average. 15.7% the prison staff were women, the average is 19.1%. (It should be emphasised that gender equality cannot be adequately measured in over-all terms only; basic statistical data do not reveal to what extent this gender balance is maintained on the different levels of the criminal justice system hierarchy.)

## 4 Further reading

Friedmann, Robert R. (ed.)(1998). *Crime and Criminal Justice in Israel*. Albany, New York.

Geva, Ruth (ed.)(1995). *The Prevention of Crime and the Treatment of Offenders in Israel*. A Report, Jerusalem.

Israel, in George Thomas Kurian (1989) *World Encyclopedia of Police Forces and Penal Systems*. New York and Oxford.

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<sup>3</sup> In this Survey, 25 European and North American countries were covered, including all 15 EU countries. The highest on the “protection” indicator was Austria, with 9.06, and the highest regarding the “fair administration” indicator was Denmark, with 8.29.



# Italy<sup>1</sup>

## 1 Criminal justice system

### 1.1 Background

Although the origins of the Italian penal legislation can be traced back to Roman and to Middle Age Canonical law, there is no doubt that its general principles derive from the French Enlightenment (Antolisei, 1985), and directly from the 1791 and 1795 French Penal Codes as well as the 1810 Napoleon Code. After the unification of the Kingdom of Italy, a general Penal Code was promulgated in 1899.

A new Penal Code, known as the “Rocco Code” after the Minister of Justice at that time, came into force on 1 July 1931. This code was linked with the Code of Penal Procedure, which came into force at the same time. The Rocco Code has been subsequently modified in order to conform to the principles of the Republican Constitution (effective on 1 January 1948) but it remains today essentially unchanged in its basic structure. The Code of Penal Procedure remained in force until 1988 when a new code was introduced.

This new 1988 Code of Penal Procedure represents a substantial shift from the old inquisitorial system to a modern adversarial system. The most important innovation concerns the admission of evidence that, as a rule, can be formed only in the course of an oral and public trial, based on the cross-examination of witnesses (and other kinds of proof legally presented in the Court), in front of the judge, with the prosecution and the defence acting on an equal footing. The former inquisitorial procedure, on the other hand, allowed the admission of evidence formed both in the course of the trial and in the preliminary judicial inquiry stage. In this stage, typically characterised by secrecy concerning the documentation of pre-trial investigation, an investigating judge was in charge of directly examining the witnesses, without the presence of the defence attorney, and of collecting criminal evidence. During the trial, the examination of witnesses was also conducted by the chief judge.

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<sup>1</sup> This profile was originally prepared by Mr Justice Mario Biddau, Judge of the Court of Appeals, Cagliari, and Professor Pietro Marongiu, Faculty of Law, University of Cagliari. The profile benefited from comments made by Mr Armando Caputo, Istituto Nazionale di Statistica, Ms Sabrina Adamoli, Transcrime researcher, School of Law, University of Trento and Professor Uberto Gatti, Department of Legal Medicine, Medical Psychology and Criminology, Faculty of Medicine and Surgery, University of Genova.

The new Italian Code of Penal Procedure can, in its broad outlines, be compared to the adversarial English and American systems. It should be noted, however, that it remains a system of statutory law.

As noted, the penal system can be defined as “tending towards” adversarial, as far as the criminal procedure is concerned. No informal justice system exists. The penal law defines which specific behaviour is criminal and which specific minimum and maximum penalty is provided. The Constitution sets out a number of basic principles of criminal justice, including the principles of “nulla poena sine lege” and “nullum crimen sine lege”. Both judges and prosecutors are autonomous and independent from the political (legislative and executive) power.

Decisions relating to the recruitment, assignment, transfer, promotion and discipline of the judiciary are made by a self-governing Board, the “Consiglio Superiore delle Magistratura”. The Board, which is appointed partly by Parliament, and partly by all the judges and prosecutors, consists of 2/3 judges and prosecutors and 1/3 experienced attorneys and university professors of law. The President of the Italian Republic is, by law, also President of the Superior Council of the Judiciary. The Constitutional Court is in charge of evaluating, upon request of the judge, the conformity of specific rules of penal law (as well as of any law) with the Constitution (art. 134 of the Constitution).

The districts (and other minor territorial jurisdiction) that constitute the basic elements of the criminal justice system do not correspond to the 20 administrative districts (Regioni) in which the country is divided. Each Region has the power to make laws in specific sectors listed in the Constitution (providing that they do not conflict with the Constitution), but only the State has competence or jurisdiction over criminal law and the law of criminal procedure.

Parliament debates, passes or rejects all bills. Once passed, the law is promulgated by the President of the Republic and published in the Official Gazette. Parliament may delegate the power to legislate to the Government (or the President of the Republic for the President’s Decrees) for a specific project (such as the Penal Code or the Code of Penal Procedure ) whose general principles and direction are provided by the Parliament. In exceptional cases, the Government can enact a law by decree, which takes effect immediately. Such a decree must be turned into a law by Parliament within 60 days, otherwise it would lose its validity (art. 77 of the Constitution).

According to art. 110 of the Constitution, the Minister of Justice is in charge of the organisation and of the functioning of the criminal justice system. Although the Minister cannot interfere with the jurisdictional function, he has the power to budget for most expenses of the criminal justice system. He can also take the initiative of a disciplinary action against individual judges, although the final decision on disciplinary sanctions is made by the Superior Council of the Judiciary (art. 107 of the Constitution). The Minister has the power to issue directives and regulations concerning

the organisation and functioning of the criminal justice system and has the power to inspect its activities (except for cases which fall under the competence of the Superior Council of the Judiciary).

## 1.2 Organisation and major principles of the criminal justice system

### **The police**

There are three main state police corps: Polizia di Stato, Arma dei Carabinieri and Guardia di Finanza. The Carabinieri and Guardia di Finanza (mostly for financial crimes) are military corps respectively under the authority of the Ministry of Defence and of the Ministry of Finance, while the Polizia di Stato is a civil corps under the authority of the Ministry of the Interior. There are two other police forces: the Polizia Penitenziaria (under the authority of the Ministry of Justice) and the Polizia Forestale (under the authority of the Ministry of Agriculture).

There are also local police corps with limited competence (city police, traffic police etc.). Since the United Nations definition of “police” includes all principal functions (prevention, detection, investigation of crime and apprehension of the alleged offenders), this term also encompasses the role of the Italian investigating police (Polizia Giudiziaria) within the criminal justice system.

Articles 55-59 of the Code of Penal Procedure state the functions of the police in the criminal justice system. Appointed police officers from all police corps carry out criminal investigation functions (sezioni di polizia giudiziaria) under the direction of the judicial authority in the criminal investigation departments established at the public prosecutor’s offices and criminal investigation services which are located all over the country at the local Carabinieri, Polizia and Guardia di Finanza stations.

While the sezioni di polizia giudiziaria are directly and exclusively at the disposal of the public prosecutor offices as far as their organisation and functions are concerned, the servizi di polizia giudiziaria do not directly depend on the public prosecutor, who, however, can always make use of their services for particular criminal investigations. A Central Operating Service co-ordinates all police criminal investigation activities under the authority of the Chief of Police and the Ministry of the Interior.

The law requires the police to arrest and take into custody a person caught “in flagrante delicto” (arresto obbligatorio in flagranza, art. 380 Code of Penal Procedure), that is, in the act of committing a crime or immediately after its commission, provided that such a crime is punishable with a minimum of five and a maximum of 20 years in prison (or life imprisonment). Force may be used if there is an immediate danger and so long as the police reaction is proportionate to such danger (art. 53 of the Penal Code). Apart

from the general provision contained in the first paragraph of art 380 of the Code of Penal Procedure, the second paragraph lists other crimes for which the arrest in flagrante is possible (art. 380, para 2, letters from a) to m)). Moreover, art. 381 of the Code of Penal Procedure provides for cases in which the “arresto” is optional.

The police may also arrest and take into custody a person suspected of having committed a crime for which the law provides either life imprisonment or a minimum penalty of no less than two years in prison and a maximum of six years in prison (or for weapons or explosives crimes),

- a) if there is relevant circumstantial evidence of guilt, or
- b) if the public prosecutor starts an investigation or
- c) if there is the danger that the suspect will escape, and there is no time to get a warrant signed by the district attorney (art. 384 of the Code of Penal Procedure).

In all cases the police must immediately notify the prosecutor, the defence attorney and the arrested person’s family.

The public prosecutor, having notice by the police of the arrest made by the police without a warrant, may decide to set the arrested person free, if the arrest was clearly illegal, or to formally request, within 48 hours, the Giudice per le Indagini Preliminari (G.I.P – judge for preliminary investigation) to summon the defendant, the defence attorney and the prosecutor in order to have a special validation hearing (art. 390 of the Code of Penal Procedure).

The police have no alternative to arrest and taking into custody, such as cautioning. Once the police have made an arrest and reported it to the judge, all procedures to process the suspect further in the criminal justice system pertain to the judge or prosecutor.

Searching and seizing property for the purpose of collecting criminal evidence generally requires a warrant signed by the judge. In particular cases of emergency connected with serious crimes (kidnapping, drug offences) the police may search or seize property without a warrant. In such a case the police must, within 48 hours, give notice of the search or seizure to the district attorney who is bound to formally confirm it and to verify its legitimacy.

No coercion may be used in obtaining statements in the presence of police officers or at any stage of judicial proceedings (Code of Penal Procedure, art. 63-65). Mere confession of a crime (even during the trial) does not amount to full evidence of guilt.

### **The prosecution**

The investigation is carried out by the public prosecutor, who is a career official and is part of the Bench although he or she is not a judge. The Italian judiciary is divided into “magistratura requirente o inquirente” (inquiring judiciary) which includes public prosecutors, and “magistratura giudicante”

(judging judiciary) which includes the judges. This distinction between prosecutors and judges is based on the different functions of the prosecutor and of the judge. The former is in charge of conducting the investigation and prosecution while the latter's charge is to judge the case and to deliver judgement. The terms "magistrati" and "magistratura" in Italian refer to all judges and prosecutors, regardless of level, competency and jurisdiction.

According to the principle of obligatory prosecution, the public prosecutor, when first acquainted with the commission of a crime, is legally bound to start the investigation and, if there is enough circumstantial evidence, to take penal action against the accused of that particular crime. The Italian prosecutor, therefore, does not have the discretion to withhold prosecution.

Certain crimes, however, are subject to prosecution only under specific conditions. These are the crimes subject to prosecution on the initiative of the offended person, ranging from forcible rape to personal minor injury. Such crimes can be prosecuted only if an offended person brings an action, by requesting the public prosecutor to proceed against someone for the alleged commission of a crime (Penal Code, art. 120). As a rule, the action, once brought, can be withdrawn. In case of rape and similar sex offences, however, such withdrawal is not permitted.

The public prosecutor is in charge of conducting the pre-trial investigation either directly or through the investigating police (*polizia giudiziaria*) (art. 326 and 358 Code of Penal Procedure). The investigation (which must be completed within a period of time fixed by law depending on the type of crime), is aimed at establishing whether there is enough evidence to take penal action. If the prosecutor does not find probable cause, he or she can request the G.I.P to dismiss the case (Code of Penal Procedure, art. 408). Otherwise the prosecutor formally charges the defendant with the commission of the crime and requests the G.I.P to commit the defendant for trial (art. 405 and 416, Code of Penal Procedure). The G.I.P. fixes a preliminary hearing at the end of which he or she issues an order of commitment for trial or (in case the accusation is not substantiated) he or she pronounces a "nolle prosequi" judgment (no case judgment). For the lowest court level the public prosecutor is in charge of directly signing (or not signing) the indictment.

### **Classification of offences**

The Italian Penal Code provides a basic distinction between serious and less serious offences. All criminal offences (*reati*) are divided into the two broad categories of *delitti* and *contravvenzioni*. They are respectively treated in the second and third Books of the Penal Code. This distinction is based on the seriousness of the crime and on the severity of punishment. Both *delitti* and *contravvenzioni* are punished by imprisonment and/or fine. The length of imprisonment and the amount of fines, however, are different. For *delitti*, the penalty is imprisonment from 15 days to 24 years, or life imprisonment. For *contravvenzioni* the penalty is imprisonment from 5 days to 3 years. As a

rule, sentences for *contravvenzioni* are served in a different kind of prison facility than for *delitti*, although many exceptions have been made to this. Fines vary considerably and for serious drug offences, can amount to about half a million USD.

### **Judicial principles and safeguards**

The accused has the right to be officially fully informed of the charge and of the existing evidence against him or her. He has also the right to remain silent and is considered not guilty until a final sentence has been pronounced (Code of Penal Procedure, art. 65; Constitution, art. 27). Art. 530 of the Code of Penal Procedure sets out the principle of “*in dubio pro reo*”.

Art. 24 of the Constitution states that indigents must be provided with counsel. The Bar Council provides a roster of available attorneys who are legally bound to provide the defence. A local Bar Council exists in each district and therefore many rosters of attorneys are available. A new statute law adopted on 30 July 1990 provides that eligible accused (considering the personal or family income) can select and employ a defence attorney at state expense.

Only the judge decides the issue of guilt and imposes sentence in all cases. Passing sentence and the determination of guilt are simultaneous occurrences.

### **Alternatives to trial**

Book six of the Code of Penal Procedure provides for some special proceedings which serve as an alternative to trial. Art. 438-443 deal with the *giudizio abbreviato*. Upon a defendant’s formal request and in certain specific circumstances (and provided that the public prosecutor agrees with it), his or her case may be decided in the course of the preliminary hearing on the grounds of the findings of preliminary investigation. If found guilty, the defendant is entitled to a reduction by up to 1/3 of the penalty provided for the crime (e.g. 6 years in prison instead than 9). This alternative is not provided in the case of life sentences.

Art. 444 to 448, on the other hand, provide for the *applicazione della pena su richiesta delle parti*: prosecution and defence can jointly ask the judge for the imposition of a specific penalty (upon which they both agree) in the case that such penalty, reduced up to 1/3, does not exceed 2 years in prison. If the defendant does not commit the same kind of crime for 5 years after the sentence (in case of *delitto*) or for 2 years (in case of *contravvenzione*), the offence is legally extinguished. Although this procedure is informally called “*patteggiamento*” (bargain), it should be noted that it is entirely different from the American “*plea bargain*” since it is specifically codified and constricted in the penal law.

The inadmissibility of the plea bargain in the Italian system is based on the principle of the “*obbligatorietà dell’azione penale*” which allows no

discretion in prosecuting: once acquainted with the commission of a crime, the judicial authority is legally bound to take action against that particular crime and cannot choose to seek prosecution for a lesser charge in exchange for a plea of guilt.

### **Decreto penale di condanna**

(Penal Decree of Condemnation, Code of Penal Procedure, art 459). For minor crimes punishable with fines and/or prison up to three months, the prosecutor requests the G.I.P to order (with a Decree) the defendant to pay a fine whose amount can be reduced up to 50% of the minimum amount provided by law. The decree is issued without hearing the defendant, who can always oppose the G.I.P decision, in which case the Decree loses its validity and the defendant goes to trial.

Cash settlement can be provided for the *contravvenzioni* for which imprisonment or fine is alternatively provided. In these cases the defendant may be permitted to pay 50% of the maximum amount of the fine provided by law for that particular *contravvenzione* (plus the legal expenses).

Apart from these pre-trial alternatives there are two other forms of trial which are different from an ordinary trial. They are the so-called *giudizio direttissimo* (“most direct trial”), and the *giudizio immediato* (“immediate trial”). The public prosecutor may order that the accused be brought to trial within 48 hours, if caught “in flagrante delicto” (*giudizio direttissimo*) or, if during the preliminary investigation there is clear evidence of guilt, the accused may be brought straight to trial without the preliminary hearing (*giudizio immediato*).

### **Pre-trial custody**

Preventive custody is a measure taken by the G.I.P. upon the request of a public prosecutor. Pre-trial custody is permitted only when a person is accused on the grounds of relevant circumstantial evidence of guilt of a crime for which a maximum penalty of more than three years in prison is provided, and when there is a danger of tampering with the evidence, a danger of escape or a danger of continued commission of crimes of the same kind.

Precautionary custody is permitted only when other sanctions such as prohibition to leave the country (or town), daily reports to the police station and house arrest are insufficient for the purpose. No release on bail is allowed in the Italian penal system.

### **Offenders incarcerated awaiting definitive judgment (trial)**

On 31 December 1992 the total number of suspects in pre-trial incarceration (awaiting definitive judgment (trial)) was 26,444 (Istituto Nazionale di Statistica press release, 5 April 1993). This figure does not include 1289 offenders subjected to safety measures in prison (not awaiting trial). (The



total number of prisoners awaiting trial also includes convicted prisoners who appealed against decisions at all stages of criminal proceedings.)

### **Structure of the courts**

Except for the lowest level (the Pretura) with a single judge (Pretore), the courts consist of a judicial panel made up of a number of professional judges (giudici togati). In the Court of Assizes and Court of Assizes of Appeal the judicial panel consists of professional and “popular judges”. There is no jury as in the Anglo-American system.

#### **A. First stage of the proceedings (trial courts)**

- 1) The Pretura has jurisdiction to try criminal cases for which a maximum penalty of no more than four years in prison is provided and for the crimes of:
  - a) violence or threat to a public officer;
  - b) insulting a judge at trial;
  - c) aggravated violation of an official seal;
  - d) aiding and abetting;
  - e) abuse/maltreatment;
  - f) aggravated brawl;
  - g) manslaughter (non-intentional homicide);
  - h) aggravated housebreaking;
  - i) aggravated theft;
  - l) aggravated fraud; and
  - m) receiving of stolen goods.
- 2) The Court of Assizes has jurisdiction for crimes for which a maximum penalty of no more than 24 years in prison is provided (or life imprisonment) and other serious crimes.
- 3) The Tribunale has jurisdiction over all other crimes.
- 4) The prosecution for organised crimes (Mafia and similar organisations), ransom kidnapping, drug trafficking and related crimes is conducted by the Antimafia District Attorney.

#### **B. Second stage of the proceedings**

Appeals against Tribunale and Pretura decisions are decided by the Court of Appeal; appeals against the Court of Assizes decisions are decided by the Court of Assizes of Appeal.

#### **C. Third stage of the proceedings**

The Court of Cassation decides appeals on matters of law.



**Age of criminal responsibility**

The Penal Code (art. 85) provides that a person is criminally liable only if mentally competent at the time of the commission of the crime. A person under the age of 14 years is not considered mentally competent and therefore cannot be charged with any crime (Penal Code, art 97). A person between the age of 14 and 18 years is considered criminally liable (if mentally competent), but, if convicted of a crime, a lesser criminal sanction is imposed (Penal Code, art. 98). When over the age of 18 years a person is considered criminally liable unless found (totally or partially) mentally incompetent.

**Specialised courts**

Juvenile criminal courts have jurisdiction over crimes committed by minors between the age of 14 and 18 years. The court consists of two professional judges and two honorary judges (as a rule psychologists or juvenile crime experts). At the appeals stage there is a section of the Court of Appeal for juveniles (with the same composition as the judicial panel).

Moreover, a Tribunale di sorveglianza functions in every district of the Court of Appeal. It is composed of stipendiary judges and crime experts, and its task is to monitor the execution of the penalty imposed.

**2 Statistics**

**2.1 Victimization**

The breakdown below presents the victimisation rates in Italy and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: results from the 1992 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	2.0	2.4	2.7	2.7
Major cities	4.0	2.8	3.4	3.5

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	2,501,640	4338.5	2,390,539	4204.3	2,173,448	3800.2
Homicide	4,179	7.2	3,702	6.5	3,040	5.3
Assault	19,412	33.7	20,781	36.5	20,873	36.5
Rape	687	1.2	806	1.4	869	1.5
Robbery	36,830	63.9	31,735	55.8	29,981	52.4
Theft	1,605,329	2784.1	1,477,955	2599.3	1,333,089	2330.9
Theft of cars <sup>1</sup>					305,438	534.0

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

The total number of offences recorded by the police in Italy declined by 13.1% between 1990 and 1994. Intentional homicides (including attempts) decreased significantly in that time period: in 1994 there was a total of 2,691 homicides, a decrease of 28.3% from 1990. Some kinds of ‘attempted homicides’ may be considered serious assault and vice versa. This decrease reflects primarily the sharp decline in committed (not attempted) homicides: from 1,794 in 1990 to 969 in 1994. Non-intentional homicides also decreased between 1990 and 1994: from 426 in 1990 to 349 in 1994 (-18.1%). In Italy in 1994, there were also fewer cases of robbery recorded by the police than in 1990 (-18.6%). Italian legislation treats all kinds of theft in the same way without distinction. This inclusive category also showed a significant decrease (-14.5%) between 1990 and 1994: from 1,602,072 cases (1990) to 1,333,089 (1994). Reported cases of rape (defined as “sexual intercourse without effective agreement”) increased by about one-fourth between 1990 and 1994. Italian law does not pursue the detention of drug offenders if it is only for personal use and in small quantities. The number of reported cases of drug-related offences increased by about 25% between 1990 and 1994.

Although the number of reported crimes decreased between 1990 and 1994, the number of persons brought into formal contact with the criminal justice system actually increased during that same time period by about one-third. There was a fairly sharp increase in the number of homicide suspects in 1991, but in 1994, this figure was very close to the 1990 figure again. The number of people suspected of non-intentional homicide was slightly higher in 1994 than in 1990 (+6.1%). More people were brought into formal contact with the criminal justice system because of assault in 1994 than in 1990 (+13.0%), robbery (+9.9%), rape (+42.7%), theft (including burglary) (+4.6%), and drug-related crime (+32.4%).

Juveniles constituted less than 5% of all people brought into formal contact with the criminal justice system in Italy in 1990; in 1994, about 3% were

juveniles. The number of juveniles in 1994 was about 10% lower than the number of juveniles brought into contact with the criminal justice system in 1990.

Only a proportion of all people prosecuted actually are brought before the criminal court in Italy. The number of people brought before the criminal court was 191,657 in 1990, 229,222 in 1992, and 265,999 in 1994. Accordingly, the number of convictions also increased: between 1990 and 1994, the number of convictions increased by almost three-fourth (+74.9%). In 1990, 38.4% of the cases brought before the court ended with an acquittal. The proportion of acquittals decreased in 1992 when the number of acquittals (51,860) made up only 22.6% of all decisions. In 1994, a little more than one out of every five cases led to acquittal.

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts)	421	460	592	704	581
Non-intentional homicide	4,743	7,328	6,355	5,565	4,172
(Total) Assault	955	1,761	2,103	2,610	2,819
Robbery	4,028	5,190	5,091	5,495	5,871
(Total) Theft	20,780	32,311	32,369	33,444	32,254
Burglary	201	283	337	368	422
Rape	258	453	543	624	586
Drug-related crime	8,285	15,160	18,871	17,690	15,442
Total	118,116	158,264	177,362	193,275	206,631

Convictions increased for several offences in Italy between 1990 and 1994. Convictions for intentional homicide were 38% higher in 1994 than in 1990; convictions for assault increased by 195.2%; convictions for robbery increased 45.7%; convictions for rape increased 127.1%; convictions for burglary increased 110%; convictions for drug-related crime increased by 86.4% between 1990 and 1994. The number of convictions for non-intentional homicide in 1991 was 54.5% higher than in 1990; thereafter, convictions for this offence started to decline. In 1994, there were 12% fewer convictions for non-intentional homicide than in 1990.

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	111.7	213.1
Prisoner rate <sup>1</sup>		45.0	85.0
% women in the prison population <sup>2</sup>		5.5	4.3
Prisoner rate / 100,000 (convicted only)	Adults	19.0	44.3
	Juveniles	0.1	0.5
% of females of convicted prisoners	Adults	5.3	4.5
	Juveniles	4.3	5.4
% of juveniles		0.4	1.1

<sup>1</sup> Data from Walmsley 1997. The data refers to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refers to the years 1993 and 1996

**Table 5. Trends in sentencing**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	116,872	100.0	174,914	100.0	202,943	100.0
Imprisonment	64,403	55.1	108,573	62.1	121,870	60.1
Fine	52,469	44.9	66,341	37.9	81,073	39.9

The number of sentences of imprisonment grew significantly between 1990 and 1994. The number of prison sentences almost doubled between 1990 and 1994 (+89.2%). However, the proportion of all sentences which involved incarceration increased only slightly: in 1990, 55.1% of the sentences involved imprisonment, in 1994, about 60% involved imprisonment. The other commonly given sentence involved a fine: about four out of every ten sentences in 1994.

**Prison population**

Italy had 440 adult prisons or correctional institutions in 1990; in 1994, this number was 360. For juveniles, there were 43 institutions in 1990; in 1994, this number was 23. For both juveniles and adults, there were 37,603 spaces available in 1990, and 45,206 in 1994.

The number of persons admitted to prison increased from 57,738 in 1990 to 100,829 in 1994. The increase was greatest for juveniles (+121.7%), although in 1994, juvenile admissions still only accounted for less than 2% of the new prison admissions in Italy. Adult females comprised almost 8% of the adult prison admissions in 1994, very similar to the situation in 1990.

Although female juveniles make up a very small proportion of all prison admissions, their rate of admission grew faster than that of juvenile or adult males, or adult females. In 1990, juvenile females made up a little less than 12% of all juvenile prison admissions; in 1994, juvenile females made up 14.5% of all new juvenile prison admissions.

The number of people incarcerated in Italy almost doubled between 1990 and 1994, from 26,150 to 51,231 (situation on 31 December). About half of the incarcerated people were still awaiting adjudication (13,906 in 1990, and 24,324 in 1994). The increase in number of people sentenced to prison (+132.4%) was greater than the growth in the number of people in pre-trial detention (+74.9%).

## 2.4 Personnel and resources

No data are available on criminal justice system personnel.

# 3 Crime and criminal justice profile<sup>2</sup>

## 3.1 The crime situation

As can be seen in section 2.2, the rates of reported crime in Italy in general during the period under review have either been stable or tended to decrease slightly. According to the ICVS, 31% of the respondents in urban areas in Italy had been the victim of a crime during the previous year, which is very close to the mean value (30%) for the 31 countries for which these city data are available. However, the overall victimisation rate obscures the fact that there are significant differences in the prevalence of different types of criminal victimisation in Italy. The urban victimisation rate was 2.8% for burglary (internationally speaking, in the intermediate range), 1.2% for assault or threat (the third lowest rank), 11.9% for theft from or of a car (a relatively high rate), and 2.6% for robbery (also a relatively high rate).

With a score of 61 on the Homicide Index, Italy has a relatively high level of homicide (the mean value is 51). According to the WHO, Italy had a rate of 2.6 homicides per 100,000 (1992), which is close to that provided by the CDC study (2.25). ICVS figures for assault and threat, however, show Italy to rank third lowest in Europe and North America in respect of urban rates, with only 0.6% of the urban population indicating victimisation. The ICVS

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<sup>2</sup> Reference is made in several connections in this section to different "indices". The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

figure for robbery, on the other hand, is above average, 2.6%. The comprehensive index for fatal and non-fatal violence for Italy is 48 (compared to the overall mean of 51), which is in the intermediate range.

43% of the ICVS respondents in Italy stated that they tend to avoid certain places in their neighbourhood at night. This is one of the highest rates in any of the responding countries in Europe and North America. (The mean was 37.4%, and the EU mean was 26.2%).

No data are available on the number of burglaries officially recorded by the police. Italy ranks fairly low on the Petty Crime Index (measuring the proportion of ICVS respondents who had been victimised by at least one of the following offences: car vandalism, theft from garages, bike theft, indecent behaviour, attempted burglary, personal theft and threats). The value on the Petty Crime Index for Italy is 32, well below the mean value of 50. Italy ranks high with regard to offences directed against motor vehicles: it has a value of 89 on the Motor Vehicle Crime Index (the mean for the 47 countries is 50).

On the index of the amount of corruption, Italy, at 93, ranks very high. The Transparency International index for Italy is 3 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook 1997, on asking respondents their assessment of the extent to which such improper practices as bribing and corruption prevail in the public sphere, elicited a result of 3 – again on a scale of zero (considerable corruption) to ten (no corruption.) Finally, Italy ranked rather low on the World Competitiveness Study 1997 questions about whether people have full confidence that person and property is protected (rank of 5 out of 25) and whether people have confidence in the fair administration of justice (rank of 4 out of 25).

According to data collected by the Dutch Ministry of Justice, there are some 175,000 hard drug addicts in Italy; proportionately, this is above average for the EU countries for which the data are available.

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or who are unemployed (see pp. 35-36 of part I). According to the results of the ICVS, satisfaction with income, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was rather high, with a score of 3.05 among urban respondents. Based on the UN Statistical Yearbook 1994, Italy’s unemployment rate (1992; combining four individual measures) of 11.5% is relatively high, compared to other countries in Europe and North America.

According to the UN compendium on Human Settlements, 67% of the population of Italy live in urban areas. The 1997 Human Development Report assigns Italy a high development score of 0.92 (comparable to Germany and Greece), among the top countries in the world. The World Bank reports a GNP of USD 19,270 per capita (1994), which is the thirteenth highest among the 44 European and North American countries for which the data are

available. According to the ICVS, 8% of the urban population in Italy live in detached housing, 88% live in a flat, and 3% live in a row house. (In rural areas, 35% of the population live in detached housing). Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.

According to the ICVS, 86% of the urban Italian population own a car. Urban Italians spend on the average somewhat over 3 evenings each week going out for entertainment purposes, which is slightly above average for the ICVS countries for which data are available.

For the purposes of the present study, an "opportunity index" was developed to measure the potential for property crime. (This combines three types of vehicle ownership, going out for recreation, single person households, and the percentage of females with paid employment.) Italy, at 62, is slightly below the mean for the European Union countries (65) and considerably below North America (80). Italy has a relatively small proportion of urban single households (8.9%, which is in the middle range), and only a small proportion of urban females working outside of the home (31.1%), the lowest proportion among the 36 countries for which the data are available. The Italian urban population appears to use a relatively large number of security devices, in comparison with other countries. Slightly more than 14% of the urban population report the use of burglar alarms, 52% report the use of special door locks and 13% report the use of special window grills. Italy has a burglary victimisation rate of 2.8%, which is exactly the average for the 36 countries for which the data are available.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons and the use of alcohol. Italy ranks high with regard to the availability of firearms: the national ICVS sample indicates that 16.1% of households had a firearm. However, firearm ownership is more a rural than an urban phenomenon: 10.5% of the urban respondents versus 18.3% of the rural ICVS respondents indicated that their household had a firearm. On the other hand, handgun ownership is an urban phenomenon in Italy: 6.2% of the urban ICVS respondents reported that their household had a handgun (compared to 5.2% of the rural respondents). Italy is somewhat above the mean in this respect. According to the World Drink Report, Italians on average consume 0.9 litre of strong alcohol annually, which is about half of the mean of 1.9 litres for the 29 countries for which data are available. Beer consumption, at 26 litres, also ranks among the lowest. In Italy, alcohol tends to be consumed as wine: annual consumption is 59 litres per capita, which is very high (more than double the mean of 22.4).

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. Comparatively speaking, female educational attainment in Italy is low. ICVS data indicate that



2% of the respondents were divorced, which is a low rate. Another indicator of this is that the divorce rate is only 0.4 per 1,000 in population per year, which is the second lowest in Europe (The Economist Pocket Europe in Figures, London 1997).

According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.87, which would place Italy somewhat below average among the European Union countries, but nonetheless 23rd highest in the world. Ten per cent of Parliamentary seats in Italy are held by women. The UNICEF "The Progress of Nations" Report states that 4% of the persons at the top levels of government in the country are female. The female economic activity rate in Italy (expressed as a proportion of male economic activity) is rather low (57%). No data are available on the female proportion of criminal justice personnel in Italy. Italy has a low rate of reported rapes (2 per 100,000 population). Italy has a low value of 16 on the Violence against Women Index (the mean for the 44 countries for which data are available is 50).

According to the World Values Attitude Survey, respondents in Italy appeared relatively tolerant towards minorities. Italian people are, internationally speaking, in the middle range with regard to the justification of misdemeanours and petty crimes under certain conditions. Italy respondents were also in the middle range with regard to their readiness to justify deviant lifestyles.

In the factor analysis of the determinants of crime, Italy had a negative loading in respect of strain-related violence (-.63), a positive loading in respect of serious property crime in urban settings (+.87), and a low negative loading in respect of opportunistic petty crime (-.34) (see Table 10 in part I, p. 49). This can be interpreted to mean that, internationally speaking, there is a lower than average propensity to engage in strain-related violence, but the risk of serious property crime in urban areas is above average.

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 30. The number of police officers per capita in Italy is high (488 per 100,000), regardless if one compares it to the rest of the EU countries or to all countries included in the study. Among the EU countries only Northern Ireland receives a higher rank. At the same time the number of private police remains in 76 per 100,000, resulting in one of the lowest private/public police ratios observed (0.16). Only Turkey and Greece have smaller values on this scale (both 0.05). While Italy scores well on the Law Enforcement Resources Index one must bear in mind that it is based solely on the number of public and private police per capita, as data concerning the number of prosecutors, judges and correctional staff was not available.

Also the Criminal Justice Personnel Gender Balance Index could not be computed due to insufficient data.



Overall, Italians appears relatively satisfied with police performance, as is reflected in the score of 27 on the Citizen Evaluation of Police Performance Index, placing Italy above average. According to the ICVS, 41% of victims in urban areas reported the offence to the police (the mean reporting rate for all countries is 44%). Twenty-four per cent of the victims of contact crimes reported the matter to the police, slightly below the average of 29% for all 36 ICVS countries. Forty-four per cent of the victims reported dissatisfaction with the manner in which the matter was dealt with (the mean value for all ICVS countries is 48.7%). Fifty-four per cent of the urban respondents indicated dissatisfaction with police crime control (the mean value for all ICVS city samples is 48.9%).

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed. (See part I, pp. 95-100). In general, Italy is very close to the EU mean on the different indicators.

The prisoner rate is close to the EU mean (87 per 100,000 population in 1995, as compared to the EU mean of 86). As noted above, the prisoner rate has been increasing slightly.

## 4 Further reading

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# Kazakhstan<sup>1</sup>

## 1 Background

On 25 October 1990 the Supreme Soviet of the Kazakh SSR passed the Declaration of Sovereignty of the Kazakh SSR. On 10 December 1991, the Supreme Soviet endorsed a law which renamed the Kazakh SSR the Republic of Kazakhstan. Additionally, on 16 December 1991, the constitutional law “On State Independence of the Republic of Kazakhstan” was adopted. This law stipulates the division of power, wherein the judicial power belongs to the Supreme Soviet and High Court of Arbitration, and the highest body of constitutional judicial protection is the Constitutional Court. On 21 December 1991 Kazakhstan, along with ten other former Soviet republics, declared its membership in the Commonwealth of Independent States.

Some 70 years earlier, on 30 December 1922, Kazakhstan had joined with other republics to form the USSR. The first constitution was ratified on 31 January 1924. The Constitution of the Union of Soviet Socialist Republics embodied the statement of principles and structure of the Soviet system of government. In essence, it provided the basic laws of the USSR and the Union Republics. While each Union Republic had its own constitution as well as its own legislative, executive and judicial institutions, these were aligned with and subject to those of the USSR. Thus, while the Constitution of the Union of Soviet Socialist Republics provided the basic principles for criminal legislation and procedure, the individual Union Republics were each responsible for establishing their own criminal legislation which would address features specific to them.

Russia established its criminal legislation in 1926. Prior to the creation of her own code, Kazakhstan, as was the case with most other republics, adopted the criminal legislation of the RSFSR.

In accordance with the USSR Constitution, the first all-union criminal procedural law was enacted in 1924. While this legislation formally stipulated legal procedure to be followed in criminal cases, it was in fact often disregarded. Transgressions of criminal legislation and proceedings were particularly evident during the Stalin era (1924-1953), when a great deal of legal administration occurred outside of established judicial institutions, especially during campaigns against anti-Soviet sentiment.

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<sup>1</sup> This profile has benefited from comments made by Ž.A. Kulekejev, Head, National Statistical Office of Kazakhstan.

Criminal law has been codified numerous times. In December 1958, the USSR ratified the Fundamental Principles of Criminal Legislation of the USSR and Union Republics. This legislation generally defined which acts were crimes and outlined appropriate punishments. The Criminal Code of the Kazakh Soviet Socialist Republic was adopted on 22 July 1959, and entered into force on 1 January 1960. Subsequent modifications and amendments to the Code correspond with changes in the Soviet criminal legislation.

The new criminal legislation was a critical step toward the introduction of legal humanitarian principles, for it rejected many extreme provisions of the Stalin period, and embodied important democratic principles. For example, Article 3 of the Fundamental Principles of Criminal Legislation stated that only a person who is guilty of having committed a crime specified in the criminal law was subject to criminal responsibility and punishment and that no one could be considered guilty or sentenced to criminal punishment without a court judgment in accordance with the law. The decision in 1990 to repeal Article 6 from the Constitution was of great significance. Article 6 was a declaration of the absolute primacy of the Communist Party of the Soviet Union. Following the repeal of Article 6, the existence of opposition political parties was no longer illegal.

The criminal procedural code was substantially revised in 1958, with the establishment of The Fundamental Principles of Criminal Procedure of the USSR and Union Republics. This new legislation stipulated the basic laws governing criminal procedure including the rights and responsibilities of the parties involved in criminal proceedings. Between 1959 and 1961, the Union Republics each passed their own criminal procedural codes. These were uniform with the Fundamental Principles of Criminal Procedure, but were designed to address features specific to the individual republics.

A new Criminal Code and Code of Criminal Procedure entered into force in Kazakhstan on 1 January 1998. These new Codes reflect, for example, the principles inherent in a free market and democratic pluralism.

## 1.2 Organisation

Following the disintegration of the USSR in 1991, the criminal justice system remained essentially the same in Kazakhstan, with only minor modifications. However, reforms are under preparation.

The militia is a centralised administrative and executive agency which is charged with a wide array of duties: maintaining public order, crime detection, apprehending criminals, supervision of the internal passport system, and traffic control. The militia is a constituent part of the Ministry of the Interior.

The Prosecutor General's office, along with corresponding prosecutors in the republics and territories, is authorised to supervise criminal investigations. Criminal investigations are carried out by investigators from the territorial and central bodies of the prosecutor's office as well as by Interior and State Security. The law determines which investigative body is respon-

sible for which type of case. However, the majority of cases are dealt with by representatives from the Ministry of the Interior. For certain minor offences, the militia performs the pre-trial preparation without confirmation from the prosecution and submits the relevant information directly to the court.

If there is sufficient evidence indicating that a suspect committed a crime for which the law mandates the deprivation of liberty, the suspect can be detained. In such a case, the investigator or board of inquiry is obliged to inform the prosecutor in writing within twenty-four hours of the detention. The prosecutor then issues an arrest warrant within forty-eight hours or releases the detainee.

Arrest can only occur with a prosecutor's order. Prior to 1990, defendants had a right to the services of a defence counsel only after completion of the preliminary investigation, except in special circumstances (i.e. those cases involving a juvenile defendant).

Pre-trial detention typically lasts about two months. However, detention can be prolonged by the supervisory prosecutor if the investigation is particularly complex. Upon completion of the investigation, material relating to the case is submitted to the supervising prosecutor for approval and further submission to the court.

### 1.3 Criminal prosecution

The judge commissioned to oversee the case examines the material submitted by the prosecutor. Without determining guilt or innocence, the judge then has to decide whether or not the defendant should be brought to trial. In special circumstances, such as those involving juvenile defendants and in cases where punishment could include the death penalty, the court at the administrative session can be employed. In such cases, the court can choose from a number of alternative rulings: bring the defendant to trial, return the case for further investigation, suspend the case, submit the case to another appropriate court, or terminate the criminal proceedings.

If the decision is made to bring the defendant to trial, the case has to be initiated within fourteen days. In theory, equal rights of participation in the trial are exercised by the public prosecutor, the accused, the defence counsel, the victim and other relevant parties. Following examination of the evidence, the trial opens up for evidence and argument given by the public prosecutor, the defence counsel and other relevant parties. The last person to speak is the defendant.

The court passes sentence only on the basis of evidence that is examined at trial. In determining a sentence the court considers the following points:

- 1) whether the action of which the defendant was accused had actually occurred;
- 2) whether the given action was an offence as defined by the criminal law;
- 3) whether the defendant had committed the given act;

- 4) whether the defendant was subject to punishment for the crime committed;
- 5) the appropriate punishment.

A verdict can be either “guilty” or “not guilty”.

The defendant, his/her defence counsel and legal representative as well as the victim and his/her representative have the right to appeal against the sentence within seven days. Additionally, the prosecutor is authorised to lodge a protest against the sentence. If the sentence is not appealed or protested against, it enters into force at the end of seven days. If the sentence is not revoked by the court of cassation (referred to below) the sentence also enters into force.

Prior to the disintegration of the USSR, all criminal court proceedings were uniform. The court system was comprised of the USSR Supreme Court Supreme courts of the Union and Autonomous Republics and territorial, regional, city and district people’s courts. Military personnel who committed crimes were subject to investigation by the military prosecutor’s office and brought to military tribunals of garrisons, armies, military districts, army groups and the Military Board of the USSR Supreme Court.

In criminal cases, there were two types of courts: People’s Courts (courts of first instance) and Supreme Courts (courts of second instance). Two lay assessors and a professional judge comprised People’s Courts while the Supreme Court consisted of a board of judges. The large majority of cases in the People’s Courts were heard by city and district courts, although some cases were heard by the regional, territorial and republic courts.

The Supreme Court followed an appellate procedure called cassation. This procedure occurs prior to the sentence entering force either through an appeal by the defendant and lawyer or by a protest from the prosecutor’s office. The cassation court does not retry the case, nor review the actual evidence. Rather, it reviews the investigative and judicial processes surrounding the case. The cassation court can confirm the initial ruling, set it aside and order a retrial, alter it, or bring the proceeding to a close. A sentence that has entered into force may be monitored by a superior court through a procedure known as judicial supervision.

The minimum age of criminal responsibility for most crimes is sixteen years or older at the time of the offence. However, for very serious crimes (such as homicide, rape, theft and intentional grievous bodily injury) juveniles can be prosecuted at age fourteen.

Juvenile criminal proceedings (where the defendant is aged eighteen or younger) vary somewhat from adult proceedings. For example, juveniles can not be sentenced to death, are not subjected to exile or banishment, and the maximum term of deprivation of liberty can not exceed ten years. If the crimes are of a non-serious nature, measures outside of criminal punishment can be taken, such as educational programs. Many juveniles are thus sent to juvenile delinquency commissions for educational measures.

Further modifications and amendments to the legislation, aimed at strengthening the sovereignty of the Republic, the free market economy and democracy, have become the basis of crime control activities. In August 1991 the decision was made to terminate involvement of the political parties' organisational structures in the areas of prosecution, interior, justice and the courts.

## 2 Statistics

### 2.1 Victimization

The International Victim Survey has not been conducted in Kazakhstan.

### 2.2 Reporting and recording

**Table 1. Number of crimes recorded in the criminal police statistics**

	<b>1990</b>	<b>rate/ 100,000</b>	<b>1992</b>	<b>rate/ 100,000</b>	<b>1994</b>	<b>rate/ 100,000</b>
All recorded crimes	148,053	888.1	200,873	1188.4	201,796	1185.2
Homicide	1,796	10.8	2,192	13.0	2,664	15.6
Assault	5,335	32.0	5,377	31.8	6,088	35.8
Rape	1,749	10.5	1,676	9.9	1,862	10.9
Robbery	8,343	50.0	13,238	78.3	11,919	70.0
Theft	67,142	402.8	110,982	656.6	100,727	591.6
Theft of cars <sup>1</sup>					1,381	8.1

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

The number of reported offences has increased steadily during the period under review. This increase continues the same pattern begun during the late 1980s, as shown by the results of the Fourth United Nations Survey (1985-1990).

Kazakhstan's homicide rate in 1990 and 1994, 10.8 and 15.6 per 100,000 in population respectively, was one of the highest national rates in Europe.

**Table 2. Number of persons convicted**

	1990	1991	1992	1993	1994
Intentional homicide	1,314	1,296	1,271	1,648	1,854
Causing death by negligence	-	-	-	-	-
Assault	-	-	-	-	-
Robbery (*and plundering)	3,077*	3,290*	3,357	4,231	4,403
Theft	-	-	-	-	-
Burglary	-	-	-	-	-
Drug-related crime	2,823	3,280	3,916	4,940	5,890

The proportion of women out of all convicted persons in Kazakhstan (3.5 in 1994) was the lowest reported for any country in Europe and North America.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	93.3	191.4
Prisoner rate		-	-
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	263.6	328.1
	Juveniles	9.2	10.2
% of females of convicted prisoners	Adults	3.6	3.0
	Juveniles	-	5.7
% of juveniles		3.4	3.0

**Table 4. Trends in sentencing**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	41,288	100.0	59,231	100.0	83,703	100.0
Imprisonment	15,527	37.6	19,851	33.5	35,005	41.8
Fine	5,946	14.4	10,158	17.1	7,189	8.6
Conditional sentence	4,173	10.1	5,485	9.3	-	-
Warning	15,529	37.6	23,633	39.9	41,509	49.6
Other	113	0.3	104	0.2	-	-

The development in respect of sanctions has been uneven. The use of all sanctions has increased from 1990 to 1994, although for example the use of fines increased to 1992, and then decreased. The increase in the use of warnings has been the greatest, and in 1994 this sanction accounted for over one-half of all sanctions imposed.

The number of convicted persons in prison, as of 31 December, increased from 45,474 in 1990 to 57,601 in 1994.

In 1990, Kazakhstan had 52 prisons with 62,697 beds. In 1994, there were 57 prisons with 63 280 beds. In both years, there were in addition 4 juvenile prisons.

2,051 persons were paroled in 1990, and 6,386 persons were paroled in 1994.

## 2.3 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	635.9	778.7
	% female	7.1	7.1
Prosecutors	total / 100,000	14.5	18.6
	% female	19.7	20.3
Judges	total / 100,000	-	6.7
	% female	-	33.6
Prison staff	total / 100,000	-	-
	% female	-	-



## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the rate of reported crime continued to increase steadily during the period under review.

On the index of homicide, Kazakhstan had the fifth highest rank among European and North American countries. On the index of serious violence, Kazakhstan had the third highest rank, after Estonia and the Russian Federation. There were insufficient data to calculate the rank on the index of violence in general.

The indices of the different types of property crime (burglary, and theft of or from a motor vehicle) show Kazakhstan to have a relatively low amount of burglary (sixth lowest among 45 countries, sharing this rank with Germany and Norway) and of offences directed against motor vehicles (fifth lowest among 47 countries). There were insufficient data to calculate the rank on the index of petty crime.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Regrettably, data on income dissatisfaction were unavailable from Kazakhstan. Unemployment in 1992 was reported to be 0.9%, one of the lowest reported rates in Europe (1994 UN Statistical Yearbook).<sup>3</sup>

According to the UN Compendium on Human Settlements, 58% of the population in Kazakhstan live in urban areas. The 1997 Human Development Report assigns Kazakhstan with a "human development index" of 0.71, and the World Bank reports a GNP of USD 1,110 per capita (1994), both of which are the ninth lowest among the European and North American countries.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Regrettably, again the data required for this calculation were unavailable for Kazakhstan.

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

<sup>3</sup> However, it should be noted that if unemployment benefits are small, there is little incentive for unemployed persons to register as unemployed.

No data on the availability of weapons or on the use of alcohol were available from Kazakhstan.

According to the 1997 Human Development Report, the so-called gender-related development index in Kazakhstan in 1994 was 0.698, placing it tenth lowest among the 47 European and North American countries for which the data are available. 11% of Parliamentary seats are held by women, and the female economic activity rate, as a percentage of the corresponding male economic activity rate, is 82 (op.cit.). The UNICEF "The Progress of Nations" report states that only 3% of persons at the top levels of government are female. In this light, it is of interest to note that Kazakhstan had the third highest rank on the index of violence against women. 11 rapes were reported per 100,000 in population in 1994, the sixth highest reported rates in Europe.

### 3.3 Operation of the criminal justice system

Kazakhstan's score on the Law Enforcement Resource Index (which essentially measures spending on law enforcement; see part I, pp. 72-74) falls in the fourth quartile (45). This means that the country's spending on law enforcement is high, substantially higher than the mean for the amount of spending for all Central and Eastern European countries (29). Kazakhstan has the second highest number of police officers per capita (779) and prosecutors per capita (19) of all the countries covered. Only the Russian Federation has higher numbers.

Kazakhstan falls in the second quartile on the Criminal Justice Practitioner Gender Balance Index (23), lower than the mean score for the Central and Eastern European countries (30).

The data required for the calculation of Kazakhstan's score on the index of Citizen Evaluation of Police Performance were not available.

A comparison of the number of offences recorded by the police and the number of persons formally brought into contact with the criminal justice system as a suspect for an offence suggests that the over-all clearance rate in Kazakhstan, 0.54, is slightly above the mean (0.49) for the European and North American countries. Kazakhstan's rates of convictions per offences reported (0.40) is considerably above the regional mean (0.23).

The number of sentences of deprivation imposed by the courts has more than doubled during the period under review, from 93 in 1990 to 191 in 1994.

In general, the little data that are available suggest that, in an international comparison, Kazakhstan has a low rate of property crime, but a relatively high rate of violent crime, including violence against women.

# Kyrgyzstan<sup>1</sup>

## 1 Background

On 31 August 1991, Kyrgyzstan declared its independence. A constitution was adopted on 5 May 1993.

Some 70 years earlier, on 30 December 1922, Kyrgyzstan had joined with other republics to form the USSR. The first constitution was ratified on 31 January 1924. The Constitution of the Union of Soviet Socialist Republics established the basic laws of the USSR and the Union Republics. While each Union Republic had its own constitution as well as its own legislative, executive and judicial institutions, these were aligned with and subject to those of the USSR. Thus, while the Constitution of the Union of Soviet Socialist Republics provided the basic principles for criminal legislation and procedure, the individual Union Republics were each responsible for establishing their own criminal legislation which would address features specific to them.

Russia established its criminal legislation in 1926. Prior to the creation of her own code, Kyrgyzstan, as was the case with most other republics, adopted the criminal legislation of the RSFSR.

In accordance with the USSR Constitution, the first all-union criminal procedural law was enacted in 1924. While this legislation formally stipulated legal procedure to be followed in criminal cases, it was in fact often disregarded. Transgressions of criminal legislation and proceedings were particularly evident during the Stalin era (1924-1953), when a great deal of legal administration was conducted outside of established judicial institutions, especially during campaigns against anti-Soviet sentiment.

Criminal law has been codified numerous times. In December 1958, the USSR ratified the Fundamental Principles of Criminal Legislation of the USSR and Union Republics. This legislation generally defined which acts were crimes and outlined appropriate punishments. The Criminal Code of the Kyrgyz Soviet Socialist Republic was adopted on 29 December 1960, and came into force on 1 May 1961. It underwent numerous modifications and amendments in accordance with the developments in Soviet criminal legislation. The new criminal legislation was a critical step toward the introduction of legal humanitarian principles, for it rejected many extreme provisions of the Stalin period, and embodied important democratic princi-

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<sup>1</sup> This text has benefited from comments made by Mr K. Dujshejev, Director, Ministry of Justice, Republic of Kyrgyzstan

ples. For example, Article 3 of the Fundamental Principles of Criminal Legislation stated that only a person who is guilty of having committed a crime specified in the criminal law was subject to criminal responsibility and punishment and that no one could be considered guilty or sentenced to criminal punishment without a court judgement in accordance with the law. Of great significance was the decision in 1990 to eliminate Article 6 from the Constitution; article 6 was a declaration of the absolute primacy of the Communist Party of the Soviet Union. Following the eradication of Article 6, the existence of opposition political parties was no longer illegal.

The criminal procedural code was substantially revised in 1958, with the establishment of The Fundamental Principles of Criminal Procedure of the USSR and Union Republics. This new legislation stipulated the basic laws governing criminal procedure including the rights and responsibilities of the parties involved in criminal proceedings. Throughout 1959-1961, the Union Republics each passed their own criminal procedural codes. These were uniform with the Fundamental Principles of Criminal Procedure, but were designed to address features specific to the individual republics.

On 31 August 1991 the Supreme Soviet of the Republic passed a Declaration on State Sovereignty of the Republic of Kyrgyzstan. In accordance with the Declaration and for the purpose of regulating the criminal legislation according to the new laws on property and privatisation, seventeen articles were deleted from the Criminal Code of Kyrgyzstan. These seventeen articles protected the socialist economy but hampered the development of a free market economy. Although many acts were decriminalised, criminal liability was introduced for involvement in certain prohibited activities. Work on new legislation is continuing.

## 1.2 Organisation

Following the dissolution of the USSR in 1991, the criminal justice system remained essentially the same in Kyrgyzstan, with only minor modifications. However, further reforms are under way.

The militia is a centralised administrative and executive agency which is charged with a wide array of duties: maintaining public order, crime detection, apprehending criminals, supervision of the internal passport system, and traffic control. The militia is a constituent part of the Ministry of the Interior.

The Prosecutor General's office supervises criminal investigations. Criminal investigations are carried out by investigators from the territorial and central bodies of the prosecutor's office as well as by Interior and State Security. The law determines which investigative body is responsible for which type of case. However, the majority of cases are dealt with by representatives from the Ministry of the Interior. For certain minor offences, the militia performs the pre-trial preparation without confirmation from the prosecution and submits the relevant information directly to the court.

If there is sufficient evidence indicating that a suspect committed a crime for which the law mandated the deprivation of liberty, the suspect can be detained. In such a case, the investigator or board of inquiry is obliged to inform the prosecutor in writing within twenty-four hours of the detention. The prosecutor then issues an arrest warrant within forty-eight hours or releases the detainee.

Arrest can only occur with a prosecutor's order. Prior to 1990, defendants had a right to the services of a defence counsel only after completion of the preliminary investigation, except in special circumstances (i.e. those cases involving a juvenile defendant).

Pre-trial detention typically lasts about two months. However, detention can be extended by the supervisory prosecutor if the investigation is particularly complex. Upon completion of the investigation, material relating to the case is submitted to the supervising prosecutor for approval and further submission to the court.

### 1.3 Criminal prosecution

The judge commissioned to oversee the case examines the material submitted by the prosecutor. Without determining guilt or innocence, the judge then has to decide whether or not the defendant should be brought to trial. In special circumstances, such as those involving juvenile defendants and in cases where punishment could include the death penalty, the court at the administrative session can be employed. In such cases, the court can choose from a number of alternative rulings: bring the defendant to trial, return the case for further investigation, suspend the case, submit the case to another appropriate court, or terminate the criminal proceedings.

If the decision is made to bring the defendant to trial, the case has to be initiated within fourteen days. In theory, the public prosecutor, the accused, the defence counsel, the victim and other relevant parties all participate with equal rights in the trial. Following examination of the evidence, the trial opens up for evidence and argument given by the public prosecutor, the defence counsel and other relevant parties. The last person to speak is the defendant.

The court passes sentence only on the basis of evidence that is examined at trial. In determining a sentence the court considers the following points:

- 1) whether the act of which the defendant was accused had actually occurred;
- 2) whether the given act was an offence as defined by the criminal law;
- 3) whether the defendant had committed the given act;
- 4) whether the defendant was subject to punishment for the crime committed;
- 5) the appropriate punishment.

A sentence can either be "guilty" or "not guilty".

The defendant, his or her defence counsel and legal representative as well as the victim and his or her representative have the right to appeal against the sentence within seven days. Additionally, the prosecutor is authorised to lodge a protest against the sentence. If the sentence is not appealed or protested against, it enters into force at the end of seven days. If the sentence is not revoked by the court of cassation (see below) the sentence also enters into force.

Prior to the dissolution of the USSR, all criminal court proceedings were uniform. The court system consisted of the USSR Supreme Court Supreme courts of the Union and Autonomous Republics and territorial, regional, city and district people's courts. Military personnel who committed crimes were subject to investigation by the military prosecutor's office and brought to military tribunals of garrisons, armies, military districts, army groups and the Military Board of the USSR Supreme Court.

In criminal cases, there were two types of courts: People's Courts (courts of first instance) and Supreme Courts (courts of second instance). Two lay assessors and a professional judge comprised People's Courts while the Supreme Court consisted of a board of judges. The large majority of cases in the People's Courts were heard by city and district courts, although some cases were heard by the regional, territorial and republic courts.

The Supreme Court followed an appellate procedure called cassation. This procedure occurs prior to the sentence entering force either through an appeal by the defendant and lawyer or by a protest from the prosecutor's office. The cassation court does not retry the case, nor review the actual evidence. Rather, it reviews the investigative and judicial processes surrounding the case. The cassation court can confirm the initial ruling, set it aside and order a retrial, alter it, or bring the proceeding to a close. A sentence that has entered into force may be monitored by a superior court through a procedure known as judicial supervision.

The minimum age of criminal responsibility for most crimes is eighteen years at the time of the offence. However, for very serious crimes (such as homicide, rape, theft and intentional grievous bodily injury) juveniles can be prosecuted at age fourteen.

Juvenile criminal proceedings (where the defendant is aged eighteen or younger) vary somewhat from adult proceedings. For example, juveniles can not be sentenced to death, are not subjected to exile or banishment, and the maximum term of deprivation of liberty can not exceed ten years. If the crimes are of a non-serious nature, measures outside of criminal punishment could be taken, such as educational programs. Many juveniles are thus sent to juvenile delinquency commissions for consideration of educational measures.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities in Kyrgyzstan.

**Table 1. Victimization rates (in %) according to the ICVS results from the 1996 city survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	4.9	4.0	13.1	0.7

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	29,654	674.7	43,944	978.1	41,155	895.5
Homicide	621	14.1	387	8.6	564	12.3
Assault	1,476	33.6	1,548	34.5	1,790	38.9
Rape	352	8.0	322	7.2	400	8.7
Robbery	1,311	29.8	2,077	46.2	1,987	43.2
Theft	8,589	195.4	16,955	377.4	10,956	238.4
Theft of cars <sup>1</sup>					328	7.1

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

With the exception of the figures for burglary and drug-related crime, there has been only a modest increase during the early 1990s in the number of offences reported to the police. However, these do mark a considerable increase over the number reported during the late 1980s.

Kyrgyzstan's homicide rate in 1990 and 1994, 14.1 and 12.3 per 100,000 in population respectively, was one of the highest in Europe.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1994
Custodial sentences / 100,000	Adults	-
Prisoner rate		-
% women in the prison population		-
Convicted prisoners	Adults	300.3
	Juveniles	2.5
% of females of convicted prisoners	Adults	1.7
	Juveniles	12.3
% of juveniles		0.8

Data on convicted prisoners were only available for 1994.

**Table 4. Trends in sentencing<sup>1</sup>**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	8,604		10,947		14,323	
Imprisonment	3,271	38.0	4,173	38.1	7,710	53.8
Fine	850	9.9	1,018	9.3	1,177	8.2
Corrective labour	1,139	13.2	682	6.2	305	2.1
Other	9	0.1	26	0.2	7	0.0

<sup>1</sup> The data do not add up to the total because of missing categories.

The response provided by Kyrgyzstan to the Fifth United Nations Survey listed only four types of sanctions. Of these, fines, corrective labour and “other” are readily understandable. The boxes for “control in freedom” and “warning, admonition” were left empty. Since Kyrgyzstan was one of the very few countries anywhere in the world to report the use of corporal punishment, and the box for “deprivation of liberty” was left empty, the strong suspicion arises that the data were incorrectly entered. For this reason, the data which are given in the response as concerning “corporal punishment” have been given in the above table as “imprisonment”. This suspicion appears to be confirmed by the fact that Kyrgyzstan reports a relatively sizeable prison population, and that in 1994, 11,428 persons were admitted to prison (299 women and 11,129 men). These admissions presumably included persons awaiting trial.



One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. 13.8% of the respondents in urban areas in Kyrgyzstan would have favoured a fine, 23% a suspended sentence and 26% imprisonment. 36% of the respondents stated that community service would have been appropriate.

The ICVS also asked those respondents who had suggested imprisonment as appropriate, what the length of the sentence should be. The median response was 46 months, which internationally speaking is rather high.

**Prison population**

Kyrgyzstan had 19 prisons in 1990. By 1994, the number had increased to 34, with 20,642 beds. In addition, in both years there was one juvenile prison. The number of persons held in incarceration increased from 8,842 in 1990 to 13,775 in 1994.

According to the response, the average length of time spent in detention awaiting trial, for all offences, was 26 weeks in 1990, 26 weeks in 1992, and 28 weeks in 1994. The average length of prison sentence actually served in prison, for all offences, was correspondingly 159 weeks (1990), 149 weeks (1992) and 146 weeks (1994). At the end of 1994, there were 13,914 convicted persons in prison. 13,800 of these were adults (232 women and 13,568 men) and 114 were juveniles (14 women and 100 men).

2,438 persons were paroled from prison during 1990, and 3,799 persons were paroled during 1994.

2.3 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	12.3	11.7
	% female	19.7	15.4
Judges	total / 100,000	-	5.2
	% female	-	27.9
Prison staff	total / 100,000	65.7	53.9
	% female	27.1	27.5

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

It was noted in section 2.2 that, with the exception of the figures for burglary and drug-related crime, there has been only a modest increase during the early 1990s in the number of offences reported to the police. However, these do mark a considerable increase over the number reported during the late 1980s.

Kyrgyzstan's homicide rate in 1990 and 1994, 14.1 and 12.3 per 100,000 in population respectively, was one of the highest in Europe. On the index of homicide, however, Kyrgyzstan had the fifth highest rank. Kyrgyzstan was sixth highest on the index of serious violence, and ninth highest in respect of the index of violence in general. The relatively high rate of violence may help to explain why some 71% of the urban respondents to the ICVS stated that they tended to avoid certain places in their neighbourhood at night. This was by far the highest among any of the participating countries in Europe and North America. (The second highest rate was 63%, in Ukraine.)

The indices of the different types of property crime show Kyrgyzstan to have a relatively high amount of burglary, but a very low amount of offences directed against motor vehicles. On the index of petty crimes, Kyrgyzstan is slightly above average.

According to the results of the 1996 ICVS, 27% of the respondents in urban areas in Kyrgyzstan had been the victim of a crime during the preceding year, a rate which would fall within the lower middle range among the 31 countries for which these data are available. For individual offences, the victimisation rate was 4.0% for burglary (moderately high), 4.9% for assault or threat (also moderately high), 4.0% for theft from or of a car, 1.6% for robbery, and 6.6% for pickpocketing and 12.1% for "other theft".

On the index of the amount of corruption, Kyrgyzstan has the highest score (together with Georgia) out of 45 countries. For example, 21.3% of the urban respondents to the ICVS reported that a government official had accepted or demanded a bribe from them during the preceding year. This is the second highest rate in Europe and North America.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

are unemployed (see pp. 35-36 of part I). According to the ICVS, satisfaction with income among urban respondents, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was 2.27, which is below the mean for all European and North American countries (2.64). The overall “motivation index” for Kyrgyzstan was 10.7, which is the second highest among the European and North American countries for which the data are available. (As noted in section 1 of the separate publication on the analysis of the results of the Fifth United Nations Survey, assessing opportunity and motivation on the basis of only a few isolated factors is fraught with the risk of misleading results. In the case of Kyrgyzstan, even fewer data sets than normal were available for analysis.)

According to the UN Compendium on Human Settlements, only 38% of the population in Kyrgyzstan live in urban areas. The 1997 Human Development Report assigns Kyrgyzstan with a “human development index” of 0.64, which together with Azerbaijan and Georgia is the third lowest rate in Europe and North America. The World Bank reports a GNP of USD 610 per capita (1994), the fourth lowest among European and North American countries. According to the ICVS, a relatively modest 43% of urban households have a motor vehicle. Only Albania, Slovakia and the Russian Federation have lower rates.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index” for property crime, Kyrgyzstan, at 26.4, is much lower than the mean for Central and Eastern Europe (37.9). According to the ICVS, 24.7% of the urban population report the use of special door locks, and 2.9% the use of burglar alarms in their household – among the lowest reported rates in Europe and North America. This low level of protection may in part explain the relatively high rate of burglary in Kyrgyzstan, noted above.

According to the ICVS, 9.3 % of urban respondents stated that their household had a firearm, and 3.9% that the household had a handgun – rates which place the country in the middle range among the 36 European and North American countries in which the study has been carried out.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. Regrettably, no data on female educational attainment were available from Kyrgyzstan. According to the ICVS data, 6.0% of the female respondents were divorced. This is in the middle range for the European and North American countries. According to the 1997 Human Development Report, the so-called gender-related development index in Kyrgyzstan in 1994 was 0.63, which is third lowest (together with Azerbaijan) among the 47 European and North American countries for which the data are available. 5% of Parliamentary seats are held by women (op.cit.). The UNICEF “The Progress of

Nations” report states that only 11% of persons at the top levels of government are female. In this light, it is of interest to note that Kyrgyzstan had a relatively high rate of violence against women, eighth highest. Nine rapes were reported per 100,000 in population in 1994, which is moderately high. Here, the results of the ICVS point towards the same direction: 2.8% of the female respondents in urban areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. If physical assault is included, then the rate of violence against women in urban areas was 13.1%, which is the second highest among any of the participating countries (after Norway, at 13.4%). This suggests a considerable amount of hidden sexual victimisation.

In a factor analysis of the determinants of crime, Kyrgyzstan had the highest positive loading of all the European and North American countries on the strain-related violence factor (1.80), a negative loading in respect of serious property crime in urban settings (-.43), and a negligible positive loading in respect of opportunistic petty crime (.25) (see the analysis connected with Table 10 in part I, p. 49). In the light of the analysis, this strain-related violence appears to be a dominant feature of crime in Kyrgyzstan.

### 3.3 Operation of the criminal justice system

Kyrgyzstan’s score on the Law Enforcement Resource Index (which essentially measures spending on law enforcement; see part I, pp. 72-74) falls in the third quartile (29). Thus the country’s spending on law enforcement is slightly above the mean for the European and North American countries (27). Kyrgyzstan has a low number of judges (eighth of 37).

Kyrgyzstan falls in the second quartile on the Criminal Justice Practitioner Gender Balance Index (25), lower than the mean score for the Central and Eastern European countries (30). Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than the EU countries, reflecting their high shares of female prosecutors and judges.

On the index of Citizen Evaluation of Police Performance, Kyrgyzstan had the lowest score of all the European and North American countries. According to the ICVS, only 21% of victims in urban areas reported the offence to the police, the lowest urban rate in any of the countries studied. (The rate in Georgia was the same.) 80% of victims in Kyrgyzstan who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, the highest rate among the countries participating in the ICVS. Both rates suggest that considerable more work needs to be done in increasing public confidence in the police. In addition, 82% of all urban respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, the third highest rate (after Estonia and the Russian Federation) recorded in the survey in Europe and North America.

In respect of the number of prosecutions per offences reported, Kyrgyzstan has a very high rate (0.51), far above the mean for the region (0.31). Kyrgyzstan's rates of convictions per offences reported (0.35) is slightly above the mean for Central and Eastern Europe (0.31).

The prisoner rate of convicted prisoners has increased by almost one-half during the period under review, from 201.2 in 1990 to 299.7 in 1994. The 1994 rate is one of the highest in the region, considerably above the Central and Eastern Europe median of 214.8.

In general, the data give strong indications that Kyrgyzstan has a considerable problem with crime, and with lack of confidence in the criminal justice system. Accordingly, the Government is seeking to institute a number of measures to improve the performance of the criminal justice system.

# Latvia<sup>1</sup>

## 1 Background

Latvia declared its independence on 4 May 1990.

The Criminal Code continues to be based on the Criminal Code of the Latvian Soviet Socialist Republic, adopted on 6 January 1961, and which entered into force on the 1 April 1961. Since its declaration of independence from the USSR, Latvia has been developing independent legislation for crime control. In June 1991 the Law on Police was passed. According to this law, the police remain subordinate to the Ministry of the Interior, and are empowered to engage in almost all of the same activities as the former Militia. The judicial system consists of the District People's Court, the City People's Court and the Economic Court.

Major modifications and amendments were introduced into the Criminal Code and Criminal Procedure Code of the Latvian Republic in 1991 and 1992. These changes reflect the legal essence of the continuing socio-economic, political and criminological trends. For example, in March 1992 the article on treason (termed "betrayal of the Motherland") was omitted from the Latvian Criminal Code. In July of the same year exportation of state records was criminalised, while in August, provisions on crimes against State and collective property were deleted from the Code.

Further amendments were introduced into the Criminal Code and Criminal Procedure Code between 1992 and 1994. For example, application of capital punishment was restricted, excluding its application to any economic crimes. New criminalisations have been added to such chapters in the Special Part of the Criminal Code as "Crimes Against the Public Safety", "Crimes Against Property", "Economic Crimes", and "Crimes in Business". Extensive amendments have been made in the chapter on "Crimes Against Public Safety, Public Order and the Health of Inhabitants". These amendments pertain to public safety, crimes against morality and crimes related to drug abuse. The Criminal Procedure Code was amended to take into account requirements in the field of human rights as defined in the international treaties binding on Latvia and international treaties on legal assistance in criminal matters.

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<sup>1</sup> This profile has benefited from comments made by Mr Vitolds Zahars, Head of Latvian Prison Administration, Ms Inese Svikša, Head of Division of Public Law, Ministry of Justice and Ms Aijažģure, President, Central Statistical Bureau of Latvia.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities of Latvia.

**Table 1. Victimization rates (in %) according to the ICVS, major cities: results from the 1996 city survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	3.9	2.9	3.9	2.4

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	34,686	1298.6	61,871	2350.7	40,983	1608.4
Homicide	165	6.2	293	11.1	375	14.7
Assault	–		962	36.6	1,059	41.6
Rape	134	5.0	124	4.7	129	5.1
Robbery	2,176	81.5	2,670	101.4	1,142	44.8
Theft	21,758	814.6	47,717	1813.0	27,211	1067.9
Theft of cars <sup>1</sup>					3,402	133.5

<sup>1</sup>The data for car thefts are for the year 1995 (Liukkonen 1997).

The response of Latvia to the Fifth United Nations Survey noted that, although many amendments have been made to the Criminal Code of Latvia, some of the concepts of crime differ from those in Western countries. Some of the offences mentioned in the UN questionnaire are not used in Latvia. For example, in Latvia the law makes no provision for “negligent homicide”. Instead, Latvia uses:

- 1) murder exceeding the necessary resort to violence;
- 2) murder due to carelessness; and
- 3) serious intentional body injuries due to imprudence by the accused which has caused the death of the victim.

Furthermore, the Latvian Criminal Code does not use the term “assault”. “robbery” is defined as an assault with the aim to obtain property, combined with violence dangerous to the victim’s life or health, or with the threat of such violence. If in such cases the violence (or threat of it) is not dangerous to the victim’s life or health, the dispossession of property is qualified as theft. There is no special offence known as ‘burglary’ or theft with breaking into premises. “Breaking into premises” with the intention of theft is considered to be theft under aggravated conditions.

The total number of recorded crimes increased by 18.2% between 1990 and 1994. Some offences decreased: the number of robberies decreased by 47.5%, and the number of reported rapes decreased by 3.8%. On the other hand, reported homicides more than doubled (+127.2%) between 1990 and 1994. Reported assaults increased by 91.4%. There were 2.6 times more drug-related crimes reported in 1994 than in 1990. Theft increased by about one-fourth. In 1992, the number of thefts was more than double that in 1990, but in 1994, the level decreased significantly.

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts)	115	84	131	160	154
Non-intentional homicide	20	27	27	32	26
(Major) Assault	400	332	340	379	345
Robbery	665	777	929	774	380
(Major) Theft (burglary included)	1,907	2,595	4,202	7,148	4,942
Drug-related crime	37	34	38	46	63
All	7,159	7,372	9,097	11,280	11,295

In Latvia, during the period under review, convictions increased for intentional homicide (+33.9%), non-intentional homicide (+30%), assault (+13.8%), theft (burglary included) (+159.1%), and drug-related crime (+70.2%). Convictions for robbery follow a somewhat different pattern: after an increase in 1991 (from 665 to 777) and 1992 (929), a decrease in 1993 (774), the number of convictions dropped sharply in 1994 (380).



## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	86.4	115.3
Prisoner rate <sup>1</sup>		320.0	375.0
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	238.4	250.2
	Juveniles	8.2	7.1
% of females of convicted prisoners	Adults	5.3	4.4
	Juveniles	-	6.6
% of juveniles		3.3	2.8

<sup>1</sup> Data from Walmsley 1997. The data refers to the years 1990 and 1995.

Admissions, including non-sentenced persons, were 16,015 in 1990, 18,258 in 1992, and 19,565 in 1994.

**Table 5. Trends in sentencing**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	6,061	100	7,948	100	10,108	100
Imprisonment	2,309	38.1	2,894	36.4	2,937	29.1
Fine	635	10.5	687	8.6	1,787	17.7
Community Service	2,450	40.4	3,292	41.4	-	-
Warning	1	0.0	2	0.0	9	0.1
Other	666	11.0	1,073	13.5	5,375	53.2

The number of sentences of imprisonment increased between 1990 and 1994 (+27.2%). Even so, the relative importance of imprisonment – compared to other sanctions – decreased between 1990 and 1994. In 1990, imprisonment accounted for 38.1% of all sentences; in 1994, imprisonment made up less than 30% of all sentences. Fines became more important: in 1994, they constituted 17.7% of all sentences (compared to 10.5% in 1990). The huge increase in the category of ‘other’ in 1994 can be explained at least in part by the fact that “conditional sentences with liberty deprivation and mandatory participation in community services” were abolished by an amendment of the Criminal Code on 25 May 1993, and in 1994, various other “conditional” punishments accounted for much of the “other” category.

In 1990, the ‘other’ category included 431 cases where a judgement was postponed; 5 cases of capital punishment, and 230 ‘other’ cases. In 1992, the ‘other’

category included 720 cases where judgement was postponed, 4 cases of capital punishment and 349 'other' decisions. Finally, in 1994, there were 717 cases of judgement postponed, no cases of capital punishment, and 4,658 cases of 'other'.

### Prison population

The number of people admitted to prison grew from 16,015 in 1990 to 19,565 in 1994. It is clear that the vast majority of prison admissions consist of males. The proportion of admissions of sentenced females increased slightly between 1990 and 1994. Very few sentenced juveniles were admitted to prison in 1990. The proportion of juveniles increased very slightly in 1994.

The total number of people held in incarceration increased from 8,473 in 1992 to 9,633 in 1994 (+13.7%). About one-third of all persons held in incarceration in 1994 was awaiting trial or adjudication. The average length of time spent in detention awaiting trial, for all offences, was 6 months (for 1990, 1992, and 1994). The average length of prison sentence actually served in prison, for all offences, was about 4.2 years (for 1990, 1992, 1994).

In 1990, there were 12 adult correctional institutions in Latvia, with a total of 8,990 spaces available (2 square metres for males, 3 square metres for females). In 1994, there were 14 adult correctional institutions, with a total of 10,218 places (with the same floor area per person). There was only one juvenile institution, with 250 spaces available, and with an average floor area per juvenile of 2.5 square metres.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	680.1	463.5
	% female	34.6	17.6
Prosecutors	total / 100,000	12.1	15.6
	% female	51.9	57.5
Judges	total / 100,000	6.3	7.3
	% female	53.0	71.0
Prison staff	total / 100,000	124.7	74.1
	% female	25.5	36.0

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the total number of recorded crimes increased by 18% during the period under review. The number of reported homicides doubled, and the number of reported assaults increased by 91%. The number of drug-related offences increased by 2.6 times. The number of thefts increased from 1990 to 1992, but then decreased significantly. The number of robberies decreased by about one-half.

According to the results of the ICVS, 33% of the respondents in urban areas in Latvia had been the victim of a crime during the previous year, which is slightly above the mean value (30%) for the 31 countries for which corresponding urban data are available. However, the overall victimisation rate obscures the fact that there are significant differences in the prevalence of different types of criminal victimisation in Latvia. The urban victimisation rate was 2.9% for burglary (about average, internationally), 2.6% for assault or threat (the sixth lowest result), 8.1% for theft from or of a car (again, an average rate internationally), and 3.4% for robbery (a relatively high rate, with only five countries in the region ranking higher).

Latvia has a relatively high level of homicide. With a value of 92 on the Homicide Index (the mean value for the region is 51), Latvia has the third highest result among 47 countries (with only Estonia and the Russian Federation ranking higher). According to WHO statistics, Latvia had a rate of 9.2 homicides per 100,000 (1992), a rate considerably lower than the Interpol homicide rate (14.6). According to Latvia's responses to the Fifth United Nations Survey, the 1994 homicide rate was 16 per 100,000. The ICVS figures for assault and threat, however, show Latvia to rank relatively low, with only 2.6% of the urban population indicating that they had been victimised by such offences (sixth lowest out of 36 countries). The ICVS figures for robbery, on the other hand, are in the higher range (3.4%, sixth highest out of 36 countries). The comprehensive index for fatal and non-fatal violence for Latvia is 67 (compared to the overall mean of 51), which is in the high range.

The generally high level of violence is reflected in the fact that over one half (51.4%) of the ICVS respondents stated that they tend to avoid certain places in their neighbourhood at night, one of the higher rates in any of the responding countries in Europe and North America.

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

Latvia has a burglary victimisation rate of 2.9%, which is close to the average for the 36 countries for which data are available. (It should be noted that no data are available on the number of burglaries reported to the police.) Latvia ranks fairly high on the Petty Crime Index (measuring the proportion of ICVS respondents who had been victimised by at least one of the following offences: car vandalism, theft from garages, bike theft, indecent behaviour, attempted burglary, personal theft). Latvia has a score of 74 on this index, well above the mean of 50. Latvia has a value of 50 on the Motor Vehicle Crime Index, which is the same as the mean for the 47 countries for which data are available.

On the index of the amount of corruption, Latvia ranks very high (37th out of 45 countries). However, only 1.75% of the ICVS respondents answered affirmatively to the question of whether a government official had requested or demanded a bribe from them during the preceding year (below the mean score of 2.54).

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or who are unemployed (see pp. 35-36 of part I). According to the results of the ICVS, satisfaction with income, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was very low with a score of 1.91 among urban respondents (with only 2 countries, Georgia and Romania, ranking lower). Based on the UN Statistical Yearbook 1994, Latvia’s unemployment rate (1992) of 2.3 is relatively low, compared to other countries in the region (eighth out of 39 countries). The ICVS unemployment indicator gives Latvia a score of 9.55, which is considerably higher.<sup>3</sup>

According to the UN Compendium on Human Settlements, 71% of the population of Latvia live in urban areas (1990). The 1997 Human Development Report assigns Latvia a relatively low development score of 0.71 (on the same level as Kazakhstan), with an overall world ranking of 92. The World Bank reports a GNP of USD 2,290 per capita (1994), which is the sixteenth lowest among the 44 European and North American countries for which the data are available. According to the ICVS, the urban population in Latvia lives in flats (92%) and in row houses (7%), not in detached housing. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) According to the ICVS, 46% of the urban Latvian population owns a car. Latvia ranks very low with regard to the number of registered motor vehicles – according to the 1995 HEUNI

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<sup>3</sup> It should be noted that, since unemployment benefits in Latvia are low, there is not much of a motivation to register as unemployed.

study, only Moldova has a lower number of cars). Urban Latvians spend an average of 2.7 evenings away from the home for entertainment purposes, which is below average (of 3 evening per week) for the ICVS countries for which data are available.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Latvia is considerably below the mean for Europe and North America (37.9) at 29.17. Latvia ranks eighth lowest (out of 36 countries) on this indicator of opportunity for property crime. Latvia has a relatively small proportion of urban single households (3.7%, which is in the low range), and less than half of urban females work outside the house (44.4%), slightly below the overall mean (46.1%). Slightly more than 3.8% of the urban population report the use of burglar alarms, 16.2% use special door locks, and 9.2% use special window grills.

In respect of violent offences, factors connected with opportunity are the availability of suitable weapons, and the use of alcohol. Latvia ranks in the medium range with regard to the availability of firearms: 6.5% of the urban respondents (versus 15.8% of the rural ICVS respondents) indicated that their household possesses a firearm. With regard to urban handgun ownership, Latvia ranks higher (20th out of 36), with 4.1% of the urban respondents answering in the affirmative. This is about 1 per cent below the mean of 5.1% for the 36 ICVS countries. The World Drink Report does not provide data on Latvia’s alcohol consumption.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Latvia has one of the lowest ratings in the region. In respect of divorce, in turn, the results of the ICVS suggest that Latvia has one of the highest rates in Europe. This is supported by other data, which show that the divorce rate is 5.5 per 1,000 in population per year, clearly the highest in Europe (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.702, placing Latvia in the lower range (eleventh) among the 47 European and North American countries for which these data are available. Nine per cent of Parliamentary seats are held by women. The UNICEF report “The Progress of Nations” states that 11 per cent of the persons at the top levels of government in Latvia are female. The female economic activity rate (expressed as a proportion of male economic activity) is very high (85%). According to the ICVS only 11.6% of the women victimised by violence report their victimisation to the police, well below the average reporting rate of 32% for all the countries for which these data

are available. Latvia has a moderate rate of reported rapes (five per 100,000 population). ICVS data on sexual offences committed against women show that 0.4% responded affirmatively to questions relating to such victimisation, which is very low (with only Hungary scoring lower). Latvia has a relatively low value of 33 on the Violence against Women Index (the mean for 44 countries for which data are available is 50), ranking it in the lower one-third internationally.

According to the World Values attitude survey, respondents in Latvia are fairly intolerant towards minorities compared to other countries in Europe and North America (a score of .70 compared to the mean of .52, placing Latvia in the top quartile). Latvian people are, internationally speaking, not likely to justify petty crimes under certain conditions; they rank 23rd (out of 26 countries). Data on questions relating to the justification of deviant lifestyles are not available for Latvia.

In a factor analysis of the determinants of crime, Latvia had a very high positive loading in respect of strain-related violence (+1.22), a positive loading in respect of serious property crime in urban settings (+.61), and a negligible loading in respect of opportunistic petty crime (+.10) (see Table 10 in part I, p. 49). This can be interpreted to mean that, in an international comparison, there is an above-average potential for strain-related violence in Latvia, while the potential for the other forms of crime is closer to the mean.

### 3.3 Operation of the criminal justice system

Latvia's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 37, which is very high. This is due to the above mean scores on the number of police officers, prosecutors and correctional staff per capita. Still, Latvia remains in the lowest quartile when measured by the productivity of police forces or prosecutors, and in the top quartile according to crime rates. Despite the fairly high number of correctional staff (80 per 100,000) only a few countries have an inmate/staff ratio that surpasses that of Latvia (5.1).

The Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78-80) for Latvia is 48, which is the second highest in the region (surpassed only by Estonia out of the 42 countries for which data are available). The female share of criminal justice personnel exceeds the mean of the countries in Central and Eastern Europe on all counts, and Latvia has the highest percentage of female professional judges (71.0%).

On the Citizen Evaluation of Police Performance Index, Latvia has the third lowest score in the region (11), considerably below the regional mean of 27, or the Central and Eastern European mean of 17. In an international comparison Latvia crime victims are unlikely to report their victimisation to the police. According to the ICVS, 34% of victims in urban areas reported the offence to the police, (mean reporting rate for all countries is 44%), ranking tenth lowest out of the 36 countries for which this information is

available. Twenty-one per cent of the victims of contact crimes reported the matter to the police, well below the average of 29% for all 36 ICVS countries (ninth out of 36 countries). Dissatisfaction with the police is rather high in Latvia. Sixty-seven per cent of the victims reported dissatisfaction with the manner in which the matter was dealt with (the mean value for all ICVS countries is 48.7%, rank of 30 out of 36). Seventy-one per cent of the urban respondents indicated dissatisfaction with the way the police controlled crime in their neighbourhood (the mean value for all ICVS city samples is 48.9%) which is a high proportion, internationally speaking.

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police “productivity” (see part I, pp. 102-105). This proportion in Latvia – 113 – is well below the Central and Eastern European mean of 201.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed. (See part I, pp. 95-100). In general, Latvia has low or very low proportions, compared with the other Central and Eastern European countries. (Interpol data suggest a clearance rate of 31%, which is one of the lowest among Central and Eastern European countries.) This suggests an above-average rate of diversion or other attrition at the different stages.

The prisoner rate is very high (375 per 100,000 population in 1995), significantly higher than the mean for the Central and Eastern European countries (262). The prisoner rate has been increasing gradually during the period.



# Liechtenstein<sup>1</sup>

## 1 Background

In 1719, the Imperial Principality of Liechtenstein was established. Its Constitution was adopted in 1921. Liechtenstein is a very small country (160 square kilometres), with a population of around 31,000. The Principality of Liechtenstein is a hereditary constitutional monarchy. It consists of 11 communes. The Chief of State is Prince Hans Adam II. Members to the unicameral Diet (Landtag) are elected by direct popular vote under proportional representation to serve four-year terms. The cabinet is elected by the Diet. The leader of the majority party in the Diet is usually appointed the head of government (by the Prince).

All criminal law in Liechtenstein is executed on behalf of the sovereign of Liechtenstein. According to the Liechtenstein Constitution, there are three levels of jurisdiction. The first level is the district court (Landgericht), the second level is the Superior Court (Obergericht), and the last level is the Supreme Court (Obersten Gerichtshof). Civil law cases fall under the jurisdiction of the district court judge, as do criminal cases. Depending on the offence or the offender, the district court functions with a Kriminalgericht, a court of magistrates (Schoffengericht), a single criminal judge (Einzelrichter), or a juvenile judge (Jugendgericht).

There are two types of courts: those with one single judge (Einzelgerichtsbarkeit), and those with more than one judge (Kollegialgerichte). There are eight district court judges appointed by the sovereign. The Kollegialgerichte consist of both professional judges and lay judges. Every citizen of Liechtenstein is obliged to accept selection as lay judge for a period of four years.

There are five types of Kollegialgerichte:

- 1) The Schoffengericht consists of two lay judges (plus three alternates), with a professional judge as chair; their jurisdiction is over less serious offences specified by law
- 2) The criminal court (Kriminalgericht) consists of two professional judges (the chair and his alternate), and three lay judges (and two substitutes); their jurisdiction is over the most serious offences

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<sup>1</sup> The information about the criminal justice system is from Dr. Norbert Marxer, *Die Organisation der ordentlichen Gerichtsbarkeit im Fürstentum Liechtenstein*, 1993. Mr Günther Holzknicht from Government Chancery, Principality of Liechtenstein, has assisted in obtaining information on the criminal justice system of Liechtenstein.



- 3) The juvenile court has three judges (two lay judges), chaired by a professional judge who is able to deal with family law; jurisdiction over offenders between 14 and 18
- 4) The Superior Court (Obergericht) consists of two professional judges and three lay judges;
- 5) The Supreme Court consists of five judges.

The seriousness of the offence determines which court has primary jurisdiction. There is a distinction between Verbrechen, Vergehen, and Ubertretungen (decreasing in seriousness). Examples of 'Verbrechen' are: homicide, robbery, arson, and rape; with a possible penalty of more than three years or life. Examples of 'Vergehen' are theft, burglary, vandalism, and assault (with a maximum penalty of three years and/or a fine). Finally, 'Uebertretung' examples are driving while intoxicated, driving without a license, and speeding (with a fine).

All (serious) crimes fall under the jurisdiction of the criminal court (Kriminalgericht). The Schoffengericht has jurisdiction over particular offences with a possible penalty of more than 6 months (e.g., vehicular homicide, certain cases of cruelty to animals). For misdemeanours and other offences which do not fall under the jurisdiction of the Schoffengericht, the sole judge is responsible. Juveniles (between 14 and 17) always fall under the jurisdiction of the juvenile court. The High Court has jurisdiction over appeals, and the Supreme Court has jurisdiction over appeals concerning decisions of the High court.

Decision-making in the Kollegialgerichte follows the rules of procedural law (section 206 of the Procedural Law). Majority votes determine the verdict; the presiding judge has a deciding vote in cases where there is no majority.

There are three public prosecutors whose duty it is to protect the interest of the state. They are independent of the courts. The public prosecutor must prosecute all criminal offences which come to his attention. The mediator (Vermittler), who is supervised by the Landgericht, acts in most civil disagreements. The first obligation of attorneys and prosecutors is to prevent resort to court, and to prevent unnecessary legal costs.

The Superior Court supervises the manner in which the criminal law is applied. Each year, it reports to the Government. There are clear rules regarding conflict of interest situations where judges should resign from particular cases.

## 2 Statistics

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Liechtenstein.

## 2.2 Reporting and recording

There is very limited statistical information available about Liechtenstein. No national statistics on crimes reported to the police, or people arrested exist. There is information on the total number of persons prosecuted: 2,485 (1990), 2,910 (1991), 2,820 (1992), 2,751 (1993), and 2,610 (1994). Overall, the number of people prosecuted increased by 5% between 1990 and 1994.

The number of people convicted in criminal courts also increased between 1990 and 1992 (no data are available for 1994), from 1,026 in 1990 to 1,520 in 1992, an increase of 48.2%. The total number of cases brought before the courts increased by 10.2% between 1990 and 1992 (from 2,552 to 2,812), and the proportion of cases acquitted decreased (from 59.8% in 1990 to 45.9% in 1992).

No data are available on the number of juveniles (between 14 and 18 years) brought before the juvenile court.

## 2.3 Sanctions

There is one prison in Liechtenstein, with a total of 22 beds available (increased from 16 beds in 1990). There is no juvenile institution.

No data are available on the number of people admitted to prison prior to 1994; in 1994 a total of 354 adults (46 females and 308 males) were admitted to prison. Of the 354 adults, 301 were prisoners with foreign citizenship. In 1994, the average length of prison sentences actually served was 11 weeks. In 1994, 16 people were kept in pre-trial detention, and 2 were held in prison after sentencing.

## 2.4 Personnel and resources

**Table 1. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	186.2	190.3
	% female	0.0	3.4
Prosecutors	total / 100,000	10.3	9.7
	% female	33.3	33.3
Judges	total / 100,000	27.6	25.8
	% female	0.0	0.0
Prison staff	total / 100,000	3.4	54.8
	% female	0.0	5.9

Between 1990 and 1994 the number of sworn police officers increased from 54 to 59 (190.3 per 100,000); in 1994 there were two female police officers (none in 1990). In both 1990 and 1994 there were 3 prosecutors, of whom 1 was female in Liechtenstein. In 1990 and in 1994, there were 8 professional (male) judges, and 10 (part-time) lay judges – 5 male and 5 female.

## 3 Criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, no national statistics on crimes reported to the police, or people arrested, were provided in the response to the Fifth United Nations Survey. The total number of persons prosecuted has increased by about 5% during the period under review, from 2,485 in 1990 to 2,610 in 1994. No ICVS data are available for Liechtenstein.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). In the case of Liechtenstein, neither set of data is available.

According to the UN Compendium on Human Settlements, 20% of the population of Liechtenstein lives in urban areas, which is the lowest proportion among Europe and North America. The 1997 Human Development Report does not provide information on Liechtenstein, and neither does the World Bank.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). The corresponding data were not available from Liechtenstein.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. Again, the corresponding data were not available from Liechtenstein. The same was true of data on gender balance or violence against women.

### 3.3 Operation of the criminal justice system

On our Law Enforcement Resource Index (which, broadly speaking, reflects expenditure on the criminal justice system), Liechtenstein is somewhat above average, with a score of 30 (the mean for the region was 27). This rank can be attributed primarily to the large number of judges per capita, since the

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

corresponding figures for police officers and correctional staff are below the mean. (Indeed, the number of police officers per 100,000 – 190 – was the lowest of any country in Europe or North America.) In this respect Liechtenstein greatly resembles Luxembourg. The same resemblance cannot be found in the inmate/staff ratio, primarily due to the exceptionally low prisoner rate in Liechtenstein (58.1 in 1994, the only year these data were available).

On the Criminal Justice Personnel Gender Balance Index, Liechtenstein has one of the lowest scores in the region, 12. The mean is 28. Liechtenstein scores low in respect of all the indicators except for the number of female prosecutors, which exceeds the mean for the EU countries.

Due to the lack of data, Liechtenstein's score on the Citizen Evaluation of Police Performance Index is not available.

The prisoner rate is very low (58 per 100,000 population in 1994, the only year for which the data are available), significantly lower than the mean for the EU countries (86) and more in line with the Nordic countries. Almost all (89%) of the prisoners are classified as pre-trial, which is an unusually high percentage.

## 4 Further reading

<http://www.odci.gov/cia/publications/factbook/ls.html>

Marxer, Norbert (1993). *Die Organisation der ordentlichen Gerichtsbarkeit im Fürstentum Liechtenstein*. Rechtesdienstes der Regierung.

# Lithuania<sup>1</sup>

## 1 Background

The Criminal Code of the Lithuanian Soviet Socialist Republic was adopted on 26 June 1961 and came into force on 1 September of the same year. Subsequent modifications and amendments corresponded to the changes made in Soviet legislation.

On 11 March 1990 the Supreme Soviet of the Lithuanian SSR passed an Act on the Restoration of the Lithuanian State. Consequently the Lithuanian SSR was renamed the Republic of Lithuania, and the 1938 Lithuanian Constitution was restored. On 25 October 1992, the citizens of the Lithuanian Republic, by way of referendum, adopted the new Constitution approved by the Supreme Soviet. This stipulates that justice in the country is to be administered only by the courts, which are independent and subordinate only to the law. The new constitution further provides for the Constitutional Court of Lithuania, the Supreme Court of Lithuania, the Court of Appeal of Lithuania, county courts and district courts. In accordance with the law on courts, the aplink courts and district courts are courts of first instance, the courts of appeal are the courts of second instance, and the Supreme Court is the court of cassation and supervisory instance.

The law of the Lithuanian Republic dictates that court proceedings are to be uniform and compulsory with respect to all criminal cases and for all the courts, prosecution, investigation and inquiry bodies. The law was amended in respect of the following: issues on extradition including limits of criminal liability of persons to be extradited to a foreign country; issues on defence in the criminal proceedings; procedure on criminal cases with regard to the so-called “obvious crimes” (offences where the offender is caught in the act; in such cases only an inquiry is carried out); certain issues in pre-trial investigation; and issues related to cases brought to trial.

The police bases its activities on the Law on Police which was adopted in 1990.

Since 1990, numerous modifications and amendments have been introduced into the Criminal Code of the Lithuanian Republic (1961) to reflect the new socio-economic and political changes.

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<sup>1</sup> This profile benefited from comments made by V. Lapėnienė, First Deputy Director General, Lithuanian Department of Statistics, J. Kryževičius, Director of the Department of Courts, Department of Statistics at the Government of the Republic of Lithuania, Kazys Pėdnyčia, Prosecutor General, Chief State Advisor on Legal Affairs, Jonas Blaževičius, General Director, Prison Department, Ministry of Internal Affairs, and Genovaitė Babachinaitė, Department of Criminology, Law Institute of Lithuania.

The minimum age of criminal responsibility is 16 years of age (for some crimes, 14). One is considered an adult after the age of 18.

## 2 Statistics

### 2.1 Victimization

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: results from the 1997 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation/wide	3.5	4.1	4.9	0.6
Major cities	4.0	5.5	5.5	1.1

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	37,056	995.6	56,615	1513.0	58,634	1575.8
Homicide	252	6.8	335	9.0	560	15.0
Assault	655	17.6	598	16.0	956	25.7
Rape	196	5.3	191	5.1	165	4.4
Robbery	334	9.0	488	13.0	4,217	113.3
Theft	24,314	653.3	42,502	1135.8	38,580	1036.8
Theft of cars <sup>1</sup>					4,593	123.4

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

In 1994, the number of reported offences was 1.6 times higher than in 1990 (+58.2%). Homicide increased by 133.5%, assault by 10.7%. The amendments of the articles of the Penal Code accounted to a large extent for the significant increase in the number of robberies in 1994 (4,217). The number of rapes reported to the police was fairly stable between 1990 and 1993, but decreased by 15.8% in 1994 (from 196 to 165). The number of reported thefts grew by 65.4%; the number of burglaries increased by 56.8%. Lithuania also provided statistics on vehicle theft: the number of vehicle thefts reported in 1990 increased four times in 1994 (from 1,554 to 6,344). Drug-related crimes tripled between 1990 and 1994.

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts)	145	158	143	238	342
Non-intentional homicide	-	9	5	41	49
(Major) Assault <sup>1</sup>	-	203	77	166	205
Robbery	-	154	190	264	496
Rape	157	17	176	155	179
Theft of state and public property	1,508	2,238	4,501	5,762	4,885
Theft of personal property	2,774	3,028	4,412	6,615	9,266
Burglary <sup>2</sup>	-	896	1,086	1,519	2,242
Drug-related crime	29	106	27	184	291
Total <sup>3</sup>	6,849	7,644	11,532	12,523	13,323

<sup>1</sup> (Major) assault includes crimes against a person's health, i.e. injuries of various degrees

<sup>2</sup> Data referring to burglary is not exact, since some burglaries may be included in the category of robberies

<sup>3</sup> The total number of criminal cases examined of first instance in courts

The figures for the 'total' category reflect criminal cases that have been examined in the first instance by the courts. The number of convictions for homicide grew significantly between 1990 and 1994 (+135.9%). The 'assault' category includes 'crimes against a person's health'. The table presents the statistics for the 'major' assault category; the figures for the 'total assault' category are 481 (1991), 495 (1992), 542 (1993), and 710 (1994).

The statistics on property crime must be interpreted with caution. Lithuania makes a distinction with regard to theft between (1) thefts of the state and public property which include robbery, fraud, and embezzlement and (2) theft of personal property which include robbery and burglary. Data relating to burglary are difficult to interpret, since part of the burglaries may be included with the robberies. The different categories of property crime all increased significantly between 1990 and 1994. The number of people convicted of robbery, theft of state and public property, and theft of personal property more than tripled between 1990 and 1994; the number of convictions for burglaries more than doubled in the same time period.

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	75.6	163.9
Prisoner rate <sup>1</sup>		230.0	360.0
% women in the prison population <sup>2</sup>		2.9	4.0
Prisoners rate / 100,000 (convicted only)	Adults	193.6	93.7
	Juveniles	6.2	4.1
% of females of convicted prisoners	Adults	5.7	2.8
	Juveniles	-	2.6
% of juveniles		3.0	2.1

<sup>1</sup> Data from Walmsley 1997. The data refers to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refers to the years 1993 and 1996.

**Table 5. Trends in sentencing**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	7,965	100	9,152	100	13,710	100
Deprivation of liberty	2,815	35.3	3,099	33.9	6,093	44.4
Fine	752	9.4	1,255	13.7	563	4.1
Control in freedom	2,677	33.6	4,796	52.4	7,051	51.4
Community Service	1,719	21.6	-	-	-	-
Orders						
Other	2	-	2	-	3	-

This table provides data for people from age 18. Between 1990 and 1994, the number of sanctions imposed increased (+72.1%). The number of sentences of imprisonment more than doubled (from 2,815 to 6,093) between 1990 and 1994; the use of fines in 1994 (563) was lower than the use of fines in 1990 (752). There were more than 2,5 times more conditional sentences (including suspended sentences, correctional involvement without deprivation of liberty, i.e., serving a sentence at the workplace, education, or supervision) in 1994 than in 1990. Community service orders, on the other hand, apparently only were given in 1990. In 1990, one sentence of capital punishment was changed into life imprisonment, and one was annulled. In 1992, one sentence of capital punishment was changed into life imprisonment. In 1994, 3 sentences of capital punishment were given.



## Prison population

The number of persons admitted to prison increased rapidly during the period under review, from 3,858 in 1990, to 5,721 in 1992 and to 9,087 in 1994. (This includes only the admission of new persons; the administrative transfer of convicts (to medical institutions, courts, from one custody place to another) is not included in the figures.) About 4 out of every 100 new prison admissions were juveniles in 1994; in 1990, the proportion of juveniles among all people admitted to prison was slightly higher (6.7%). The number of females admitted to prison increased from 166 (1990) to 377 (1994) (+127%). The ratio of females admitted to prison grew almost proportionately with the total number of persons admitted to prison. Female juveniles are rarely admitted to prison; in 1994 there were only 4 juvenile females admitted.

The number of persons in prison (on 31 December) did not increase as dramatically; 8,891 (of whom 7,340 sentenced) in 1990, 9,900 (7,436 sentenced) in 1992 and 12,782 (9,445 sentenced) in 1994.

The average duration of prison sentence in Lithuania is longer than a year. Therefore, the total number of persons held in incarceration is more than the number of admissions of new persons to custody. The number of sentenced persons held in prison increased by 28%, while the total number of persons held in incarceration increased by 44% from 1990 to 1994. The increase is due to the increased duration of pre-trial detention, which resulted from a rapid growth of crime rates, and the unpreparedness of investigation institutions and courts to decide such a great number of cases. The average length of time spent in detention awaiting trial, for all offences is between 32 and 36 weeks.

In 1990, there were two juvenile prisons in Lithuania, with 485 spaces available (total floor area per person was 3.55 square meters). In 1994, there was only one juvenile prison left in Lithuania, with 360 spaces (total floor area per person was 2.94 square meters per person).

## 2.4 Personnel and resources

**Table . Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	180.1	359.1
	% female	11.7	7.1
Prosecutors	total / 100,000	11.3	17.9
	% female	27.2	35.5
Judges	total / 100,000	5.7	6.9
	% female	30.8	42.6
Prison staff	total / 100,000	71.9	91.2
	% female <sup>1</sup>	35.3	28.1

<sup>1</sup> The percentage of female prison staff is computed from unvalidated data

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the number of reported offences increased by 58.2% from 1990 to 1994. Homicide increased by 158.3%, assault by 10.7%, and robbery by 141.3%. The number of rapes reported to the police was fairly stable between 1990 and 1993, and then decreased by 15.8% in 1994 (from 196 to 165). The number of reported thefts (theft of both private and public property) increased by 58.7%, and the number of burglaries increased by 55.5%. The response also contained data on car theft: the number of reported car thefts more than tripled from 1990 (1,587) to 1994 (5,791). Also the number of drug-related crimes tripled between 1990 and 1994.

Lithuania has a high level of homicide, with a score of 72 on the Homicide Index (the mean score is 51). The WHO and the CDC Study do not provide data on homicide for the period under review. The homicide rate (15 per 100,000) is based on the number of homicides reported on the UN questionnaire (560). Five countries (Russian Federation, Latvia, Kazakhstan, Estonia, and Northern Ireland) report higher levels of police-recorded homicides. The comprehensive index for fatal and non-fatal violence for Lithuania is 65 (compared to the overall mean of 51), which is in the top quartile.

According to the ICVS, in 1997 33% of the respondents in the Lithuanian city sample reportedly had been the victim of a crime during the previous year, which is slightly above the mean score (30%) for the 31 countries for which urban data are available. However, the overall victimisation rate obscures the fact that there are significant differences in the prevalence of different types of criminal victimisation in Lithuania. The urban victimisation rate was middle-ranked 3.3% for assault or threat (an intermediate ranking of 14 out of 36), a relatively high 11.2% for theft from or of a car, a relatively high 2.0% for robbery, and a very high 5.5% for burglary (only Bulgaria, Estonia, Slovakia report higher burglary rates). (The burglary victimisation data, however, is inconsistent with information based on burglaries reported to the police; 198 per 100,000, which places Lithuania as the country with the fifth lowest burglary rate in the region.)

Further according to the ICVS data, Lithuania ranks fairly high on the Petty Crime Index (measuring the proportion of ICVS respondents who had been victimised by at least one of the following offences: car vandalism, theft from garages, bike theft, indecent behaviour, attempted burglary, personal

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

theft and threats). The score on the Petty Crime Index for Lithuania is 67, well above the mean score of 50.

Lithuania ranks in the middle range on the Motor Vehicle Crime Index. Lithuania has a score of 58 on the Motor Vehicle Crime Index (the mean for the 47 countries is 50.0).

On the Corruption Index, Lithuania ranks relatively high. There are no data available for Lithuania on the Transparency International index and the World Competitiveness Yearbook 1997. About 4 out of every 100 respondents (4.3%) in the International Crime Victim Survey answered in the affirmative to the question on whether or not a government official had demanded or requested a bribe from them during the preceding year (the overall mean for the region was 2.5%).

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or who are unemployed (see pp. 35-36 of part I). According to the ICVS, satisfaction with income, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was rather low with a score of 2.12 among urban respondents (with only 9 countries ranking lower on the satisfaction with income variable among 33 countries for which comparable urban data are available). Based on the UN Statistical Yearbook 1994, Lithuania’s unemployment rate (1992) of 3.5% is relatively high, compared to other countries in the region (tenth highest out of 39 countries). (The ICVS, however – which was only carried out in urban areas – provided a much higher unemployment rate, of 12.35%. It may be noted that, if unemployment benefits are low, unemployed persons may not officially register as unemployed, although they may report this status in a survey.) The “motivation index” calculated for Lithuania was 9.1, which is the fourth highest in Europe and North America.

According to the UN Compendium on Human Settlements, 69% of the population of Lithuania lives in urban areas. The 1997 Human Development Report assigns Lithuania a development score of 0.76 (close to Estonia and Croatia), in the lower one-third for the region. The World Bank reports a GNP of USD 1,350 per capita (1994), which is the twelfth lowest among the 44 European and North American countries for which the data are available. According to the ICVS, less than 1% of the urban population in Lithuania lives in detached housing; 93% lives in a flat, and 7% in a row house. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) According to the ICVS, 56% of the urban Lithuanian population owns a car, about 10% lower than the average for the 36 countries for which these data are available. The ICVS data are confirmed by the HEUNI study on motor vehicles (1995). Urban Lithuanians spend on the average of 2.4 evenings each week outside the home for

entertainment purposes, which is below average for the ICVS countries for which data are available (3 nights). Only Hungary and Romania report lower frequencies of spending time outside the house at night than does Lithuania.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Lithuania has a score of 28.7, which is in the lowest quartile in the region, and considerably below the mean for western Europe (64.66) or North America (80.09). Lithuania has a relatively small proportion of urban single households (6.8%) and less than half of urban females working outside the house (46.5%). The Lithuanian urban population reports a relatively high level of use of burglar alarms: 9.3% of the urban population reports the use of burglar alarms (ranking 25 out of 36 countries). However, the Lithuanian urban sample reports a relatively low level of the use of special door locks, and of the use of special window grills (5.6%).

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. Lithuania ranks in the lower to middle ranges with regard to the availability of firearms: the urban ICVS sample indicates that 7.9% of the people own a firearm (compared to the average of 9% for all ICVS urban samples), and 3.9% reported ownership of a handgun. Lithuania ranks 18th with regard to urban handgun ownership, about 1.5 percentage points below the mean of 5.1% for the 36 ICVS countries. The World Drink Report does not provide data on alcohol consumption in Lithuania.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Lithuania has a relatively low rating. The divorce rate in Lithuania, in turn, is 3.7 per 1,000 in population per year, which is relatively high (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender relation development index in 1994 was 0.750, placing Lithuania below average (16) among the 47 European and North American countries for which these data are available. Eighteen per cent of Parliamentary seats are held by women. The female economic activity rate (expressed as a proportion of male economic activity) is relatively high (83%). Lithuania has a fair proportion of female criminal justice personnel: the country scores 34.6 on the Criminal Justice Personnel Gender Balance Index, which is considerably above the mean of 27.6 for the 43 countries for which these data are available. Lithuania has a moderate rate of reported rapes (4 per 100,000 population, ranking 15th

out of the 39 countries for which have these data available). ICVS data on sexual offences committed against women show that 2.0% of the urban Lithuanian women reported such victimisation to the interviewers, which is in the lower range (rank of 12 out of 36). Lithuania has a score of 49 on the Violence against Women Index (the mean for 44 countries for which data are available is 50). Thirty-two per cent of Lithuanian women who were victims of sexual offences reported the crime to the police, a proportion which is similar to the overall average of reporting of all countries for which data are available.

According to the World Values Attitude Survey, respondents in Lithuania rank rather high with regard to tolerance for minorities (23 out of 29), and – internationally speaking – the middle range with regard to the justification of misdemeanours and petty crimes under certain conditions; they rank, respectively 12th and 17th (out of 26 countries). However, Lithuanians appear rather unwilling to accept deviant lifestyles (with only Ireland, Poland, and Turkey expressing lower levels of tolerance for deviant lifestyles).

In a factor analysis of the determinants of crime, Lithuania had a high positive loading in respect of strain-related violence (+1.04), a positive loading in respect of serious property crime in urban settings (+.66), and a negligible negative loading in respect of opportunistic petty crime (-.13) (see Table 10 in part I, p. 49).

### 3.3 Operation of the criminal justice system

The Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) gives Lithuania a score in the top quartile (37) which is evidently due to the high number of police officers (545 per 100,000), prosecutors (16 per 100,000) and correctional staff (107 per 100,000). (The corresponding means for all of Europe and North America were 390, 9 and 64.) On the other hand the performance indicators reveal quite a different picture with low productivity and high crime rates. Even the high number of correctional staff per capita is overshadowed by the very high and rapidly climbing prisoner rate (230.7 in 1990, 356.0 in 1994). As a result, Lithuania's inmate/staff ratio is 3.5, which is slightly below the mean for Central and Eastern Europe (3.6).

Lithuania has a relatively high score (35; the mean is 28) on the Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78-80). Generally the Lithuanian scores on this index are all very close to the mean of Eastern and Central European countries, which tend to have more female practitioners in their criminal justice system than do the EU countries, in particular in prosecution and adjudication.

On the Citizen Evaluation of Police Performance Index Lithuania has a score of 14, which is low, reflecting low public satisfaction with police performance. The mean score for the Central and Eastern European countries

is 17, and the mean score for the entire region is 27. According to the ICVS, 37% of victims in urban areas reported the offence to the police (the mean reporting rate for all countries is 44%), which is a below average proportion. Twenty-seven per cent of the victims of contact crimes reported the matter to the police, slightly below the average of 29% for all 36 ICVS countries. Only 63% of the urban victims of burglary reported the victimisation to the police, a fairly low proportion in comparison to the majority of other ICVS countries (rank of ninth). Sixty-eight per cent of the victims reported being dissatisfied with the manner in which the matter was dealt with (mean score for all ICVS countries is 48.7%; rank of 32 out of 36, below Kyrgyzstan, Romania, Russian Federation, and Ukraine). Eighty-one per cent of the urban respondents indicated dissatisfaction with police crime control (mean score for all ICVS city samples is 48.9%) which is a high proportion, internationally speaking (rank of 33rd, with only Estonia, Latvia and the Russian Federation expressing a higher level of dissatisfaction with police crime control). Overall, Lithuanians appears not very satisfied with their police, as is reflected in the score of 14 on the Citizen Evaluation of Police Performance Index (with an overall mean of 27), placing Lithuania in the bottom quartile.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed. (See part I, pp. 95-100). With the exception of the number of suspects per reported offence (0.36; the regional mean was 0.49), Lithuania in general had somewhat above-average proportions.

As noted, the prisoner rate is very high (356 per 100,000 population), significantly higher than the mean for the Central and Eastern European countries (263), much less for the EU countries (86). The prisoner rate has been increasing rather rapidly during the period under review, from 231 in 1990. Roughly 30% of the prisoners are on remand.

# Luxembourg<sup>1</sup>

## 1 Background

In 1879 the Great-Duchy of Luxembourg implemented its own Penal Code which is very close to the Belgian Penal Code of 1867. Criminal procedure is based on the French Code of 1808 and has been modified by law in 1929. The Luxembourg criminal justice system is therefore very close to the Belgian and French systems.

The police forces consists of the Gendarmerie and the Police. They are responsible for preliminary inquiry under the authority of the public prosecutor.

Prosecution is usually, but not necessarily, initiated by the public prosecutor. The system follows the principle of opportunity. The public prosecutor decides whether to take legal action or not and decides also how to qualify the offence. Dismissals can be pronounced with or without conditions. These conditions may include the obligation to compensate the victim or the obligation for drug users to undergo health care.

An “instruction” conducted by the examining magistrate is mandatory for criminal matters and optional in other cases. The examining magistrate is the authority responsible for pre-trial detention.

The possible sanctions comprise life imprisonment, imprisonment, suspended sentences and warnings. Since 1986, the court may in some cases suspend its decision.

## 2 Statistics

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Luxembourg.

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<sup>1</sup> This profile benefited from comments made by Mr Pierre Reuland, Lt. Colonel, Direction de la Police.



## 2.2 Reporting and recording

Regrettably, Luxembourg has only a limited amount of published statistics available on the criminal justice system.

**Table 12. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	24,679	6460.5	26,768	6863.6	29,166	7273.3
Homicide	29	7.6	34	8.7	47	11.7
Assault	880	230.4	1,181	302.8	1,166	290.8
Rape	-	-	-	-	-	-
Robbery <sup>1</sup>	255	66.8	272	69.7	291	72.6
Theft <sup>2</sup>	14,661	3838.0	14,169	3633.1	15,851	3952.9
Theft of cars <sup>3</sup>					1,186	295.8

<sup>1</sup> Theft with violence and/or with arms

<sup>2</sup> Includes also burglary and violent theft

<sup>3</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

No information is available on the persons brought into formal contact with the criminal justice system, or on the people prosecuted. The total number of persons brought before the courts was 2,002 (1990), 2,901 (1992), and 3,315 (1994). The 1994 figure is 1.7 times higher than the 1990 figure: 65% more people were convicted in 1994 than in 1990. No data are available on the types of offences for which people are convicted, or on the age and gender distribution of the convictions.

## 2.3 Sanctions

**Table 2. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	-	-
Prisoner rate		92.4	109.5
% women in the prison population <sup>1</sup>		3.8	6.0
Prisoner rate / 100,000 (convicted only)	Adults	68.1	75.6
	Juveniles	1.3	0.2
% of females of convicted prisoners	Adults	4.2	4.3
	Juveniles	20.0	-
% of juveniles		1.9	0.3

<sup>1</sup> Data from Tomasevski 1998. The data refers to the years 1993 and 1996



### Prison population

The total number of convicted prisoners varied during the period under review: 265 in 1990, 259 in 1992 and 304 in 1994. Only 5 juveniles were among the convicted prisoners in 1990; in 1994, there was only 1 (male) juvenile among the convicted prisoners. Less than 5% of all convicted prisoners consisted of females in 1994.

On 31 December 1990, 351 people were in prison in Luxembourg; in 1994, the corresponding number of incarcerated people had increased to 438 (+24.7%). In 1990, 86 people (24.5% of all incarcerated people) were still awaiting trial or adjudication; in 1994, 304% of all incarcerated people were awaiting trial or adjudication.

There is one adult prison and 1 juvenile prison in Luxembourg. No information is provided on the staff of the juvenile institution. In the adult prison, 185 people were employed in 1994, the majority of whom worked in a custodial function (145, 78.4%). Nine people were management staff, 13 people worked in treatment, and 18 people had 'other' functions.

## 2.4 Personnel and resources

**Table 3 . Criminal justice system personnel**

		<b>1994</b>
Police officers	total / 100,000	-
	% female	-
Prosecutors	total / 100,000	6.7
	% female	-
Judges	total / 100,000	26.7
	% female	-
Prison staff	total / 100,000	46.1
	% female	-

No data were available on criminal justice personnel for 1990.

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, no data are available on the different types of offences reported to the police. The total number of offences has increased by 33% during the period under review.

No ICVS data are available for Luxembourg.

Luxembourg has a relatively low level of homicide, with a score of 33 on the Homicide Index (the mean score is 51). According to WHO statistics, Luxembourg had a rate of 2.0 homicides per 100,000 (1992), a rate slightly above that provided by Interpol (1.5).

No police or ICVS data are available on the extent of burglaries. The total number of registered motor vehicles (1995) in Luxembourg was 252,810. Luxembourg ranks high with regard to offences directed against motor vehicles: it has a score of 89 on the Motor Vehicle Crime Index, which is the sixth highest in Europe and North America (the mean for the 47 countries for which the data are available is 50).

On the index of the amount of corruption, Luxembourg ranks relatively low. The World Competitiveness Yearbook 1997, on asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere, elicited a result of 7.5 on a scale of zero (considerable corruption) to ten (no corruption). In addition, the responses to the World Competitiveness Yearbook 1997 suggests that Luxembourg lies in the middle range internationally in respect of the confidence of the public that their person and property is protected and in respect of their confidence in the fair administration of justice.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Regrettably, no ICVS data on dissatisfaction with income are available. Unemployment in Luxembourg appears to be rather low: according to the UN Statistical Yearbook 1994, Luxembourg has an unemployment rate (1992) of 1.6%, among the lowest in Europe and North America.

According to the UN compendium on Human Settlements, 86% of the population of Luxembourg live in urban areas, which makes Luxembourg

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

one of the most urbanised states in the region. The 1997 Human Development Report assigns Luxembourg a high development score of 0.90. The World Bank reports a very high GNP of USD 39850 per capita (1994), which is the highest among the 44 European and North American countries for which the data are available. Luxembourg ranks, respectively, 26th and 28th highest among the 29 European and North American countries for which these data are available.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Unfortunately, no data are available on these factors in order to allow the calculation of Luxembourg’s score.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons and the use of alcohol. The UN Study on Firearm Regulations (1997) indicates that in Luxembourg, with a total of 18,000 firearm owners, 44 out of every 1000 people own a firearm. This places Luxembourg rather high among the 11 countries for which this information is available. (The only countries with a higher rate of firearm ownership according to the Study, which was limited to a sample of countries, are Sweden, Canada and Germany.) According to the World Drink Report, people in Luxembourg on average consume about 1.6 litres of hard alcohol per year, which is slightly below the mean of 1.9 litres for the 29 countries for which data are available. Beer and wine consumption in Luxembourg rank considerably higher, however, with 123 litres of beer (compared to the mean of 74 litres), and 61 litres of wine (compared to the mean of 22 litres),

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. Regrettably, no data on female educational attainment are available from Luxembourg. The divorce rate in Luxembourg is 2.0 per 1,000 in population per year, which is in the middle range internationally (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.81, placing Luxembourg in the middle range among the 47 European and North American countries for which these data are available. Twenty per cent of Parliamentary seats are held by women. The female economic activity rate (expressed as a proportion of male economic activity) is rather low (56%), with only five countries (Greece, Ireland, Malta and Spain) reporting a lower level of female participation in the workforce. No data are available on the female proportion of criminal justice personnel in Luxembourg. Because of the absence of data, it is not possible to calculate a value for Luxembourg on the Violence Against Women Index.

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 31, somewhat above the regional mean of 27. The number of public police officers per capita (276 in 1994) is somewhat lower than the mean for Europe and North America (341), but the number of police is almost doubled by the 201 private police officers that Luxembourg has per 100,000 in population. Indeed, Luxembourg has the third highest rate of private police officers (among the 22 countries from which this information was available). Luxembourg also has a very high number of judges per capita (27; the mean is 14) whereas the number of prosecutors (7 per 100,000) is below the mean (9 per 100,000). Despite a prisoner rate which is well above the mean for the EU countries (115 in 1995, with the EU mean as 86) and a proportionate number of correctional staff per capita (46) which is below the EU mean (53), the resulting inmate/staff ratio (2.4/1) is quite close to the regional mean of 2.5, even though it is above the EU mean of 1.7.

No data were available to compute the Criminal Justice Gender Balance Index for Luxembourg.

No data were available to assess citizen satisfaction with police performance in Luxembourg. According to Interpol data, the clearance rate in Luxembourg was 34.3, which is slightly below average for the twelve EU countries for which these data exist.

The prisoner rate is somewhat above the EU mean (110 per 100,000 population, compared to the EU mean of 86). The prisoner rate has been increasing somewhat, from 92 per 100,000 in 1990. Roughly 30% of the prisoners are on remand.

# The Former Yugoslav Republic of Macedonia<sup>1</sup>

## 1 Background

The former Yugoslav Republic of Macedonia declared its independence in January 1992 as the Republic of Macedonia. On gaining independence, the country began a comprehensive programme of reform of the legal system, including the criminal justice system. The programme has already resulted in, among others, a new Criminal Code and Code of Criminal Procedure, a Law on Minor Offences, a Law on the Execution of Sanctions, a Law on Courts, a Law on the Public Prosecutor's Office, and a Law on the Bar Association. The Constitution expresses some of the fundamental principles of criminal justice, including the principle of legality (art. 14, para. 1), the principle of non bis in idem (art. 14, para. 2), the presumption of innocence (art. 13, para. 1), and the prohibition of the retroactive effect of the Criminal Code (art. 52, para. 4).

Criminal law distinguishes between criminal offences and minor offences (misdemeanours). The system of sanctions consists of penalties, security measures, conditional sentences, conditional sentences with protective supervision, and a court reprimand. A criminal offence may lead to imprisonment or to a fine. Sentences of imprisonment range between 30 days and fifteen years. However, if a criminal offence is punishable by fifteen years of imprisonment, a person convicted of an aggravated form of this offence may be sentenced to imprisonment for life. No person under 21 years at the time of the offence may be sentenced to life imprisonment.

According to the Constitution, the Public Prosecutorial Service is a single and autonomous State body that has the responsibility for the prosecution of offences. (In certain circumstances, also private criminal charges may be filed.) There are 22 basic public prosecutor's offices. Above them are the higher public prosecutor's offices, and on the top level is the Public Prosecutor for the entire country. Although the public prosecutor is bound by the principle of legality, prosecution may be waived in two cases:

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<sup>1</sup> We wish to express our appreciation to Dr Snezana Mojsova, Ministry of Justice, Republic of Macedonia, for the provision of background information on the criminal justice system. Mr Donco Gerasimovski, Director, Statistical Office of the Republic of Macedonia and S. Nicolovski, Ministry of Foreign Affairs of the Republic of Macedonia have also contributed to the profile.

- 1) in cases where the Criminal Code allows the court the possibility of waiving punishment, the public prosecutor may waive prosecution if a sanction is deemed unnecessary in view of the circumstances, and
- 2) in cases where the maximum sanction is a fine or imprisonment for up to three years, and the suspect has voluntarily prevented the damaging effects of the offence or provided compensation, the public prosecutor may waive prosecution if a sanction is deemed unnecessary in view of the circumstances.

Investigation is the responsibility of the investigating judge of the competent court upon the request of the public prosecutor. On completion of the investigation, the file is submitted to the public prosecutor who decides on whether or not to file the indictment. If the public prosecutor decides not to prosecute, the victim may undertake the prosecution as a subsidiary prosecutor.

No preparatory procedure is necessary if the sanction for the offence is five years of imprisonment or less, and the information already at hand gives sufficient grounds for the charges. If the sanction for the offence is three years of imprisonment or less, the prosecutor can file charges immediately on receiving the police report (summary procedure).

The investigating judge decides on pre-trial detention. Detention during the preparatory procedure is always discretionary. Persons detained are to be brought to court immediately, within a maximum of 24 hours from the moment of deprivation of liberty. Detention may last for a maximum of 90 days.

The levels of the court system are the municipal (27 basic courts), the regional (3 courts of appeal) and the Supreme Court. Extraordinary courts are prohibited. On all levels, decisions are made by a panel of judges. In municipal courts, offences are tried by a panel of one judge and two lay judges or, in the case of more serious offences, two judges and three lay judges. In summary procedure, however, the case is decided by one judge sitting alone.

The minimum age of criminal responsibility is fourteen. Persons between the age of fourteen and eighteen are dealt with as juveniles. Full criminal responsibility comes at the age of eighteen.

A distinction is made between “younger juveniles” (persons who have reached fourteen years of age but not yet sixteen), and “older juveniles” (persons who have reached sixteen but not yet eighteen years). Older juveniles may be subject to educational measures, in accordance with the Criminal Code, and may, in exceptional cases, be sentenced to juvenile imprisonment. Juveniles may not be subject to a court reprimand or a conditional sentence.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities of Macedonia.

**Table 1. Victimization rates (in %) according to the ICVS, major cities, results from the 1996 city survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	2.5	2.3	3.8	0.4

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	14,921	735.7	25,166	1224.0	23,438	1094.2
Homicide	69	3.4	84	4.1	80	3.7
Assault	405	20.0	409	19.9	527	24.6
Rape	54	2.7	43	2.1	38	1.8
Robbery	54	2.7	80	3.9	132	6.2
Theft	4,364	215.2	6,780	329.8	6,733	314.3
Theft of cars <sup>1</sup>					877	40.9

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

The number of offences reported to the police has remained relatively stable throughout the period in question. Significant exceptions are the increase in thefts and burglary from 1991 to 1992, the transition period during which independence was achieved. Also the number of assaults increased, but not to the same extent either absolutely or proportionately. The number of reported thefts has remained on a higher level, while the number of reported burglaries has somewhat decreased to 1994.

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts, negligent manslaughter and infanticide)	45	54	41	34	40
All assaults	1,081	1,206	954	859	829
- of which aggravated	151	164	149	162	115
Rape	31	28	29	21	23
Robbery	24	17	30	26	35
All thefts	1,589	1,392	1,409	1,599	1,776
- of which major thefts	897	987	1,064	1,538	1,490

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	70.0	96.5
Prisoner rate		49.4	62.8
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	38.9	48.3
	Juveniles	3.9	3.5
% of females of convicted prisoners	Adults	3.3	1.4
	Juveniles	-	-
% of juveniles		9.2	6.8

**Table 5. Trends in sentencing<sup>1</sup>**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	7,704	-	6,660	-	6,724	-
Imprisonment	1,419	18.4	1,667	25.0	2,066	30.7
Fine	3,192	41.4	2,350	35.3	1,914	28.5
Court reprimand	171	2.2	129	1.9	128	1.9
Supplementary fine	18	0.2	55	0.8	8	0.1

<sup>1</sup> The data do not add up to the total because of missing categories.

The response notes that community-based sanctions (such as probation) do not exist in the country's criminal justice system. The response also does not indicate what other measures are applied than those indicated in the above



table; for each year, the four categories of imprisonment, fine, court reprimand and supplementary fine only add up to some 60% of the total.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. 12.5% of the respondents in urban areas would have favoured a fine, 13% a suspended sentence and 44% imprisonment. Given the fact that there is no non-custodial sanctions in use, it is notable that 27% of the respondents stated that community service would have been appropriate.

The ICVS also asked those respondents who had suggested imprisonment as appropriate, what the length of the sentence should be. The median response was 22 months, which internationally speaking is in the middle range (on the same level as among urban respondents in Italy and Scotland).

### Prison population

The country had 14 prisons, with 2,538 beds, in 1990. This number decreased to 12 prisons, and 2,428 beds, in 1994. In addition, in both 1990 and 1994, there were 2 juvenile prisons with a total of 110 beds. The total number of persons held in incarceration increased from 1,001 in 1990 to 1,345 in 1994.

The number of foreign citizens admitted to prison has increased during the period under review, from 5 in 1990 to 12 in 1991 and 95 in 1992. Since then, the number has decreased somewhat to 76 in 1993 and 78 in 1994.

The prisoner rate in 1994, 63 per 100,000 in population, is among the lowest in Europe and North America.

The response notes that the average length of time spent in detention awaiting trial, for all offences, was 47.4 weeks (i.e., almost a year) in 1990. It decreased to 28.36 weeks in 1992, and then increased somewhat to 35.79 weeks in 1994.

459 persons were paroled from prison in 1990. In 1994, the number had decreased to 294.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	317.8
	% female	-	5.3
Prosecutors	total / 100,000	6.4	5.6
	% female	31.0	31.1
Judges	total / 100,000	21.1	18.6
	% female	39.0	40.6
Prison staff	total / 100,000	25.9	23.3
	% female	12.2	13.2

### 3 Crime and criminal justice profile<sup>2</sup>

#### 3.1 The crime situation

As noted in section 2.2 above, the level of reported crime has remained relatively stable, with the marked exception of theft and burglary (and, to a lesser degree, assault) which increased significantly from 1991 to 1992, the period of fundamental political transition.

According to the results of the 1996 ICVS, only 22% of the respondents in urban areas in the country had been the victim of a crime during the preceding year - the third lowest urban rate in any of the 31 countries for which these data are available. (The lowest rates were in Belarus and Croatia.) For individual offences, the victimisation rate was 2.3% for burglary, 2.4% for assault or threat, 7.4% for theft from or of a car, and 1.1% for robbery.

The country has a relatively low ranking on the index for of homicide, and a very low rank on the index of serious violence. In respect of the index of violence in general, the country has the third lowest rate in Europe and North America (after Austria and Switzerland). In this light, it is understandable that only 30.4% of the urban respondents to the ICVS stated that they avoided certain places; this was considerably below the median for all European and Northern American countries of 44.0%.

The indices of the different types of property crime show the country to have a relatively low amount of burglary and of offences directed against motor. Also the ranking on the index of petty crimes was relatively low.

On the index of the amount of corruption, the country has a relatively low rank. 7.7% of the urban respondents to the ICVS reported that a government official had accepted or demanded a bribe from them during the preceding year. This falls in the medium range among the European and North American countries.

#### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Satisfaction with income<sup>3</sup>, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was a below average 2.38 among the urban respondents. Unemployment in 1995 was perhaps the

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

<sup>3</sup> This indicator is of particular relevance in studying the potential for strain among young adults.

highest in Europe, 32.0% of the active labour force. This was higher than the corresponding figure five years previously (23.6%), which even then was the highest in Europe (The Economist Pocket Europe in Figures, 1997). The country's score on the "motivation index", 7.7, is above the mean for the region (5.2).

While other parts of former Yugoslavia have undergone severe internal conflict, this has so far not spilled over into the country. However, open conflict in neighbouring areas may increase the availability of smuggled, black market weapons. It may thus not be surprising that, according to the ICVS, 8.4% of the respondents in urban areas stated that their household had a handgun – the sixth highest urban rate among the 36 European and North American countries in which the study has been carried out.<sup>4</sup>

However, these factors have nonetheless apparently not contributed to a significantly high level of criminal violence. As noted, the country's score on the various indices of violence is low, a result which, in light of the motivation and opportunity factors referred to, is not at all to be expected.

According to the UN Compendium on Human Settlements, only 58% of the population live in urban areas. The 1997 Human Development Report assigns the country with a relatively low HDI development index of 0.75, and the World Bank reports a GNP of USD 790 per capita (1994), which is sixth lowest among the 44 European and North American countries for which the data are available.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this "opportunity index" for property crime, the country, at 50.46, is halfway between the mean for Central and Eastern Europe (37.9) and for Western Europe (64.66). According to the ICVS, an unusually high proportion of the urban population – 56% – lived in detached or row housing. (Only Malta had a higher rate, 74%.) Only 4.4% of the urban population report the use of special door locks, 1.6% the use of special window grills, and 1.2% the use of burglar alarms in their household, all among the lowest reported rates in Europe and North America. Again, however, the indices of crime suggest low rates, which is not to be expected in light of the opportunity.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. In respect of female educational attainment, the country is relatively low among

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<sup>4</sup> The highest rate, 24.5%, was in Yugoslavia. The second highest rate, 23.9%, was in the United States.

the European and North American countries. According to the ICVS data, only 1.3% of the respondents were divorced, a very low figure. According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.726, placing the country eleventh lowest among the 47 European and North American countries for which the data are available. Only 3% of Parliamentary seats are held by women. The UNICEF “the Progress of Nations” report states that only 9% of persons at the top levels of government in the country are female. In this light, it is of interest to note that the country has a relatively low rate of violence against women (seventh among 44 countries). Only two rapes were reported per 100,000 in population in 1994, among the lowest reported rates in Europe. The results of the ICVS point in the same direction: only 0.5% of the female respondents in urban areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This is the third lowest among the 36 countries for which the data are available.

In a factor analysis of the determinants of crime, the country had a negligible loading in respect of strain-related violence (-.11), a very high negative loading in respect of serious property crime in urban settings (-1.14), and a negative loading in respect of opportunistic petty crime (-.53) (see table 10 in part I, p. 49). This can be interpreted to mean that, in an international comparison, there is relatively little propensity for serious property crime, and also the potential for other forms of crime is below average.

### 3.3 Operation of the criminal justice system

The country’s score on the Law Enforcement Resources Index (which essentially measures spending on law enforcement; see part I, pp. 72-74) is relatively low (19). This is in line with the low numbers of prosecutors (6 per 100,000 population) and correctional staff (23 per 100,000 population). On the other hand, the number of professional judges (19 per 100,000 population) is quite high, and the number of police officers (318 per 100,000 population) falls in the medium range.

The country is below average on the Criminal Justice Practitioner Gender Balance Index (24). Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than do the EU countries, reflecting their higher shares of female prosecutors and judges. The former Yugoslav Republic of Macedonia, however, scores below the mean for the Central and Eastern European countries (30). Only 5% of the police officers, 31% of the prosecutors and 41% of the judges are women.

On the index of Citizen Evaluation of Police Performance, the country scores slightly above the mean (third quartile, 28), indicating a middle-range public satisfaction with police performance. According to the ICVS, only 40% of victims in urban areas reported the offence to the police, a relatively low proportion. 57% of victims who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a relatively high

proportion when compared with the results from other countries participating in the ICVS. Both rates suggest that more work needs to be done in increasing public confidence in the police. The proportion of all respondents who were dissatisfied with the way in which the police controlled crime in their neighbourhood (53%) is in the middle range internationally.

The prisoner rate is very low (63 per 100,000 population), placing the country in the first quartile. For purposes of comparison, the mean for all Europe and North America was 112.3, and the mean for the Central and Eastern European countries was 262.7.

In sum, the available statistical and research data suggest that the country has a relatively stable situation, with a level of crime that is significantly lower than what could be expected solely on the basis of economic and other indicators. One notable point is the lack of non-custodial sanctions (except for warnings issued by the court). The results of the ICVS suggest that there would be significant support for adopting community service. If this were done, it could assist the country in maintaining an unusually low prisoner rate, without endangering the community or public confidence in the operation of the criminal justice system.

# Malta<sup>1</sup>

## 1 Background

As a former British Crown Colony Malta retains many features of the British criminal justice system.

The age of criminal responsibility is 9 years and the upper age limit for treating offenders as juveniles is 18 years, the lower limit being 14 years. The police cannot terminate a criminal case by their own decision. Private prosecutions are possible but are used in less than 5 % of all cases.

## 2 Statistics

### 2.1 Victimisation

The breakdown below presents the victimisation rates in Malta and its major cities.

**Table 1. Victimisation rates (in %) according to the ICVS, nation-wide and major cities: results from the 1997 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	1.6	0.8	2.6	1.1
Major cities	1.1	0.4	2.6	1.7

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<sup>1</sup> Dr. Nancy Grosselfinger, Institute of Forensic Studies, Centre for Criminology, has undertaken to provide updated data at the HEUNI's website, <http://www.vn.fi/om/heuni/>.

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	8,458	2389.3	9,658	2660.6	7,696	2114.3
Homicide	10	2.8	18	5.0	11	3.0
Assault	56	15.8	60	16.5	83	22.8
Rape	4	1.1	17	4.7	10	2.7
Robbery	57	16.1	62	17.1	33	9.1
Theft	5,278	1491.0	5,614	1546.6	4,095	1125.0
Theft of cars <sup>1</sup>					962	264.3

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

The number of intentional homicides was 10 in 1990 and 9 in 1994. Of these 4 were completed homicides and 6 were attempts in 1990 and 3 completed and 6 attempts in 1994. The assault trend is increasing while the number of thefts seems to be decreasing.

**Table 3. Number of cases brought to court**

	1990	1991	1992	1993	1994
Total	936	1,496	1,808	2,187	1,421
Intentional homicide (incl. attempts)	19	11	27	16	12
Causing death by negligence (non-intentional homicide)	8	8	6	8	11
Aggravated assault	48	69	43	55	51
Robbery	10	14	8	4	2
Aggravated theft (not including burglary)	111	143	293	177	130
Burglary	89	166	146	145	106
Drug-related crimes	150	183	160	168	443

## 2.3 Sanctions

No data are available on persons convicted. Malta reports that 115 persons were held in incarceration in 1990 (November 28). Of these 38 had been sentenced and 77 awaited trial or adjudication. In 1994 the corresponding figures were 204 persons in incarceration, of whom 135 were sentenced prisoners and 67 awaited trial. In 1990 there were 422 persons admitted to prison compared to 632 in 1994, of whom 29 were juveniles in 1990 and 8 in 1994.

The prisoner rate (per 100,000 population) was 55 in 1995 (Walmsley 1997).

The number of persons placed on probation increased significantly from 7 in 1990 to 50 in 1994. There is one prison (adult correctional institution), with 160 places in 1990 and 213 in 1994.

## 2.4 Personnel and resources

**Table 4. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	510.7	507.1
	% female	9.8	12.6
Prosecutors	total / 100,000	-	-
	% female	-	-
Judges	total / 100,000	7.6	8.0
	% female	0.0	3.4
Prison staff <sup>1</sup>	total / 100,000	13.6	33.0
	% female	12.5	11.7

<sup>1</sup> Data only for adult prisons

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

The number of recorded crimes in Malta is exceptionally low for a Western European country (around 2000 per 100,000 inhabitants). In 1994 9 intentional homicides were recorded. Between 1990 and 1994 there was no indication of an increase.

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).



The ICVS was conducted in Malta in 1997. The results by and large confirm that Malta is a low crime country. Most of the comprehensive crime indices show relatively low scores. The score on the index for burglary is the lowest of all West European countries, together with Switzerland. Malta also scores below the West European mean on the indices for petty crimes, serious violence and violence against women (the latter being one of the very lowest scores in the region). Malta shows a relatively high score on the index of motor vehicle crimes. The country ranks among the top ten of the region on this index. The explanation could well be that the household car ownership of 91% is the highest in the region, after the USA.

Finally, the score on the index of corruption is above the West European average.

The low over-all crime rate can largely be explained by the relatively low level of urbanisation. In general the pool of potential offenders – young males who are dissatisfied with their economic situation – seems more limited than elsewhere in Europe. The crime problem is probably dominated by high levels of opportunistic motor vehicle crimes.

### 3.2 Criminal justice

The number of police officers per capita in Malta is among the highest in the region. The number of police officers per 100,000 is among the highest (507 per 100,000). On the criminal justice gender balance index Malta scores very low. This score is in line with relatively low rates of females with higher education, according to the UNESCO measure.

The number of prisoners per 100,000 inhabitants is on the increase. It is still one of the lowest in the region, though somewhat unexpectedly, the index for police performance satisfaction shows fairly low scores. In spite of the low crime rate and high number of prisoners, only 35% of the citizens are satisfied with the way the police is controlling crime in their neighbourhood.

# Moldova

## 1 Background

The Criminal Code of the Moldovian Soviet Socialist Republic was adopted on 24 March 1961, and came into force on 1 July of the same year. The numerous modifications and amendments correspond to subsequent changes in the Soviet criminal legislation.

On 23 June 1990, the Supreme Soviet of the Moldovian SSR adopted the Declaration of Sovereignty, and on 23 May 1991 the Moldovian SSR was renamed the Republic of Moldova. On 27 August 1991, after the August putsch in Moscow, the Parliament of the Republic of Moldova passed the Declaration of Independence of the Republic of Moldova. Consequently, the symbol of the state was changed, a temporary national currency was introduced, and the activities of the Communist party were prohibited. Furthermore, Romanian was declared the official language and the Latin alphabet was reintroduced.

Along with these important changes, the legislation forming the foundations for crime control underwent modifications. For example, in 1991 a law was passed regulating the police's new organisational structure and activities. In January 1992, the law on prosecution was adopted, which ensured the superiority of law, its strict and uniform enforcement, as well as sovereignty and independence of the country. The major activities of the Prosecutor's Office were determined as follows:

- 1) to exercise supervision over the protection of citizens' rights and freedoms; strict and uniform respect for the laws by everyone; respect for the laws by the pre-trial investigation and inquiry bodies; enforcement of laws in detention institutions; legality of court judgements;
- 2) investigations of crimes where provided by legislation.

The Criminal Code remained essentially the same, while incorporating numerous modifications and amendments. Among these amendments were the following: specification of the limits of criminal liability for juveniles, removal of exile and deportation as official sanctions; elimination of socialist norms; unification of the criminal liability for encroachments upon various forms of property; decriminalisation of speculation and fraud of customers; introduction of criminal liability for the manufacture and sale of forged banknotes issued by the National Bank of Moldova; and liability for intentionally refusing to submit statistical data.

Some important amendments and modifications were also incorporated into the 1961 Criminal Procedure Code of the Moldovian SSR. These legislative changes included instructions for the following: grounds for

telephone tapping including its procedure and certification; regulation of the activities of military tribunals; relationship between courts, pre-trial investigation and inquiry bodies, and extradition of offenders from the Republic of Moldova.

The organisation and basic principles of the activities of police, investigation, prosecution and judicial bodies, their administrative structure and management procedures, as well as court proceedings themselves, have undergone no fundamental changes since the USSR disintegration.

## 2 Statistics

### 2.1 Victimization

The international Crime Victim Survey has not been conducted in Moldova.

### 2.2 Reporting and recording

**Table 1. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	43,017	985.7	39,190	901.3	37,317	857.9
Homicide	307	7.0	537	12.4	414	9.5
Assault	963	22.1	1,005	23.1	1,291	29.7
Rape	354	8.1	287	6.6	267	6.1
Robbery	2,067	47.4	2,178	50.1	2,288	52.6
Theft	18,394	421.5	16,533	380.2	14,531	334.0
Theft of cars <sup>1</sup>					996	22.9

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

The total number of recorded crimes decreased by 13.2% in Moldova between 1990 and 1994. In 1990 there were 43,017 crimes known to the police; in 1994, there were 37,317 crimes known to the police. Homicides increased from 290 in 1990 to 382 in 1994, an increase of 31.7%. Assault decreased in 1991, 1992, and 1993, but increased again slightly (+4.5% compared to 1990) in 1994. Robberies grew by about 10% between 1990 and 1994 (from 2,067 to 2,288). Burglary as such does not exist as a legal category in Moldova; instead, the category is thefts from warehouse, depots, shops, flats, hotels, vacation houses and boarding houses. In 1994, there were 1,265 more such offences than in 1990. Thefts – one of the largest crime categories – decreased from 18,394 (1990) to 14,531 (1994) (-21.0%).

**Table 2. Number of persons convicted**

	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts)	156	191	212	260	240
Non-intentional homicide	21	22	41	43	35
(Total) Assault	21	33	46	33	18
Robbery	529	642	394	652	855
(Total) Theft	3,853	5,194	6,362	7,373	8,538
Rape	216	246	180	234	246
Drug-Related Crime	44	81	93	144	224
All	10,429	11,983	11,863	13,274	15,233

The number of people convicted increased by about one-third between 1990 and 1994 (+35.9%). Convictions for assault decreased: from 21 (1990), 33 (1991), 46 (1992), 33 (1993), to a low of 18 (1994). The assault figures are very low and should be interpreted with great caution. The number of people convicted of homicide increased by a little over half (+53.8% between 1990 and 1994), the number of convictions for robbery increased by +61.6% (from 529 to 855). Convictions for the large category of theft more than doubled: from 3,853 in 1990 to 8,538 in 1994 (+121.6%). Convictions for drug-related crimes increased fivefold: from a low of 44 (1990) to 224 (1994) (+409.1).

### 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	166.5	258.6
Prisoner rate		205.1	215.1
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	197.5	209.6
	Juveniles	7.4	5.5
% of females of convicted prisoners	Adults	3.1	2.1
	Juveniles	-	3.8
% of juveniles		3.6	2.6

**Table 4. Trends in sentencing**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	8,834	100	10,337	100	13,524	100
Imprisonment	7,266	82.3	6,325	61.2	11,249	83.2
Fine	1,568	17.7	4,012	38.8	2,275	16.8

Imprisonment is the most common sanction in Moldova: in 1994, 83.2% of the sanctions included imprisonment. The number of sanctions of imprisonment grew by more than half between 1990 and 1994 (+54.8%). However, in 1992, the number of prison sentences actually decreased (from 7,266 to 6,325); it made up less than one-third of all sanctions in that year. In 1992, fines were used in almost forty percent of all sanctions. Overall, between 1990 and 1994, the number of sentences increased (+53.1%), as did the number of sanctions of imprisonment (+54.8%) and the number of fines (+45.1%).

**Prison population**

About one out of every five persons held in incarceration in Moldova was still awaiting trial or adjudication during the period under review. No statistics are available on the average length of time spent in detention awaiting trial. The number of people held in incarceration in Moldova has not increased very much between 1990 and 1994, from 8,943 to 9,357 (+4.6%).

2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	184.9	241.2
	% female	3.2	3.6
Prosecutors	total / 100,000	8.9	10.7
	% female	13.1	14.1
Judges	total / 100,000	6.5	5.6
	% female	20.8	27.3
Prison staff	total / 100,000	-	58.0
	% female	-	28.4

## 3 Crime and criminal justice profile<sup>1</sup>

### 3.1 The crime situation

As noted in section 2.2, the total number of recorded crimes in Moldova decreased by 13.2% during the period under review. Nonetheless, there was a 32% increase in homicides and a 10% increase in robberies. Thefts decreased by 21%.

No ICVS data are available for Moldova, which seriously limits the number of observations that may be made about this country.

Moldova has a relatively high level of homicide, with ten homicides per 100,000 (1994). The score of the country on the homicide index was 63 (mean value is 51). The comprehensive index for fatal and non-fatal violence for Moldova is 63 (compared to the overall mean of 51), which is in the high range.

The burglary rate (1994) for Moldova was 198 (per 100,000), which is relatively low compared to other European and North American countries. Since no ICVS data are available, it is not possible to make any statements about the proportion of burglary victims who actually reported their victimisation to the police. Moldova ranks relatively low with regard to offences directed against motor vehicles: it has a value of 27 on the Motor Vehicle Crime Index (the mean for the 47 countries is 50.0). According to the HEUNI Study, there were a total of 29,408 cars registered in Moldova in 1995; during the year, 1996 cars were stolen, and 957 could not be traced. Due to the absence of ICVS data, Moldova cannot be ranked on the Petty Crime Index.

Data on corruption also are not available.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Regrettably, due to the absence of ICVS data, no data on income dissatisfaction are available from Moldova. Based on the UN Statistical Yearbook 1994, Moldova has an extremely low unemployment rate (1992; combining four individual measures) of less than one per cent (0.7%). Only Belarus reports a lower level of unemployment.<sup>2</sup>

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<sup>1</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

<sup>2</sup> Note, however, that if unemployment benefits are low, there is no particular motivation for persons to register as unemployed.

According to the UN Compendium on Human Settlements, 48% of the population live in urban areas, which is a relatively low level of urbanisation relative to other countries in Europe and North America. The 1997 Human Development Report assigns Moldova a low development score of 0,61, which is the second lowest (Tajikistan has a lower score) in the region. The World Bank reports a GNP of USD 870 per capita (1994), which is the bottom quartile among the 44 European and North American countries for which the data are available.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Again, regrettably, the data necessary for calculation of this index for Moldova are lacking.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. According to the UN Study on the Regulation of Firearms, in Moldova there were 26,626 firearm owners, resulting in a rate of 0.6 firearm owners per 1000 in population. There was a total of 29,313 firearms in Moldova, resulting in a rate of 6.6 firearms per 1000 in population. Less than one per cent (0.8%) of the households in Moldova were reported to have at least one firearm. Overall, internationally speaking Moldova appears to have a very low level of firearm ownership. Data on alcohol consumption are not available for Moldova.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Moldova has one of the lowest rankings internationally. The divorce rate is 3.4 per 1,000 in population per year, which is the seventh highest in Europe (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in 1994 was 0.61, placing Moldova in the lower ranking (2) among the 47 European and North American countries for which these data are available. (Only Tajikistan scores lower than Moldova; 0.575.) Five per cent of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that none of the persons at the top levels of government in the country are female. The female economic activity rate (expressed as a proportion of male economic activity), on the other hand, is relatively high (86%), placing Moldova in the top quartile (together with Armenia, Bulgaria, Czech Republic, Finland, Slovakia, and Sweden). Moldova has a medium rate of reported rapes (6 per 100,000 population, with an

average rate of 10 per 100,000). Moldova has a value of 59 on the Violence against Women Index (the mean for 44 countries for which data are available is 50), placing it in the medium range for this index. Because of the absence of victimisation data (including data on the willingness to report victimisation to the police), this indicator of the level of violence against women in Moldova must be treated with caution.

Due to lack of data, a factor analysis in respect of strain-related violence, serious property crime in urban settings and opportunistic petty crime could not be calculated (see Table 10 in part I, p. 49).

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 25. The number of police officers (241 in 1994) and professional judges (6 in 1994) per capita places Moldova in the bottom quartile among the countries in the study. On the other hand, Moldova is situated in the top quartile in respect of the number of prosecutors per capita (11). Moldova has a somewhat below average proportion of correctional staff (58 per 100,000; the mean for the region is 64). Since at the same time Moldova has a relatively high prisoner rate, Moldova has one of the highest inmate/staff member ratios in the region.

Moldova has a value of 21 on the Criminal Justice Personnel Gender Balance Index, well below the mean of 30 for the Central and Eastern European countries.

No data are available to assess citizen evaluation of police performance in Moldova.

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police "productivity" (see part I, pp. 102–105). This proportion in Moldova – 170 – is somewhat below the mean of 201 for the Central and Eastern European countries.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of "attrition" in the criminal justice system can be developed (see part I, pp. 95–100). In general (and with the exception of the number of suspects per offence, in respect of which Moldova is slightly below the mean), Moldova has proportions that are somewhat above the mean for the Central and Eastern European countries. It is notable that almost all convictions (83%) lead to a sentence of imprisonment. (As has been noted several times elsewhere in this report, international comparisons of crime and criminal justice statistics are fraught with possible sources of data. The comparison just made would be



more meaningful if more data were available on the type of cases which are included in the court statistics on convictions. The fact that only some 15,000 cases are prosecuted each year suggests that these tend to be the more serious ones.)

In 1994, the courts in Moldova imposed 258 sentences of deprivation per 100,000 in population. This is more than twice the mean for the Central and Eastern European countries (120). The prisoner rate in Moldova is high, and has been increasing, from 205 in 1990 to 275 in 1996 (Walmsley 1997). Over three-quarters (78%) of the prisoners have been sentenced; the median for Europe and North America is 72%.

## 4 Further reading

J. Pradel (1983). La phase préparatoire du procès pénal en droit comparé in *Revue de science criminelle et de droit pénal comparé* n°4, 1983.

# The Netherlands<sup>1</sup>

## 1 Background

During the “Ancien Régime”, Dutch criminal law followed the general line of the continental “common law” (*ius commune*), although the Netherlands played a significant role in the development of modern prisons as a means of rehabilitation. In 1809, during the French occupation (1795–1813), the Kingdom of Holland adopted a Criminal Code, which was heavily influenced by the Napoleonic Penal Code of France. This code formed the core of substantive criminal law until 1886 when the Penal Code of 1881 entered into force. This latter code had been influenced by contemporary developments in several countries at that time.

Largely still in effect, the Penal Code of 1881 has been amended in many respects over the last century and particularly during the last decade. In general, the more recent reforms tended to reduce the scope of imprisonment in favour of fines (1983) and community service orders (1989). Corporate criminal liability was adopted in 1976.

In addition to the Criminal Code, criminal offences are defined for example by the Narcotic Drugs Act (1994), the Road Traffic Act (1994), the Economic Offences Act (1950) and the Arms and Munitions Act (1989).

The minimum age of criminal responsibility is 12. Full adult criminal responsibility begins at the age of 18. Many offences committed by juveniles are dealt with in semi-informal ways by the police and the child welfare authorities. Persons between the ages of 16 and 18 may be subjected to full adult responsibility if the court, in view of the seriousness of the offence and the personality of the offender, finds cause to do so. Correspondingly, provisions of the Criminal Code that are to be applied to juveniles may also be applied to persons between the ages of 18 and 21 if the court, in view of the personality of the offender, finds cause to do so.

Criminal procedure in the Netherlands is determined on the basis of the Code of Criminal Procedure, which originally entered into force in 1838 as an adaptation of the Napoleonic Code d’instruction criminelle. A completely new Code of Criminal Procedure was adopted in 1926. Among the more important subsequent amendments of this Code are the Act on Pre-Trial Detention (1974), and an Act adopted in 1983 which allows the prosecutor

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<sup>1</sup> This profile has benefited from comments made by Mr Jaap de Waard, Strategic Planning, Ministry of Justice and Professor Peter Tak, Faculty of Law, University of Nijmegen, the Netherlands. Data for the profile were also provided by Mr Max Kommer, Strategic Planning, Ministry of Justice, the Netherlands.

to refrain from prosecuting offences punishable by at most imprisonment for six years, if the suspect voluntarily pays a certain amount of money to the Treasury (so-called transactions).

The organisation of the main elements of the criminal justice system is based primarily on the Police Act (1993), the Bar Act (1952), the Judicial Organisation Act (1838), the Penitentiary Principles of Prison Administration Act (1998) and the Probation Rules (1995). Separate military courts were abolished in 1991.

Since 1994 the regular police have been divided into 25 regional police forces and the national police force. The regional police forces are under the control of the mayor of the largest town in the region. The national police force is the responsibility of the Ministry of Justice.

One of the major characteristics of the Dutch criminal justice system is the wide scope of discretion left to prosecutors. (In the Netherlands, the right of prosecution rests exclusively with the public prosecutor.) The Public Prosecution Service is organised on a national, hierarchical basis. Prosecutorial policy is determined by guidelines set by the national board of "Procureurs generaal". The "Procureurs generaal" play a key role in policy-making within the Dutch criminal justice system. The Minister of Justice is politically accountable for the policy of the Prosecution Service.

The prosecutor is not bound by the principle of mandatory prosecution (also known as the legality principle), but by the opportunity principle (sec. 167 of the Code of Criminal Procedure). Consequently, the prosecutor may dismiss cases on technical grounds (for example, if not enough evidence is available), or on policy grounds, for example if disciplinary, administrative or civil measures would be preferable or more effective, if prosecution would be disproportionate, unjust or ineffective with respect to the nature of the offence or to the offender, or prosecution would be contrary to the interest of the victim or of the State. As noted, the prosecutor can also order so-called transactions.

If the prosecutor finds that the proper investigation of an alleged offence requires compelling a witness to give a deposition, the tapping of telephones, the interception of mail or the psychiatric examination of the suspect, the prosecutor must request that an examining judge opens a pre-trial examination procedure. The examining judge also determines whether a suspect should be held in pre-trial detention for up to ten days.

The lowest court level consists of 62 subdistrict courts. Above them are 19 district courts. The subdistrict courts and the district courts are both courts of first instance. Plans have been presented for the merging of these two levels.

Above the courts of first instance are the five Courts of Appeal. The final level of appeal is the Supreme Court.

The Netherlands has been one of the forerunners in the world in developing victim policy. Within the framework of the criminal justice system, the victim can be constituted as a *partie civile*, in that he or she has the right to present

civil claims (with some restrictions) in connection with criminal proceedings, for the payment of compensation. Claims for compensation in the case of violent criminal acts can also be presented to the Criminal Injuries Compensation Fund, established in 1976. Outside of the framework of the criminal justice system proper, the National Victim Support Organisation provides help and guidance to individual victims of crime.

Over the last decades, the Netherlands has followed a policy of selective and moderate use of criminal law in general and of imprisonment in particular. This led to a substantive reduction in the Dutch incarceration rate over many decades. In 1920, the Dutch incarceration rate was, with 110 prisoners per 100,000 population, relatively high compared to other European countries, and in 1950, it was about average, with 70 inmates per 100,000. The rate then dropped considerably below the European average, with 45 in 1960 and a low of 21 in 1972. However, in recent years the rate increased again, to 34 in 1986 and to 65 in 1995. This increase may partially be due to an increase in the amount of serious crimes. It may also be due at least in part to changes in recording practices, with a shift of the base date for determining the rate having been moved from 31 December to 30 September. Another reason has been that sentences have increased in length over recent years. Nonetheless, the Dutch incarceration rate is still slightly below the European average, and the average length of sentences is considerably shorter than in other countries.

The population of the Netherlands in 1990 was 14,952,000, and in 1994 15,383,000. The GNP in 1990 was USD 17,330 per capita, and in 1994 USD 21,970 per capita. The average exchange rate in 1990 was 1 USD = 1.82 Hfl.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the Netherlands and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989, 1992 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	2.3	2.3	3.8	0.4
Major cities	4.0	3.5	6.7	0.6

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	1,150,185	7692.5	1,268,513	8354.3	1,305,288	8486.9
Homicide	2,219	14.8	2,854	18.8	2,940	19.1
Assault	22,466	150.3	23,891	157.3	27,826	180.9
Rape	1,331	8.9	1,348	8.9	1,541	10.0
Robbery	11,988	80.2	15,542	102.4	15,928	103.6
Theft	429,805	2874.6	448,512	2953.8	452,475	2942.0
Theft of cars <sup>1</sup>					28,280	183.9

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

## 2.3 Sanctions

The Dutch criminal justice system recognises as sanctions the fine, community service, detention (ranging from one day to one year; used for infractions) and imprisonment (sec. 9 of the Criminal Code). Sentences of imprisonment for up to one year, all detention sentences and all fines can be suspended totally or in part. Up to one-third of the length of sentences of imprisonment for between one and three years can also be suspended.

The main sanction for juveniles is juvenile detention for up to twenty-four months (sec. 77g of the Criminal Code). Fines and community sentences such as CSO and training orders may also be imposed on juveniles (1995 Juvenile Criminal Law Act).

Capital punishment was abolished in 1870.

The special provision on each offence stipulates the maximum sentence. Dutch criminal law is perhaps unique in not recognising the concept of minimum sentences for offences. Since the adoption of the Financial Penalties Act (1983), all offences without exception can be punished by a fine. Life imprisonment is possible, but rarely imposed.

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	281.6	286.5
Prisoner rate <sup>1</sup>		45.0	65.0
% women in the prison population <sup>2</sup>		4.3	3.7
Prisoner rate / 100,000 (convicted only)	Adults	-	-
	Juveniles	-	-
% of females of convicted prisoners	Adults	-	-
	Juveniles	-	-
% of juveniles		-	-

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

**Table 4. Trends in sentencing**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	96,010		93,238		93,984	
Imprisonment	42,108	43.9	39,963	42.9	44,064	46.9
Fine	49,597	51.7	45,905	49.2	46,341	49.3
Community service order	4,235	4.4	7,265	7.8	3,541	3.8
Warning	70	0.1	25	0.0	38	0.0

The number of persons placed on probation during a year almost doubled from 1990 to 1994, from 6,626 to 12,171.

## Prisons

The number of persons in incarceration (as of 31 December) increased from 6,892 in 1990 to 7,495 in 1992 and to 8,737 in 1994.

The Netherlands has at present 40 penal establishments, seven of which have units for female prisoners. These prisons are classified as closed (high-security), semi-open, and open prisons. The largest prison has a capacity of 290 beds. Persons who present a special security risk can be detained in so-called extra-high-security sections in prisons, for up to six months at a time.

As noted above, the Netherlands has traditionally had one of the lowest prisoner rates in Europe. However, during recent years it has begun to drift upwards into the medium range. In 1985, the rate was 35 prisoners per 100,000, and only Cyprus and Greece reported lower rates. By 1990, the rate had increased to 45 per 100,000, and by 1995 it was 65 per 100,000 in

population, on the same level as Denmark and Sweden. In 1995, ten countries in Europe had lower rates.

According to Council of Europe data, of the prison population on 1 September 1994, 12% were under 21 years of age. 5% of the prison population were females. In general, the Benelux countries have among the highest proportions of alien prisoners in Europe: the rate in the Netherlands is 31%, in Belgium 41%, and in Luxembourg 47%.

The average length of prison sentences actually served in prison (for all offences) was 25 weeks in 1990, 29 weeks in 1992 and 28 weeks in 1994. This increase matches the increase for the average length of prison sentences actually served for drug-related offences: the corresponding figures are 35, 37 and 43 weeks.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In the Netherlands, 10% of the respondents would have favoured a fine, 8.3% a suspended sentence, 47% community service and 29% imprisonment. Among those favouring imprisonment, the average suggested sentence was 14 months. In an international perspective, this reflects an above average preference for non-custodial sanctions, and thus is in line with court practice in the Netherlands.

## 2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	254.1	255.0
	% female	8.8	-
Prosecutors	total / 100,000	2.7	2.7
	% female	24.9	31.2
Judges <sup>1</sup>	total / 100,000	8.1	12.1
	% female	31.6	33.9
Prison staff	total / 100,000	54.6	61.4
	% female	24.7	25.6

<sup>1</sup> Data for 1990 were provided by Jaap de Waard, data for 1994 provided by Max Kommer

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the rates of reported crime have tended to increase slightly during the period under review. According to the indices of violence, the Netherlands has a relatively low rate of homicide, a somewhat lower than average rate of serious violence, and a somewhat higher than average rate of violence in general. The general low level of violence is reflected in the fact that only 21.1% of the ICVS respondents stated that they tend to avoid certain places in their neighbourhood at night, one of the lowest rates in any of the responding countries in Europe and North America.

In the light of the data on property crime, it would appear that the Netherlands has a rate of contact crimes that matches the EU mean, an above average rate of burglary, and a below average rate of theft of cars.

According to data collected by the Dutch Ministry of Justice, there are some 25,000 hard drug addicts in the country; proportionately, this is less than in most other EU countries.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Satisfaction with income,<sup>3</sup> on a scale of 1 (“not satisfied”) to 4 (“very satisfied”) was a very high 3.43. Unemployment in 1995 was a relatively low 6.5% of the active labour force, one percentage point less than five years previously (The Economist Pocket Europe in Figures, 1997). It is thus not surprising that the Netherlands’s score on the “motivation index”, 2.0, is very low.

In the international perspective, the Netherlands is a highly developed and urbanised country. According to the UN Compendium on Human Settlements, 89% of the population in the Netherlands live in urban areas. Despite this high rate of urbanisation, slightly over one half (50.1%) of the population lives in detached houses, one of the highest rates in Europe. The 1997 Human Development Report assigns the Netherlands with a HDI development index of 0.94, which is the sixth highest in the world. The Netherlands is also one of the wealthiest countries in the world, with a GNP of USD 21,970 per capita (1994). Four out of five households in the Netherlands (80.3%) report that

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

<sup>3</sup> This indicator is of particular relevance in studying the potential for strain among young adults.



they have a motor vehicle, and a high rate, 86.8% report owning a bicycle. The results of the ICVS noted that the population in the Netherlands is relatively active in spending their leisure time outside of the home, with respondents reporting spending an average of 3.31 evenings per week away. This would place the Netherlands close to the top quartile among the European and North American countries.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, the Netherlands, at 71.76, had an above average score (the mean for the European Union was 64.66), which thus suggests a somewhat greater opportunity for property crime. The difference between a relatively high opportunity for property offences and a relatively modest property offence rate may be the relatively high extent to which the population of the Netherlands uses protective measures. According to the ICVS, 63.8% of the population reports the use of special door locks, 12.6% the use of special window grills, and 8.8% the use of burglar alarms in their household.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. As for gun ownership, the Netherlands is reported to have one of the lowest rates in Europe and North America, with only 2.1% of the population reporting possession of a gun, and only 1.0% reporting possession of a handgun. Alcohol consumption, according to the World Drink Report, is somewhat above average, with a per capita consumption of 1.77 litres of strong alcohol, 86 litres of beer and 16 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. In respect of female educational attainment, the Netherlands has a very high rating. According to the ICVS data, 3.7% of the respondents were divorced. According to the 1997 Human Development Report, the so-called gender-related development index in the Netherlands in 1994 was 0.901, placing it eleventh highest in the world. 28% of Parliamentary seats are held by women, and the female economic activity rate, as a percentage of the corresponding male economic activity rate, is 65 (op.cit.). The UNICEF “The Progress of Nations” report states that 24% of persons at the top levels of government are female. In this light, it is of interest to note that the Netherlands have a somewhat higher than average rate of rape and of violence against women.

According to the World Values Study attitude survey, respondents in the Netherlands showed the greatest tolerance among European and North American respondents for deviance: one-half of the respondents indicated

their readiness to justify deviant lifestyles under certain conditions. Also in respect of minorities, respondents in the Netherlands showed relatively high tolerance. This tolerance was less evident in respect of misdemeanours and petty crimes; respondents in the Netherlands were, internationally speaking, in the middle range in respect of their readiness to justify the commission of misdemeanours under certain conditions (17 and 15, respectively). Indeed, the results of the ICVS showed that respondents in the Netherlands were, on the whole, more apt than respondents in most other countries to report offences to the police.

Perhaps even more striking is the comments of respondents in the Netherlands regarding what in their opinion would be appropriate sentencing. As noted in the foregoing, respondents in the Netherlands were considerably more lenient than respondents elsewhere in respect of the case of a 21-year old recidivist burglar.

Tolerance, however, is not the same as acceptance, or as confidence in the criminal justice system. According to the World Competitiveness Yearbook 1997, respondents in the Netherlands rated their country as only average in respect of the extent to which they believed that the person and property is protected in their country: the result was only 6.43 on a scale of zero to ten. The ranking of the Netherlands on the indicator of the extent to which there was full confidence in the fair administration of justice in society was higher: 7.48.<sup>4</sup>

Overall, the data regarding the Netherlands speak almost without exception of a country that is tolerant of deviance. Recent developments may shake this image, but presumably will not change it radically: the amount of reported serious crime (aggravated thefts, robberies, assault, attempted homicide) has been increasing during the 1990s, the average time spent in prison has been increasing, and the per capita prison population has been expanding. Dutch prisons also have one of the highest proportions of foreign prisoners, which - although this is presumably largely due to the large foreign population - may be an indicator of a decrease in tolerance towards "outsiders" who commit offences, in particular drug offences.

The Netherlands can serve as an example in discussions regarding the possible link between the level of punitiveness and the amount of crime. The Netherlands has had a long-standing policy of tolerance and lenience which, according to those who argue for the general and special deterrent impact of punitive sentences (in particular those who argue that potential offenders carefully weigh the costs and benefits of crimes), should have led to an increase in crime. This was not the case: on the contrary, the post-war increase in crime rates in the Netherlands stabilised by the mid-1980s. Although the

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<sup>4</sup> In this Survey, 25 European and North American countries were covered, including all 15 EU countries. The highest on the "protection" indicator was Austria, with 9.06, and the highest regarding the "fair administration" indicator was Denmark, with 8.29.

amount of violence did continue to rise, and an increase did in fact take place among other more serious crime categories during the mid-1990s, this was paralleled in other European and North American countries with a significantly more punitive criminal policy. The Netherlands shows that crime can be controlled with a lenient policy, and that such a policy can have the support of the population.

In a factor analysis of the determinants of crime, the Netherlands had a very low score in respect of strain-related violence, a somewhat above average score in respect of serious property crime in urban settings, and a very high score – indeed, the highest score – in respect of opportunistic petty crime (see Table 10 in part I, p. 49).

Overall in respect of its crime rates, the Netherlands falls in the low range in Europe and North America.

### 3.3 Operation of the criminal justice system

The Netherlands has a below average score (21) on the Law Enforcement Resources Index, which broadly speaking reflects expenditure on the criminal justice system. The country's spending on law enforcement is the eleventh lowest of all countries covered, lower than the mean for the EU countries (26). This is in line with the low numbers of prosecutors (3 per 100,000 population) and public police (255 per 100,000 population). In addition to the 255 public police per 100,000, the Netherlands has 132 private police per 100,000. The latter figure is exactly the same as the mean for EU countries.

The Netherlands falls in the second quartile on the Criminal Justice Practitioner Gender Balance Index (25) (see part I, pp. 72-75). The country's score is the same as the EU mean. Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than the EU countries, reflecting their high shares of female prosecutors and judges. It is somewhat surprising that the Netherlands does not have higher proportions of female practitioners; 9% of police officers, 31% of prosecutors and 31% of judges are women. (It should be emphasised that gender equality cannot be adequately measured in over-all terms only; basic statistical data do not reveal to what extent this gender balance is maintained on the different levels of the criminal justice system hierarchy.)

On the Citizen Evaluation of Police Performance index the Netherlands scores very high (fourth quartile, 42), indicating very high public appreciation of police performance. The mean score for the EU countries is 37. According to the ICVS, only 37% of victims in urban areas reported the offence to the police, a below average proportion. According to the ICVS, 24% of victims in the Netherlands who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, and 31% of all respondents were dissatisfied with the way in which the police controlled

crime in their neighbourhood (data averaged across the 1989, 1992 and 1996 surveys). Both rates of dissatisfaction can be considered relatively low, when compared with the results from other countries participating in the ICVS. Indeed, of the 36 European and North American countries for which comparable data are available, only seven had lower over-all rates of dissatisfaction.

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police “productivity” (see part I, pp. 122-125). This proportion in the Netherlands – 619 – is about the EU mean of 621, but for example well below the US figure of 1,519.

On the index of corruption, the Netherlands has the second lowest score, suggesting an almost entire absence of manifest corruption. The Transparency International index for the Netherlands is 8.7 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook 1997, which asked respondents the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero to ten – elicited the result of 8.0. The Survey also asked about confidence in the fair administration of justice in society. The result, 7.48, is somewhat above average among the 25 participating countries.

All of these results together suggest that considerable confidence of the public in the operation of the criminal justice system, as well as of other sectors of government.

One very rough indicator of the operation of the criminal justice system is the number of persons processed at each stage of the criminal justice system. For every 100 persons suspected of an offence in 1990 in the Netherlands, 31 were convicted, the third lowest proportion out of the 25 countries in Europe and North America for which data were available. Only Italy, with 22, and the United States, with 7, had lower proportions. The corresponding proportion in the Netherlands in 1994 had increased slightly, to 34; at the same time, the number of countries (out of the 27 for which data are available for 1994) with lower proportions had increased to seven. Given what is known about the operation of the criminal justice system, these low proportions would presumably be largely a reflection of the propensity to divert cases away from the criminal justice system.

The prisoner rate is very low (65 per 100,000 population), significantly lower than the mean for the EU countries (86) and more in line with the Nordic countries. As noted above, the prisoner rate has been increasing, although this increase has been from what was, internationally speaking, a very low base line.

Given the low prisoner rate, it is of interest to note that 286 sentences of imprisonment are imposed in the Netherlands per 100,000 in population; this is twice the EU mean of 142. Although it is tempting to say that this anomaly of more sentences but a lower prisoner rate can be explained by the sentences

in the Netherlands being considerably shorter than the norm in the EU, the available data are insufficient to support this. The average length of sentences in the Netherlands is 32 weeks, while the EU mean is only slightly more, 37 weeks. (Data on the average length of sentences is missing from some EU countries: Austria, Germany, Italy and Portugal.)

As noted in the foregoing, criminal policy in the Netherlands has several unique aspects. To begin with criminal law, one striking feature is the absence of statutory minimum penalties and the statutory possibility that any offence whatsoever can, if the court deems this justifiable, be punished with a fine. In respect of criminal policy, striking features include the large extent to which cases are diverted, and the mildness of the sanctions actually imposed. Institutionally, striking features include the very low number of criminal justice personnel per capita, and the small size of prisons. The Netherlands is also noted for its innovations in victim policy and crime prevention policies.

## 4 Further reading

- van Dijk, J.M. (1991). More than a matter of security: Trends in crime prevention in Europe. Pp. 27-42 in F. Heidensohn and M. Farrell (eds.) (1991). *Crime in Europe*, London/New York.
- van Dijk, J.M., Haffmans C., Rüter F., Schutte J., Stolwijk S. (1986). *Criminal Law in Action. An Overview of Current Issues in Western Societies*, Arnhem (NL): Gouda Quint.
- One Hundred Years of Penal Code in the Netherlands: A Statistical View of 1886–1986*. Netherlands Central Bureau of Statistics, CBS-Publications, The Hague, 1986.
- Tak, Peter (1993). *Criminal Justice Systems in Europe: The Netherlands*, HEUNI/Kluwer.

# Northern Ireland<sup>1</sup>

## 1 Background

The criminal justice system of Northern Ireland is broadly similar to that of England and Wales. For many years Ireland had a separate Parliament, which, along with the Parliament in England was able to make laws for Ireland. Following the Act of Union in 1800, the only law-making body for Ireland was the parliament of the United Kingdom. The Government of Ireland Act of 1920 enacted a constitution for Northern Ireland with local subordinate legislature on most matters domestic to Northern Ireland. The Northern Ireland parliament had jurisdiction over lower courts but the Supreme Court remained linked to the United Kingdom Parliament.

When the Northern Ireland Parliament was suspended in 1972, ‘direct rule’ was introduced by the United Kingdom Parliament, which thereafter made the legislation for Northern Ireland. Laws relating to the criminal justice system are now made by either Orders in Council or by an Act of the United Kingdom Parliament which is extended to Northern Ireland.

Overall responsibility for the criminal justice system in Northern Ireland lies with three government ministers: the Secretary of State for Northern Ireland, the Lord Chancellor and the Attorney General.

The Secretary of State has responsibility for the content of the criminal law in Northern Ireland and for the overall effectiveness of the criminal justice system. The Lord Chancellor has the responsibility for the administration of courts including the appointment of judges. The Attorney General is the Government’s Chief Law Officer who appoints the Director of Public Prosecutions. The Director’s Office in turn is responsible for prosecutions in all Crown Court cases and also for those in the magistrate’s courts which the Director considers are sufficiently serious as to merit his attention. The Director’s Office is responsible for a range of duties similar to those now carried out by the Crown Prosecution service in England and Wales. The majority of summary offences, that is offences which are tried in the magistrates’ courts, are still prosecuted by the police in Northern Ireland.

The Court System in Northern Ireland is broadly similar to that operating in England and Wales. However, Magistrates Courts take place before a single Resident Magistrate who is a full time legally qualified magistrate. In

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<sup>1</sup> The profile has benefited from comments made by Mr Michael Boyle, Statistics & Research, Criminal Justice Policy Division, Northern Ireland.

England and Wales the trying of summary offences is predominantly carried out by part time lay magistrates who have no formal legal qualifications.

Since 1973, a special procedure has been developed for dealing with serious offences relating to terrorism in Northern Ireland, based on recommendations of a Commission under Lord Diplock. The majority of these offences are also tried in the Crown Court on indictment but they are tried under procedures and rules of evidence which have been modified. The most important difference is that they are tried by a judge without a jury, the judge alone deciding all issues of fact as well as law, and passing sentence after conviction. The offences triable in this way are listed in Schedule 1 of the Northern Ireland (Emergency Provisions) Act and are referred to as 'scheduled' offences. The special non-jury Crown Courts are often referred to as 'Diplock' courts.

The existence of emergency legislation in Northern Ireland provides the security forces and the courts with additional powers to deal with terrorism. The need for the legislation is regularly reviewed by an independent legal expert. As the legislation is temporary it has to be reviewed by Parliament in London each year. The main provisions of the legislation are in relation to the Diplock courts. Moreover, certain terrorist organisations are proscribed and membership of these organisations is an offence. Furthermore, the police and security forces are given additional powers in relation to stopping and questioning members of the public, arresting suspects and in searching premises.

The political turmoil in the Province over the last three decades has had an important effect on the penal system. One aspect of this (the absence of jury trials in political cases) has already been noted. There are others. Parole is not available in Northern Ireland as it is elsewhere in the United Kingdom. Instead, prisoners may earn one-half remission on determinate sentences provided remission does not reduce the sentence by an amount less than 31 days. For those serving over a year, a court can order all or part of the outstanding balance of the remitted period to be served in the event of reconviction in the remitted period for an imprisonable offence. Additionally, the recognition of special category (i.e. political) status prisoners during the 1970s led to a diminishing number of prisoners convicted of terrorist offences living in self-governing compounds, specific to particular para-military groups, in ways reminiscent of prisoner-of-war compounds. These no longer exist, and the prison system of Northern Ireland is now more recognisable with that elsewhere in the United Kingdom. Issues surrounding the separation of prisoners into wings of co-religionists remains a live issue. The system of police accountability elsewhere in the UK does not hold in Northern Ireland, where the Royal Ulster Constabulary is more directly linked to the relevant Government Department.

The problems of Northern Ireland have also had effects upon penal arrangements in surrounding countries, notably the rather complex extradition arrangements existing with the Republic of Ireland. Further, miscar-



riages of justice in England which led to Northern Irish people charged with terrorist offences being wrongly imprisoned for long periods led to the establishment of a Royal Commission to explore remedies for such situations.

Despite its terrorist problems, Northern Ireland has been established by international victimisation surveys to be less troubled by crime than most other Western European countries.

A political breakthrough led to a multiparty peace agreement in 1998 (sometimes referred to as the Good Friday Agreement. As part of this agreement, the Government set up a review of the criminal justice system. This review will be published in the autumn of 1999. A second, international commission is looking into policing.

Following the Agreement there were elections in Northern Ireland to a new Assembly, which essentially is a local “parliament”. However, police and criminal justice matters remain within the ambit of the Secretary of State for Northern Ireland.

A release programme of prisoners followed the Agreement on the basis of the Sentences Act 1998. “Ordinary” offenders may receive remission of up to one half of their sentence, but those convicted of scheduled offences (essentially terrorist crimes) may receive remission of up to two thirds.

## 2 Statistics

### 2.1 Victimisation

The breakdown below presents the victimisation rates in Northern Ireland and its major cities.

**Table 1. Victimisation rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	1.5	1.3	1.6	1.6
Major cities	3.7	3.3	3.3	4.2



## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	57,198	3598.7	67,532	4172.8	67,886	4160.1
Homicide	307	19.3	422	26.1	341	20.9
Assault	2,526	158.9	3,079	190.2	3,633	222.6
Rape	125	7.9	154	9.5	208	12.7
Robbery	1,630	102.6	1,851	114.4	1,567	96.0
Theft	29,267	1841.4	34,256	2116.7	33,233	2036.6
Theft of cars					-	-

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	9,279	8,856	8,536	8,895	8,345
Intentional homicide (incl. attempts)	34	43	33	98	36
Causing death by negligence	10	5	11	26	18
Assault	1,636	1,499	1,465	1,479	1,386
Robbery	220	162	202	159	168
Theft (not including burglary)	3,399	3,429	3,158	3,254	3,044
Burglary	1,362	1,208	1,149	1,114	979
Drug offences	113	153	274	423	494

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	112.2	98.4
Prisoner rate <sup>1</sup>		105.0	105.0
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	86.9	87.0
	Juveniles	0.8	0.6
% of females of convicted prisoners	Adults	1.0	1.8
	Juveniles	7.7	11.1
% of juveniles		0.9	0.6

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

**Table 5. Trends in sentencing<sup>1</sup>**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	8,690	-	7,947	-	7,671	-
Life imprisonment	15	0.2	17	0.2	18	0.2
Other imprisonment	1,769	20.4	1,615	20.3	1,587	20.7
Control in freedom	614	7.1	654	8.2	675	8.8
Fine	2,700	31.1	2,257	28.4	2,168	28.3
Warning	2,944	33.9	2,914	36.7	2,705	35.3

<sup>1</sup> The data do not add up to the total because of missing categories

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	517.9	520.6
	% female	8.6	10.0
Prosecutors	total / 100,000	-	-
	% female	-	-
Judges	total / 100,000	2.8	2.7
	% female	0.0	0.0
Prison staff	total / 100,000	200.8	193.2
	% female	5.7	7.4

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 Crime situation

During the period under review, the recorded crime rate has increased considerably. The rate remained stable in 1995 and 1996. The rate of recorded crime per 100,000 inhabitants is low for a Western European country.

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

Northern Ireland participated in the ICVS surveys of 1989 and 1996. The national over-all victimisation rates were the lowest of all. The victimisation rates of the largest cities were also among the lowest of all comparable urban rates. These results confirm that Northern Ireland is a low crime country.

The crime indices at first glance seem to contradict the conclusion of Northern Ireland as a low crime country since the score on the homicide index is exceptionally high (the highest in fact after Russia and Estonia). However, the index for non-fatal violence is moderately low. The high rate of homicide indicates the toll paid by the country for its problems with political terrorism. The high homicide rate does not reflect an overall level of violent behaviour but seems wholly determined by politically inspired acts of terrorism. Interestingly the homicide rate has started to fall substantially (with more than fifty percent) since 1994 whereas over all violent crimes increased (Home Office, 1997).

The level of burglaries and simple thefts is fairly low. Car thefts, including joyriding, however, shows relatively high scores.

According to the scores on the composite index for corruption, state agencies in Northern Ireland are among the least corrupt in Europe and North America.

At the national level the public feels safer than in most European countries. In the larger cities feelings of unsafety are similar to the European average.

### 3.2 Determinants of crime

The percentage of the population who is dissatisfied with their income and/or unemployed is moderately high. The low level of crime, then, cannot be attributed to full employment or general prosperity.

On the index for criminal opportunities – based on the possession of vehicles and indicators of an individualistic lifestyle – Northern Ireland scores fairly high. Car ownership rates are high and many citizens go out often for recreational purposes. Like elsewhere in the United Kingdom, many more households live in detached houses than on the continent. Unlike households in England/Wales and Scotland, relatively few have installed burglar alarms.

Since Northern Ireland scores relatively high on both our measure for criminogenic “strain” and our measure of criminal opportunities, our theoretical model predicts a high level of crime. There is both sufficient “demand” for illegal gains and sufficient “supply” of suitable targets. A high level of “transactions” on the market for criminal activities is to be expected. Since the crime rate apparently is, in fact, quite low, other factors must be at play which put a brake on criminal activities. The most important factor behind the low crime rates seems the relatively small proportion of the population living in big cities. Relatively many citizens live in rural areas, where a rural, highly integrated lifestyle still prevails.

The results of the World Values Study show that tolerance for deviant lifestyles is very low. Together with Eire, Northern Ireland shows the least tolerance for homosexuality, abortion etc of all participating European countries. The traditional lifestyle is also reflected in relatively low divorce rates (these rates are considerably lower than elsewhere in the United Kingdom).

A more specific factor contributing to low crime rates might well be the political troubles. Political militia are known to exercise semi-formal control over their constituencies and to impose harsh punishment on those trespassing informal rules. They are known to also intervene in cases of juvenile delinquency, e.g. joyriding.

The three-factorial model, describing the crime situation in countries, does not provide a sharp profile for Northern Ireland. The country scores a zero on the factor of strain-related violence and negatively on opportunistic petty crime. Obviously, then, Northern Ireland as a low crime country is a special case which defies a straightforward description.

### 3.3 Operation of the criminal justice system

Northern Ireland scores very high on the index for Law Enforcement Resources. It shows the highest score of the Western European countries. It counts the highest numbers of police officers and prison staff per capita in Western Europe. Very few of those employed by the criminal justice system are female, though. The system is one of the least gender-balanced in Europe.

The number of prisoners per 100,000 is 105. This is one of the highest rates in Western Europe. For a low crime country a high prisoner rate is somewhat surprising. To a large extent the high prisoner rate is caused by the imposition of long-term prison sentences on political terrorists. However, the public also seems to maintain relatively punitive attitudes towards ordinary offenders. Fifty eight percent of the public considers imprisonment the most appropriate punishment for a recidivist burglar. This is by far the highest percentage in Western Europe.

### 3.4 Conclusions

Northern Ireland is one of the few countries in the world which can rightly be characterised as a low crime country. In recent years the level of recorded crime has remained stable or is even declining. This fortunate state of affairs is all the more remarkable since the country is not immune to social problems which form the breeding ground of criminal inclinations such as unemployment and poverty. The country is also relatively affluent and offers rich pickings to potential offenders. Special factors seem to have prevented a rise of crime. Elements of the traditional lifestyle which are typical of rural areas seem to have been better preserved than in other more highly urbanised

countries. The political troubles have also played an important role in the maintenance of a high level of informal social control.

The political troubles are also largely responsible for the considerable size of the criminal justice system, notably the police force and prison department.

The major question for the future is whether the country can maintain its uniquely low level of crime after a political settlement is reached and political terrorism will become a thing of the past. Although the general trend of crime in the industrialised world is downwards, Northern Ireland might well experience a rise in conventional crime. A less pronounced political role for the religious denominations might go together with cultural changes which will lead to more juvenile delinquency. Considering the current relatively high expenditures for criminal justice, the system seems well placed to respond to new challenges. A transformation of the police and other parts of the system towards service-delivery and community empowerment may require special management efforts, however.

Eight percent of the victims say they had received help from a specialised agency. This percentage is below that of England/Wales. Forty percent of those not receiving help say that they would have appreciated it. There seems ample scope for improvement in this area.

## 4 Selected issues

During the period under review, the apparatus of law enforcement is far more visible in urban Northern Ireland than elsewhere in the United Kingdom. (The extent to which the significant stabilisation of the situation during 1998 will change this remains to be seen.) Patrolling police officers are armed and wear flak jackets over their uniform. Police patrols are supplemented by foot and vehicle patrols of the British Army, typically armed with assault rifles. The vehicles concerned are either reinforced Land Rovers or overtly military, armoured personnel carriers. Thus the ambience of security in Belfast or Londonderry is very different to that in any other Western European city. Vehicle and pedestrian searches are likewise more routine. The sight of bomb damage is commonplace in these cities, and sometimes very evocative, such as the destruction of Belfast's beautiful Opera House. Political-cum-sectarian strife is a motif of the society which it is impossible to ignore, both in its own right and in its consequences for the criminal justice process. The central division is between the Nationalists, wishing unification of the island of Ireland, and the Loyalists, wishing retention of the status of the Province as part of the United Kingdom. The major paramilitary organisations are, on the Nationalist/Republican side, the Provisional Irish Republican Army (PIRA or IRA) and the Irish National Liberation Army (INLA). On the Loyalist side the mirror organisations are the Ulster Defence Association (UDA) and the Ulster Volunteer Force (UVF). The paramilitary organisations

administer their own 'justice' for offenders within the areas where their influence is arguably greater than that of the official security forces. The sanctions imposed include punishment shootings (typically knee-capping). The Republican/Nationalist paramilitary organisations target the security forces (police and army) for attack, and judges and lawyers have also been murdered. The PIRA and INLA charge that the security forces reveal details of their movements to the Loyalist paramilitaries to aid their murder. Periodic spates of 'tit-for-tat' murders break out where victim targeting is no more specific than the allegiance of the victim's area of residence.

The security situation in Northern Ireland unquestionably distorts the enforcement of law and the administration of justice, from patrolling, through witness intimidation to Diplock courts and prison arrangements. Among the more subtle effects is the virtual absence of criminological research from Northern Ireland. Recent work by the voluntary organisation EXTERN addresses the particular problem of 'joy-riding', temporarily taking cars. This is a particular problem in Belfast and has led to fatalities when cars taken attempt to drive through police and Army checkpoints.

All this notwithstanding, the normality of life in Northern Ireland is remarkable. Most offenders are colloquially known as ODCs (ordinary decent criminals) and the chances of crime victimisation are repeatedly shown by victim surveys to be lower than those in most Western European countries.

# Norway<sup>1</sup>

## 1 Background

The much-amended Criminal Code of 1902 remains in force, but a substantial revision is being planned. The most recent amendments came in 1993 with the introduction of the two-instance-system and the police as public prosecution in minor cases. The two-instance-system which came into force August 1st 1995 implies that the question of guilt has to be considered in district courts as first instance with appeals to the superior courts.

Offences are formally divided into crimes and misdemeanours. In principle, an offence is a crime if it is punishable by more than three months' imprisonment. In other cases, it is only a misdemeanour (although there are some important exceptions). The division is important, since misdemeanour cases are processed differently from crimes, and the statistical data are less complete and reliable for misdemeanours.

Investigations of criminal offences are handled by the police and very rarely by other authorities. When the police have evidence indicating the guilt of a person, cases involving crimes are referred to the prosecutor, while misdemeanours are handled by the local chief of police and his or her legally-trained staff. A right exists for police officers on patrol to give "warnings" and to "admonish" offenders in cases of infractions, although this is not regulated by law.

On the prosecutorial level Norway utilises the principle of opportunity, and prosecution is often waived, especially in respect of juvenile offenders. Most misdemeanour cases are settled either by petty fines ("tickets") or through a summary process whereby the offender agrees to pay a fine suggested by the chief of police. The defendant may instead choose to bring the case before the court.

The court system consists of district courts, 6 superior courts and the Supreme Court. The district courts usually consist of one professional judge and two lay judges, sitting as a group. In cases where the offender has admitted his guilt, only a professional judge partakes. The superior courts function as courts of second instance and consist usually of three professional judges and four lay judges. In serious cases subject to punishment of more than 6 years imprisonment they are jury courts. Both the lay judges and the

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<sup>1</sup> This profile has benefited from comments made by Mr Ragnar Hauge, National Institute for Alcohol and Drug Research, Norway.

jury members are randomly chosen from a list of citizens from the local community. Norway has no administrative criminal courts.

The police is administratively under the Ministry of Justice. However, when the police function as public prosecutors they are part of the public prosecution, lead by the Director of Public prosecution, who is responsible directly to the King (e.g. the Cabinet). Judges are appointed by the Cabinet and can only be discharged by a sentence in court.

The age of criminal responsibility was raised from 14 to 15 years in 1990. Cases against juvenile delinquents under the age of 15 – as well as young offenders between 15 and 17 years of age – may be referred to the communal (municipal) social service. If it is found that they demonstrate serious behavioural problems by serious or repeated offences or continued misuse of intoxicants the case may be referred to the County board for Social Affairs. The boards consist of a lawyer as chairperson, medical and psychological experts and lay members appointed by the Ministry of Health and Social Affairs. The young person can by decision of the board be placed in an institution for observation and short-term treatment for a period not exceeding 8 weeks. If it is found that (s)he is in need of further treatment or training, (s)he may be placed in an appropriate institution for a period of up to 12 months, which may be prolonged for 12 new months.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Norway and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: results from the 1989 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	1.6	0.7	3.0	1.1
Major cities	5.3	4.2	13.4	2.3



## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	264,382	6220.8	263,443	6198.7	257,856	5927.7
Homicide	122	2.9	140	3.3	115	2.6
Assault	-	-	-	-	-	-
Rape	398	9.4	429	10.1	366	8.4
Robbery	1,168	27.5	1,197	28.2	1,077	24.8
Theft	-	-	-	-	-	-
Theft of cars	-	-	-	-	-	-

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	11,559	11,677	10,895	12,096	11,949
Intentional homicide (incl. attempts)	44	37	39	32	45
Causing death by negligence (non-intentional homicide)	40	42	55	45	31
Aggravated assault	1,555	1,609	1,541	1,876	1,737
Robbery	238	233	215	201	237
Aggravated theft (not including burglary)	4,591	5,273	3,805	4,081	3,795
Burglary	99	110	106	88	86
Possession of drugs	138	175	178	197	228

## 2.3 Sanctions

The Norwegian penal system does not include capital punishment, corporal punishment or life imprisonment. The main sanctions are imprisonment, suspended imprisonment, community service and a fine. Compensation can be imposed as a sentence. Probation (i.e. a suspended, supervised sentence) is possible for juveniles between the ages of 14 and 20.

The prisoner rate in Norway (per 100,000 inhabitants) was 55 both in 1990 and 1994 (Walmsley 1997). The percentage of female prisoners increased from 4.6% in 1993 to 5.7% in 1996 (Tomasevski 1998).

**Table 4. Trends in sentencing**

Sentenced	1990	1992	1994
(adults)	N	N	N
Life imprisonment	-	-	-
Other imprisonment	4,506	4,363	5,028
Control in freedom	3,026	2,644	3,127
Fine	285	346	498
Warning	-	-	216

## 2.4 Resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	229.7	232.5
	% female	29.0	30.7
Prosecutors	total / 100,000	-	-
	% female	-	-
Judges	total / 100,000	7.5	9.8
	% female	11.6	16.1
Prison staff	total / 100,000	43.7	52.8
	% female	-	-

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

Norway's total recorded crime rate was around 7,000 per hundred thousand inhabitants in the mid-1990s. This is an average recorded crime rate for a European Union country.

The total recorded crime rate has not increased between 1990 and 1994. However, there is a distinct rise of recorded crime over the longer period 1980–1996. The total recorded crime rate increased threefold in that period. Recorded crime has risen more in Norway than elsewhere in the European Union (Home Office, 1997). It could be said that Norway in the 1980s has

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

started to catch up with other industrialised countries in terms of recorded crime. It is now at the same level as countries such as France, Belgium, Finland and The Netherlands.

The recorded violent crime rate is also close to the European Union mean (De Waard et al, 1998). The increase of recorded violent offences has been steeper in the period between 1993 and 1996 than in most other Western countries (7.5 % per year). On the positive side, the homicide rate is still one of the lowest in the world (0.9 per 100,000).

The ICVS has been carried out just once, in 1989. The results from this survey have allowed us to analyse the ratio between crimes reported to the police and crimes recorded. As is the case in other Scandinavian countries, the proportion of crimes reported to the police which are officially recorded is relatively high, although not as high as in Sweden (see Kangaspunta et al 1998; chapter 3 ). Due to the relative high recording rate, the recorded crime rate might be somewhat inflated, compared with that of other countries. This is an important caveat, which must be taken into account when comparing the Norwegian recorded crime rates with those of other countries.

Since the ICVS has not been repeated in Norway, no trend data on the level of victimisation is available. It is not, unfortunately, possible to check whether the increase in recorded crime over the past ten years reflects real increases of crime, improved reporting and/or police recording or, which seems most likely, both.

Judging from the ICVS of 1989 Norway experienced relatively low rates of violence and also low rates of petty crimes, burglaries and car crimes at that time. The 1994 recorded crime levels are relatively low as well. Since these data sources were used for the calculation of the scores on the comprehensive crime indices, Norway shows relatively low scores on these. As is the case in other Scandinavian countries, Norway also scores very low on the index of corruption. The only index on which Norway scores relatively high is the index of violence against women (this will be referred to below).

As mentioned, the data used are dated and the crime situation in Norway may have deteriorated over the past years.

### 3.2 Determinants of crime

The explanation for the moderately low crime rates can largely be found in the relatively low degree of urbanisation. Only 15% of the national population lives in a city with more than 100,000 inhabitants. Even the capital Oslo with its half a million inhabitants, would not qualify as a big town in most other countries. Together with Ireland, Norway is the least urbanised of all European Union countries. The preserved rural nature of large parts of the country and the absence of large groups of recent immigrants, has probably helped to maintain a relatively high level of social integration. In such a setting there is relatively little room for social deviance. The number of hard

drug addicts per 100,000 inhabitants is indeed markedly lower than in most other Western countries (1 per 1,000; Van Dijk, 1998).

Although just more than ten percent of the population lives in Oslo, more than a quarter of all recorded crimes are committed there. An analysis of the police statistics of the city of Oslo shows that the number of crimes per 100,000 is 13,000. This rate is similar or even higher than the crime rates of other major Western cities. If as many Norwegians would live in big cities as in most other European countries, the national crime rate would probably be much higher.

The second explanation for the modestly high crime rates is the very high level of affluence. Together with Switzerland and Denmark, Norway is the most affluent nation in Western Europe. The proportion of young males dissatisfied with their financial situation is relatively low, although not negligible. The group of potential offenders is restricted because most adolescents have other, legitimate employment prospects.

However, the high level of affluence also provides ample opportunities for crime. Norway shows a very high score on the measure of criminal opportunities (see part I, pp. 165-166). Its score is the fifth highest, after the United States, Canada, Sweden and Finland. The presence of many opportunities of crime might invite opportunistic forms of crime and juvenile delinquency, even in the absence of large groups of marginalized young.

In part I the scores on the crime indices as well as on criminologically relevant factors were analysed through the technique of factor analysis. The crime profile of each country can be described in terms of the three factors which emerged: strain related violence, serious property crimes in urban settings and opportunistic petty crime. Norway has a high negative loading on the "strain-related violence" factor. As said, the rate of young males dissatisfied with their income is modest. So is the unemployment rate. The official consumption rate of hard alcohol is also fairly low. The ownership rate of handguns is moderately low as well. Against this background, it is not surprising that there is relatively little serious violence.

As said, the rate of violence against women is rather high. This finding is the more striking, considering the low over-all level of violence. The social status of women in Norway is relatively high. The percentage of women with higher education is among the highest in the West, according to UNESCO data. One explanation for the high rates of violence against women may be that Norwegian women are more sensitive than in other countries for domestic violence and are more inclined to mention such incidents to interviewers. Support for this interpretation comes from a secondary analysis of ICVS data which showed that incidents of sexual harassment reported by Norwegian women in the 1989 survey to be, on average, of a less serious nature (Aromaa, 1993). If this interpretation is correct, it would mean that violence against women is not necessarily more prevalent than elsewhere in the West. In other parts of Europe such crimes may still remain largely hidden, even in the framework of a victimisation survey. In order to ascertain the level of violence

against women in an international perspective, standardised violence against women studies should be carried out.

Although car ownership in Norway is high, the country scores negatively on the factor for serious property crimes (z-score of  $-0.82$ , p. 49, part I). As said, the rural character of the country explains this. Another factor might be that Norwegians own relatively expensive cars which are often protected by sophisticated devices. The housing stock is a balanced mixture of different types of houses (apartment buildings, terraced houses and detached houses). The rate of households which have installed burglar alarms is the highest, after the United Kingdom. Since the proportion of detached houses is much lower in Norway than in the United Kingdom – and burglar alarms are typically installed in those types of houses – than in Norway, it can be concluded that Norwegian detached houses are the best protected in the West. The protection factor might contribute to the maintenance of low burglary rates.

Perhaps the most striking criminological feature of Norway is the negative score on petty crimes (z-score of  $-1.00$ ). The rate of bicycles is moderately high. Unlike culturally related nations like Sweden and The Netherlands, the rates of petty crime remain fairly low. Again, the rural nature of large parts of Norwegian society seem responsible for this fortunate state of affairs.

In sum, the available data indicate that Norway's crime problem is near to the Western European mean. In the second part of the 1990s the situation might have worsened somewhat, in particular with regard to violent crime. However, the homicide rate is still among the lowest in the world, no doubt due to low levels of hand gun ownership. Corruption is not a serious problem either.

The criminological diagnosis shows that there is probably relatively little economic motivation to enter criminal careers. The number of drug addicts is also relatively low. However, opportunities for crime are plentiful. The trend towards urbanisation and a more individualistic lifestyle, which is in evidence in Norway as everywhere in the West, might lead to more serious crime problems among the young in the next century.

### 3.3 Operation of the criminal justice system

The number of police officers and private security officers per capita is exceptionally low. Of the European Union countries only Finland shows a lower rate. The number of judges and prison personnel per capita is close to the mean.

The country's score on the Law Enforcement Resources Index falls in the second quartile. This means that the country, although among the most affluent, spends less than many others on law enforcement. It makes sense to assume that the relatively low crime rate allows the government to limit expenditures on law enforcement. The question comes up whether this

relatively low level of resources can be sustained if crime levels continue to rise.

Quite in line with the modest score on the index of resources, the prisoners rate of Norway is very low (56 in 1995). The score on this rate falls in the first quartile.

Norway is situated in the third quartile on the index of criminal justice personnel gender balance. In view of the high scores on the UNDP gender-related development index, a position in the fourth quartile was perhaps to be expected.

Norway is also situated in the third quartile on the index for Citizen Evaluation of Police Performance. Given the moderate crime rate, an even better evaluation would not have come as a surprise. Possibly the public's appreciation of the performance of the police would be better if police resources and expenditures on the criminal justice system would be higher.

## 4 Further reading

Aromaa, Kauko (1993). Survey results on victimisation to violence at work.

Pp. 136-148 in Kauppinen-Toropainen, Kaisa (ed.) (1993). *OECD Panel Group on Women, Work and Health. National Report: Finland.*

De Waard, Jaap, M. Schreuders and R. Meijer (1998). Gewelddscriminaliteit in 15 Europese landen. *SEC, Tijdschrift over samenleving en criminaliteitspreventie*, vol 11, no 2, April, pp. 5-8.

Home Office (1997). International comparisons. Pp. 20-32 in *Criminal Statistics England and Wales 1996*. London: Stationary Office.

# Poland<sup>1</sup>

## 1 Background

Poland's criminal justice system was shaped by legislation adopted in the years between the two World Wars. The core of this legislation consisted of the Code of Criminal Procedure of 1928, the Law of the Structure of the Courts of the same year, and the Penal Code and Code of Transgressions, both of 1932. Since World War II, the above Codes, in particular the Code of Criminal Procedure, have been amended several times, and in 1949 a new court system was introduced. In 1969 the penal legislation was changed again. A new Penal Code was adopted, together with a Code of Criminal Procedure and a Code of the Execution of Penalties. This legislation came into force on 1 January 1970. In 1971, the penal legislation was supplemented by a new Code of Transgressions, a Code of Procedure in Cases of Transgressions, and the Law on the Structure of Boards Dealing with Transgressions. The term "transgression" is used to refer to penalised violations of administrative regulations as well as types of behaviour of a criminal nature, such as petty thefts and other minor infringements of property rights. In 1971, a Fiscal Criminal Code was adopted, and in this way the codification of the penal law in Poland as it exists today was finally completed.

In 1997 a new Criminal Code, a Code of Criminal Procedure and a Code of the Execution of Penalties have been passed by the Parliament and they entered into force on 1 September 1998. This new criminal legislation introduced some very important changes into the Polish criminal justice system. Firstly, it mitigates criminal policy which used to be extremely severe. For example, the new Criminal Code generally lowers the statutory minimum punishment from three to one month deprivation of liberty. It also lowers in many cases the maximum statutory punishments. It completely abolishes the death penalty. In the field of substantive criminal law, many changes were made, including the introduction of new criminalisations related to computer crime and environmental crime.

Also the Code of Criminal Procedure introduces some new measures, such as the possibilities of mediation and restitution, and certain forms of diversion that were unknown under the previous legislation.

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<sup>1</sup> In the preparation of this profile, reference has been made to Andrzej Adamski, Criminal Justice Profile of Poland (Internet), 1997. This profile has also benefited from comments made by Mr Andrzej Siemaszko, Mr Igor Dzialuk and Ms Beata Gruszczynska, Institute of Justice, Ministry of Justice, Poland and Professor Krzysztof Krajewski, Department of Criminology, Jagellonian University, Krakow.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Poland and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1992 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	3.4	2.0	3.2	0.8
Major cities	4.7	2.5	4.7	1.5

### 2.2 Reporting and Recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	883,346	2317.3	881,076	2296.9	906,157	2351.2
Homicide	730	1.9	989	2.6	1,160	3.0
Assault	-	-	-	-	-	-
Rape	1,840	4.8	1,919	5.0	2,039	5.3
Robbery	16,217	42.5	17,715	46.2	23,574	61.2
Theft	158,785	416.5	125,074	326.1	180,514	468.4
Theft of cars <sup>1</sup>					50,684	131.5

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

All criminal offences are classified as felonies or misdemeanours. Felonies are punishable with deprivation of liberty for a minimum of at least 3 years (up to 15 years). Additionally, in cases of some of the most serious felonies it is possible to impose 25 years or a life sentence. (However, no sentence between 15 and 25 years can be imposed.) Most other offences are misdemeanours (e.g., theft, fraud, embezzlement, burglary, assault, unintentional homicide, bigamy, incest and breach of a state secret) (Adamski 1997, p. 3).

Transgressions for a separate category of punishable acts, which are not regarded as criminal offences. They include violations of administrative regulations and minor criminal violations, such as petty theft. Transgressions are dealt with by quasi-judicial boards affiliated with the regional courts. Transgressions may also be handled by the police.



**Table 3. Number of offences reported to the police**

	1980	1985	1990	1992	1995
Intentional homicide (incl. attempts)	589	671	730	989	1,134
Rape	1,576	2,102	1,840	1,919	2,267
Robbery	5,149	8,521	16,217	16,980	26,858
Burglary	70,836	138,396	431,056	330,741	304,899

The data in this table are from Adamski (Table 1, 1997, p. 4). Over the last decade (1985-1995) Poland has experienced a considerable growth in “crime known to the police” (note that there have been many simultaneous changes in the definition of crime, in the reporting behaviour of victims and bystanders, and in the routines for the recording of crime). Police statistics show that the overall number of crimes has increased by 80% during that time (from 544,361 in 1985 to 974,941 in 1995). Intentional homicide increased by 92.5% between 1980 and 1995; most of that increase took place between 1990 and 1995 (+55.8%). The number of reported rapes increased by 43.8% between 1980 and 1995; in 1990, there were 264 more reported rapes than in 1980, but in the 1990–1995 time period, the number of reported rapes increased by 427 cases.

The police may hold the offender in custody for a maximum of 48 hours. The public prosecutor is the only person who has the right to issue an order on the presenting of charges and to decide the way in which the proceedings have to be terminated. One major alternative to trial is a conditional discontinuation of the proceedings made by the public prosecutor. Decisions not to take a case to court are generally made in cases concerning first offenders who have committed an offence punishable by a maximum of three years deprivation of liberty. Criminal proceedings can be conditionally discontinued by the court while a case is en route to trial. In 1995, decisions for a conditional discontinuation were made by courts in 17,655 cases (Adamski 1997, p. 9). In 1995, out of a total of 1,169,345 cases decided by public prosecutors, 479,184 (41%) of the cases was not solved and dismissed; in 112,997 cases (10%) there was a refusal to institute proceedings; in 202,902 cases (17%), the case was discontinued unconditionally (waiver of prosecution). Only in about one-fifth of the decisions (222,007 cases, 19%), the prosecutors decided to bring an indictment to the courts.

As of 1990, the prosecution agencies operate in the framework of the Ministry of Justice. The Minister of Justice performs the duties of the General Public Prosecutor. Since 1995 it is only the court which may apply pre-trial detention. Before that date it was the prosecutor who had such competence.

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000 <sup>1</sup>	Adults	76.4	96.0
Prisoner rate <sup>2</sup>		120.0	170.0
% women in the prison population <sup>3</sup>		2.4	2.5
Prisoner rate / 100,000 (convicted only)	Adults	-	-
	Juveniles	-	-
% of females of convicted prisoners	Adults	-	-
	Juveniles	-	-
% of juveniles		-	-

<sup>1</sup> Data for 1990 and 1993.

<sup>2</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>3</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996

Professional judges and lay assessors together deliberate and vote on the penalty to be imposed. The Polish Penal Code does not provide one strictly defined penalty for any given offence. The courts' discretionary power in sentencing is confined by the limits of sanctions and the statutory directives as specified by the penal code (Adamski 1997, p. 12). Principal penalties include immediate deprivation of liberty, conditionally suspended deprivation of liberty, limitation of liberty and a fine. There are also three special principal penalties: death penalty, life imprisonment, and 25 years deprivation of liberty. There are also accessory punishments. There are some possibilities to impose only an additional penalty, although these possibilities are used by courts extremely seldom. The new Code seeks to expand the use of additional penalties.

**Table 5. Trends in sentencing**

Sentenced (Adults)	1995	
	N	%
(adults)		
Imprisonment	32,324	16.5
Conditionally suspended Imprisonment	105,796	54
Limitation of Liberty	7,306	4
Fine	49,997	25
Death Penalty <sup>1</sup>	4	0.0
Total	195,455	100

<sup>1</sup> The number of death penalties represent the first instance decisions that were subsequently altered by superior courts. No death penalties have been enforced since 1988. The death penalty has subsequently been abolished (see the text).

[The figures in the table on sanctions are taken from Adamski 1997, p.12 and 13.]

Over sixteen per cent (16.5%) of all the sanctions imposed were immediate prison sentences in 1995. The average length of sentence is 24 months. Twenty-eight persons were sentenced to 25 years of imprisonment in 1995. Prison sentences can range from 3 months to 15 years. The most common type of penalty is the conditionally suspended deprivation of liberty. Over half (54%) of the offenders received this sentence in 1995. One-third of them were placed under supervision during the probation period. The limitation of liberty is a non-custodial sentence which functions as a substitute for the short-term prison sentence. A person sentenced to this penalty remains free but may not, without permission of the court, change his or her permanent residence, is required to perform the work designated by the court and must submit to periodic evaluation reports. The court can order a deduction of from 10% to 25% of the offender's work salary, instead of the obligation to perform the work designated by the court. This penalty may be imposed for a minimum of three months and a maximum of two years. In 1995, 4% (7,306) of the sentenced people received this sentence. One-fourth of the offenders (49,997) received a fine as the sole penalty. A fine may also be imposed in conjunction with a prison sentence.

Under the period under review, the death penalty still existed in Poland as a penalty for eight offences, but there have been only two instances in which offenders were sentenced to death for offences other than homicide. Between 1988 and 1990, the courts did not impose the death penalty. Very few capital convictions occurred in the subsequent years: 1 (1991), 2 (1992), 1 (1993), 2 (1994), 4 (1995) and 1 (1996). Death sentences, even in the few cases where it has been imposed by courts, have been not carried out in Poland since 1988. Most of these sentences have been commuted by the appellate courts. By the end of 1995, a 5-year *de jure* moratorium was imposed, and the sanction system has been supplemented by life imprisonment. This process ended in 1997 with the total abolition of the capital punishment by the new Code.

### **Prison population**

The total number of persons admitted to prison during 1995 was 84,213. Of these, 44,850 were awaiting trial or adjudication, 28,025 were sentenced for criminal offences and 11,119 were sentenced for transgressions. Slightly more than half (53%) of all persons admitted to prison in 1995 was there for pre-trial detention. Pre-trial detention may take no longer than one year and six months up to the rendering of the first judgement by the court of first instance. In case of felony offences, this term may not exceed two years. Further pre-trial detention depends on the decision made by the Supreme Court (Adamski 1997, p. 10).

At the end of 1995, the total prison population was 61,136, of whom 15,686 (26%) were prisoners awaiting trial (Adamski 1997, p. 13). 2% were

females; 11% of the prison population were young offenders (aged 17-21). First offenders account for 39% of all inmates serving their term. The drop in the prison population to 57,000 in the first half of 1996 is a result of the Criminal Code amendments that allow the release of some repeat offenders on parole (Adamski 1997, p. 13).

In 1995, about 30% of the convicted prisoners had been convicted of a violent crime, 49% of a property crime, and 21% of another type of crime (Adamski 1997).

There are 210 penal institutions in Poland. One-third of them are remand centres and the rest consist of various kinds of institutions for sentenced prisoners: 61 are closed prisons, 23 are semi-open institutions (work centres), 40 are open prisons, 15 are prison hospitals, and 2 are houses for mothers and children. Most of the penal institutions house 500-800 inmates.

In August 1995, there were 65,173 prison beds. The prisoner rate is 170 per 100,000 population (Walmsley 1997), down from the mid-1980s when the rate was 295. Prisons are no longer overcrowded. The average capacity of the remand prisons is about 270, but ten have capacities of over 500, and two of them can house more than 1,000. The 61 closed prisons have an average capacity of about 500. The eight largest have capacities between 970 and 1,180 (Adamski 1997, p. 13).

Prisoners are housed in old buildings, of which 70% were built before World War I. Living conditions are generally inadequate (rudimentary sanitation, insufficient heating). The average cell space is three square metres for every male prisoner, and four for every female. Most cells house at least four people. All the cells have electric lighting, but only one out of five have light that is strong enough to be sufficient for reading. (Adamski 1997, p. 14.)

Brief (up to 5 days) leaves are granted for important reasons or for good behaviour. During 1995, a total of 37,023 leaves were granted (80% for good behaviour). Home visits for 24 hours are part of a temporary release program; there were 158,226 such visits in 1995. In less than 5% of the cases where leaves were granted did the inmates not return to prison on time or did they not return at all (Adamski 1997, p. 15).

At the end of 1995 the prison staff totalled 21,534. Of this total, 20,759 (96%) were prison officers (management, administration, guards), and 775 (4%) were civil workers (of whom 512 worked as health care workers and 216 as teachers). The staff-inmate ratio was 1/2.9. The prison staff, excluding civil workers, increased from 19,516 in 1990 to 21,176 in 1995.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	232.9	256.0
	% female	-	-
Prosecutors	total / 100,000	9.4	10.4
	% female	-	-
Judges	total / 100,000	14.3	16.4
	% female	-	-
Prison staff	total / 100,000	53.6	54.9
	% female	-	-

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, from 1990 to 1995 Poland experienced a considerable growth in crime reported to the police.

According to the ICVS (averaged rate 1992 and 1996), 33% of the respondents in urban areas in Poland had been the victim of a crime during the previous year, which is slightly above the mean (30%) for the 36 countries for which these urban data are available. However, the overall victimisation rate obscures the fact that there are significant differences in the prevalence of different types of criminal victimisation in Poland. The urban victimisation rate was 2.5% for burglary, which was in the intermediate range, but the corresponding rates for assault or threat (4.9%), theft from or of a car (9.9%) and robbery (2.2%) were all relatively high rates.

Poland has – internationally speaking – a medium level of homicide. With a score of 54 on the Homicide Index, Poland ranks slightly above the regional mean of 51. ICVS figures for assault and threat show Poland to rank relatively high with 4.9% of the urban population indicating victimisation. The comprehensive index for fatal and non-fatal violence for Poland is a relatively high 71 (compared to the overall mean of 51).

The relatively high level of violence is reflected in the fact that 36.0% of the ICVS respondents stated that they tend to avoid certain places in their

<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

neighbourhood at night, the fourth highest rate in any of the responding countries in Europe and North America.

As noted, Poland's burglary victimisation rate of 2.5% was in the intermediate range. 58% of the burglaries (in cities) are reported to the police, which is very low, internationally speaking (73.5% is the average reporting rate for burglary). It should be noted that no official police data are available on the number of burglaries brought to the attention of the police.

Poland ranks fairly high (64; the mean was 50) on the Petty Crime Index (measuring the proportion of ICVS respondents who had been victimised by at least one of the following offences: car vandalism, theft from garages, bike theft, indecent behaviour, attempted burglary, personal theft and threats). Poland ranks relatively high also with respect to offences directed against motor vehicles: it has a value of 56 on the Motor Vehicle Crime Index (the mean is 50).

On the index of the amount of corruption, Poland ranks in the intermediate range with a score of 74 (the mean is 58). The World Competitiveness Yearbook 1997, on asking respondents their assessment of the extent to which such improper practices as bribing and corruption prevail in the public sphere, elicited a result of 3 – on a scale of zero (much corruption) to ten (no corruption). In this light, the respondents in Poland were among the most negative in their assessment. Finally, Poland ranked rather low also on the World Competitiveness Yearbook 1997 questions about whether people have full confidence that person and property are protected (rank of second lowest out of 25) and whether people have confidence in the fair administration of justice (rank of sixth lowest out of 25).

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and / or who are unemployed (see pp. 35-36 of part I). According to the results of the ICVS, dissatisfaction with income, on a scale of 1 ("not satisfied") to 4 ("very satisfied") in Poland is rather low with a score of 2.14 among urban respondents. Based on the UN Statistical Yearbook 1994, Italy's unemployment rate (1992) (combining four individual measures) of 13.6% is relatively high, compared to other countries in the region. The ICVS unemployment indicator for Poland is 9.7, also well above the mean of 7.7.

According to the ICVS, it would appear that almost no-one in urban areas in Poland live in detached housing: 73% live in a flat, and 24% in a row house. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) The Polish urban population appears to use relatively few security devices relative to other countries. A very small proportion of the urban population reports the use of a burglar alarm (2.8%).

A little more than one-fourth of the urban population uses special door locks (26.3%), and some six per cent reports the use of special window grills.

According to the ICVS, 57% of the urban Polish population own a car. Poland ranks relatively low with regard to car ownership overall; however, it ranks high compared to other Central and Eastern European countries. Again according to ICVS data, the urban population in Poland spend about 2.4 nights per week away from the home for entertainment purposes, which is well below average for the ICVS countries for which data are available.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Poland has a score of 40.7, which is slightly above the mean for Central and Eastern Europe (37.9). Poland has a relatively small proportion of urban single households (5.9%), which is well below the average of 11.6% of the 36 countries for which this information is available. A relatively small proportion of urban females work outside the home (41.2%), which is in the bottom third for the 36 countries for which data are available.

In respect of violent offences, factors connected with opportunity are the availability of suitable weapons, and the use of alcohol. Poland ranks low with regard to the availability of firearms: the national ICVS sample indicates that 2.0% of the people owns a firearm (2.3% of the urban respondents versus 1.9% of the rural ICVS respondents). Only 1.5% of the urban ICVS respondents reported owning a handgun. Poland ranks very low with regard to urban handgun ownership, well below the mean of 5.1% for the 36 ICVS countries. The ICVS findings are confirmed by the UN Study on Firearm Regulations (1998): with a rate of 5.3 firearms per 1000, Poland ranks far below the mean rate of 87.4 for the 16 countries for which data are available. As for alcohol use, according to the World Drink Report, Polish people on average consume more than 3.8 litres of hard alcohol, almost twice the average of 1.9 litres for the 29 countries for which data are available. However, beer consumption in Poland is very low: 33 litres, which is less than half of the overall average of 74.4 litres per capita. Similarly, wine consumption in Poland also ranks among the lowest (6.9 litres compared to the overall average consumption of more than 22 litres).

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. (The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society.) In respect of female educational attainment, Poland scores relatively high. The divorce rate is 0.7 per 1,000 in population per year, which is one of the lowest rates in Europe (The Economist Pocket Europe in Figures, 1997). According to the 1997



Human Development Report, the so-called gender-related development index in 1994 was 0.818, placing the country in the middle range among the 47 European and North American countries for which these data are available. Thirteen per cent of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” Report states 8% of the persons at the top levels of government in the country are female. The female economic activity rate (expressed as a proportion of male economic activity) is relatively high (81%). No data are available on the female proportion of criminal justice personnel in Poland. Poland provided no data on reported rapes. ICVS data on sexual offences committed against women show that 3.1% of the urban Polish women reported such victimisation (national rate is 1.5%) which is above average. Poland has a relatively low score of 25 on the Violence against Women Index (the mean for 44 countries for which data are available is 50), ranking it among the bottom ten countries with regard to violence against women. Polish women appear no more reluctant than women in other countries to report their victimisation to the police. Based on the ICVS data, about 34% of female victims actually went to the police, which is slightly above the average reporting rate for the 36 countries for which these data are available.

According to the World Values Study, respondents in Poland are rather intolerant of deviant lifestyles. Only one-fourth of the Polish respondents expressed justification for deviant lifestyles, the lowest score (together with Turkey) among the 25 countries for which these data are available.

In a factor analysis of the determinants of crime, Poland had a positive loading in respect of strain-related violence (+.36), a negative loading in respect of serious property crime in urban settings (-.24), and a positive loading in respect of opportunistic petty crime (-.68) (see Table 10 in part I, p. 49).

### 3.3 Operation of the criminal justice system

The score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 10, the second lowest after Romania (the mean is 27). One must bear in mind, however, that the only indicator value available for this index was the number of private police per capita, so the resulting figure may deviate greatly from the reality.

The indicator for the Criminal Justice Practitioner Gender Balance Index could not be computed due to insufficient data.

Overall, Polish people appears relatively dissatisfied with police performance, as is reflected in the low score of 15 on the Citizen Evaluation of Police Performance Index, placing Poland in the bottom of the second quartile. According to the ICVS, 37% of victims in urban areas reported the offence to the police (the mean reporting rate for all countries is 44%). 26% of the



victims of contact crimes reported the matter to the police, slightly below the average of 29% for all 36 ICVS countries. 67% of the victims reported dissatisfaction with the manner in which the matter was dealt with (the mean value for all ICVS countries is 48.7%). 73% of the urban respondents indicated dissatisfaction with the way in which the police controlled crime in their neighbourhood (the mean value for all ICVS urban is 49%) which is a relatively high proportion, internationally speaking.

By comparing the number of suspects to the number of reported offences, the number of prosecutions to the number of reported offences, the number of convictions to the number of prosecutions, and so on, a rough measure of “attrition” in the criminal justice system can be developed. (See part I, pp. 95-100). Regrettably, this could not be calculated in the case of Poland, due to the lack of data.

The prisoner rate (170) is somewhat above the mean for the region (158), but considerably below the mean for the Central and Eastern European countries (263).

## 4 Further reading

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# Portugal<sup>1</sup>

## 1 Background

### 1.1 History

The present penal law and procedure principles in Portugal are anchored in the 1976 Constitution, which was promulgated after the 1974 Revolution. Portugal elaborated a new Penal Code, which was implemented in 1983, and a new Code of Penal Procedure, which was implemented in 1988. The Penal Code was revised in 1995 by a law that entered into force in October 1995. Another, smaller, revision was made in September 1998. The Code of Penal Procedure was revised by a law which entered into force on January 1, 1999.

### 1.2 Organisation and major principles

There are three main police forces. The “Policia de Segurança Publica” and the “Guarda Nacional Republicana” are responsible for public order and the prevention and detection of crimes, the former in urban areas and the latter in rural areas. They are under the authority of the Ministry of Home Administration. The “Policia judiciaria” is the criminal police and acts under the authority of the Ministry of Justice. All three police forces have the capacity to investigate criminal offences except for some offences which by law are to be investigated by the criminal police only.

Prosecution is always the responsibility of the public prosecutor. However, for some offences the complaint of the victim is a necessary precondition for prosecution.

The system follows, in general, the principle of legality. However, cases may be dismissed by the prosecutor where this is specifically allowed by law.

Four different procedures are available for trial. The quickest one (sumaríssimo) may be used when the penalty incurred is less than three years imprisonment and the prosecutor and the judge offer the defendant a penalty without deprivation of freedom (fine, public service or suspended service). If the defendant agrees, then the judge registers the agreement as the sentence.

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<sup>1</sup> This text benefited from comments by Ms. Maria Rosa Almeida, Lawyer, Research and Planning Bureau, Ministry of Justice, Portugal and Professor Jorge de Figueiredo Dias and Assistant Maria João Antunes, Faculty of Law, University of Coimbra, Portugal.

The so-called basic procedure may be used when the defendant has been caught red-handed and the penalty incurred is less than three years. The defendant is brought to trial without a preparatory phase.

The ordinary trial is used when inquiry is necessary. The prosecutor is in charge of this inquiry. The “instruction” as such is optional, up to the defendant or to the so-called “assistant” who represents the victim, if they do not agree with the prosecutor’s decision. The instruction is under the responsibility of the examining judge.

After the revision of the Code of Penal Procedure (which entered into force on January 1999) there is a new procedure (abreviado). It may be used when the penalty incurred is less than five years imprisonment and the proof is simple and obvious. The most important differences compared to ordinary trial are that the preparatory phases and the trial are not so formal.

Any arrested person must be brought before the examining judge within 48 hours and is allowed to ask for a lawyer as soon as he or she has been arrested. If the prosecutor requests that the arrested person be detained on remand, the decision is made by the judge. Detention on remand may not last more than six months without formal charges being brought against the defendant. Further, it may not last more than ten months if there is an instruction, 18 months without a trial at the first instance, and two years before the definitive sentence. In exceptional cases it can last longer but never more than four years.

Three different first instance courts exist depending on the maximum penalty incurred or on the nature of the offence: a court with a single judge, a court with a panel of three judges, and a court with a jury of four citizens and a panel of three judges. Appeal is possible from the judgement of all these courts.

The minimum age of responsibility is sixteen years. Child welfare committees deal with delinquent children in need of care and assistance up to the age of twelve years. Juvenile courts deal with delinquent children up to the age of sixteen years, or with children in need of care or assistance up to the age of eighteen years. Juvenile courts can only resort to welfare measures.

## 2 Statistics

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Portugal.

## 2.2 Reporting and recording

The response from Portugal did not include any data on the number of crimes recorded in the criminal police statistics. The data for 1990 given below refer to the Fourth United Nations Survey.

There were 12,021 car thefts in Portugal in 1995 (Liukkonen 1997). The rate of car thefts is thus 122 per 100,000 inhabitants.

The response from Portugal presents police statistics for each police force separately. An integrated statistical system did not come into force until 1 January 1993. Data before this time are of doubtful validity, since cases transferred among police forces were counted twice. This understandably caused a considerable degree of overlapping. Furthermore, each police followed its own crime definitions and criteria in the organisation of statistics. The following are the number of crimes reported in the criminal police statistics in 1990:

**Table 1. Homicide**

		1990
Policia de Segurança Publica Guarda Nacional Republicana		- 254
Policia Judiciaria (infanticides excluded)	intentional	409
	committed	275
	attempted	134
Non-intentional		50

In the data on homicide provided by the Guarda Nacional Republicana, attempts are not included. Separate data for intentional and non-intentional homicide are not available.

**Table 2. Assault**

	1990
Policia de Segurança Publica	12,529
Guarda Nacional Republicana	13,383
Policia Judiciaria	709
of which major assaults	87

**Table 3. Robbery**

	1990
Policia de Segurança Publica total (with guns only)	785
Policia Judiciaria	3,924

The Policia de Segurança Publica data on robberies includes only cases where the offender was armed with a gun. The Guarda Nacional Republicana data on robberies are included with their figures for theft.

**Table 4. Theft**

	1990
Policia de Segurança Publica	58,197
of which major thefts	12,234
Guarda Nacional Republicana	25,689
Policia Judiciaria	26,217

The Policia de Segurança Publica data on thefts includes robberies in which the offender was not armed with a gun. The Guarda Nacional Republicana data on theft include robberies and burglaries.

**Table 5. Burglary**

	1990
Policia de Segurança Publica	14,831
Policia Judiciaria	12,947

The Guarda Nacional Republicana included burglaries with their data on theft.

## 2.3 Sanctions

**Table 6. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	105.8	133.8
Prisoner rate <sup>1</sup>		90.0	125.0
% women in the prison population <sup>2</sup>		7.3	9.0
Prisoner rate / 100,000 (convicted only)	Adults	61.6	62.6
	Juveniles	4.5	2.6
% of females of convicted prisoners	Adults	4.8	7.0
	Juveniles	3.4	7.2
% of juveniles		6.8	3.9

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

**Table 7. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	21,833	22,863	30,351	37,442	34,484
Intentional homicide (incl. attempts)	290	400	569	381	383
Causing death by negligence (non-intentional homicides)	93	130	173	143	138
Aggravated assault	591	686	1,155	1,007	1,307
Other assault	2,657	1,837	2,111	2,330	1,189
Robbery	432	485	769	800	1,294
Aggravated theft (including burglary)	3,773	4,792	6,477	5,484	5,314
Other theft (not including burglary)	1,650	1,578	1,819	2,523	2,280
Drug offences	1,012	1,077	1,579	2,408	2,238

**Table 8. Trends in sentencing<sup>1</sup>**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	21,833	-	25,022	-	29,277	-
Life imprisonment	-	-	-	-	-	-
Other imprisonment	10,472	48.0	12,610	50.4	13,156	44.9
Control in freedom	-	-	46	0.2	49	0.2
Fine	6,670	3.1	3,833	15.3	7,196	24.6
Warning	4,065	18.6	8,372	33.5	8,748	30.0

<sup>1</sup> The data do not add up to the total because of missing categories.

## 2.4 Personnel and resources

**Table 9. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	8.0	10.3
	% female	36.7	37.3
Judges	total / 100,000	11.4	12.7
	% female	15.6	22.0
Prison staff <sup>1</sup>	total / 100,000	39.0	42.0
	% female	-	-

<sup>1</sup> Data only for adult prisons.

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 Crime situation

Since Portugal did regrettably not provide police statistics to the UN and never took part in the ICVS, there is a dearth of information on the crime situation in the country. From other sources some information was collected on recorded crimes (Home Office, 1997).

In Portugal the rate of recorded crime increased from 307,328 in 1993 to 330,010 in 1994, and then decreased to 322,256 in 1996. The rate per 100,000 is 3,252 in 1996. This is one of the lowest rates in the European Union. In the absence of ICVS data, it is not possible to validate these statistics with external information. Results of the Eurobarometer carried out in 1995 seem to confirm that Portugal is a moderately low crime country (Van Dijk, Toornvliet, 1996).

However, Portugal stands out with a homicide rate of 3.9, which is the highest in the European Union, after Finland. It shows a relatively high score on the composite homicide index. Its score on the motor vehicle crimes index is moderately low, especially for a European Union country.

Portugal scores moderately high on the composite index for corruption (72). It has the same corruption score as Spain.

### 3.2 Determinants of crime

The most striking criminogenic feature of Portugal is the high rate of hard drug addicts (4,500 per 100,000, Van Dijk 1998). This is the highest rate after Switzerland. Even though many drug addicts are reputedly socially reasonably well-integrated, the presence of large populations of hard drug addicts might be a source of drugs-related property crimes.

The consumption of hard alcohol and beer – factors related to high levels of violence – is moderate. Wine is the most popular alcoholic drink (the highest consumption after France). The orientation towards social wine-drinking might be responsible for the low levels of non-fatal violence. There are no statistics available on the possession of firearms/handguns. The hypothesis that the high homicide rates are related to high levels of gun ownership can therefore not be tested.

Portugal is one of the least affluent member states of the European Union. For that reason the supply of suitable targets of crime such as motorcars is

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

limited compared to other EU countries. This characteristic might contribute to the modest levels of conventional crime. The single most important explanation is without question the relatively small proportion of the population living in a big city. Portugal is one of the most rural societies in Europe and most citizens live in villages or small towns where informal social control is strong.

### 3.3 Operations of the criminal justice system

The numbers of staff employed by the criminal justice system (police, prosecutors, judges and prison department) per 100,000 inhabitants falls in the upper quartile. The rate of police officers in particular is very high in a European perspective. There are also more prosecutors per capita than in any other EU member state. These numbers continued to go up in the period 1990-1994.

The gender balance in the criminal justice system falls in the medium range.

There is no information available on the public's evaluation of police performance.

Portugal has a remarkable high prisoner rate per capita (125 in 1995). This is the highest rate of the EU member states. The prisoner rate increased further in 1995 and 1996. The length of prison sentences seems relatively long. For example in 1994, two-thirds of the prison sentences were longer than three years and almost a quarter were longer than nine years. Regrettably these sentencing patterns cannot be compared with public opinion since no ICVS data on Portugal are available.

### 3.4 Conclusions

The preparation of this profile was handicapped by the dearth of information on the crime situation in the country. It is to be hoped that this problem will be remedied in the future.

As said, Portugal seems to be a country with a moderate level of conventional crime. There are some exceptions to this. The number of homicides is quite high, as is apparently the prevalence of corruption. Sustained economic growth will go together with the presence of more attractive targets of crime. This might lead to higher rates of conventional crime in the upcoming years.

Considering the moderate size of the crime problem, the high rate of prisoners comes as a surprise. Portugal was the first Western country to abolish capital punishment and the penal code does not allow life imprisonment. Another feature which catches the eye of the observer is the high number of police officers and prosecutors.



One explanation for the high number of police officers is the resistance of the former undemocratic regime towards the private security industry. In both Portugal and Spain the former regimes seem to have jealously guarded the monopoly of the state police over surveillance-type functions exercised by non-state institutions. Possibly the high prisoner rate is also related to an incompleting process of modernisation of the criminal justice system. The number of prisoners put on probation seems very low (49 in 1994). The social utility of very long prison sentences might need reconsideration. Perhaps probation and non-custodial sanctions should be more promoted.

One hopes that, for future profiles, more in-depth information will be available. Issues which merit closer scrutiny are the role of the hard drug scene as a source of property crime and the nature of the homicide problem.

## 4 Further reading

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# Romania<sup>1</sup>

## 1 Background

The first Criminal Code and Criminal Procedure Code were enforced in a modern conception in Romania in 1865. These codes, which were drawn up according to the French model, embodied criminal concepts inspired by the classical doctrine of criminal law. The Grand Union of Romania in 1918 enhanced the unification of legislation and modification inspired by the new ideas.

During the period before new legislation that was applicable all over Romanian territory were adopted, some provisions of the 1865 Codes had been extended to Transylvania and Bucovina. The debates on the proposed legislative union lasted several years (1925-1936) and ultimately led to the adoption of the new Romanian Criminal Code and Criminal Procedure Code in 1936 (these Codes entered into force in 1937). The Codes continued to be inspired by the classical doctrine of criminal law. Nevertheless, certain modern positivist ideas penetrated into the legislation, such as the principle of the individualisation of punishment, the use of custody for rehabilitation, and the progressive system of the execution of punishment. During the following years (1939-1943), some amendments with an authoritarian tendency were adopted, reflecting the Fascist policy of the time.

After the establishment of the Communist regime by the Soviet Union in 1947, the 1936 Codes were successively amended and republished in 1948. At the same time, new Soviet-inspired institutions were created, which changed the normative content of the legislation (e.g. the Attorney General's Office was renamed the "Procuratur" and became independent from the courts and the Ministry of Justice, and the Intelligence Services, called the "Securitate", was assigned increased judicial competence.) During the 1950s and the 1960s some aspects of criminal procedure were exceptionally regulated by administrative legislation (Government decisions, which were usually unpublished). The 1936 Codes remained in force until 1969.

The present Criminal Code and Criminal Procedure Code were adopted on 12 November 1968 and entered into force on 1 January 1969. They were considered to be the first generation of Marxist codes. These Codes were rather eclectic, in that they combined neo-classicism with technocratic juridism and some ideas of social defence.

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<sup>1</sup> This profile was originally prepared by Prof.dr. Rodica Stanoiu, Department of Public Law, Institute of Legal Sciences, Bucharest. Prof. Stanoiu has also commented on the present text.

Up to December 1989, the Criminal Code was amended several times. For example, in 1973, amendments were made especially in respect of petty offences, correctional labour and the extension of the use of fines for some offences as a substitute or alternative for imprisonment. Decree no. 218/1977 abolished imprisonment of minors and extended the use of correctional labour.

The Criminal Procedure Code was amended in 1970, 1971, 1973, 1974 and 1977.

Since 22 December 1989, the Criminal Code has been amended several times. Specific mention may be made of the abolition of the death penalty and its replacement with life imprisonment.

Law no. 104/1992 has abolished Decree no. 218/1977 and this has conferred force to the older rules existing in the Criminal Code concerning imprisonment for minors. Also the rules regarding the so-called 'judgement commissions' (special unprofessional courts instituted before for some minor offences) were abolished. The law has introduced the suspension of imprisonment under supervision as a form of conditional suspension and replaced correctional labour with the execution of imprisonment at the working place. Also the Criminal Procedure Code has been amended several times. For example, the guarantees of the right to defence have been considerably extended, and custody has been reduced.

Law no. 21 of 15 October 1990 transferred the Prisons Administration from the Ministry of Interior to the Ministry of Justice.

At present, drafts concerning a new law on the execution of sanction, as well as new reforms and amendments of the Criminal Procedure Code are under consideration.

The Romanian constitution and the Criminal Procedure Code refer to "judicial authorities" when speaking of the criminal investigation authorities and courts. Criminal investigations are carried out by prosecutors and investigative authorities. If members of the police or other investigation officers are suspected of an offence in connection with their duties, they are questioned by an officer appointed by the military superiors.

The courts and the prosecutorial service dominate proceedings. The activity of other judicial authorities is carried out in order for justice to be done by the courts, while the prosecutorial service is in charge of investigations. As a result of the judiciary reform which was initiated in 1990, the "procuratura" became the Public Ministry, and the Constitution placed it under the authority of the Ministry of Justice.

Arrest, search, and detention of a person are allowed only when provided by law. The custody cannot last more than 24 hours. Pre-trial detention is possible on the basis of a warrant ordered by the prosecutor for up to 30 days. The 30 days pre-trial detention can be extended only by the court and for no more than 30 days at a time. The suspect or the defendant may submit the issue of the legality of the warrant and the length of the pre-trial detention to the court for review.

There is no limitation on the prolongation of the pre-trial detention, but the Code of Criminal Procedure provides that the defendant cannot be kept incarcerated in pre-trial detention for more than half of the length of the maximum penalty provided for the offence for which the defendant is investigated.

The suspect or defendant has the right to be assisted by counsel during the entire criminal investigation and the criminal proceedings and the judicial authorities are requested to notify him or her of this right. Judicial assistance is mandatory when the suspect or the defendant is a minor, in military service, in the military reserves under a mobilisation order, a student at a military school, boarded in a special school for re-education and work, or if he or she is arrested, as well as in certain other cases. During the trial, counsel is mandatory for defendants charged with crimes that carry a penalty or more than five years or when the court assumes the defendant is not capable of preparing the defence on his/her own.

Counsel, both chosen or officially appointed, are independent of official authorities. They are members of the Romanian Bar Association, which functions independently from the Ministry of Justice.

The Criminal Procedure Code states the rule of legality, according to which criminal proceedings are formally instituted (instituted "*ex officio*"), independent of the consent of the parties involved. This means that the investigative authorities must determine on their own whether or not an offence has been committed, and initiate the investigation and the inquiry. The prosecutor must determine on his or her own motion whether or not proceedings should be initiated and the defendant prosecuted. The court, in turn, must proceed to the trial, pass sentence and enforce the final decision.

In certain cases (for example for certain petty offences), criminal investigation cannot be formally initiated in the absence of the preliminary complaint of the injured person. In addition, in such cases the criminal investigation and prosecution cannot proceed when the injured person withdraws his or her preliminary complaint and becomes reconciled with the defendant (when this is allowed by the law), since this eliminates the criminal responsibility of the offender.

The court system in Romania consists of local courts, tribunals, appeal courts and the Supreme Court of Justice.

Law no. 45/1993 brought significant changes in the field of criminal procedure. It introduced the Appeal Courts as a level of judicial control over sentences. The law also deals with extraordinary final appeal, providing new regulation of this procedural matter which was divided into the cancelling of the final appeal and final appeal concerning only the interpretation of the provisions of penal law.

Military courts have competence in cases concerning offences committed by members of the military, offences against the security of state committed by civilians, and offences against peace and mankind as well as certain other offences.

There are no juvenile courts in Romania. The minimum age of criminal responsibility is 14 years. Those over 18 years of age are treated as adults. When the defendant is between 14 and 16 years of age, the judge must establish whether the minor has reached a sufficient level of maturity to be considered responsible for his or her action.

Law no. 140/1996, the major criminal law reform since December 1989, deals mostly with the Special Part of Criminal Code. The section concerning the special protection state property was abolished. Concerning the changes in the framework of the General Part, life imprisonment has replaced the death penalty since January 1990. The same law provides for suspension of imprisonment for minors under survey or under control.

Law no. 141/1996 introduced in the Criminal Procedure Code rules concerning the admissibility of audio and video records as proofs. These rules realise strict judicial control over the keeping of such records in order to safeguard the right to privacy against arbitrary intrusions from the side of the state organs.

The Romanian criminal justice system is in the middle of a thorough reform process. The reforms started with the adoption of the new Constitution of Romania in 1991. This, together with the changes in the Penal Code and the Code of Civil Procedure, has led to the democratisation of many criminal justice institutions. The aim is to improve the rights of the defendants by increasing the number of procedural guarantees throughout all the steps of the criminal investigation.

A series of legal provisions that restricted rights have been repealed, and new institutions, such as release on parole or release on bail, have been introduced. With the reform, the number of judges and prosecutors has increased, as has the number of courts.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities of Romania.

**Table 1. Victimization rates (in %) according to the ICVS, major cities: results from the 1996 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	3.7	1.1	6.9	0.3

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	64,005	275.8	144,750	635.2	237,004	1042.4
Homicide	1,616	7.0	1,793	7.9	1,732	7.6
Assault	2,485	10.7	4,380	19.2	6,733	39.6
Rape	947	4.1	1,065	4.7	1,391	6.1
Robbery	1,788	7.7	4,010	17.6	4,161	18.3
Theft	29,900	128.8	73,191	321.2	104,033	457.6
Theft of cars <sup>1</sup>					2,687	11.8

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

As can be seen, there has been a dramatic increase in the number of crime during the period under review. The total number of reported crimes has increased almost four-fold. Much of the increase is due to the increase in theft. Data on the number of persons convicted was not available.

## 2.3 Sanctions

The prisoner rate in Romania was 112 per 100,000 in 1990 (Fourth Survey) and 200 per 100,000 in 1995 (Walmsley 1997). Data on sentenced persons by sanction were not provided in the Fifth Survey. In 1990 the distribution of sanctions was as follows (from the Fourth Survey):

- imprisonment – 19,785
- conditional suspension of imprisonment – 1,381
- correctional labour – 8,964
- fine – 4,999.

### Prison population

In 1990, the total prison population was 26,010 persons. Of these, 10,716 were sentenced and 12,044 were in preventive detention (i.e., awaiting trial).

In 1990 Romania had 30 prisons for adults with a total number of “beds” (spaces) of 36,149. Only ten of these prisons are large institutions for 1,000 persons or more.

For juveniles Romania had in 1990 four schools for education and labour. Of them, two are medium sized institutions for between 500 and 999 persons, while the others are large institutions for 1,000 persons or more.

For minors the minimum and the maximum stipulated by the law for imprisonment is reduced by half. The minor may also be placed under

supervision for a period of at least one year but no longer than 18 years. The other sanction for a minor is the admonition.

## 2.4 Staff and resources

The rate of police officers (per 100,000 inhabitants) increased from 156 in 1990 to 214 in 1994. The percentage of female police officers increased from 9% to 10% from 1990 to 1994.

No other data on the criminal justice personnel were provided in the response from Romania.

# 3 Crime and criminal justice profile<sup>2</sup>

## 3.1 Crime situation

The Romanian rate of police recorded crimes has increased explosively in the early nineties but is still relatively low: it went from 276 in 1990 to 1,042 in 1994. In most Western countries the rate is at least five times higher.

The ICVS was carried out in Bucharest in 1996. Of the population of that city 29% was victimised by one or more of the types of crimes included. This over-all victimisation rate is near to the average of European cities. Since the recorded crime rate is, as we have seen, relatively low, this result suggests that in Romania a relatively large proportion of conventional crime is never reported to the police and/or goes unrecorded. In other words, the Romanian official crime figures hide a relatively high dark number of crimes.

According to the ICVS 1996 results 36% of all crimes experienced by the respondents was reported to the police. This reporting rate is far below the ones found in Western Europe, Poland and the Czech Republic. This result confirms that there is indeed a sizeable dark number, due to underreporting of crimes to the police. It must be noted in this respect that the reporting rates in many other countries in transition are even lower. Underreporting of crimes is not to be seen as a phenomenon typical of Romania but of many European countries in transition where state agencies such as the police are not yet regarded as service providers by the public.

A look at the crime indices results in the following picture. Romania shows moderately high scores on the indices for homicide and serious violence. The same is true for its scores on violence against women. These scores are higher

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

than those in most Western countries, yet lower than those of many of the neighbouring countries in Central and Eastern Europe.

The rates for burglary and petty offences are below average. The rate of motor vehicle crimes is one of the lowest of all countries. This feature too is typical of many countries in transition.

The rate of corruption is relatively high but lower than in most other countries in transition. The police statistics – which are not included in the index – shows a remarkable increase of 1,364 corruption cases in 1990 to 12,464 in 1994.

All in all, the following conclusion can be drawn. The level of conventional crime in Romania as measured through survey research is moderately high. Due to low reporting rates the true size of the crime problem is not well reflected in the official crime statistics. Property crimes are less prevalent than in many other Western countries. As is typical for most countries in transition, serious crimes of violence and corruption constitute the most serious problems. The Romanian rates compare favourably, though, to those of several other countries in transition, e.g. the Russian Federation. The crime situation in Romania is in some respects more severe than in Western Europe but seems benign compared to that of many parts of the former Soviet Union.

The public perception of safety in the streets seems to reflect this objective state of affairs. The rate of citizens who feel unsafe in their own neighbourhood at night is higher than in the West but lower than in most neighbouring countries.

### 3.2 Determinants of crime

Both serious violence and corruption are strongly related to the presence in the population of (young) males who are dissatisfied with their income and/or unemployed. The percentage of the Romanian population experiencing such criminogenic “strain” is exceptionally high. It is among the three countries with the highest scores on the strain measure. The rate of unemployment is also very high. This feature will inevitably drive up rates of conventional crime and corruption.

Special risk factors for violent crimes include gun ownership and the consumption of hard alcohol. Romania has the good fortune that gun ownership rates are very low: they are at the level of countries like the Netherlands and England. The consumption of hard alcohol is relatively low for the region. In Romania wine drinking – which is unrelated to violence in Europe – is more popular. These two characteristics probably contribute to a moderation of the level of serious violent crime.

Romania is still a relatively poor country in terms of GNP. This is reflected in low levels of car ownership: in 1994 the total stock of motor cars was



roughly equal to that of a small country like Luxembourg. For analytic purposes a scale was constructed for the presence of criminal opportunities in a country which comprises values for vehicle ownership (cars, motorcycles, bicycles), frequency of recreational outdoor visits, percentage of people living alone and percentage of females participating in the labour market. Romania shows by far the lowest score of all countries on this criminal opportunity scale. The level of property crimes is restricted by the scarcity of suitable targets of crime. In the terminology of our model, crime in Romania is strongly demand-driven. There are relatively many potential offenders because of widespread unemployment and poverty but the supply of criminal targets is limited.

According to the index of educational attainment of females, the social position of females in Romania is weak. The national divorce rate is also very low. There are relatively few women represented in parliament and, according to UNICEF, almost none at the top level of government. The socially vulnerable position of Romanian women seems to form the background of relatively high levels of violence against women.

As explained in the first volume, the crime situation of countries can be described with the help of three factors: strain-related violence, serious property crime in an urban setting and opportunistic petty crime. As is to be expected, the Romanian profile is dominated by high scores on strain-related violence and an extremely low score on opportunistic petty crime. If the possession of consumer goods increases, conventional types of property crimes like car thefts are likely to rise strongly. Romanian households are presently not very security-conscious – e.g. there are few burglar alarms installed – and this will make them suitable targets of crime.

In addition Romania suffers, like many other countries in transition, from special problems such as corruption and violence against women. Potentially problematic is also the prevalence of intolerant attitudes towards ethnic minorities, as measured in the World Values Studies, which could lead to ethnic strife. All in all, the criminological prospects of Romania are not favourable, in spite of the lasting presence of certain crime-reducing factors, of which low gun ownership seems the most important.

### 3.3 Operation of the criminal justice system

In the preparation of the present report, relatively little data are available on the operation of the criminal justice system of Romania. The absence of statistical information must perhaps be interpreted as a negative sign.

The number of police officers per capita is very low (the third lowest in Europe and North America). Only ten percent of police officers are female. The productivity of the police in terms of crimes recorded per officer is relatively high.

No statistics were provided on the number of prosecutors, judges or prison staff. According to statistics collected by Walmsley for HEUNI, the prisoner rate is fairly high (200 per 100,000 inhabitants in 1995). In no Western European country can rates like this be found. Since the imprisonment of large numbers of prisoners is expensive, the total resources devoted to criminal justice are probably moderately high.

In paragraph 3.1 we concluded that the gap between the true level of crime as experienced by the public and officially recorded crimes is very wide in Romania. On the basis of several items in the ICVS, a scale was constructed for Citizen Evaluation of Police Performance. Romania shows one the lowest scores on this scale of all countries (only Russia, Kyrgyzstan and Latvia have even lower scores). Only 31% of the citizens for example, think that their local police is doing a good job in controlling crime and only 35% of reporting victims are satisfied with the police response.

As said, the number of prisoners is fairly high, especially considering the low number of recorded crimes. No statistics are available on sentencing patterns. However, the ICVS results indicate that the Romanian public are among the most likely in Europe, if not the most likely, to regard imprisonment as an appropriate response to the case of a recidivist burglar. There is remarkably little support for community service as an alternative sentencing option for this case. This negative attitude might be fed by memories of radical experiments with alternative sanctions under the communist regime.

The crime situation in Romania in the early 1990s was not particularly bleak. In comparison to some other countries in transition, the situation was even rather good. However, the prospects for the future are less favourable. With the growth of the economy, opportunities for crime will expand rapidly. These opportunities are likely to be fully exploited by the large section of economically marginalised young males. The country will probably also be plagued by high levels of corruption and domestic violence, which will hamper economic and social development.

The police force is small and its efficacy in controlling crime is not highly regarded by the public. It seems reasonable to assume that the police within its present budget will be hard put to respond adequately to the rising crime problems.

One possible policy option seems to be a reallocation of resources from the prison department towards the police. Such reallocation would require the (re)introduction of non-custodial sanctions which are credible in the eyes of the public and the judiciary. It seems advisable to invest with priority in the modernisation of the police towards a service-oriented force with specialised expertise on corruption rather than in simple quantitative strengthening.

## 4 Further reading

*Romanian Statistical Yearbook 1993.*

Rodica Stanoiu, Tiberiu Dianu (1992). Reform movements in Criminal Procedure. *Revue Roumaine des Sciences Juridiques*, III, 2, pp.190-204.

# Russian Federation<sup>1</sup>

## 1 General Provisions

### 1.1 History

The new Russian Criminal Code was adopted on 24 May 1996 and it came into force on 1 January 1997. In addition, the new Code on Punishments (Ugolovno-Iсполnitelnyy Kodeks) adopted on 18 January 1996 replaced the old so-called Corrective Labour Code. After the collapse of the USSR in 1991 all the former Soviet republics declared their state independence and, with the notable exception of the three Baltic states (Latvia, Lithuania and Estonia), became members of the Commonwealth of Independent States (CIS). Some new states still use their old Soviet-time Criminal Codes, while others have adopted new ones. Within the CIS, certain attempts were recently made to adopt a number of so-called “model codes” (including the criminal code) designed to be apply to all CIS countries.

Despite the formal decision to restore the jury for criminal trials (1990), this practice exists only in a very few regions (as an experiment) and for a very limited number of crime categories.

As a member of the Council of Europe Russia pledged to abolish the death penalty.

Other major changes occurred in relation to the following areas: the militia, the prosecution, operational and detective activities, weapons, organised crime and corruption control, tax police, private detective and security activities, and the establishment of the jury. The legislation on which crime control activities is based is still in the process of development.

As with criminal legislation, major changes have been introduced in criminal proceedings. In 1992, new legislation gave an arrested person the right to appeal against his or her detention. The law also expanded the rights and responsibilities of the defence. A 1993 law also declared that the judge alone could consider hearing certain categories of cases. Generally, these cases do not require pre-trial investigation. This change was introduced in order to ease the overburdened criminal justice system. The 1995 Law on Operational Investigation, in turn, allowed law enforcement agencies to conduct wire-tapping, electronic surveillance, undercover operations and controlled delivery. A new Code of Criminal Procedure is still in the process of being drafted.

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<sup>1</sup> This profile benefited from comments made by Mr Johan Bäckman, Researcher, National Research Institute of Legal Policy, Finland and Mr Sergey Timoshenko, Head of the Legal and Security Research, Moscow, Russian Federation.

## 1.2 Organisation and basic principles

The new Law on Militia (1991) divided the militia into the criminal militia and the public security militia. The criminal militia are involved in detective work as well as economic and organised crime control. The public security militia are divided into the following divisions: duty units, beat militia, guards for the temporary detention of apprehended and confined offenders, patrol service, state automobile inspection, juvenile delinquency prevention, and the investigation of crimes not requiring pre-trial investigation.

The militia is funded from the federal, republican, territorial, district and local budgets.

Crime investigation continues to be carried out by the Prosecutor's Office (Prokuratura), the Ministry of the Interior and the FSB (former KGB) agencies. The Tax Police is a new law enforcement agency independent of the State Tax Service (recently renamed as "the Ministry of Taxes and State Incomes") which was established in 1993. Departments have been created in the States Customs Committee in order to deal with cases of smuggling and violations of customs regulations.

Judicial reform in the Russian Federation continues to be developed. In addition to the Supreme Court and general courts, the Russian Federation also has the Constitutional Court and the Highest Court of Arbitration.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities of the Russian Federation.

**Table 1. Victimization rates (in %) according to the ICVS, major cities: average results from the 1992 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	6.6	2.5	8.6	1.7

## 2.2 Reporting and recording<sup>2</sup>

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	1,839,451	1240.4	2,760,652	1856.7	2,632,708	1778.9
Homicide	17,120	11.5	24,836	16.7	34,302	23.2
Assault	-	-	-	-	-	-
Rape	15,010	10.1	13,663	9.2	13,956	9.4
Robbery	83,306	56.2	164,895	110.9	148,546	100.4
Theft	913,076	615.7	1,650,852	1110.3	1,314,788	888.4
Theft of cars <sup>1</sup>					113,203	76.5

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	537,643	593,823	661,392	792,410	924,574
Intentional homicide (incl. attempts)	10,290	11,100	12,415	16,199	18,651
Causing death by negligence (non-intentional homicide)	1,592	1,824	2,008	2,594	2,683
Aggravated assault	22,309	22,705	23,109	30,207	34,049
Other assault	26,673	27,027	25,130	33,112	42,847
Robbery	40,509	43,841	55,062	74,654	84,873
Aggravated theft (not including burglary)	3,192	5,152	8,598	13,008	9,038
Other theft (not including burglary)	154,544	201,358	266,269	343,920	395,499
Burglary	31,056	41,308	59,237	76,109	105,614
Drug offences	6,977	9,265	10,366	18,836	28,455

<sup>2</sup> The Chechen Republic (a constituent part of the Russian Federation) did not submit crime data to the Ministry of the Interior of the Russian Federation. However, in preparation for the HEUNI report on the Fourth United Nations Survey, the Ministry of Security of Chechnya provided the necessary data. According to these data, on the territory of Chechnya 5,766 crimes were recorded in 1991 and 1,992 crimes were recorded in 1992.

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	121.0	205.0
Prisoner rate <sup>1</sup>		-	690.0
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	-	558.1
	Juveniles	-	4.1
% of females of convicted prisoners	Adults	-	-
	Juveniles	-	-
% of juveniles		-	4.1

<sup>1</sup> Data from Walmsley 1997. The data refer to 1995.

**Table 5. Trends in sentencing<sup>1</sup>**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	458,362		570,405		813,136	
Life imprisonment	-		-		-	
Other imprisonment	179,415	39.1	202,342	35.5	303,327	37.3
Control in freedom	35,452	7.7	38,191	6.7	-	
Fine	62,271	13.6	62,931	11.0	81,895	10.1
Warning	68,354	14.9	154,343	27.1	360,958	44.4

<sup>1</sup> The data do not add up to the total because of missing categories.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	1012.1	1224.6
	% female	7.7	21.3
Prosecutors	total / 100,000	14.0	19.3
	% female	32.2	33.3
Judges	total / 100,000	6.6	8.5
	% female	48.5	56.6
Prison staff	total / 100,000	129.8	154.4
	% female	12.5	29.5

## 3 Crime and criminal justice profile<sup>3</sup>

### 3.1 Crime situation

Since 1990 the total number of recorded crimes went up from 1,839,451 to 2,799,614 in 1993. Since then the level of recorded crimes remained stable at the level of 2.6-2.7 million. All types of crime show increases from 1990 to 1993, with the exception of rapes.

In 1994 the rate of all recorded crimes per 100,000 was 1,779. This is far below the average in European Union countries.

The ICVS was carried out in Moscow in 1992 and 1996. The percentage of the population victimised by any crime was 31 in 1991 and 39 in 1995. These results confirm the upward trend in the early 1990s shown by the official statistics. The over-all level of the public's experiences with conventional crime is among the highest in the Europe. Since the rate of recorded crime is far below the European average, this finding suggests that a relatively small proportion of all crimes is reported to the police and officially recorded. Given an over-all victimisation rate of 39%, a total rate of recorded crime of seven or eight thousand per 100,000 inhabitants is to be expected if Western standards would apply.

Of the victims only 28% reported their victimisation to the police. This is one of the lowest reporting rates in the industrialised world. This low reporting rate indicates a lack of confidence in the police on the part of the public.

Apparently the police is not yet highly regarded by the public and/or not trusted (see below).

On the indices for homicide and serious violence, the Russian Federation shows the highest scores of all. The score on the index for violence against women is also among the highest of all countries included in the study. The Russian Federation also shows the highest rate of persons convicted for rape per 100,000 (7).

The conclusion that the Russian Federation is confronted with an extraordinary serious problem of violent crime is inescapable. It comes as no surprise that the rate of citizens who feel unsafe in their own neighbourhood is also among the highest in the region according to the results of the ICVS in Moscow.

The scores on the indices for property crimes are moderately high. The only type of crime which is below average is household burglary.

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<sup>3</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).



The Russian Federation also holds the top position in the ranking for corruption.

### 3.2 Determinants of crime

The prevalence of several risk factors explains the high levels of crime, violent crime in particular. First of all the percentage of young males who are dissatisfied with their income and/or unemployed is relatively high (the Russian Federation belongs to the top five on this measure). The unemployment rate is 33. This implies that there is a large pool of potential offenders for whom crime might be an alternative means of income or an outlet of pent up frustrations. The consumption of hard liquor, which is an important risk factor for violent crime, is more prevalent than anywhere else in the region. The rate of alcohol consumption is twice as high as in the European Union. The combination of economic deprivation and high alcohol intake seems to account for the high rates of violence.

Fortunately the rate of (reported) gun ownership is rather low. The latter factor might well be instrumental in the prevention of even higher homicide rates.

The level of educational attainment of females in the Russian Federation is relatively high. However, in 1996 only eight percent of parliamentary seats were held by women, as was just two percent of top government positions (UNDP, 1997). In spite of a moderately high level of education the social position of employed men is still relatively weak. This feature seems to form the breeding ground for high levels of violence against women.

As in most countries, the Russian Federation shows a moderately low score on the index for criminal opportunities. The rate of car ownership – 37% of households – is among the lowest in the region. Russian citizens are also less likely to spend many evenings outdoors for recreational purposes. Of the households in Moscow 98% lived in apartment flats. This very high rate might help to control the rate of household burglaries since detached houses are more vulnerable in this respect. The number of households in Moscow which installed burglar alarms is still relatively small (6.6) but not negligible.

The crime situation in the Russian Federation can be described on the basis of the three factorial model presented in part I. The dominant characteristic of the Russian crime problem is the high level of strain-related violence.

Poverty, unemployment and alcohol abuse act together to breed high levels of violence. The relatively weak social position of women might further contribute to violence within the family. The level of conventional property crimes is not excessively high, in spite of high levels of criminogenic strain. Some types of property crimes are controlled by the restricted availability of suitable targets of crime. For example, car ownership is still relatively modest and few urban dwellers can afford to live in detached houses (which are more

accessible for burglars). The limited supply of targets for these types of theft might be instrumental in the rise in robbery rates in recent years.

### 3.3 Operation of the criminal justice system

The Russian Federation scores very high on the Law Enforcement Resources Index. The number of police officers, at 1,225 per 100,000 inhabitants, is the highest of the countries included in the study. The numbers of prosecutors and prison staff are likewise higher than elsewhere. The only exception to this pattern is the moderately low rate of judges per 100,000 inhabitants (9).

Between 1990 and 1994, manpower in the various parts of the criminal justice system was increased by twenty percent.

The percentages of female police officers, prosecutors, judges and prison staff are relatively high. The Russian Federation ranks among the five best performing countries in terms of gender balance within the criminal justice system. The proportion of female staff went up considerably since 1990.

As explained in the first volume, the Citizen Evaluation Police Performance Index is a composite measure of public satisfaction with police performance. The score of the Russian Federation, with that of Kyrgyzstan, is the lowest of all countries. Only 29 percent of the public in Moscow think their local police is doing a good job in controlling crime. Only 15% of those who reported victimisation to the police are satisfied with the response. It is to be expected that the willingness of the public to report even more serious crimes to the police is relatively small (19%).

In this respect it must also be mentioned that, according to the response to the ICVS, ten percent of the Muscovites reported that they personally experienced an incident of corruption by police officials.

In 1994 the rate of prisoners per 100,000 was 625. In 1995 the prisoner rate continued to rise, reaching 690 per 100,000. The Russian rate is the highest rate of the countries included in the present report. The second highest is the United States, with 600 in 1994. Prison sentences tend to be very severe: the average sentence served amounts to 260 weeks, compared to 109 in the USA. Interestingly, public opinion in the Russian Federation (Moscow) apparently is less punitive than in the USA. In Moscow 48% were in favour of imprisonment for a recidivist burglar, compared to 60% in the USA and 62% in Romania.

### 3.4 Conclusions

The Russian Federation is one of the countries in transition most severely afflicted by crime. The levels of violent crime are very high, and also conventional property crimes is fairly prevalent. The rather low level of burglary is offset by a high level of street robbery. In addition, Russian society is apparently plagued by widespread corruption among state officials, includ-

ing police officers. Not analysed here but generally reported is the upsurge of various forms of organised crime, often related to corruption.

In response to the crime threat, the Russian state continues to allocate considerable resources to the criminal justice system, especially to the police forces, in spite of its financial crisis. Sentencing policies are among the most severe in the Europe and pose a burden on the state budgets for prisons.

Considering the grave crime problems which the public and the Government in the Russian Federation are obviously facing, the first policy implication which comes to mind is that in technical co-operation programmes much more attention should be given to the rule of law in its most basic sense. Before anything else the Russian State should be assisted in modernising its police forces in order to reduce the level of serious crime. In this respect, it is worth noting that the World Competitiveness Yearbook 1997 (a world-wide overview of the economic competitiveness of countries in the eyes of business leaders) ranks the Russian Republic lowest for both security and fair justice of all countries under scrutiny. This ranking will inevitably negatively affect foreign investment and economic growth generally. Improvements in the domain of police and justice are a prerequisite for economic development.

The manpower employed by the criminal justice system seems sizeable enough. What is needed is a quality drive across the board. A potentially successful approach would seem to be the production of up-to-date crime statistics in the larger cities as a source of operational guidance for local police forces (the so-called compstat model of New York). The collection of crime statistics has a long tradition in the Russian Federation and could be build upon.

A more specific recommendation relates to the exceptionally high number of prisoners. An integrated sentencing policy consisting of sentencing guidelines and training for prosecutors and/or judges and the strengthening of the probation services should be considered. Such a policy should have as one of its objectives the reduction of the prison population through the imposition of alternative sanctions.

Although policies aimed at a reduction of the consumption of hard liquor might be politically unrealistic in the short term, such policies are urgently called for to reduce the level of violence, including violence against women.

According to the results of the ICVS in Moscow, few of the crime victims received any kind of services from a specialised agency. Sixty percent said they would have appreciated such help. There seems to be an obvious need for initiatives in this area.

# Scotland

## 1 Background

Historically Scottish lawyers looked to continental Europe rather than to England for training and guidance. This influence diminished to the early eighteenth century, the major events being the Napoleonic Wars and the Union with England and Wales in 1707. However the Scottish legal system retains its separate identity, which was safeguarded in the Union. For example, an accused person has an early examination by the sheriff (minor judge) after detention, with elements of the function of *juges d'instruction*. Crucially, there is no right of appeal to the House of Lords in London, so the court of last resort in Scotland is itself Scottish. Governmental responsibility for the administration of justice in Scotland is held by ministers with distinctive Scottish responsibilities. They are not the same ministers who perform equivalent functions in England and Wales. Important substantive differences exist. A Scottish jury is comprised of fifteen people, and it is allowed a verdict of "not proven" in addition to the options of "guilty" and "not guilty". An 8-7 majority is sufficient to establish guilt. Prisoners must be charged within six hours of arrest (in England limits are much longer and more flexible). Those charged with serious crimes and detained in custody must by law have their cases brought to trial within 110 days of their committal to prison. Those released on bail must have their cases brought to trial within 40 days of their first court appearance. Again, these criteria are much more stringent than those applying in England and Wales. The conditional discharge is not available as a sentencing option for courts in Scotland.

Juvenile justice in Scotland is distinctive. The minimum age of criminal responsibility is eight years. Suspected young offenders are normally dealt with in children's hearings before panels of three, unless any of the interested parties declines. The procedure here is deemed to constitute a civil proceeding. The central official in such hearings is the Recorder. While adult proceedings in Scottish courts are adversarial, proceedings at children's hearings are not. The basic task of the hearing is to determine what is best for the erring child. Disputes as to fact may be referred to a sheriff for resolution.

Full adulthood, in terms of the availability of the complete range of adult sanctions, is reached at the age of twenty-one. In historical contrast to England and Wales, the functions of investigation and prosecution have been separated. Recent English changes bring the systems into closer similarity, but the institutions and process remain distinct. For most offences in Scot-

land, the investigation is carried out by the police. The public prosecutor (procurator fiscal) has discretion about whether to prosecute in any criminal case. The police do not prosecute. In most cases where there is sufficient prima facie evidence prosecution ensues, although there has been somewhat greater use of discretion at the prosecution stage in recent years.

The High Court of Justiciary tries such crimes as murder and rape. The sheriff court deals with less serious offences, and the district courts deal with minor offences. Criminal cases are heard either under solemn procedure, when proceedings are taken on indictment and the judge sits with a jury of fifteen people, or under summary procedure, when the judge sits without a jury. All cases in the High Court and the more serious ones in sheriff courts are tried by a judge and jury. Summary procedure is used in the less serious cases in the sheriff courts and in all cases in the district courts. Judges in the district courts are lay magistrates. In Glasgow there are a number of salaried lawyers who act as stipendiary magistrates. Scotland's six sheriffdoms are further divided into sheriff court districts, each of which has a sheriff or sheriffs, who are judges of the court. Scotland's supreme criminal court is the High Court of Justiciary. This acts as both a trial and an appellate court. There is no further appeal.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Scotland and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	2.2	1.7	4.3	1.3
Major cities	3.2	2.0	5.8	2.3

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	<b>1990</b>	<b>rate/ 100,000</b>	<b>1992</b>	<b>rate/ 100,000</b>	<b>1994</b>	<b>rate/ 100,000</b>
All recorded crimes	535,864	10502.2	589,562	11534.7	527,064	10269.3
Homicide	87	1.7	140	2.7	113	2.2
Assault	5,710	111.9	6,836	133.7	5,917	115.3
Rape	494	9.7	539	10.5	569	11.1
Robbery	4,651	91.2	6,807	133.2	5,297	103.2
Theft	258,389	5064.1	274,082	5362.4	238,233	4641.7
Theft of cars					-	

During the period under review, the crime rates have remained relatively stable.

The total number of persons prosecuted remained relatively stable; in 1990 the total was 63,763 persons, and in 1994 it was 62,421 persons. Very few juveniles are prosecuted in court, which shows the strong impact of the children's panel system in Scotland. Only 166 juveniles (159 boys and 7 girls under the age of 16) were prosecuted in 1990; the number in 1994 was 182 (169 boys and 13 girls).

**Table 3. Number of persons convicted**

	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>
Intentional homicide	69	72	86	100	86
- of which attempts	48	45	49	58	52
Causing death by negligence	43	33	53	49	35
Assault (does not include petty assault)	1,114	923	1,099	1167	1073
Robbery	637	614	713	758	710
Theft	23,748	22,223	24,586	22,566	21,255
Burglary	6,084	5,429	5,663	5,097	4,921
Drug-related crime	3,016	3,474	4,054	4,624	5,315

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	188.1	221.9
Prisoner rate <sup>1</sup>		95.0	110.0
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	62.7	73.7
	Juveniles	13.9	14.0
% of females of convicted prisoners	Adults	2.7	3.1
	Juveniles	2.0	1.5
% of juveniles		18.1	16.0

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

**Table 5. Trends in sentencing**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	53,264	100.0	54,226	100.0	51,129	100.0
Life imprisonment	25	0.0	35	0.1	30	0.1
Imprisonment	9,598	18.0	10,378	19.1	11,288	22.1
Control in freedom	3,045	5.7	3,842	7.1	4,159	8.1
Warning, admonition	5,844	11.0	6,449	11.9	5,801	11.3
Fine	29,729	55.8	28,029	51.7	24,801	48.5
Community service order	3,330	6.3	3,868	7.1	3,582	7.0
Others	1,718	3.2	1,660	3.1	1,498	2.9

Although the number of sentences imposed has decreased somewhat over the period under review, the number of sentences of imprisonment and control in freedom of increased. There has been a somewhat corresponding decrease in the number of fines imposed.

In 1990, 4,109 adults and 13 juveniles were placed on probation. In 1994, the total was 5,978 adults and 32 juveniles.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Scotland, 14% of the respondents would have favoured a fine, 4.3% a suspended sentence, 32% community service and 46% imprisonment. Among those favouring imprisonment, the average suggested sentence was 19 months. The proportion suggesting imprisonment was one of the highest among the countries participating in the survey.

## Prisons

The number of persons received in prison during the year increased somewhat from 1990 (10,482) to 1993 (13,510), and then decreased to 1994 (12,709). Roughly one half of all receptions to prison are for theft. An additional quarter is for burglary. Thus, property offences account for the bulk of receptions.

The annual average of convicted prisoners increased from 3,909 in 1990 to 4,614 in 1993. From 1993 to 1994, the number decreased somewhat to 4,505. The total number of persons held in incarceration at the end of the year increased from 4,742 to 5,585.

The average length of time spent in detention awaiting trial or sentence, for all offences, was 18.1 days in 1990, 23.7 days in 1992, and 24.8 days in 1994. This gradual increase in the average length is again in line with previous observations. No data are available on the average length of prison sentences actually served.

349 persons were paroled from prison during 1990. In 1994, the corresponding figure was 368.

Scotland has seventeen prisons, which had a capacity of 4,815 beds in 1990 and 4,761 beds in 1994. In addition, there are 4 juvenile institutions.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	-	-
	% female	-	-
Prosecutors	total / 100,000	11.2	11.0
	% female	13.8	16.0
Judges	total / 100,000	-	-
	% female	34.9	41.1
Prison staff	total / 100,000	51.7	55.6
	% female	22.2	14.6



## 3 Crime and criminal justice profile<sup>1</sup>

### 3.1 The crime situation

According to the results of the 1996 ICVS, 31% of the respondents in urban areas in Scotland had been the victim of a crime during the preceding year. For individual offences, the victimisation rate was only 1.7% for burglary, 3.0% for assault or threat, 7.0% for theft from or of a car, and 0.7% for robbery (average rates 1989 and 1996).

On the index of homicide, the index of serious violence and the index of violence in general, Scotland had a relatively low score.

On the index of the amount of corruption, Scotland has a low rank, reflective of less-than-average corruption (ninth out of 45 countries; Scotland shares this rank with the United States.) For example, only 0.3% of the urban respondents to the ICVS stated that a government official had accepted or demanded a bribe from them during the preceding year; this is one of the lowest rates in Europe and North America. (With rates this low, random fluctuations in the structure of the sample may affect the over-all results.)

Eleven rapes were reported per 100,000 in population in 1994, among the lowest reported rates in Europe. The results of the ICVS point in the same direction: 1.2% of the female respondents in Scotland reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This is sixth lowest among the 36 countries for which the data are available. On the index of violence against women, however, Scotland was thirteenth highest among 44 countries.

### 3.2 Determinants of crime

According to the ICVS, 57.3% of the population, and 44% of the urban population, live in detached housing; internationally speaking, this is higher than average. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) Further according to the ICVS, 62% of the population report the use of special door locks, 21.1% the use of special window grills, and 23.4% the use of burglar alarms in their household - all among the highest reported rates in Europe and North America, after England and Wales (24.5%). On the "opportunity index" for property crime, Scotland, at 52.78, is lower than the mean for the European Union (64.66). Thus, it is somewhat surprising that the indices of the different types of property crime (burglary, and theft of or from a motor vehicle) show

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<sup>1</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

Scotland to have a relatively high amount of burglary and of offences directed against motor vehicles. On the index of petty crimes, however, Scotland has a relatively low rank.

One of the opportunity factors related to violent offences is the presence of firearms. The ICVS results suggested that only 4.6% of households in Scotland had a firearm, and only 0.4% had a handgun. This latter proportion is the lowest among the 36 European and North American countries in which the study has been carried out. Another opportunity factor is the degree to which stranger-to-stranger contact occurs in surroundings that may be conducive to assault. The results of the ICVS noted that the population in Scotland is relatively active in spending their leisure time outside of the home, with respondents reporting spending an average of 3.5 evenings per week away from home, the fourth highest among the participating countries (after the US, Canada and Northern Ireland).

According to the ICVS, 62% of victims reported the offence to the police, the highest rate in any of the European and North American countries. Only 24% of victims in Scotland who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, the third lowest proportion (the rate in the Netherlands was the same.) Both rates suggest strong public confidence in the police. Moreover, only 21% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which is the fourth lowest rate.

In general, the various indicators of the amount of crime and of the operation of the criminal justice system suggest that, at least when viewed from the international perspective, the situation in Scotland is well in hand. There appears to be a relatively low amount of crime, and there also appears to be strong public confidence in the law enforcement authorities.

### 3.3 Operation of the criminal justice system

Scotland's score on the Law Enforcement Index is below average (23; the EU mean was 26). This is in line with the low numbers of prosecutors (5 per 100,000 population) and judges (3 per 100,000 population). On the other hand, the number of police officers and correctional staff per capita is quite high. The prisoner rate is, however, close to the median for all countries covered (110 and 99 respectively).

On the index of Citizen Evaluation of Police Performance Scotland scores very high (fourth quartile, 50), indicating a very high public appreciation of police performance. Only Switzerland had an equally high score on this indicator.

Scotland falls in the third quartile on the Criminal Justice Practitioner Gender Balance Index (29). 46% of the Scottish prosecutors and 23% of the police officers are women.

# Slovakia

## 1 Background

Slovakia formed a part of the Austrian-Hungarian monarchy until the end of World War I. After the war the new state of Czechoslovakia, consisting of the Slovak and Czech part, was founded.

During the period between the two World Wars, the old Austrian Penal Code of 1852 and the Hungarian Penal Code of 1878 were in force in the Czechoslovak Republic. These Codes were amended several times and supplemented by a number of penal statutes. The first Czechoslovak Penal Code was adopted as late as 1950. It was substantially changed in 1956, and replaced by a new Penal Code in 1961, which came into force on 1 January 1962. Some amendments have been made, notably in 1969 and 1973. The Law of Criminal Procedure has also been changed several times, by Codes adopted in 1950, 1956 and 1962. In 1961, a new statute of transgressions was adopted. Transgressions are violations of administrative regulations which cannot be punished by deprivation of liberty.

Upon identification of a suspect, a preliminary investigation is conducted by the police (the Corps of State Security or the Corps of Public Security), and by the investigative personnel of the public prosecutor's office. The investigation is conducted under the supervision of the public prosecutor, who alone is empowered to decide whether to indict a suspect, to terminate proceedings, or to take some other appropriate action. The public prosecutor is bound by the legality principle, under which prosecution has to follow in all criminal cases in which it was considered that a suspect had a case to answer. Further duties of the public prosecutor include the supervision of the observance of legality on the part of the police, the courts and other state organs as well as by social organisations and individual citizens. According to the Czechoslovak Law of Criminal Procedure, the injured person is not empowered to initiate criminal proceedings and indictment.

As a general rule, the regional court is the court of first instance. In a regional court, cases are dealt with by a professional judge or by a panel consisting of one professional judge and two lay magistrates. The district court acts as a court of appeal from the regional court. It also has a limited role as a court of first instance. When operating as a court of appeal, the district court sits as a panel of two professional judges. In such cases, the Supreme Court of the Slovak Republic, serves as the appellate court.

The Supreme Court exercises oversight of the judicial activities of the entire court system. The management of the business of the courts is overseen by the Ministry of Justice. In cases of transgression, adjudication is made by

local councils, administrative authorities (for tax, customs, health, construction etc.), and the police.

The 1961 Penal Code established 18 years as the minimum age of criminal responsibility. Youths between the ages of 15 and 17 years have limited criminal responsibility. They may be placed on trial where the resulting social harm was deemed significant. There are no juvenile courts. Particular benches of judges are, however, designated to deal with cases of alleged juvenile offending. Cases of juvenile delinquency which did not appear before the courts are dealt with by educational or welfare authorities.

The prison service operates under the supervision of the Ministry of Justice.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Slovakia and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1992 and 1997 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	3.2	3.4	7.8	1.1
Major cities	1.8	6.5	2.1	1.8

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	69,669	1315.0	104,945	1980.1	138,068	2582.2
Homicide	188	3.5	223	4.2	205	3.8
Assault	—	—	—	—	—	—
Rape	320	6.0	236	4.5	213	4.0
Robbery	1,412	26.7	1,266	23.9	1,244	23.3
Theft	22,138	417.9	43,049	812.2	58,807	1099.8
Theft of cars					-	

**Table 3. Number of persons convicted**

Number of persons convicted	1990	1991	1992	1993	1994
Total	11,821	22,878	23,634	25,667	25,442
Intentional (including attempts) and non-intentional homicide	33	40	68	51	47
Aggravated assault	463	529	501	434	502
Other assault	1,053	1,917	1,634	1,520	1,327
Robbery	477	734	643	579	565
Aggravated theft (not including burglary)	551	5,209	4,012	4,312	4,969
Other theft (not including burglary)	2,092	4,053	6,011	7,810	6,975
Burglary	-	-	-	-	-
Drug offences	2	8	18	22	22

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	63.27	92.22
Prisoner rate <sup>1</sup>		70.0	150.0
% women in the prison population <sup>2</sup>		3.0	3.5
Prisoner rate / 100,000 (convicted only)	Adults	52.1	99.9
	Juveniles	2.2	3.1
% of females of convicted prisoners	Adults	4.1	3.1
	Juveniles	0.0	1.2
% of juveniles		4.0	3.0

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

**Table 5. Trends in sentencing<sup>1</sup>**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	11,567	100	22,333	100	23,662	100
Life imprisonment	-	-	3	0.01	-	-
Other imprisonment	3,352	29.0	4,627	20.7	4,931	20.8
Control in freedom	6,111	52.8	15,899	71.2	16,728	70.7
Fine	638	5.5	1,461	6.5	1,613	6.8
Warning	-	-	-	-	-	-

<sup>1</sup> The data do not add up to the total because of missing categories

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	213.5	52.2
	% female	5.7	7.8
Prosecutors	total / 100,000	11.3	10.5
	% female	43.8	43.8
Judges	total / 100,000	16.6	20.9
	% female	40.8	53.1
Prison staff	total / 100,000	-	-
	% female	-	-

## 3 Crime and criminal justice profile<sup>1</sup>

### 3.1 Crime situation

Recorded crimes have increased from 69,669 in 1990 to 138,068 in 1994. In an international perspective the rate per capita is very low (2,580 per 100,000).

Slovakia participated in the 1992 and 1997 ICVS studies. The overall victimisation rates of the urban population in 1996 was moderately high. The relatively high victimisation rates shed doubt on the validity of the official

<sup>1</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

crime statistics. They seem to deflate the relative position of Slovakia in terms of crime. Unlike in many other countries in transition the percentage of crime victims who say they have reported their victimisation to the police is relatively high (58 % in urban areas). The Slovakian reporting rate is higher than in several Western European countries and much higher than in any other country in transition. This result indicates that the public has confidence in the police response to criminal victimisation. The question arises, however, how the low rate of recorded crimes can be explained if the level of crime is fairly high, as is the proportion of crimes reported. These findings suggest that the Slovakian police is less than ready to officially record reported crimes (the issue of citizen satisfaction with police responses is raised again below).

Slovakia scores low on the indices for homicide and serious violence. It scores moderately high on the index for non-fatal violence, however. Its score on the index for violence against women is in the middle range. The country shows remarkably high scores on the indices for burglary and petty crimes. Its score on motor vehicle crime is in the middle range. The score on the composite index for corruption is fairly high. The country presents a rather mixed picture. It seems to be confronted with high levels of less serious crimes and corruption but not so much by serious violence.

The percentage of the public in urban areas who feel unsafe at night is relatively high.

### 3.2 Determinants of crime

The proportion of the population suffering from economic deprivation is moderately high. Twenty percent of the population was unemployed in the mid-1990s. This factor might be partly responsible for the moderately high rate of conventional crime.

The rate of consumption of beer and hard liquor is not particularly high and cannot explain the rather high level of non-fatal violence.

The rate of ownership of firearms is very low (one of the lowest in Europe). This factor might well be instrumental in the prevention of homicides.

Almost all households live in apartment flats. This type of housing is particularly vulnerable for burglaries. Since the risk of burglary seems quite elevated, the low rate of burglar alarms installed is remarkable (3% of households).

The degree of urbanisation of the country is moderate. The rate of bicycle ownership is relatively high.

For a country in transition, Slovakia shows a rather high score on the index for criminal opportunities. Its score is somewhere in between the European Union countries and the countries in transition.

The three factorial model, introduced in part I (pp. 48-50), which brings into focus the dominant features of the crime situation of a country, provides the following insights. Slovakia shows a high score on opportunistic petty

crime and low scores on the other two factors ( strain-related violence and serious property crime in an urban setting). The profile of Slovakia is unusual for a country in transition since strain-related serious violence is not a dominant trait. Slovakia's crime profile is fairly similar to that of the Czech Republic.

### 3.3 Operation of the criminal justice system

The numbers of personnel employed by the criminal justice system are relatively high. Slovakia falls into the upper quartile on this index. The system is reasonably gender-balanced in an international perspective.

The score on the index of Citizen Evaluation of Police Performance is moderately high (third quartile). In comparison to other countries in transition this is a good result. The hypothesis that the police does not accurately record crimes is not confirmed by the citizens' evaluations of their performance.

The prisoners rate of Slovakia has increased dramatically from 70 per 100,000 in 1990 to 150 in 1994.

### 3.4 Conclusions

As said, the crime situation of Slovakia is somewhat mixed. In sheer volume there is a lot of crime, much more than is reflected in the official police figures. On the positive side, the homicide rate is fairly low. The most serious crime problem might well be the apparently relatively widespread corruption of state officials.

In spite of high rates of burglary, the state of technical security seems underdeveloped. One reason for this might be that the public is reasonably satisfied with the police.

A worrying trend is the strong rise in the prison population. Slovakia has in the early 1990s clearly deviated from the Western European norm of about 80 prisoners per 100,000 inhabitants. The statistics provided indicate that the prison department has not been able to keep up with the increases in the prisoner population. The floor area per person decreased from 5.6 square meters to 3.9 in 1994.

Community service orders were not available as a sentencing option and fines were rarely used. Perhaps the promotion of non-custodial sanctions through sentencing guidelines or otherwise could help to reduce the prison population.

Very few victims reported having received services from a specialised agency. Fifty-nine percent of the victims would have appreciated such help. Initiatives should be taken by the police and/or voluntary organisations to remedy this situation.



# Slovenia<sup>1</sup>

## 1 Background

Up to 1918, Slovenia was part of the Austrian-Hungarian monarchy and, accordingly, Austrian criminal legislation (the 1852 Criminal Code) was in force. After that, the Kingdom of Serbs, Croats and Slovenes (Yugoslavia since 1929) was founded and in 1929 a new Criminal Code was promulgated together with a new Code on Criminal Procedure (1930).

During World War II, the country was occupied by the Axis powers. In 1945 Yugoslavia became a Communist-ruled federal republic. In 1945 the new regime enforced some very repressive statutes for particular categories of criminal offences (e.g. offences against the people and the state, and against the economy). In 1951 a completely reformed Criminal Code was enacted, followed by a Code of Criminal Procedure in 1953. During the 1960 the Criminal Code was considerably amended under the influence of the ideas of the new social defence movement. The Code of Criminal Procedure was amended in 1967, restricting some of the inquisitorial powers of the police and of the public prosecutor. In 1977 – in accordance with the Constitution of 1974 – the substantive criminal law was split between the federal republic (which remained competent to legislate on the general part of the criminal law) and the republics and autonomous regions (which became competent to legislate separately on the special part of the criminal law). The legislation on criminal procedure remained a federal prerogative.

Following the very turbulent development after the first multiparty elections in Slovenia (April 1990) and the de facto disintegration of Yugoslavia, Slovenia declared its independence in June 1991 and was recognised as an independent country by January 1992.

During the period under review, the criminal law in force was the Criminal Statute of Slovenia (the special part of criminal law, 1977), the Criminal Statute of former Yugoslavia (the general part of criminal law) and the Statute of Criminal Procedure of former Yugoslavia, in so far as they did not contradict the present constitutional order. A new Constitution was adopted on 23 December 1991, setting out a number of basic precepts also regarding criminal law and the administration of justice. (As of 1 January, 1995, new

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<sup>1</sup> This profile has benefited from the comments made by Professor Alenka Selih and Mr Zoran Pavlovic, Ph.D., Institute of Criminology Institute of Criminology, University of Ljubljana and Mr Bostjan Penko, State Under-secretary, Ministry of Justice, Slovenia

substantive and criminal legislation, in the form of a completely reformed Criminal Code and Code of Criminal Procedure, entered into force.)

The administrative structure of the police is divided into three levels, the national level (the Ministry of the Interior), the regional level (the police administration departments) and the local level (the police stations). At the same time, this structure represents the chain of command. However, each level performs its duties independently, and the superior body takes over tasks that go beyond lower levels. The superior body is also the supervising body.

Investigation of offences is the responsibility of the police and the investigating magistrate. The police are obliged to investigate any criminal offence *ex officio*. They are entitled to detain a suspect until this person has been identified (but not for more than 48 hours). Upon identification they must bring the suspect before the investigating magistrate or release him or her. After investigating the offence the police file a report of the offence (“denouncement”) at the prosecutor’s office.

Slovenia has three levels of prosecuting authorities, the national, the regional and the communal (local) level, a classification that corresponds to the court levels. The prosecuting authorities in Slovenia are organised within State Prosecutions. The prosecutor is bound by the legality principle. However, in less serious juvenile cases, the prosecutor can apply the opportunity principle. In addition, the prosecutor is entitled to dismiss a case if the offence is of “minor importance” (the criteria of which have been defined by the prosecutors’ standard decisions).

The preparatory judicial procedure is in the hands of the investigating magistrate and is initiated against a known suspect upon a request filed by the state prosecutor. Before deciding upon such a request, the investigating magistrate is bound to hear the suspect who has the right to appeal his or her decision on the initiation of the preparatory procedure. The investigating magistrate is entitled to carry out all investigative acts. After the preparatory judicial procedure has been terminated the state prosecutor decides on the filing of the indictment. Under certain conditions (if the facts have not been disputed and in case of offences sanctioned by up to five years of imprisonment) the accusation can be filed without a preparatory procedure (direct accusation).

In cases of less important offences (punishable with up to three years of imprisonment) the state prosecutor can file an “indicting proposal” immediately after having received the denouncement by the police (summary procedure).

Legal aid is provided *ex officio* in cases of serious offences (punishable by twenty years of imprisonment) and in case that the suspect is dumb, deaf or otherwise incapable of defending himself or herself successfully. As a rule, cases are tried by panels of judges, with three or five judges on the panel.

The only existing dispute resolution alternative during the period under review were the conciliation councils, which serve as a mediating body in cases that are to be prosecuted by private charge (e.g. insult, libel and petty

bodily injury). Such councils consider approximately 9% of all cases. (Subsequently, the conciliation councils were abolished as a dispute resolution alternative. The new legislation introduced various community sanctions for less serious offences, punishable by a fine or by imprisonment for up to one year.)

Decisions on pre-trial incarceration are made by the investigating magistrate. According to the new legislation (which entered into force on 1 January 1995), pre-trial incarceration can be used if the suspect might abscond, destroy the evidence or continue his or her criminal activity. The law provides for the possibility of bail, but this is used exceptionally only.

Pre-trial incarceration is the most severe among the measures “to assure the defendant’s presence in the procedure”. It can last a maximum of six months up to the filing of the indictment, but can be prolonged after this has been filed, up to the main hearing in court (or a maximum of two years). A prisoner is classified as being on remand until the court’s final decision, i.e. after the possible appeal has been decided upon. However, after the first adjudication and pending the decision on the appeal, a prisoner can be reclassified as a prisoner serving a sentence if he or she so wishes. The average length of detention awaiting trial has decreased from 13.6 weeks in 1986, to 12.1 weeks in 1990, to 8.3 weeks in 1994.

The minimum age of criminal responsibility is 14 years. Full adult responsibility comes at the age of 18 years.

The primary measure for juveniles (between the ages of 14 and 18 at the time of the commission of the offence) are educational measures. For those between the ages of 16 and 18 years, a special penalty (imprisonment for juveniles) can be exceptionally used in cases of serious offences.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Slovenia and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1992 and 1997 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	3.1	1.9	4.9	0.2
Major cities	3.3	2.8	7.7	0.3

## 2.2 Reporting and recording

In comparison with the authorities of many other European and North American countries, the authorities of Slovenia have been able to provide an extensive amount of statistics on crime and criminal justice. Indeed, the response from Slovenia was the most complete of any of the responses received by the United Nations.

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	38,353	1919.6	54,085	2709.7	43,635	2246.9
Homicide	94	4.7	114	5.7	111	5.7
Assault	1,621	81.1	1,954	97.9	1,816	93.5
Rape	211	10.6	228	11.4	240	12.4
Robbery	150	7.5	241	12.1	294	15.1
Theft	16,992	850.5	24,240	1214.4	15,763	811.7
Theft of cars <sup>1</sup>					1,046	53.9

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

Taking also into consideration the data from the Fourth United Nations Survey (1985-1990), the trends in reported crime in Slovenia have remained relatively stable. The major exceptions are robbery and burglary, which increased during the year of independence (1991) and remained on a high level thereafter, and other aggravated theft, which hit an unusually sharp peak in 1992.

**Table 3. Number of persons convicted**

Number of persons convicted	1990	1991	1992	1993	1994
Intentional homicide (incl. attempts)	32	45	34	35	29
Causing death by negligence	13	10	12	6	9
Aggravated assault	213	233	166	146	164
Robbery	44	25	27	77	74
Aggravated theft (not including burglary)	81	87	141	137	99
Burglary	552	540	566	548	576

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	75.2	47.2
Prisoner rate <sup>1</sup>		40.0	30.0
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	25.1	27.7
	Juveniles	2.9	0.4
% of females of convicted prisoners	Adults	2.6	5.4
	Juveniles	7.0	0.0
% of juveniles		10.2	1.5

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

**Table 5. Trends in sentencing<sup>1</sup>**

Sentenced	1990		1992		1994	
	N	%	N	%	N	%
(adults)						
Total	9,842	100	7,618	100	6,289	100
Imprisonment	1,503	15.3	- <sup>3</sup>	-	917	14.6
Fine	2,246	22.8	1,115	14.6	739	11.8
Warning (suspended sentence) <sup>2</sup>	6,093	61.9	- <sup>3</sup>	-	4,633	73.7

<sup>1</sup> The data do not add up to the total because of missing categories

<sup>2</sup> The Slovene term refers to a sanction in-between suspended sentence and probation

<sup>3</sup> The response notes that in 1992, a total of 6,503 persons were sentenced either to deprivation of liberty or given a suspended sentence. In 1992, statistical data were collected in a way that did not allow a separation of prison sentences and suspended sentences. The majority of the 6,503 persons sentenced were given a suspended sentence.

The courts in Slovenia clearly favour the use of non-custodial sanctions, in particular suspended sentences.

During 1990, 979 persons were placed on probation, and 355 persons were on probation at the end of the year. During 1994, 695 persons were placed on probation, and 239 were on probation at the end of the year. (Probation in the sense of a sanction where the offender is subjected to supervision does not exist in Slovenia. The only comparable data would be on the number of those subjected to “control in freedom” in a given year.)

### Prison population

Slovenia has 12 prisons, with a capacity of 1,536 persons, and 2 prisons for juveniles, with a capacity of 220 persons. There was no change in this respect during the period under review.

Slovenia has had one of the lowest prisoner rates in the world. In 1995, for example, the rate was only 30 per 100,000 in population. Slovenia, together with Cyprus, thus had the lowest rate of all European and North American countries. The 1995 rate reflects a steady decrease since 1985, when the rate was 70 per 100,000, and 1990, when the rate was 40 per 100,000.

Another measure of punitiveness is the proportion of persons convicted, who are sentenced to imprisonment. In Slovenia, this was 15% in 1994, the sixth lowest in Europe and North America.

The response gives data on the average length time spent in prison for all offences by month and for time spent in detention by weeks. The average time in prison 1990 was 13 months; in 1994, it was 11 months. The average detention awaiting trial in 1990 was 12.1 weeks; in 1994, 8.3 weeks.

This has continued a trend begun already during the 1980s, when the change in the political and social climate in general in Slovenia led to a relaxing of political controls, and to the founding of the first civil society movements. Human rights and the rule of law have stood very high on the agenda and repressive measures have often been criticised. It is possible that the changes in social situation have influenced the judicial practice, although this remains an area only for speculation.

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	353.4	412.0
	% female	22.3	20.3
Prosecutors	total / 100,000	7.2	7.3
	% female	45.8	45.1
Judges	total / 100,000	25.5	26.3
	% female	51.5	56.5
Prison staff	total / 100,000	39.4	42.3
	% female	23.9	20.3

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, during the beginning of the 1990s the rates of reported crime in Slovenia were relatively stable.

According to the indices of violence, in an international comparison Slovenia has an average incidence of homicide and of serious violence. In respect of the index of violence in general, Slovenia in fact has the twelfth highest rate in Europe and North America (out of 36 countries for which data are available). This violence, however, has not appreciably raised the level of fear of crime. For example, 42% of the urban ICVS respondents stated that they avoid certain areas at night; this proportion was below the mean for all European and Northern American countries of 44%.

According to the results of the 1997 ICVS, only 23% of the respondents in Slovenia had been the victim of a crime during the preceding year, the third lowest national rate (together with Malta and Poland) in any of the 17 European and North American countries for which these data are available from the 1995 sweep. For individual offences, the average victimisation rate (1992 and 1997) was 1.9% for burglary, 4.6% for assault or threat, 0.9% for robbery and 5.5% for theft from or of a car. 2.2% of the female respondents reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. The rate for pickpocketing was 0.7% and for "other theft" 5.6%, both among the lowest figures for any European or North American country for which comparable data are available.

On the index of the amount of corruption, Slovenia falls within the medium range. Only 1.2% of the respondents to the ICVS reported that a government official had accepted or demanded a bribe from them during the preceding year; while slightly higher than in most Western European countries, it is significantly lower than the average in Central and Eastern European countries.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the ICVS, satisfaction with income among urban respondents, on a scale of 1 ("not satisfied") to 4 ("very satisfied") was 2.71, which is exactly the median for all European and

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

North American countries. Unemployment in 1995 was a relatively high 14.3% of the active labour force, much higher than the corresponding figure five years previously (4,7%) (The Economist Pocket Europe in Figures, 1997). The overall “motivation index” for Slovenia was 4,4, which is below average.

According to the World Values Study attitude survey, respondents in Slovenia showed quite high tolerance among European and North American respondents for deviant behaviour: 41% of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. This was the third highest among the 26 countries in which the study was conducted. This tolerance was less evident in respect of misdemeanours and petty crimes; respondents in Slovenia were, internationally speaking, in the middle range in respect of their readiness to justify the commission of misdemeanours under certain conditions. However, in respect of minorities, respondents in Slovenia (together with Turkey) showed the lowest tolerance of all.

According to the UN Compendium on Human Settlements, 59% of the population in Slovenia live in urban areas. The 1997 Human Development Report assigns Slovenia a relatively high HDI development index of 0,89 (the 35<sup>th</sup> highest in the world), and the World Bank reports a GNP of USD 7,140 per capita (1994), which places Slovenia slightly below for example Greece and Portugal, but significantly above the general level for Central and Eastern European countries.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On the “opportunity index” for property crime, Slovenia, at 69.91, was far above the mean for Central and Eastern Europe (37.9) and even above the mean for Western Europe (64.66). In the European perspective, a very high proportion of the population of Slovenia – 64.4% – live in detached housing (ICVS data; of the participating European countries, only England and Wales, and Norway had higher proportions). Internationally speaking, the proportion of such housing has been found to correlate with the risk of burglary. According to the ICVS, 34% of the urban population report the use of special door locks, 14.4% the use of special window grills, and 5.5% the use of burglar alarms in their household. These are somewhat lower rates than the international average. Again according to the ICVS, 86% of the population have a car in their household; among European and North American countries, this rate is exceeded only by the rate in Canada, Italy, Malta and the United States. In this light, it may be surprising that the indices of the different types of property crime show Slovenia to have a lower-than-average amount of burglary and of offences directed against motor vehicles. On the index of petty crimes, Slovenia was somewhat higher than average.



In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. As noted, Slovenia has emerged relatively unscathed from the internal conflict suffered by much of the rest of former Yugoslavia. Although it is possible that open conflict in the immediate vicinity would increase the availability of weapons also in Slovenia, the ICVS showed that only 8.2% of households in Slovenia had a firearm, and only 3.5% had a handgun – rates that are internationally speaking relatively low. As for the potential for stranger-to-stranger contact, one indicator is the number of evenings spent outside the home for recreation. According to the ICVS, respondents in Slovenia spent an average of 2.72 evenings a week outside the home for entertainment purposes; this was the fifth lowest out of the 23 countries for which comparable national data are available.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. In respect of female educational attainment, Slovenia is relatively high among the European and North American countries. According to the ICVS data, 3.0% of the female respondents were divorced, a very low figure. Also the Economist data (*The Economist Pocket Europe in Figures*, 1997) suggests that the divorce rate on the national level – 0.7 divorces per 1,000 in population per year – is among the lowest in Europe.

The 1997 Human Development Report calculates the so-called gender-related development index in Slovenia in 1994 to be 0.866, placing it eighteenth among the 47 European and North American countries for which the data are available, and 24<sup>th</sup> globally. The female economic activity rate, as a percentage of the corresponding male economic activity rate, is 81 (op.cit.). Less positive data regarding gender equality – which can be hypothesised to be inversely related to the amount of sexual violence – show that only 8% of seats in Parliament are held by women, and the UNICEF “The Progress of Nations” report states that only 9% of persons at the top levels of government are female. In this light, it is of interest to note that Slovenia has a high reading on the composite index on violence against women, tenth highest out of 44 countries. The results of the ICVS point in the same direction: 3.2% of the female respondents in Slovenia reported having been the victim of a sexual offence (including sexual harassment), and 1.2% reported having been the victim of a sexual assault during the preceding year. These are among the highest rates among the 17 countries for which the data are available.

In a factor analysis of the determinants of crime, Slovenia had a negative loading in respect of strain-related violence (-.44), a high negative loading in respect of serious property crime in urban settings (-.71), but a very high positive loading in respect of opportunistic petty crime (+1.15) (see Table 10 in part I, p. 49). This last score is surprising, in light of the low rate of

victimisation noted above; it is the relatively low and stable rate of crime which appears to dominate the country's crime profile.

### 3.3 Operation of the criminal justice system

Slovenia's score on the Law Enforcement Resources Index (which essentially measures spending on law enforcement; see part I, pp. 72-74) is 32, and is above the mean for the European and North American countries (27). This is in line with the unusually high number of judges (26 per 100,000 population), far above the mean for all European countries of 14. The number of police per 100,000 in population, (412) is also above the mean for the region (390), but below the mean for Central and Eastern Europe (484). Given the very low prison rate, it is scarcely surprising that Slovenia has fewer correctional staff (42 per 100,000) than is the mean for the region (64). Even given this low rate, however, there are more correctional staff members than there are prisoners.

Slovenia falls in the top quartile on the Criminal Justice Practitioner Gender Balance Index (39). Overall the Central and Eastern European countries have more female practitioners in their criminal justice system than the EU countries, reflecting their high shares of female prosecutors and judges. Accordingly, 20% of the Slovenian police officers and correctional staff, and 45% of the prosecutors and nearly 60% of the judges, are women

On the index of Citizen Evaluation of Police Performance, Slovenia scores close to the mean and median for all countries covered (25). According to the ICVS, only 40% of victims reported the offence to the police, the fifth lowest rate in Europe and North America. 46% of victims in Slovenia who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a somewhat higher proportion than average among the countries participating in the ICVS. Both rates suggest that more work needs to be done in increasing public confidence in the police. 32% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which places Slovenia in the middle range. However, it should be noted that, according to Interpol statistics for 1994, the clearance rate of all offences in Slovenia is 57%, which internationally speaking is relatively high.

A comparison of the number of offences recorded by the police and the number of persons formally brought into contact with the criminal justice system as a suspect for an offence suggests that the over-all clearance rate in Slovenia, 0.73, is one of the highest for all the European and North American countries for which data are available, and considerably above the mean (0.49).

In respect of the number of prosecutions per offences reported, Slovenia has a lower rate (0.21) than the mean for the region. The same is true of the number of prosecutions per suspects (Slovenia's rate is 0.29, as compared to

a regional mean of 0.65). However, reference should be made to the comments in Slovenia's response to the Fifth United Nations Survey regarding these potentially misleading data for the country (cited in section 2.1 above).

Slovenia's rates of convictions per offences reported, and convictions per prosecution, are also lower than the regional mean. This would suggest the use of various diversionary measures, and/or the possibility of waiving measures at the different stages.

Very few cases result in a sentence of imprisonment; only 2.9 custodial sentences are imposed for every 100 suspects entering the "system". (The regional mean is 24.1.). The prisoner rate is very low, 30 per 100,000 population, considerably lower than the regional mean of 157.9 or even the EU mean of 85.7. Slovenia's low use of imprisonment can be seen in a number of other indicators: only 14.6% of sanctions involve imprisonment (the regional mean is 33.8%), and only 47.2 sentences of imprisonment are imposed per 100,000 in population (the regional mean is 138.9 sentences per 100,000). It is only in respect of the average length of sentences of imprisonment imposed that Slovenia is in line with one statistical measure: the median in Slovenia is the same as the regional median, 48 weeks. However, the regional *mean* of sentences of imprisonment imposed is much higher, 107.4. This is largely due to the fact that, while sentences in many Western European countries are relatively brief, the sentences in some Central and Eastern European countries can be very long indeed, thus raising the mean.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Slovenia, 13% of the respondents would have favoured a fine, 6% a suspended sentence, 37% community service and 40% imprisonment. Among those favouring imprisonment, the average suggested sentence was 21 months. Relatively speaking, this would place Slovenia in the middle range, matching attitudes in such countries as England and Wales, and Estonia. Given what has just been noted about Slovenia's very low prisoner rate, the strong support for imprisonment given by the ICVS respondents does not appear to match official policy.

All in all, Slovenia's situation in respect of crime and criminal justice is marked by stability. Although there has been some increase in some categories of reported serious crime, the amount of crime appears to be relatively low, internationally speaking. Concern has been expressed by Slovenian authorities about the increase in the flow of drugs through and into the country. This can be a signal of more difficult times ahead. Other causes for concern include the relatively modest level of confidence in the police, and the intolerance evidenced towards minorities. Nonetheless, the ability of the criminal justice system of Slovenia to prevent and control crime primarily through non-custodial sanctions provides a model for other countries to follow.

# Spain<sup>1</sup>

## 1 Background

### 1.1 History

Following the adoption of the new constitution in 1978, reforms of the Penal Code and the penal procedure were undertaken. Several drafts for a new Penal Code were elaborated, with the most recent one in 1990. These drafts gave birth to several specific penal reforms, the most important ones of which were adopted in 1983 and 1988. In respect of penal procedure, the 1988 law introduced important reforms. A new Penal Code was enacted on 25 November 1995, and entered into force on 25 May 1996. Among the innovations brought by the new Penal Code are an increase in the age of full criminal responsibility from 16 to 18 years, and a reduction of the general maximum sentence of imprisonment to twenty years. Week-end arrest and placement for treatment were introduced as new sanctions, and fines are to be imposed as day-fines. The possibility of suspending sentences was widened. A number of changes were also made to the definition of various offences; for example, sexual harassment was criminalised.

The present Code of Criminal Procedure was originally adopted in 1882. It has undergone several reforms, including new provisions on cassation (1949), the introduction of simplified proceedings (1967, with a subsequent reform in 1988), reforms of the provisions on pre-trial detention (1980, 1983 and 1992), and some new provisions relating to searches of private premises (1992). Some procedural issues, such as the principle of oral proceedings and the publicity of proceedings, are dealt with in the Organic Law on the Judiciary of 1 July 1985.

### 1.2 Organisation and major principles

The police organisation is complicated by the mixed system of government, which is a centralised one that is evolving a federal system with three

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<sup>1</sup> This profile, originally prepared for the report on the results of the Fourth United Nations Survey (1985–1990), benefited from comments made by Dr. Amadeu Recasens, Professor at the University of Barcelona and at the Institute of Criminology, Attorney. The criminal justice profile prepared by Joaquín Martín-Canivell for HEUNI, 1998, has also been used in the preparation of this profile. Additional contributions were made by Professor Per Stangeland, Faculty of Law, University of Malaga, Mr Manuel Álvarez Sobredo, Chief of Service, Institute of Police Studies, Madrid and Ms Fely González Vidosa, A.V.D., Valencia.

different levels of administration: the national level, the autonomous communities and the municipalities.

The police forces are organised on the basis of the Organic Law 2/1986 of 13 March 1986. There are two different forces at the national level: the Guardia Civil and the Cuerpo Nacional de Policia (National Police). The Guardia Civil is a uniformed force which operates primarily in rural areas and small towns, but also in certain urban areas. The National Police operates in larger cities, either in uniform or in plain clothes. On a national level, both are responsible to the Ministry of Interior, although the Guardia Civil is responsible to the Ministry of Defence for some of its duties. On a local level they are responsible to the civil governors who in practice give them most of their instructions.

Some autonomous communities have their own police which is responsible to the community. The best known are the “mossos d’esquadra” in Catalonia, and the “ertaintza” in the Basque country region. In other autonomous communities the police come from national police forces and are responsible to both national and community authorities. At the municipal level, a municipal police responsible to the mayor may be established. All three levels have judicial duties and are responsible to the courts in that respect.

The magistrate on duty from the Instruction Court must be told within 24 hours of the arrest of a suspect. This magistrate must then decide within 72 hours whether the arrested person should be released on bail with or without a surety, or be remanded in custody. Arrested persons have the opportunity to make a formal statement to the police in the presence of a lawyer. They may also ask for a writ of habeas corpus, in which case they will be taken at once to the magistrate.

Police investigation and private complaints are passed on to the examining magistrate. If sufficient evidence that an identified suspect has committed an offence is present, a decision to prosecute is then made; the system operates in accordance with the principle of legality. Further investigation may take place under the control of the examining magistrate.

The criminal court system consists of instruction courts (presided over by the examining magistrate), penal magistrates, provincial criminal courts, the national criminal court and the Supreme Court. In addition, municipalities with less than 10,000 inhabitants have a Juzgado de Paz (justice court; “justice of the peace”) that deals with certain petty conflicts.

The instruction courts deal with minor petty offences (“faltas”) (with the exception of the few dealt with by the justice court). In addition, appeals from justice courts are submitted to the instruction courts, from which in turn appeals are submitted to the provincial court.

Major offences (“delitos”) come to instruction courts, which serve as the instruction (investigation) authorities without the power to adjudicate the case. In this, two different procedures are used, depending on the maximum prison sentence incurred. The “procedimiento abreviado” (shortened proce-

dure) is used for offences subject to a sentence of imprisonment of more than one month and less than twelve years. This is where the public prosecutor plays a major role in the inquiry and the further orientation of the proceedings, which is to be decided by the instruction court. If the possible sentence is less than six years of imprisonment, the case will go before the penal magistrate who sits alone. Appeal may be made to the provincial court. If the possible sentence is between six and twelve years, the case is taken to the provincial court, where it is heard by a panel of three magistrates. Appeal may be made to the Supreme Court.

The “sumario ordinario” is used for offences subject to a sentence of more than twelve years of imprisonment. The cases go from the instruction courts to the provincial courts, and appeal may be made to the Supreme Court.

The National Criminal Court deals with cases related to more than one province, as well as certain other specific cases. It has administrative functions as well.

The prison rules are set out in the Organic Law of September 1979. There are three types of prisons: remand prisons for persons on remand or sentenced for terms of up to six months, ordinary prisons, and special prisons for psychiatric or specific treatment.

Parole, without supervision, may be granted to first-time prisoners serving sentences of less than one year.

Full adult responsibility comes at the age of 18 years. Persons between the ages of 16 and 18 years may be deemed to have mitigated criminal responsibility. If detained, such juveniles are placed in special institutions. Children below the age of 16 years are subject to the Juvenile Law, and such cases are heard by a juvenile judge. The minimum age at which an offender can be dealt with as a juvenile offender is twelve years.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Spain and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989, 1993 and 1994 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	4.0	1.6	3.2	1.4
Major cities	5.1	2.4	3.2	2.0

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	1,041,960	2674.5	958,008	2456.1	901,696	2303.6
Intentional homicide (incl. attempts) ("homicidio doloso")	963	2.5	913	2.3	1,015	2.6
Aggravated assault	10,378	26.6	9,477	24.3	9,283	23.7
Rape	1,790	4.6	1,599	4.1	1,603	4.1
Robbery	-					
Aggravated theft ("robos con agravantes")	586,266	1504.8	502,869	1289.2	310,983	794.5
Theft of cars	135,559	348.0	113,794	291.7	99,768	254.9

The rates of reported crime have on the whole remained stable during the period under review. The number of total offences reported has decreased relatively steadily, from 1,041,960 in 1990, to 958,008 in 1992, to 901,696 in 1994. The number of aggravated assaults and aggravated thefts has decreased, and the number of other thefts has increased.

## 2.3 Sanctions

The principal sanctions recognised by the Spanish criminal justice system are imprisonment (for a maximum of twenty years), suspended sentences, week-end "arrest" (for up to twenty-four week-ends), and day-fines. For juveniles, the sanctions are warnings, supervised freedom (probation), placement under supervision, revocation of driving licence, community service, placement for therapy, and imprisonment.

The response to the Fifth United Nations Survey did not provide any data on the use of sanctions.

Joaquín Martín-Canivell, in a Criminal Justice Profile published by HE-UNI (1998), has provided data on sentencing at the beginning of the 1990s. According to these data, the courts imposed 56,694 penal sentences in 1990. 16,919 sentences were for 6 months to 6 years of imprisonment, 17,855 were for 6 to 12 years, 216 were from 12 to 20 years, and 95 were for 20 years or more. During the same year, 15,413 cases were decided involving juveniles. In 7,928 cases, no measures were imposed, and in 6,385 cases a reprimand was issued.

In 1990, the total prison population was 33,537. This increased to 44,870 in 1993 (40,739 males, 4,131 females) and to 48,178 in 1995 (43,662 males,



4,516 females). The prisoner rate was 86 in 1990. In 1995 it was 123 per 100,000, which is in the high medium range among European and North American countries (Martin-Canivell 1998).

Spain has 86 prisons, ranging in size from small institutions (for under 100 inmates) to institutions with up to two thousand inmates. In addition, there are 9 open, 22 semi-open and 17 closed institutions for juveniles between the ages of 12 to 18 years.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Spain, 24.8% of the urban respondents would have favoured a fine, 3.6% a suspended sentence, 26% community service and 34% imprisonment. Among those favouring imprisonment, the average suggested sentence was 18 months. Relatively speaking, these results fall in the medium range among the countries participating in the survey.

## 2.4 Personnel and resources

**Table 3. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	135.1	128.7
	% female	0.9	2.3
Prosecutors	total / 100,000	2.9	3.3
	% female	-	39.8
Judges	total / 100,000	-	-
	% female	-	-
Prison staff	total / 100,000	-	-
	% female	-	-

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted, the rates of reported crime have on the whole remained stable during the period under review. Corresponding trend data from the International Crime Victim Survey are regrettably not available; the ICVS was carried out in Spain only in 1989, although geographically limited surveys were also carried out in 1993 and 1994 (Stangeland 1995).

<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).



In respect of violent crimes, Spain had a very low rate of homicide, but an average rate of serious violence and “other violence”. Spain also had a very low ranking on the index of violence against women; although for example the ICVS suggested an appreciable number of incidents, these tended to be harassment, and did not tend to involve actual assault. As a possible indicator of feelings of insecurity, it may be noted that the respondents in rural parts of Spain to the ICVS were below average in stating that they tended to avoid certain places at night. The respondents in urban areas, in turn, were very much average in this respect.

In the light of the data on property crime, it would appear that Spain had a very high rate of contact crimes and of offences directed against motor vehicles (indeed, in the latter respect the rate in Spain was the highest of all the European and North American countries for which the data are available), an average rate of burglary and theft of cars, and a lower than average rate of petty crime. The corruption rate was above average.

The data suggest that Spain has an above average rate of corruption. The Transparency International index for Spain is 4.4 on a scale of zero (considerable corruption) to ten (no corruption). The World Competitiveness Yearbook, which asked respondents the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero (“does prevail”) to ten (“does not prevail”) – elicited the result of 5.4. The Survey also asked about confidence in the fair administration of justice in society. The result, 4.59, is seventh lowest among the 25 participating countries. All of these results together suggest that considerable work is needed to improve the confidence of the public in the operation of the criminal justice system, as well as of other sectors of government.

According to data collected by the Dutch Ministry of Justice, there are some 120,000 hard drug addicts in Spain; proportionately, this is higher than in most other EU countries.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Regrettably, such data are unavailable from Spain. However, it may be noted that unemployment in general in 1995 was the second highest reported figure in Europe, 22.7% of the active labour force. This was higher than the corresponding figure five years previously (15.9%), which also then was the second highest in Europe (The Economist Pocket Europe in Figures, 1997).

According to the World Values Study attitude survey, respondents in Spain fell in the medium range among European and North American respondents in respect of deviance: one third of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. In respect of minorities,

respondents in Spain showed relatively high tolerance. This tolerance was less evident in respect of misdemeanours and petty crimes: respondents in Spain were, internationally speaking, in the middle range in respect of their readiness to justify the commission of misdemeanours under certain conditions.

According to the UN Compendium on Human Settlements, 75% of the population in Spain live in urban areas. The 1997 Human Development Report assigns Spain a high “human development index” of 0.93 (eleventh highest in the world), and the World Bank reports a GNP of USD 13,280 per capita (1994), the eighteenth highest in Europe and North America.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index” for property crime, Spain, at 52.78, is lower than the mean for the European Union (64.66), which thus suggests a somewhat smaller opportunity for property crime. According to the ICVS, 86% of the urban population lives in flats; internationally speaking, this is a high percentage. (Criminological research suggest a correlation between the proportion of detached housing and the risk of burglary.) 12.9% of the urban population report the use of burglar alarms in their household – the ninth highest reported rate in Europe and North America. However, *none* of the urban respondents reported the use of special window grills or special door locks – the only country in which such a result was recorded.

In respect of violent offences, factors connected with opportunity are the availability of suitable weapons, and the use of alcohol. According to the ICVS, 5.2% of the respondents in urban areas stated that their household had a handgun – the tenth highest urban rate among the 36 European and North American countries in which the study has been carried out. According to the 1997 United Nations Study on Firearm Regulation, Spain had 63 firearm licensees per 1,000 in population (nation-wide), the third highest rate among the fourteen European countries in which the study was conducted. In Spain, according to the World Drink Report, alcohol consumption is above average, with a per capita consumption of 2.50 litres of strong alcohol, 68 litres of beer and 33 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. In respect of female educational attainment, Spain in turn has a very high rating. According to the 1997 Human Development Report, the so-called gender-related development index in Spain in 1994 was 0.874, placing it thirteenth among the 47 European and North American countries for which the data are available (on the same level as Switzerland). 20% of Parliamentary seats are

held by women. The UNICEF “The Progress of Nations” report states that 17% of persons at the top levels of government are female.

No ICVS data on divorce were available from Spain. According to the Economist (The Economist Pocket Europe in Figures 1997), Spain - a predominantly Catholic country – has one of the lowest divorce rates in Europe (0.6 per 1,000 in population).

In a factor analysis of the determinants of crime, Spain had a high negative loading in respect of strain-related violence (-.91), a high positive loading in respect of serious property crime in urban settings (+.91), and a very high negative loading in respect of opportunistic petty crime (see Table 10 in part I, p. 49).

Overall in respect of its crime rates, Spain falls in the medium range in Europe and North America. Perhaps the most dominant features of the country’s crime profile are the relatively low levels of homicide, other serious violence, sexual violence, burglary and petty crime. On the other hand, Spain has a moderately high level of violence in general, and is the highest in respect of offences directed against motor vehicles.

### 3.3 Operation of the criminal justice system

Spain’s score on the Law Enforcement Resources Index (which essentially measures spending on law enforcement; see part I, pp. 72-74) is somewhat lower than the mean for the EU countries (25, as compared with a mean of 27). This is in line with the low number of prosecutors (3 per 100,000 population) and judges (8 per 100,000 population). However, Spain has traditionally has a very high number of police officers (as noted in section 1.2 above, Spain has several different police corps). The Dutch Ministry of Justice has gathered information on the number of police and private security personnel in selected Western European countries and the United States. According to the results, Spain has 612 “security personnel” per 100,000 in population, which is second highest of all countries studied (after the United States).

Spain (20) is somewhat below the EU mean (28) on the Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78-80). 40% of the Spanish prosecutors are women, while only 2% of the police officers are women.

On the index of Citizen Evaluation of Police Performance (see part I, pp. 105-108) Spain has a rating (32) that is above the mean for all European and North American countries (27). However, the rating is somewhat below the average CEPPI value for the EU countries, which is 37. According to the ICVS, only 37% of victims in urban areas reported the offence to the police, a below average proportion. 40% of victims in Spain who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, which is also a below average proportion. 48% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which places Spain in the middle range.

A comparison of the number of offences recorded by the police and the number of persons formally brought into contact with the criminal justice system as a suspect for an offence suggests that the over-all clearance rate in Spain, 0.33, is somewhat below the average for EU countries (0.37). Regrettably, data that would shed some light on the “attrition” of cases at later stages (prosecution, conviction etc.) in Spain are lacking.

Spain’s prisoner rate in 1995 (123) falls below the mean of 157.9 for Europe and North America, although it is above the mean for the EU (85.7). Spain’s prisoner rate has increased steadily during the period under review, rising from 86 in 1990.

All in all, and taking into account the lack of data on some issues, the indicators relating to the operation of the criminal justice system suggest that Spain falls in the medium range for all European and North American countries. The one indicator that is markedly different is that of the number of law enforcement personnel; when both public and private security are taken into consideration, Spain has considerably more law enforcement personnel than most other countries in the region.

## 4 Further reading

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# Sweden<sup>1</sup>

## 1 Background

### 1.1 History

The population of Sweden in 1994 was 8,780,000 inhabitants. The land area of Sweden is roughly twice as big as that of the United Kingdom. Sweden is a constitutional monarchy with a parliamentary form of government. According to the Constitution, all public power derives from the people. Sweden's head of state, the King, has only ceremonial functions. The pre-eminent branch of national government is the Parliament (Riksdagen), which has 349 members in one chamber. Elections are by proportional representation. A party must attract at least 4% of the national vote or at least 12% in a single constituency to gain representation in Parliament. The major political party is the Social Democratic Party (which received 45.25% of the votes in the 1994 general election).

Parliament must approve all national taxes, annual budgets and legislation. The decision-making powers of Parliament are unrestricted, beyond those based on specific rules in the Constitution, such as the protection of free speech, the ban on capital punishment, and the independence of the courts and the State civil service in enforcing laws.

Swedish law is based to a considerable extent on written law. Case law plays a smaller though important role. The first national Penal Code in Sweden was adopted in 1734. This Penal Code was replaced in 1864 with a new Penal Code, which was replaced in turn by the 1962 Penal Code (in force 1965). The Swedish Penal Code does not differentiate between crimes and infractions.

The primary responsibility for the enforcement of legal rules devolves upon the courts and the various administrative authorities. The general courts enforce civil law and criminal law legislation. However, the majority of crimes and offences (in particular traffic offences) are sanctioned by police officers or prosecutors in the form of summary fines.

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<sup>1</sup> This profile benefited from comments and corrections offered by Professor Per-Ole Tråskman, Faculty of Law, University of Lund, Mr Justice Bo Svensson, Supreme Court, Professor Nils Jareborg, Faculty of Law, University of Uppsala and Ms Marie Kelt, Legal Advisor, Division for Criminal Law, Ministry of Justice.

## 1.2 Structure of the criminal justice system

Sweden has a three-tiered hierarchy of general courts: the district courts, the courts of appeal and the Supreme Court. Appeals against judgements of district courts can normally be made to a court of appeal. Appeals against the decisions of courts of appeal can be carried to the Supreme Court. However, appeal to the Supreme Court is subject to special permission in the Supreme Court. Such permission is in principle given only if the hearing of the appeal by the Supreme Court is important for the general administration of law, i.e. to establish a precedent.

The age of criminal responsibility is 15. An offender below the age of 18 can be sentenced to imprisonment only if there are particular reasons to do so. It is uncommon for offenders at this age to be placed in prison. The courts may sentence offenders between the ages of 18 and 21 to prison only if there are special reasons to do so, for example in view of the culpability for the crime.

If there are reasons to believe that a criminal offence subject to public prosecution has been committed, a pre-trial investigation shall be initiated in order to find out who is reasonably suspected of the crime, and if there are sufficient grounds to prosecute him or her. The police or the public prosecutor may initiate the pre-trial investigation. During the investigation every fact must be taken into consideration, regardless of whether it speaks for or against the suspect. Normally the police carries out the pre-trial investigation, but as soon as someone is reasonably suspected for the crime the prosecutor takes the lead. However, the prosecutor has the right at any stage of the pre-trial investigation to advise the police or take over the lead.

When the pre-trial investigation has been completed the public prosecutor decides whether or not to press charges. It is the duty of the prosecutor to prosecute anyone who is reasonably suspected of having committed a crime, when in the view of the prosecutor there is sufficient evidence to expect the court to find the suspect guilty. However, there are exceptions especially for young offenders. (In such exceptions, and before a waiver of prosecution, the prosecutor is normally required to get in touch with the social welfare authorities and see that appropriate action will be taken.) Also for less serious offences the prosecutor may decide, if the offender agrees to this, that the case will be resolved by a summary fine and not taken to trial. It is the task of the prosecutor to prove to the satisfaction of the court that the accused is guilty. The accused does not need to prove that he or she is innocent. No plea bargaining is allowed. The accused cannot plead guilty to a lesser offence in order to evade punishment for the more serious offence. There are no jury trials, except in cases concerning the freedom of the press or other media or the freedom of expression. According to the Freedom of the Press Act (*Tryckfrihetsförordningen*), in such a case there shall normally be a jury consisting of 9 persons.

Lay judges play a very important role both in the district courts and in the courts of appeal.

If a court finds the defendant guilty of the offence, sanctions are also decided on. After the main hearing (the presentation of the case, the questioning of the suspect and witnesses) the court deliberates the sentence in camera. The decision must be based only on facts that have come to light during the main hearing. Often the decision and sentence are announced directly after the deliberations have been concluded.

### 1.3 Sanctions

The Criminal Code lists the punishments and other sanctions that a court may impose. The term “punishment” refers to fines and imprisonment, and the term “other sanctions” refers primarily to suspended sentences, probation or special treatment.

Imprisonment may be imposed for a specific period, from 14 days to ten years. Longer sentences of up to fourteen years may be imposed when a sentence is passed for several offences at the same time (up to sixteen years if the offender is also a recidivist). In practice, life imprisonment is usually converted on the basis of a pardon into a sentence for a specific term of 14–16 years.

Conditional release usually takes place after two-thirds of the sentence has been served. Between 1 July 1983 and 1 July 1993, most prisoners were often paroled conditionally after one half of the sentence had been served. As already noted, persons under 18 may not be sentenced to imprisonment other than in exceptional cases.

Psychiatric treatment is ordered for offenders in cases where the sanction would have been more than a fine, and the defendant is suffering from a serious mental disorder. Probation may be ordered if the offence is liable to a sanction more severe than a fine. Probation lasts three years, and the offender is under supervision for one year. Probation may be combined with a fine and special regulations, for example on contract care or community service. Conditional sentences, in turn, may be ordered if the offence in question is liable to more than a fine. A conditional sentence is imposed for a trial period of two years. The main rule now is that the conditional sentence is combined with a fine.

A person who, at the time of the sentence, is under 21 years of age may be placed in the care of the social services. This sanction may be combined with a fine. A person may also be sentenced to treatment on the basis of the Care of Alcoholics and Drug Abusers Act if the offence is not liable to more than one year of imprisonment. A person may be ordered to undergo such treatment if he or she is a drug abuser who is deemed to be a danger to himself or herself, or to a close relative.

The most frequently used punishment is a fine. In practice there are two types of fines, day fines and monetary fines. Day-fines are calculated on the



basis of the seriousness of the offence and the financial situation of the offender. Day-fines are set as a certain number of days of income, and a sum per day. The number of days ranges from 30 to 150 or, as combined punishment for two or more offences, to 200 days. The sum ranges from 30 to 1,000 kronor per day (1 USD = 7.8 SEK, January 1999), depending on the financial situation of the offender. The minimum sum is 450 kronor.

Monetary (“fixed sum”) fines are set at a minimum of 100 and a maximum of 2,000 kronor. The monetary fine is used primarily for less serious forms of crime, such as traffic offences.

Fines are imposed not only by the courts but also by prosecutors and policemen. The Prosecutor General and the National Police Board decide which offences may be punishable by monetary fines imposed directly by the police on the spot. Such fines are at most 1,200 kronor.

The prosecutor can issue a summary punishment in the form of a day fine or a monetary fine usually for simpler offences. The sanctions can only be imposed if the defendant admits to the crime and agrees to the order.

A number of special sanctions are also used. The court may, for instance, declare property forfeited from the offender, if this relates to the profits of crime, objects used in the commission of the crime and objects produced through the offence (such as counterfeit bank notes). Instead of the property, the value may be declared forfeited.

A person who is not a Swedish national may be deported from the country and forbidden to return. Other consequences of a crime may follow from non-penal legislation.

If the offence had caused personal injury or damaged property, the offender may be liable to pay damages to the victim.

Primarily in the case of serious traffic offences or of repeated petty traffic offences, the offender’s driver’s license may be revoked. A decision on this is made by the county administrative court, not by the district court.

## 2 Statistics

The classification of crime used in the official crime statistics is based on the legal crime definitions given in the Penal Code. The main groups of offences are divided into subcategories. These divisions are not systematic, in that they would be based on some general principles. Instead, they have developed over a long period of time, and reflect a pragmatic point of view. To give a few examples, burglaries are, as a rule, legally considered a form of aggravated theft. In the statistics, the cases have been subdivided according to the place that has been burglarised. For assault, in turn, subcategories are provided on whether the offence occurred indoors or outdoors, and whether or not the offender and the victim knew one another. To give a third example,



robberies are classified for example on the basis of whether or not a firearm was used.

The Swedish crime statistics include all offences reported to the police, regardless of whether or not they ultimately prove to be an offence, as shown by the police investigation. For this reason, Swedish statistics include a broader range of acts than do the statistics in countries where an offence will not be recorded in the statistics until and unless the police investigation has shown that a crime was committed.

## 2.1 Victimisation

The breakdown below presents the victimisation rates in Sweden and its major cities.

**Table 1. Victimisation rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1992 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	2.0	1.3	5.1	1.5
Major cities	3.1	2.6	7.8	2.4

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	1,218,812	14240.1	1,195,154	13788.1	1,112,505	12670.9
Homicide	953	11.1	980	11.3	1,050	12.0
Assault	40,690	475.4	45,232	521.8	53,665	611.2
Rape	1,410	16.5	1,688	19.5	1,812	20.6
Robbery	5,967	69.7	6,219	71.7	5,331	60.7
Theft	580,379	6780.9	569,664	6572.0	506,642	5770.4
Theft of cars					41,958	477.9

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

**Criminal homicide.** The above table includes completed as well as attempted homicides. The definition of a completed homicide in the crime statistics is all criminal cases in which the victim died (regardless of whether the charge was for murder, manslaughter or assault that resulted in death).

The number of intentional homicides increases steadily between 1990 and 1994 (+38.8%) but the increase was somewhat greater for attempts (+40.7%) than for completed homicides. The latter increased from 121 in 1990 to 159 in 1994 (+31.4%). The number of non-intentional homicides decreased by 39.1% from 350 in 1990 to 213 in 1994. However, about 80% of all intentional homicide can be classified as attempted homicide.

**Assault.** Between 1990 and 1994, the total number of assaults rose by 31.9% from 40,690 to 53,665, whereas the number of major assaults increased by 37.9% during the same time.

**Forcible rape.** Swedish law defines rapes as the use of violence or the threat of violence placing or appearing to place the threatened person in imminent danger in order to force this person into copulation or comparable sexual intercourse. Penetration of the woman's body is not necessary for the case to constitute rape. Since 1984, also a woman can be charged with rape, but such cases have been extremely rare. The number of rapes reported to the police reached a record high in 1993, where 2,153 rapes were recorded. Of these, 1,608 were completed rapes, and the rest were attempts. The general trend shows an increase in the number of rapes recorded to the police between 1990 and 1994. There is almost certainly a recording effect consequent upon the more sensitive handling of rape complainants.

**Robbery.** The number of recorded robberies increased between 1990 and 1992 and then decreased until 1994.

**Theft.** The total number of thefts decreased steadily between 1990 and 1994. This 12.7% decrease provides the main explanation for the decrease in the total number of recorded crimes.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	-	-
Prisoner rate		61.1	70.4
% women in the prison population <sup>1</sup>		5.2	5.6
Prisoner rate / 100,000 (convicted only)	Adults	49.3	58.5
	Juveniles	0.1	0.1
% of females of convicted prisoners	Adults	4.2	5.2
	Juveniles	100.0	100.0
% of juveniles		0.1	0.2

<sup>1</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

The response to the Fifth Survey did not include data on the type of sentences imposed. The following table shows the number of persons convicted by the court, by the principal sanction imposed (the data were previously published in Kangaspunta 1995). Usually a person convicted by the court has only one sanction imposed on him or her. In 82% of all court cases in 1993, sanctions were decided on.

**Table 4. Persons convicted by number and type of sentence, 1993**

Sanction	Number
Imprisonment	15,872
Psychiatric treatment	372
Probation with contract care	620
Probation with community service	310
Other probation	5,344
Conditional sentence	11,916
Treatment within the social services	1,480
Day fines and monetary fines (courts)	35,808
Summary fines (prosecution)	75,752
Waving of prosecution	13,942
Other sanctions	2,964

Among the factors considered when deciding on the sanction are the seriousness of the offence, the age of the offender, and the mental state of the offender. One general principle is that imprisonment should be avoided as far as possible. New sanctions, such as contract care and community service have emerged as parts of probation. The intensive supervision or electronic supervision is a new form of serving imprisonment (it is not decided by the courts and does not function as an alternative to deprivation of liberty). In 1994, 6,833 persons were placed on probation throughout the year. Capital punishment was abolished in Sweden in 1921 during times of peace, and in 1973 also during war.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Sweden, 14% of the respondents would have favoured a fine, 5.8% a suspended sentence, 51% community service and 26% imprisonment. Among those favouring imprisonment, the average suggested sentence was 11 months. Relatively speaking, this suggests strong support for non-custodial sanctions, and is in line with the relative position internationally of the courts of the Sweden in sentencing.

The prison population in Sweden increased somewhat from 5,232 inmates on 1 April 1990 (prisoner rate: 61.1 inmates per 100,000 in population) to 6,178 on 1 April 1994 (70.4 per 100,000 in population). Of the total, less than

20% are awaiting trial or adjudication. This number includes those persons who have been sentenced in the court of first instance but have appealed the verdict. In 1994, 5,469 persons were paroled from prison. This corresponding number in 1990 was 5,483; the number is therefore relatively stable.

In 1995, 19% of those admitted to prison were foreign citizens (data supplied by Prof. Jareborg, Uppsala University). The Swedish prison population is one of the lowest in Europe and North America.

## 2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	280.4	282.0
	% female	-	33.3
Prosecutors	total / 100,000	-	8.2
	% female	-	31.9
Judges	total / 100,000	-	4.4
	% female	-	30.8
Prison staff	total / 100,000	-	51.5
	% female	-	34.0

Swedish prisons are divided into national and local prisons. The national prisons primarily receive persons with prison sentences of at least one year or who require extra security. The national prisons include some high-security institutions. The local institutions are primarily for those with prison sentences of up to one year, although those with longer sentences are often transferred to local prisons towards the end of their prison term. As of 1 July 1994, Sweden had 17 national prisons with a total of 1,904 beds, and 60 local prisons with a total of 2,885 beds. In addition, there are a number of remand prisons. However, the prison institution is currently in a state of change.

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, the rates of reported crime have remained relatively stable during the period under review. The number of reported homicides, major assaults and rapes has increased, while the rates for several other offence categories – in particular fraud – have decreased.

According to the results of the 1996 ICVS, 24% of the respondents in Sweden had been the victim of a crime during the preceding year, placing Sweden in the low range internationally. For individual offences, the victimisation rate (average rate for 1992 and 1996) was 1.3% for burglary, 4.5% for assault or threat, 5.6% for theft from or of a car, and 0.4% for robbery.

Although Sweden had an above average rank on the index of homicide, the country was in the middle range in respect of the index of serious violence, and moderately low in respect of the index of violence in general. Internationally speaking, Swedish respondents appeared to regard their environment as relatively safe; only 19% indicated that they would avoid certain places at night. This rate (which was also found in Northern Ireland), is the lowest in any of the European and North American countries.

Internationally speaking, Sweden falls in the medium range in respect of the index of burglary and relatively high on the index of petty crimes and on the index of offences directed against motor vehicles.

On the index of the amount of corruption, Sweden has a very low rank, fifth lowest out of 45. The Transparency International index for Sweden is 8.9 on a scale of zero (considerable corruption) to ten (no corruption); this is the third highest rating among the European and North American countries for which the data are available. The World Competitiveness Survey, on asking the extent respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero (“does prevail”) to ten (“does not prevail”) – elicited the result of 8.5.

According to data collected by the Dutch Ministry of Justice, there are some 13,500 hard drug addicts in the country; this is proportionately less than in most other EU countries for which the data are available.

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<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the results of the ICVS, on a scale of 1 (“not satisfied”) to 4 (“very satisfied”), urban respondents in Sweden were, comparatively speaking, quite satisfied with their income (3.1). In 1995, unemployment was in the middle range in Europe, 9.2% of the active labour force. This was considerably higher than the corresponding figure five years previously (1.8%) (The Economist Pocket Europe in Figures, 1997) These two general indicators, therefore, suggest that the amount of strain in Swedish society would be average or relatively low. Indeed, Sweden’s “motivation index” was a very low 2.2.

According to the UN Compendium on Human Settlements, 83% of the population in Sweden live in urban areas. The 1997 Human Development Report assigns Sweden with a high “human development index” of 0.94 (tenth highest in the world), and the World Bank reports a GNP of USD 23,630 per capita (1994), the ninth highest in Europe and North America. According to the ICVS, 41 % of the population lives in flats. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.). More than four out of five households in the Netherlands (83.2) report that they have a motor vehicle. The results of the ICVS also indicated that the population in Sweden is relatively active in spending their leisure time away from home, with respondents reporting spending an average of three evenings per week away for entertainment purposes.

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Sweden’s score of 82.4 reflects a considerably greater opportunity than is the mean in the European Union countries (64.7). 42% of the population report the use of special door locks, 5.7% the use of special window grills, and 5.9% the use of burglar alarms in their household – all rates which are in the lower middle range in Europe and North America

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. The results of the ICVS noted that 16% of the respondents stated that their household had a firearm, and 1.5% that their household had a handgun. This latter rate is the sixth lowest rate among the 23 European and North American countries for which national data are available. This would place the Sweden in the middle range among the European and North American countries. Alcohol consumption, according to the World Drink Report, is in the middle range internationally, with a per capita consumption of 1.5 litres of strong alcohol, 64 litres

of beer and 13 litres of wine. Again, the indicators in general do not give particular cause for concern.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Sweden scores second highest in Europe and North America, after Belgium. The divorce rate is 2.5 per 1,000 in population per year, which is in the middle range for Europe (The Economist Pocket Europe in Figures, 1997). According to the 1997 Human Development Report, the so-called gender-related development index in Sweden in 1994 was 0.932, placing it third (together with Iceland) among the 47 European and North American countries for which the data are available. 40% of Parliamentary seats are held by women, the highest rate in the world. The UNICEF "The Progress of Nations" report states that 38% of persons at the top levels of government are female; again, the highest rate in the world. In this light, it is of interest to note that Sweden appears to have a relatively high rate of violence against women, ranking sixth out of 44 countries on this index. 21 rapes were reported per 100,000 in population in 1994, the third highest reported rate in Europe. This is supported by the results of the 1996 ICVS: 5.1% of the female respondents reported having been the victim of violence (assault, threat or sexual assault) during the preceding year, one of the highest rates internationally. One possible and presumably only partial explanation for the high level of violence against women in a country noted for its attempts to promote sexual equality is the greater awareness of such violence, which can well translate into a greater propensity to report violence either to the authorities or, in surveys, to researchers. Additionally, some 15% of the Swedish population are immigrants, many of which are refugees, so cultural differences could be another explanation for the high rate of violence against women (or of the high rate of reporting of violence against women, a somewhat different issue). For example, in 1993, 171 persons were sentenced for rape; of these 61 were foreign citizens (data supplied by Prof. Jareborg, Uppsala University).

According to the World Values Study attitude survey, respondents in Sweden are about average among European and North American respondents in respect of their attitude towards deviance: one third of the respondents indicated their readiness to justify deviant lifestyles under certain conditions. In respect of minorities, respondents in Sweden showed relatively high tolerance. This tolerance was less evident in respect of misdemeanours and petty crimes; respondents in Sweden were, internationally speaking, somewhat less ready than average to justify the commission of misdemeanours under certain conditions.

Perhaps even more striking is the comments of respondents in Sweden regarding what in their opinion would be appropriate sentencing. As noted in the foregoing, respondents in Sweden gave considerably more support for non-custodial sanctions than did respondents in most other countries in respect of the case of a 21-year old recidivist burglar.

Tolerance, however, is not the same as acceptance, or as confidence in the criminal justice system. According to the World Competitiveness Yearbook 1997, respondents in Sweden rated their country as only average in respect of the extent to which they believed that the person and property is protected in their country: the result was only 6.4 on a scale of zero to ten. The ranking of Sweden on the indicator of the extent to which there was full confidence in the fair administration of justice in society was also somewhat low when compared with the results in other EU countries: 6.9.<sup>3</sup>

In a factor analysis of the determinants of crime, Sweden had a negative loading in respect of strain-related violence (-.82), a positive loading in respect of serious property crime in urban settings (+.36), and the third highest positive loading in respect of opportunistic petty crime (+1.39) (see Table 10 in part I, p. 49). This can be interpreted to mean that the various factors suggest that Sweden has an above-average propensity for opportunistic crime, but the propensity for random violence would appear to be low.

### 3.3 Operation of the criminal justice system

Sweden's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 25. This is somewhat less than the median for all countries for which the data are available (27), and the EU mean of 26. Sweden has 282 police officers per 100,000 in population (the EU mean is 341), augmented by 184 private police per 100,000. Sweden has an average number of prosecutors (8 per 100 000 population; the EU mean is 6) but a low number of judges (4 per 100,000; the EU mean is 13). Sweden has an average number of correctional staff members (52), but given the low imprisonment rate, this results in an inmate/staff ratio of 0.9 – among the lowest in the region.

Sweden's score of 40 on the Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78-80 ) is well above the mean of 28 and the EU mean of 25.

On the Citizen Evaluation of Police Performance Index Sweden scores very high, 45 (the mean is 27 and the EU mean is 37), indicating very high public satisfaction with police performance. According to the ICVS, 60% of

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<sup>3</sup> In this Survey, 25 European and North American countries were covered, including all 15 EU countries. The highest on the "protection" indicator was Austria, with 9.06, and the highest regarding the "fair administration" indicator was Denmark, with 8.29.



victims in urban areas reported the offence to the police, one of the highest proportions internationally. Only 21% of victims in Sweden who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, the lowest rate of dissatisfaction in any of the European and North American countries participating in the survey. Both rates suggest that the police have succeeded in securing public confidence and co-operation. Moreover, only 23% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which again is a relatively low rate.

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police “productivity” (see part I, pp. 102-105). This proportion in Sweden – 412 – is below the EU mean of 621.

The prisoner rate for 1994 is very low (70 per 100,000 population), significantly lower than the mean for the EU countries (86) and in line with the other Nordic countries. The prisoner rate has remained on about the same level during the period under review. Only 17% of the prison population is on remand, which is well below the regional median of 26%.

All in all, therefore, the image one receives from the data on crime and criminal justice is that, at least in the international comparison, Sweden has been relatively successful in its crime prevention and criminal justice policy. The one particular concern that emerges is the high reported rate of violence against women.

## 4 Further reading

Svensson, Bo (1995). *Criminal Justice Systems in Europe: Sweden*. Helsinki/Stockholm (published jointly by HEUNI and the Swedish National Council for Crime Prevention).

# Switzerland<sup>1</sup>

## 1 Background

Switzerland's criminal justice system reflects the country's federalist traditions. Composed of 26 autonomous cantons (former independent republics and principalities), Switzerland's federal government became involved in criminal justice matters only in the present century. Most important was the adoption of a Swiss Criminal Code which became legally effective on 1 January 1942. Before that date, only the military criminal law and procedure, as well as a few offences directed against interest of the Confederation, were regulated nation-wide, while the core of criminal law was left to the cantons.

After 1942, the cantons retained their autonomy in matters of criminal procedure, police, and corrections. Therefore, each of the 26 cantons has its own code of criminal procedure, its own police force, prosecutorial and court system and its own correctional institutions. More recently, however, international co-operation in criminal prosecution and police work made stronger links between cantons necessary. Even in corrections, the cantons have joined three regional intercantonal pools which have brought about some centralisation in the use of the available prison capacity. For example, formerly cantonal prisons are no longer used exclusively for inmates from a certain canton, but are instead used according to penological criteria such as type of offenders (first offenders vs. recidivists and/or dangerous inmates). This implies that every canton continues to operate its correctional institution, but with some degree of specialisation within the stock of institutions that exist within each region. This ongoing federalist tradition explains the comparatively small size of Swiss prisons.

In terms of police, prosecution, and courts, the cantonal systems differ remarkably from each other. Generally speaking, the criminal justice system in the French-speaking and some other cantons in the Western half of the country has been heavily influenced by the French model (the "Code Napoléon"), whereas the German-speaking cantons followed either the German or the Austrian-Hungarian models. In practice, however, the differences may be less significant than in theory. For example, virtually all cantons (except Geneva) follow in practice the so-called legality principle at the

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<sup>1</sup> This profile has benefited from comments made by Professor André Kuhn, Faculty of Law, and Professor Martin Killias, Institut de police scientifique et de criminologie, University of Lausanne.

police and the prosecutorial level, thus leaving only little room for discretion and plea negotiations. This is true also for cantons which in theory are committed to the opportunity principle, such as Vaud and Neuchâtel. Unfortunately, no data are available about the decisions made by prosecutors; the lack of centralisation is indeed greatest at this level, a situation which makes efforts at co-ordinated data collection almost hopeless. The courts are also organised according to a large variety of principles in the several cantons. Despite all this heterogeneity, most cantons have district courts (in which many lay judges participate) as first instances. Typically, they handle civil as well as criminal law cases. Virtually all cantons have a supreme court which hears appeals. At the national level, there is a federal supreme court which reviews decisions by cantonal courts for their conformity with federal law principles (i.e. mainly the Swiss Criminal Code, constitutional principles, or principles derived from the European Convention on Human Rights). Thus, despite all the heterogeneity among the criminal justice systems in the 26 cantons, the federal supreme court guarantees some uniformity in the interpretation of substantial criminal law and procedural principles.

The minimum age of criminal responsibility is 7 years. Between that age and 14 years, children are subject to procedures before special authorities which, in practice, resemble child welfare offices more than criminal courts for minors. Between the ages of 15 and 17 years, juveniles are considered minors and, as such, subject to juvenile criminal justice authorities. Those 18 years of age and older are considered adults.

Switzerland had, over many decades, a policy of relying heavily upon custodial sentences, which tended to be very short in most cases. Together with a low rate of serious crime, this policy yielded a very low incarceration rate (of only 42 per 100,000 in 1972). For many decades, Swiss prisons operated far below capacity, thus contradicting the generally assumed axiom that empty cells tend to be filled "automatically". With the development of a significant drug problem, however, as well as with the increasing use of long prison terms (after the amendment of the Law on Drugs in 1975), the incarceration rate started to increase steadily, reaching 80 in 1995. Therefore, the shortage of prison space has become a serious policy issue in the recent past.

The population of Switzerland in 1994 was 6,995,000. The GNP per capita was 37,180 USD. The exchange rate at the end of 1994 was 1 USD = 1.31 SF.

## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in Switzerland and its major cities.

**Table 1. Victimization rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989 and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	1.8	1.1	4.1	0.0
Major cities	1.4	1.6	2.9	0.0

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	354,037	5274.7	373,529	5433.1	357,794	5115.0
Homicide	-	-	-	-	-	-
Assault	3,376	50.3	3,700	53.8	3,612	51.6
Rape	428	6.4	316	4.6	275	3.9
Robbery	1,821	27.1	2,462	35.8	1,954	27.9
Theft	208,287	3103.2	207,664	3020.6	195,409	2793.6
Theft of cars					-	

**Table 3. Number of persons convicted**

	1990	1991	1992	1993	1994
Total	70,586	72,649	70,925	78,528	73,815
Intentional homicide (incl. attempts)	50	65	73	94	59
Causing death by negligence (non-intentional homicide)	300	304	290	313	257
Aggravated assault	23	32	32	50	37
Other assault	827	811	882	1,041	935
Robbery	335	353	444	416	417
Aggravated theft (not including burglary)	355	390	581	471	413
Other theft (not including burglary)	8,708	9,671	8,906	8,377	7,681
Drug offences	6,711	7,932	7,854	9,073	9,048

## 2.3 Sanctions

**Table 4. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	205.01	193.9
Prisoner rate <sup>1</sup>		-	80.0
% women in the prison population <sup>2</sup>		6.1	6.3
Prisoner rate / 100,000 (convicted only)	Adults	55.4	63.4
	Juveniles	-	-
% of females of convicted prisoners	Adults	5.1	6.0
	Juveniles	-	-
% of juveniles		-	-

<sup>1</sup> Data from Walmsley 1997. The data refer to 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

**Table 5. Trends in sentencing<sup>1</sup>**

Sentenced (adults)	1990		1992		1994	
	N	%	N	%	N	%
Total	70,586	-	70,925	-	73,815	-
Life imprisonment	1	0.001	2	0.003	0	0
Other imprisonment	13,759	19.5	13,657	19.3	13,563	18.4
Control in freedom	-	-	-	-	-	-
Fine	23,893	33.8	19,968	28.2	21,992	29.8
Warning	34,931	49.5	39,101	55.1	40,333	54.6

<sup>1</sup> The data do not add up to the total because of missing categories

## 2.4 Personnel and resources

**Table 6. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	243.7	-
	% female	10.3	-
Prosecutors	total / 100,000	-	-
	% female	-	-
Judges	total / 100,000	64.0	-
	% female	38.6	-
Prison staff	total / 100,000	31.0	39.1
	% female	-	-

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 Crime situation

The number of crimes recorded by the police has remained more or less stable since 1990. It fluctuated around 360,000. From 1994 onwards the rate seems to decline somewhat. The rate per 100,000 was 5,115 in 1994. As a point of comparison, this rate lies below the average for the European Union countries. It has been observed that this rate covers approximately two thirds of all recorded crimes (Home Office, 1997). If this correction factor is taken into account, Switzerland's recorded crime figures fall into the middle range.

Switzerland participated in the ICVS in 1989 and 1996. According to the results of the first, 1989 survey, Switzerland appeared as one of the low crime countries (an over-all victimisation rate of 16%). However, the 1996 survey showed a victimisation rate of 27%. On the basis of the latter rate, Switzerland should be characterised as a country with a moderately high crime level. Its over-all crime situation now resembles that of France, Sweden or Canada.

Switzerland scores in the low middle range on the composite indices for homicide and serious violence. Its score on the index for non-fatal violence is one of the lowest of all countries included. It can safely be concluded that crime in Switzerland does not tend to be violent in nature.

Switzerland scores very low on the indices for burglary, motor vehicle crimes and corruption. Its score on the index for petty crimes, on the other hand, falls in the highest quartile.

The percentage of citizens who feel unsafe after dark in their own neighbourhood is very low. This result confirms that violent crime is not perceived as a major threat.

### 3.2 Determinants of crime

Switzerland boasts the highest GNP of the countries under scrutiny. The percentage of young males who are dissatisfied with their income and/or unemployed is among the lowest. At the beginning of the 1990s the country enjoyed near-full employment. These factors indicate that there were few people motivated to commit crimes for economic survival. The level of alcohol consumption is moderate. However, the country's main cities harbour more hard drug addicts per capita than anywhere else in Europe (an estimated 5,400 per 100,000). The drug scene is known to be a source of property crime and disorder.

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report.

The rate of ownership of firearms is among the highest in Europe. Most of the firearms in circulation are distributed by the army to reserve officers. These firearms are carefully stored away and not suitable for private use in the case of altercations.

On the index for criminal opportunities Switzerland has one of the highest scores. The Swiss go out relatively often and many households own one or more cars. The rate of bicycle ownership is moderate. A relatively small proportion of the population lives in the cities with over 100,000 inhabitants. In villages and smaller towns, the lifestyle implies a relatively high level of informal social control over young people by family and acquaintances.

A factor analysis carried out on the relationships between the crime indices and the main determinants yielded a three-factorial solution. Countries can be described by the factors of strain-related violence, serious property crime in an urban setting, and opportunistic petty crime. Switzerland shows negative scores on the first two factors. It does not, as was perhaps to be expected, receive a high positive score on the third factor either.

The results indicate that Switzerland's crime problem belongs to the middle range in volume. In terms of seriousness the country can, in an international perspective, probably still be regarded as a low crime country. The abundance of criminal opportunities offered by its high level of affluence is put in check by a high degree of social integration in large parts of the country. The downside of affluence and perhaps social pressure brought to bear upon young people to succeed economically, might well be the high rate of hard drug addicts in the largest cities.

### 3.3 Operation of the criminal justice system

Switzerland falls in the second quartile with its score on the index of Law Enforcement Resources. The number of police officers and prison staff per capita is moderate. The rate of judges is higher than in other countries. The criminal justice system is reasonably gender-balanced, compared to other countries.

Switzerland has one of the highest scores on the index for Citizens Evaluation of Police Performance. Jointly with Scotland, Switzerland can claim the top position here. Seventy-seven percent of the public are of the opinion that their local police is doing well in controlling crime. Seventy-nine percent of those reporting crimes to the police are satisfied with the response.

The rate of prisoners per 100,000 inhabitants was 80 in 1995. This rate is moderately low for a Western European country. About a third of the detained persons have a foreign nationality.

The ICVS results on public attitudes towards sentencing indicate that the Swiss population is among the least punitive in the region. Only nine percent of the population regard a prison sentence as appropriate for a recidivist

burglar (as a point of comparison, in the United States sixty percent are of that opinion).

Although the country can no longer be regarded as a low crime country across the board, the crime situation in Switzerland seems to be well under control. The public thinks at any rate highly of its local police. In this respect the country could be used as benchmark for others.

The use of sophisticated security measures like burglar alarms is not yet very common. If burglary rates should increase, the public is likely to respond rapidly with extra investments in self-protection.

In the present situation rather few victims have received services from a specialised agency. Although there may be relatively few victims who need such services, there is room for improvement since forty percent of the victims say they would have appreciated such services.

The special problems with high rates of drug addicts have prompted the government to introduce innovative policies. Groups of addicts receive medically prescribed heroin on an experimental basis with a view to their social integration. This policy seems to have produced the desired results and is now being expanded.

## 4 Further reading

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# Turkey<sup>1</sup>

## 1 Background

The Turkish Penal Code of 1926 is primarily based on the Italian Code of 1889. The Code was amended in 1953. The Law on the Execution of Punishments (1965) sought to reduce the level of severity of the Code by providing alternative measures and fines, and encouraging the use of short prison sentences (up to six months; at present, up to one year). The law also reduced the use of imprisonment by encouraging the use of conditional release. New forms of conditional release were introduced, such as prison leaves, house arrest, weekend imprisonment and imprisonment during night-time. As a result of these attempts there was a 50% general reduction in imprisonment, and the overcrowding of prisons was reduced.

The Code has been subjected to a large number (52) of partial revisions. A complete revision is being prepared. The draft of the new Turkish Penal Code was completed in 1997, and is presently being dealt with by the Judicial Commission of the Turkish Parliament. The revision of the Penal Code has been severely criticised for not taking sufficiently into consideration the development of Turkish criminal policy and criminological data.

The relative severity of many of the provisions of the Penal Code has been mitigated through periodic amnesties.

An amendment to the Turkish Criminal Code that entered into force on 1 December 1992 introduced a number of reforms designed to safeguard the rights of the accused. Accused persons who have committed collective offences cannot be held in police custody more than four days without an order from a judge (previously this period was 15 days). Suspects and defendants now have the right to unsupervised access to a lawyer at any time during the custody. Accused persons are granted the right to appeal custody decisions, and limits have been established for the maximum length of judge-ordered custody. Thus the maximum length of detention during the preliminary investigation is six months. In cases that have been brought before the criminal courts the maximum period of detention, including pre-trial detention, shall not exceed two years.

When deciding on pre-trial detention, the fact that the suspected offence in question is serious is no longer as such a presumption of the desire of the suspect to evade justice. The suspect can thus no longer be placed in pre-trial

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<sup>1</sup> This profile benefited from comments made by Dr. Mustafa T. Yücel, Judge-General Director, Ministry of Justice.

detention solely because the suspected crime is a serious one. The new rules regulating police investigation instruct the police to inform the accused of his or her right to remain silent and the right to have access to a lawyer. In order to provide guarantees against torture and ill-treatment, the new regulations specify what means of interrogation are prohibited. One of the aims of these amendments is the desire to ensure conformity with international conventions, the decisions of the European Commission of Human Rights, the judgements of the European Court of Human Rights and public opinion.

The minimum age of criminal responsibility is 11 years. Full adult criminal responsibility comes at the age of 18 years.

## 2 Statistics

### 2.1 Victimization

The International Crime Victim Survey has not been conducted in Turkey.

### 2.2 Reporting and recording

**Table 1. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	106,259	189.4	125,250	213.8	220,445	360.3
Homicide	961	1.7	1,506	2.6	1,794	2.9
Assault	31,790	56.7	29,812	50.9	32,245	52.7
Rape	277	0.5	270	0.5	503	0.8
Robbery	816	1.5	1,441	2.5	1,542	2.5
Theft	38,411	68.5	48,535	82.8	75,054	122.7
Theft of cars <sup>1</sup>					4,175	6.8

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

No data are available on convictions by type of offence.

## 2.3 Sanctions

**Table 2. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	81.2	394.4
Prisoner rate <sup>1</sup>		80.0	80.0
% women in the prison population <sup>2</sup>		3.2	3.9
Prisoner rate / 100,000 (convicted only)	Adults	51.3	33.2
	Juveniles	1.3	1.0
% of females of convicted prisoners	Adults	2.1	2.3
	Juveniles	0.5	1.6
% of juveniles		2.5	3.0

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

<sup>2</sup> Data from Tomasevski 1998. The data refer to the years 1993 and 1996.

**Table 3. Trends in sentencing**

Sentence	1990	%	1992	%	1994	%
Total	466,252	100	497,710	100	524,137	100
Capital punishment	24	0.0	9	0.0	11	0.0
Life imprisonment	148	0.0	167	0.0	176	0.0
Deprivation of liberty	45,388	9.7	54,995	11.0	54,122	10.3
Warning, admonition	131,506	28.2	129,679	26.1	125,231	23.9
Fines	261,089	56.0	279,871	56.2	298,579	57.0
Other (social measures, indemnity etc.)	28,097	6.0	32,989	6.6	46,018	8.8

The figures supplied do not include age specific or offence specific data on convictions. The breakdown above thus refers to all age and offence categories.

As indicated by the figures in table 3, there has been a huge increase in the number of sentences of deprivation of liberty imposed during the period in question. Compared with the data provided for the Fourth United Nations Survey (1985-1990), there has been a considerable decrease in the use of fines (from 531,161 in 1986 and 725,116 in 1988.) No information is available as to the reasons for this decrease; possibilities include a change in legislation, and a change in the statistical basis.

**Prison statistics**

On 31 December 1990 45,339 persons were incarcerated, either awaiting trial or as convicted prisoners serving a sentence. The number decreased over the next two years, but then returned to almost the exact same level. The number

decreased due to the application of conditional release for prisoners whose crimes were committed before 8 April 1991. Persons who had served one-fifth of a temporary imprisonment, or eight years of a sentence for life, were to be conditionally released. Thus a total of 19,630 convicts and preventive detainees were reprieved in 1991. Between 1990 and 1994 the relative size of the two categories of incarceration has changed: while 34.7% of the prison population in 1990 were awaiting trial, this proportion increased to 54.0% in 1994. A further partial explanation for the trend in incarceration is that some offences have been decriminalised.

In 1995, the reported prisoner rate was 80 per 100,000 in population, the fifteenth lowest in Europe and North America. There has been a decrease in the rate since 1985, when there were 90 persons per 100,000 in prison. (Walmsley 1997.)

More recent data are available on prison admissions. In 1995, a total of 149,713 persons were admitted to prison; 65,853 (64,233 men and 1,629 women) as convicted prisoners and 83,860 (89,881 men and 2,979 women) as detainees. In 1996, the corresponding figures were a total of 146,824 persons, of whom 64,357 (62,801 men and 1,556 women) were convicted and 82,467 (79,200 men and 3,267 women) were detainees.

In 1990, 40,530 adults and 673 juveniles were paroled from prisons. In 1994, the corresponding figures were 46,464 adults and 471 juveniles. The response also notes that on 1 July 1990, 3,325 adults and 18 juveniles were on parole, and on 1 July 1994 4,270 adults and 24 juveniles were on parole. Given the number of persons paroled during a year, these data on the number of parolees appear suspect. The discrepancy may be due to differences in how the statistics are kept.

In the response to the Fifth Survey, the average length of time spent in detention awaiting trial, for all offences, was reported to be 10 weeks in 1990 and 1992, and 14 weeks in 1994. (The response to the Fourth Survey, 1985-1990, states that the average time spent in detention awaiting trial in 1990 was 70 weeks. The data reported in the Fifth Survey appears more reliable. The data have been confirmed by separate data from the Ministry of Justice, which noted that the average length of time was 9 weeks in 1991 and 1992, 12 weeks in 1993, and 14 weeks in 1994.)

In 1990, Turkey had 579 prisons for adults. Of these, 447 were very small prisons (less than 100 inmates), 82 were small prisons (100-499 inmates), 46 were medium-sized prisons (500-999 inmates) and four were large prisons (1000 inmates or more). No corresponding break-down data were provided for 1994, when there were 603 prisons. In both 1990 and 1994, Turkey had 4 rehabilitation centres for juveniles.

## 2.3 Personnel and resources

**Table 4. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	155.4	189.9
	% female	2.6	2.7
Prosecutors	total / 100,000	3.6	3.9
	% female	5.2	10.0
Judges	total / 100,000	9.6	8.8
	% female	5.2	5.2
Prison staff	total / 100,000	41.2	39.8
	% female	6.9	5.2

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

The purpose of the “crime and criminal justice profile” section is to use various demographic, economic and sociological indicators together with data on the amount of both reported and hidden crime to analyse characteristic features of the different European and North American countries. In respect of Turkey, the difficulty is that the country has not participated in any of the sweeps of the International Crime Victim Survey, nor was Turkey covered by several other international surveys used in this analysis. The scope for analysis in respect of Turkey is thus considerably limited.

As noted in section 2.2 above, the police data suggest that the number of cases of assault and homicide have remained about the same during the beginning of the 1990s, but that there has been a considerable increase in the number of cases of robbery, theft and burglary.

On the index of homicide, Turkey had the sixth lowest rank in Europe and North America. Turkey also has a very low rank on the index of serious violence: second lowest out of 49 countries. Turkey ranked second lowest on the index of motor-vehicle-related crime. (In the absence of the necessary data, Turkey’s rank could not be computed on the indices of burglary and petty crime.)

<sup>2</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). Since the ICVS study was not carried out in Turkey, data on dissatisfaction with income were unavailable. However, it can be noted that the general unemployment level in 1992 was 7.8% (1994 UN Statistical Yearbook. According to a survey by the Turkish State Institute of Statistics, the rate in 1998 was 6.4%).

According to the World Values Study attitude survey, respondents in Turkey showed the least amount of tolerance among European and North American respondents for deviance: only 12% were prepared to justify the commission of misdemeanours in certain circumstances, and only 25% indicated their readiness to justify deviant lifestyles under certain conditions. In respect of minorities, respondents in Turkey (together with respondents in Slovenia) showed the least tolerance among the respondents in the different countries.

According to the UN Compendium on Human Settlements, 61% (1990) of the population in Turkey live in urban areas. The 1997 Human Development Report assigns Turkey with a "human development index" of 0.77, and the World Bank reports a GNP of USD 2,450 per capita (1994), which places Turkey below average among the European and North American countries.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). Again, regrettably, the relevant data are lacking from Turkey.

In respect of violent offences, one factor connected with opportunity is alcohol consumption. Reported alcohol consumption in Turkey (in 1994), as assessed in the World Drink Report, is one of the lowest in Europe and North America, with a per capita consumption of 0.40 litres of strong alcohol, 8 litres of beer and 0.7 litres of wine. These reported rates are so low that they are highly suspect.

According to the 1997 Human Development Report, the so-called gender-related development index in Turkey in 1994 was 0.737, placing it 34th among the 47 European and North American countries for which the data are available. The UNICEF "The Progress of Nations" report states that only 3% of persons at the top levels of government are female, one of the lowest proportions in Europe and North America. In this light, it is of interest to note that Turkey has the lowest ranking of 44 countries on the index of violence against women. Only one rape was reported per 100,000 in population in 1994, the lowest reported rate in Europe. (The same rate was reported in four

other countries: Armenia, Azerbaijan, Cyprus and Georgia.) In the absence of victim surveys, the degree to which these statistics on reported crime reflect reality cannot be verified.

### 3.3 Operation of the criminal justice system

Turkey's score on the Law Enforcement Resource Index (which essentially measures spending on law enforcement) falls in the first quartile (11). The country's spending on law enforcement is the fourth lowest of all countries covered. Only Andorra, Poland and Romania spend proportionately less on the criminal justice system. Accordingly, Turkey has the lowest rate of public police officers per capita (190) of all countries covered and the fifth lowest rate of prosecutors (4).

Turkey falls in the first quartile on the Criminal Justice Practitioner Gender Balance Index (6). Turkey is third lowest on this index, with only Azerbaijan and France having smaller shares of women among their criminal justice practitioners. 10% of the prosecutors, 5% of the judges and correctional staff, and 3% of the police officers are women.

There are no data available on Turkey that would allow the calculation of the Citizen Evaluation of Police Performance index.

In the absence of data, much of the analysis of the criminal justice system carried out for other European and North American countries could not be carried out for Turkey. One of the few sources of data on Turkey was the World Competitiveness Study. (However, data from only one source can be suspect, and readers are cautioned to be careful in making inferences on such a basis.) In this connection, it will only be noted that the Study resulted in a score of 2.4 for Turkey on the measure of the extent to which improper practices (bribing and corruption) prevail in the public sphere on a scale of zero (such practices prevail) to ten (such practices are absent). Similarly low scores were noted in response to questions relating to confidence that the person and property are protected (5.50, 18th out of the 25 European and Northern American countries for which the data were available), and confidence in the fair administration of justice in the society (3.24, the fifth lowest rank). However, in respect of the extent to which harassment and violent are sources of destabilisation at the workplace, and the extent to which alcohol and drug abuse pose problems at the workplace, Turkey had a much better score; 9.10 and 8.39, correspondingly. Both scores were third highest out of 25 countries.

The prisoner rate in Turkey is quite low (80 per 100,000 population).

## 4 Further readings

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# Ukraine

## 1 Background

Ukraine declared its independence on 24 August 1991. At that time, criminal law was based on the Criminal Code of the Ukrainian Soviet Socialist Republic, which had entered into force on 1 April 1961. Since 1961, criminal law had undergone numerous modifications and amendments in accordance with the development of Soviet criminal legislation.

Following independence, Ukraine has continued to reform its criminal legislation. Already in January 1992, a number of amendments to the Criminal Code were adopted. These included the criminalisation of counterfeiting, and the abolition of exile and deportation as sanctions. Further important amendments were introduced on 17 June 1992, with the law on “Introducing modifications and amendments into the Criminal Code, the Criminal Procedure Codes of the Ukrainian SSR, the Code of the Ukrainian SSR on Administrative Offences and the Customs Code of the Ukraine”. The law for example restricted the use of capital punishment and decriminalised a variety of acts laws related to planned socialist economy. A total of over twenty provisions were deleted from the Criminal Code.

Modifications and amendments have also been made to the Criminal Procedure Code. In December 1991 the terms for pre-trial investigation and detention were changed. In February 1992 a law was adopted on police activities which strengthened the protection of the fundamental rights of citizens. In December 1992 a law on the status of judges was adopted.

The basic organisation and activities of the militia, court proceedings, investigative bodies, prosecution and judicial bodies have essentially remained unchanged since the achievement of independence.

## 2 Statistics

### 2.1 Victimisation

The breakdown below presents the victimisation rates in the major cities of Ukraine.

**Table 1. Victimisation rates (in %) according to the ICVS, major cities: results from the 1997 survey**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	7.2	3.6	5.5	1.4

## 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	369,809	713.4	480,478	921.3	572,147	1102.2
Homicide	3,254	6.3	4,091	7.8	5,008	9.6
Assault	-	-	-	-	-	-
Rape	2,104	4.1	1,945	3.7	1,715	3.3
Robbery	17,781	34.3	30,375	58.2	32,553	62.7
Theft	-	-	-	-	-	-
Theft of cars <sup>1</sup>	-	-	-	-	8,970	17.3

<sup>1</sup> The data for car thefts are for the year 1995 (Liukkonen 1997).

The statistics show, for most categories, a steady increase in the number of reported offences during the early 1990s. This continues a trend begun during the 1980s. As a point of comparison, in 1986 there were 1,757 homicides (including attempts), 333 cases of causing death by negligence, 7,066 assaults, 6,361 robberies and 61,149 thefts.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	-	-
Prisoner rate		224.5	315.7
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	171.3	234.6
	Juveniles	7.7	6.0
% of females of convicted prisoners	Adults	4.7	3.4
	Juveniles	5.0	3.2
% of juveniles		4.3	2.5

The response to the Fifth United Nations Survey did not contain any information on prosecution or adjudication. According to the response to the Fourth Survey (1985-1990), in 1990 a total of 104,199 persons were convicted, and 932 persons were acquitted. The following sentences were imposed in 1990: 114 sentences of death, 32,033 sentences of imprisonment, 8,613 sentences of restriction of liberty, 22,338 sentences of corrective labour at the offender's residence, 13,812 fines, 14,338 warnings and reprimands, and 292 "others".

The number of adults on probation in 1990 was 20,900. The corresponding figure for 1994 was 50,100.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. (In Ukraine, the ICVS was only carried out in urban areas.) 15.4% of the respondents in urban areas in Ukraine would have favoured a fine, 1.6% a suspended sentence and 41% imprisonment. 36% of the respondents stated that community service would have been appropriate.

The ICVS also asked those respondents who had suggested imprisonment as appropriate, what the length of the sentence should be. The median response was 61 months, which is the second highest in Europe and North America. (The highest was 72 months, in Romania.)

### Prison population

During 1990, Ukraine had 95 prisons for adults, with a total capacity of 142,600. In 1994, there were 117 prisons with a total capacity of 155,600.

In 1990, there were 10 institutions for juveniles, with a total capacity of 5,500. In 1994, there were 12 institutions, with a total capacity of 5,200.

From 1990 to 1994, the number of persons admitted to prison almost doubled, from 28,700 to 55,600. The number of persons held in custody, either awaiting trial or adjudication, or sentenced, also increased, but much more gradually, from 23,600 persons awaiting trial or adjudication in 1990 to 38,900 in 1994, and from 92,800 persons sentenced in 1990 to 125,000 persons sentenced in 1994. In 1994, there were 316 prisoners per 100,000 in population, the fifth highest rate in Europe and North America.

The average length of time spent in prison awaiting trial for all offences was 15 weeks in 1994.

2,600 adults and 1,200 juveniles were paroled from prison during 1990. 6,900 adults and 800 juveniles were paroled during 1994.

## 2.4 Personnel and resources

**Table 4. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	253.2	418.6
	% female	3.7	3.7
Prosecutors	total / 100,000	-	-
	% female	-	-
Judges	total / 100,000	-	-
	% female	-	-
Prison staff	total / 100,000	38.4	45.7
	% female	7.3	7.3

## 3 Crime and criminal justice profile<sup>1</sup>

### 3.1 The crime situation

As noted, during the beginning of the 1990s the rates of reported crime continued a steady increase in Ukraine. (Corresponding trend data from the International Crime Victim Survey is regrettably not available. The ICVS was carried out in Ukraine only once, in 1997.)

According to the results of the ICVS, 38% of the respondents in urban areas in Ukraine had been the victim of a crime during the preceding year, the fifth highest urban rate (together with Bulgaria) in any of the countries for which data are available. For individual offences, the victimisation rate was 3.6% for burglary, 3.9% for assault or threat, and 4.6% for theft from or of a car.<sup>2</sup> 1.9% of the female respondents in urban areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. The rates for robbery (5.7%) and for pickpocketing (17.7%) were the highest urban rates in any European and North American country, and the rate for “other theft” was a strikingly high 21.6%, which, with one exception (corruption, in urban areas in Georgia in 1996), was the highest urban rate for any offence category, year or country in which the ICVS has been carried out in Europe and North America.

The indices of violence suggest that Ukraine has a high amount of violence. Although the homicide rate in Ukraine is average for the European and North American countries, according to the index of serious violence Ukraine has a very high rate of serious violence and of violence in general. The relatively high rate of violence may help to explain why some 63% of the urban respondents to the ICVS stated that they tended to avoid certain places in their neighbourhood at night. This is the second highest rate in Europe and North America.

On the index of corruption, Ukraine falls in the middle range, ranking twentieth out of 45 countries. However, 12.6% of the urban respondents to the ICVS reported that a government official had accepted or demanded a bribe from them during the preceding year. This is the eleventh highest rate in Europe and North America.

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<sup>1</sup> Reference is made in several connections in this section to different “indices” of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

<sup>2</sup> According to a HEUNI study (Liukkonen 1997), there were 257,328 motor vehicles registered motor vehicles in Ukraine in 1997. A total of 8,970 were stolen or misappropriated during the year. This is about 3.5% of the registered vehicles, one of the highest rates in Europe.

## 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). On a scale of 1 (“not satisfied”) to 4 (“very satisfied”), the response in Ukraine was a very low 2.04 among the urban respondents, the sixth lowest out of the 33 countries for which comparable urban data are available. Unemployment in Ukraine in 1995 was a reported 0.4% of the active labour force, very much the lowest reported figure in Europe (The Economist Pocket Europe in Figures, 1997).<sup>3</sup> The overall “motivation index” for Ukraine was 8.5, which is above average.

According to the UN Compendium on Human Settlements, 68% of the population in Ukraine live in urban areas. The 1997 Human Development Report assigns Ukraine with a HDI development index of 0.69, one of the lowest rates in Europe and North America. The World Bank reports a GNP of USD 1,570 per capita (1994), which places Ukraine below average among the European and North American countries.

In respect of the opportunity to commit crime, the scale developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, Ukraine, at 19.44, had the second lowest ranking of any European or Northern American country, and was far below the mean for Central and Eastern Europe (37.9). According to the ICVS, 93% of the urban population live in flats, one of the highest reported rates in Europe and North America. 23.5% of the urban population report the use of special door locks, 2.0% the use of special window grills, and 3.4% the use of burglar alarms in their household - among the lowest reported rates in Europe and North America.

Despite the low opportunity reflected by Ukraine’s position on the index, the lack of preventive devices may help to explain why, as noted above, the index of burglary shows that Ukraine has a relatively high amount of burglary. On the index of offences directed against motor vehicles, in turn, Ukraine has a very low rank. However, on the index of petty crimes in turn, Ukraine ranks second highest of 36 countries, after Northern Ireland.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. According to the results of the ICVS (which in Ukraine was carried out only in urban areas), 5.5% of the respondents stated that their household had a firearm, and 3.2 % that their household had a handgun. These rates are about average among the

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<sup>3</sup> However, it should be noted that if unemployment benefits are low, there is no particular motivation for the unemployed to register with the authorities.

36 European and North American countries in which the study has been carried out. The recorded alcohol consumption, according to the World Drink Report, is about average, with a per capita annual consumption of 1,50 litres of strong alcohol, but only 11 litres of beer and 2 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. In respect of female educational attainment, Ukraine was somewhat below average for the European and North American countries. According to the ICVS data, 4.4% of the female respondents were divorced, a below average figure. However, the Economist data (*The Economist Pocket Europe in Figures*, 1997) suggests that the divorce rate on the national level – 4.2 divorces per 1,000 in population per year – is the third highest in Europe.

According to the 1997 Human Development Report, the so-called gender-related development index in Ukraine in 1994 was 0,68, a low rank among the 47 European and North American countries for which the data are available. Only 4% of Parliamentary seats are held by women. The UNICEF “The Progress of Nations” report states that none of the persons at the top levels of government are female.

In a factor analysis of the determinants of crime, Ukraine had a very high positive loading in respect of strain-related violence (+1.38), a negligible positive loading in respect of serious property crime in urban settings (+.19), and a high positive loading in respect of opportunistic petty crime (+.97) (see Table 10 in part I, p. 49). (This last score is surprising, in light of Ukraine’s very low score on the “opportunity index”, as mentioned above.) In light of these three factors, it is not particularly surprising that, as noted above, Ukraine has a very high rate of serious violence, robbery, pickpocketing and “other theft”. It is these features which dominate the country’s crime profile.

### 3.3 Operation of the criminal justice system

Ukraine’s score on the Law Enforcement Resources Index (which essentially measures spending on law enforcement; see part I, pp. 72-74) falls in the third quartile (29), and is exactly the same as the mean for Central and Eastern European countries. There are 419 police per 100,000 in population, somewhat below the Central and Eastern European mean of 484.

Ukraine falls in the first quartile on the Criminal Justice Practitioner Gender Balance Index (10). Ukraine is hence the fourth lowest in respect of the proportion of female practitioners in the criminal justice system. Overall the Central and Eastern European countries (with a mean GBI of 30) have more female practitioners in their criminal justice system than the EU countries (with a mean GBI of 25), reflecting their high shares of female prosecutors and judges. With data missing on prosecutors and judges, it is

difficult to state how accurate Ukraine's position on the index is. However, only 4% of the police officers and 7% of the correctional staff are women.

On the index of Citizen Evaluation of Police Performance (see part I, pp. 105-108), Ukraine, at 14, scores below the mean for Central and Eastern Europe (17). According to the ICVS, only 27% of victims in urban areas reported the offence to the police, the third lowest rate in Europe and North America. 79% of victims in Ukraine who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, the second highest rate of dissatisfaction among the countries participating in the ICVS. Moreover, 71% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood. All three rates suggest that more work needs to be done in increasing public confidence in the police.

A comparison of the number of offences recorded by the police and the number of persons formally brought into contact with the criminal justice system as a suspect for an offence suggests that the over-all clearance rate in Ukraine, 0.47, is somewhat below the average for Central and Eastern European countries (0.53). Regrettably, data that would shed some light on the "attrition" of cases at later stages (prosecution, conviction etc.) in Ukraine are lacking.

Ukraine's 1994 prisoner rate (316 per 100,000) is very high. (For purposes of comparison, the mean for all Europe and North America was 145, and the mean for the Central and Eastern European countries was 215).

In general, in an international comparison, Ukraine has a moderately high rate of violence, and an unusually high rate of theft. The apparent lack of confidence in the efficacy of law enforcement is a reason for concern.

# United States of America<sup>1</sup>

## 1 Background

### 1.1 History and method of government

The criminal justice system of the United States has its roots in English criminal law and practices (especially common law) which were transplanted to America during colonisation in the 1600s. At the core of American jurisprudence is the U.S. Constitution, adopted in 1787, which sets forth a body of articles and amendments guaranteeing citizens certain rights and privileges and serving to protect them from infringement by the government. The first ten amendments to the Constitution are known as the Bill of Rights.

Each of the 50 states in the United States is accountable to a national federation (the federal government), but the Tenth Amendment to the Constitution reserves the states the power and the responsibility to establish and administer their own criminal justice systems, which includes the power to define and punish criminal activity. The provisions of the 14th Amendment prohibit the states from making any laws which are in conflict with federal laws, but do not prohibit them from making laws which conflict with each other. Thus, the definition and prosecution of most crimes as well as the fiscal and organisational administration of their justice systems are matters reserved to the states. Most crimes of violence and theft are prosecuted by the individual state in which they occur. Although there is a significant overlap of Federal and state jurisdiction over offences, relatively few crimes (such as large-scale white-collar crimes, organised crime, narcotics trafficking, human rights violations, espionage) are usually thought to warrant Federal prosecution. (In this respect, the United States Congress has tended during the 1990s to “federalise” a number of offences, ranging from carjacking to failure to pay child support.)

The United States has a democratic, federalist government with three government branches: executive, legislative, and judicial. The duties and powers of each branch operate to check and balance each other to prevent

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<sup>1</sup> This profile benefited from comments made by Professor Graeme Newman, School of Criminal Justice, Nelson A. Rockefeller College of Public Affairs of Policy, State University of New York at Albany, Dr. Paul Friday, Department of Criminal Justice, University of North-Carolina at Charlotte, Professor Wesley Skogan, Institute for Policy Research, North-Western University, Evanston, Mr Jeremy Travis, Director, and Ms Marvene O'Rourke, Deputy Director, National Institute of Justice, Washington, Professor Gerhard Mueller, School of Criminal Justice, the State University of New Jersey Rutgers, Newark, Mr Ronald L. Gainer, and Mr Charles F. Wellford, Interim Associate Provost for Research and Dean of the Graduate School, University of Maryland.



any one branch from controlling the government. Criminal laws are created by the state and Federal legislatures (the legislative branch). These laws are then interpreted in the state and Federal courts (the judicial branch) and enforced through the powers of the state governors and the President (the executive branch).

The Federal legislative body of the United States is made up of two houses of Congress: the Senate and the House of Representatives. Members of the Senate and the House of Representatives are the elected representatives of the citizens of the 50 states. The judicial branch of government includes the United States Supreme Court and lower-level trial and appellate courts. Federal judges are appointed by the President for a life term, subject to approval by the Senate. The two primary political parties are the Democratic and the Republican parties, and between them they usually receive over 95 percent of the public vote.

The United States employs an adversarial legal system with a government prosecutor representing the plaintiff and a defence attorney representing the defendant. However, the specific procedures through which an accused may be processed are highly complex and may not conform to the classic model of “judge-jury-prosecution and defence” (see sections 1.2.3 and 1.2.4). The majority of cases, in fact, do not go to trial, but are concluded by a plea (of guilty) by the defendant.

Under the 10th Amendment of the Constitution, the organisation and financing of criminal justice systems is a state responsibility. This responsibility includes establishing criminal laws and sentencing schemes, setting up policing organisations, court systems, local jails and prisons, public defence systems, and electing/appointing prosecutors. There are essentially 50 different state criminal justice systems, with no state systems alike, but all being comparable.

The Federal criminal justice system in practice concentrates on crimes that involve the national interest rather than local interest, international crimes, drug-related and large-scale white-collar crimes. The Federal government has its own investigating agents (including the Federal Bureau of Investigation (FBI) and a variety of other federal law enforcement agencies) and penitentiaries for such cases. In general there is very little interference of the Federal government in the State justice systems.

## 1.2 Organisation and major principles

### **The police**

The police force of the United States is highly decentralised, with some 17,000 police departments ranging in size from 1 to more than 30,000 officers. The chain of command and derivation of authority varies from locality to locality and depends largely on the town population and resource

level. However, typically, a police department is headed by the chief of police, and is subdivided into a number of departments or bureaux such as:

- field operations (patrol, traffic, criminal investigations, youth);
- administrative (community relations, planning and development, disciplinary review);
- technical services (communications, property, records and data processing); and
- inspection services (internal affairs, field operations, intelligence).

The chief of police is appointed by and accountable to public officials, such as the city mayor or an oversight commission.

Police agencies may be classified according to the jurisdiction of responsibility: local (municipal or county government), state and federal. At each level there may be special police forces for university campuses, tunnels, bridges, parks, and governmental facilities. Private police, employed by private security companies, can be contracted to for private persons or establishments and businesses. Most private security companies offer guard and investigative services, as well as electronic monitoring devices.

There are several types of Federal agencies with policing and investigative powers: the Federal Bureau of Investigations; the Internal Revenue Service (specialising in tax evasion); the Drug Enforcement Administration; the Immigration and Naturalisation Service; the U.S. Marshals Service; the U.S. Customs Service; the Bureau of Alcohol, Tobacco, and Firearms; the United States Secret Service; the Postal Inspection Service; the National Park Service; the Food and Drug Administration; the U.S. Coast Guard; and the Capitol Police.

In some cases, police jurisdictions may overlap, particularly in investigations, when cases may be opened by a local police department, but subsequently investigated by one or more other police groups (e.g. the state police or the FBI).

In the United States, the military may not be called in to replace or assist local police. The state-run National Guard, however, is a military reserve that can be called on by the President at the request of a State Governor to serve as an auxiliary unit to preserve public order in local emergencies (such as the Los Angeles riots in 1992). Guard members are part-time military employees.

### **Pre-trial investigation and coercive measures**

Police authority to conduct investigations is limited and guided by constitutional protections of individuals against search and self-incrimination. To stop a suspect in public, police must have “reasonable” suspicion to believe the person has committed, is committing, or is likely to commit a crime; or is armed and dangerous and threatens the personal safety of others. A frisk of the suspect is limited to a search of outer clothing for the purpose of finding

weapons. During the stop (before the frisk), police are required to identify themselves as police officers and make reasonable inquiries of the person (e.g., ask suspects their name, or what they are doing). The time to stop and frisk before releasing or arresting a suspect should not exceed 20 minutes. To arrest a suspect, police must, if there is time to do so, obtain an arrest warrant from a judicial magistrate prior to making an arrest. In obtaining a warrant, police must show “probable cause” to believe that the suspect has committed a crime, a greater degree of evidence than “reasonable suspicion”. However, the majority of arrests are made without warrants for exigent circumstances such as possible flight or possible harm to others, but the suspect in such cases must promptly be taken before a judicial magistrate and the same “probable cause” must then be established or else the suspect will be ordered released. For a misdemeanour arrest to take place without a warrant, the police must be “certain” that the offender committed the crime. Generally, this would require that the misdemeanour was committed in the presence of police. A major exception in most states is in cases of domestic violence.

An arrest can be defined as “the act of being taken into custody to be formally charged with a crime”. After being taken into custody, the suspect is “booked”, an administrative procedure in which personal facts about the suspect and the incident are recorded. In virtually all law enforcement agencies, there are departmental guidelines to control the use of police discretion.<sup>2</sup> However, like all other aspects of the criminal justice system in the United States, guidelines vary among police departments in regard to the specificity and breadth of the type of situations covered.

In lieu of arrest for relatively minor infractions, police sometimes verbally reprimand and informally warn the suspect that commission of future offences will result in formal arrest proceedings. Police warnings are usually reserved for petty offences in jurisdictions with heavy caseloads.

Prior to searching a person’s premises for evidence, police must obtain search warrants from a judge by showing “probable cause” to conduct the search. When obtaining the warrant, the police must delineate the place to be searched and persons or things to be seized. Searches by police are constrained by the Fourth Amendment of the Constitution and the interpretation it has been given by the Supreme Court.

A search may be conducted without a warrant under the following circumstances:

- a) the suspect is searched immediately after arrest;

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<sup>2</sup> The purpose of these guidelines is to reduce arbitrariness in arrests. It has been noted that patterns of arrest vary according to the neighbourhood’s tolerance of an offence, the seriousness and severity of the crime, whether the suspect has been previously arrested, the visibility of the arrest, and the suspect’s attitude toward the police officer.

- b) search of the immediate area surrounding the suspect in which the suspect may reach a weapon;
- c) search of a stopped car following the “hot pursuit” of the car from a crime scene;
- d) search arising from a violation stop in which contraband is found in “plain view” within a motor vehicle.

Arrested suspects are protected from unreasonable duress and self-incrimination. Upon arrest and before interrogation, suspects must be informed that

- a) they have the right to remain silent;
- b) anything they say may be used in court;
- c) they have the right to an attorney;
- d) if they can not afford an attorney, the court will appoint one.

Police must recite these warnings each time they make an arrest. Throughout any questioning by the police, the suspect has a continuing right to remain silent and have counsel present. A confession to the police is admissible in court if it can be shown that it was voluntary, and was made after the required warnings.

### **Preliminary judicial procedure**

Police investigate a crime and arrest a suspect. After an arrest, a suspect is “booked” by a police officer; or in the case of federal offences, by a federal law enforcement official. “Booking” is the process of making written reports of an arrest, including the name and address of arrested persons, the alleged crimes, arresting officers, place and time of arrest, physical description of suspect, photograph (sometimes called “mug shot”), and fingerprints. The suspect is then brought before a judge for an initial appearance where the defendant is apprised of the charges against him or her, the judge sets the date for a preliminary hearing, and the judge appoints an attorney for the suspect if the suspect cannot afford one. Generally, the length of time an arrested person can be detained by police before an initial appearance is limited to the time it takes to complete administrative proceedings (i.e. booking) and obtain a judge. At this point, the judge can make a determination as to whether bail will be granted. In the event that the suspect is not released on his or her own recognisance or on other conditions, or cannot pay the bail amount, the defendant is detained in jail while awaiting the hearing.

After the arrest and initial court appearance, a preliminary hearing is held to enable the judge to evaluate the charges against the defendant and to give the prosecutor an opportunity to show reasonable grounds to believe that the defendant is guilty of those charges. Although guilt or innocence is not

determined at this point (only a highly probable cause), the defendant has the right to present evidence and witnesses on his or her behalf, confront witnesses for the prosecution, and have legal representation. If the prosecutor's evidence meets the quantum of proof required, the defendant may be put into custody to await arraignment. If not, the judge may dismiss the charges and release the defendant. Defendants who wish to plead guilty to the charges may waive their right to a preliminary hearing. In some jurisdictions, including the Federal jurisdiction, in felony cases, a grand jury (composed of ordinary citizens) is frequently used to hear evidence from the prosecutor. It decides whether there is a prime facie case of guilt, and whether, therefore, the case should proceed to trial. If so, it will issue an indictment of the defendant. If the defendant is unable to post bail, he or she may be detained until the arraignment.

If the case is set for trial, the defendant is then brought to trial court for arraignment. Here the charges are officially read to or given in writing to the defendant, the judge explains to the defendant the meaning of the charges, and the defendant enters a formal plea of guilty, not guilty, or *nolo contendere* (no contest). If the defendant enters a plea of not guilty, the judge sets a trial date and re-evaluates the pre-trial status of the defendant (i.e., whether bail conditions should be continued or modified). If the defendant pleads guilty, the judge must determine whether the facts are consistent with the plea. He or she then sets the date for sentencing. Pleading guilty essentially gives up many of the constitutional protections guaranteed to a defendant who pleads not guilty (i.e., right to trial by jury and to confront witnesses, protection against self-incrimination). This necessitates that before they accept a plea, judges ask defendants questions regarding the voluntary nature of their plea and make sure the defendants understand the consequences of pleading guilty. If these precautions are not taken, convictions and sentences can be appealed and overturned on the grounds of procedural error.

In each state, crimes are generally divided into three different classes: felony, misdemeanour, and violation. Felony crimes are the most serious with respect to harm done. These carry the harshest penalties (more than one year of imprisonment). Murder, rape, sexual and physical assault, robbery, illegal weapons possession, burglary, arson, grand theft, and the sale and distribution of drugs (e.g., cocaine and its derivatives) are typically felony crimes. Misdemeanour crimes often include forms of simple assault, petty theft, disorderly conduct, vandalism, driving under the influence of alcohol, and possession of small amounts of certain drugs (e.g. marijuana). Misdemeanour sentences consist of fines, probation, or less than one year's confinement in a city or county jail. Violations typically include traffic offences (e.g. speeding). Whether a crime is considered a felony or a misdemeanour depends on the law of the state in which it was committed.

## **Prosecution and alternatives to trial**

In state and local jurisdictions, the prosecution is conducted by the prosecuting attorney (sometimes called district attorney, city attorney or county attorney). Prosecutors are appointed in some states, elected in others. The prosecuting attorney may select the cases to be prosecuted and co-ordinate with police or other investigators to gather evidence against the accused. Prosecutors and defence attorneys may negotiate a plea of guilty or pursue a trial, in which a conviction would be sought on the basis of the evidence. At the federal level, a United States (prosecuting) Attorney is appointed by the President (with the Senate's consent) for each United States Federal Court District. U.S. prosecuting attorneys are generally appointed to four-year terms. There are at present 93 U.S. prosecutors.

**Plea-bargaining** is the most common alternative to trial. It is an informal process whereby the defence attorney "bargains" with the prosecutor for charge mitigation and/or sentence leniency in exchange for a guilty plea from the defendant. Sometimes the exchange requires the defendant to testify in other cases or to supply the prosecutor with information about other crimes. Plea-bargaining may take place anywhere and anytime from the point of arrest until trial. Plea-bargaining is often invoked when the defendant wants to avoid punishment for the original charge and/or the prosecutor either wants to save the time and expense of trial or, although having enough evidence to prove guilt of trial, has some doubts about the certainty of the outcome. Given its efficiency and cost-effectiveness, about 80 to 90 percent of all criminal cases are resolved through plea-bargains. In 1992, 92% of felony convictions in state courts were resolved through a guilty plea. Only 4% of all felony convictions in state courts were settled by a jury trial and 4% were settled by a bench trial (*Sourcebook*, 1995: 498).

**Community resolution programs** are used by the courts in some states (e.g., New York). The legal matters transferred to the resolution centres usually involve minor disputes (e.g., between neighbours or between landlords and tenants) and are resolved through conciliation, mediation or arbitration.

**Diversion programs** involve the suspension or cessation of formal criminal proceedings (before the offender is convicted) on condition that the defendant will participate in a specified program. The conditions range from temporary residence in a rehabilitative institution that encourages behaviour modification to restitution of the victim (and sometimes involve a defendant acknowledging legal liability for a civil tort). Other diversion programs emphasise arbitration and reconciliation to resolve minor disputes. If a diversion program is successfully completed, the defendant avoids a criminal record.

### **Pre-trial incarceration**

The judge's negative decision at the initial court appearance to grant bail will result in pre-trial detention. The purpose of bail is to help assure that the defendant will be present at future court proceedings (i.e., preliminary hearing; arraignment; trial; sentencing). The court sets certain conditions, usually including a financial sum to be deposited as security, which must be met by the defendant in order to be released before a hearing or trial. If financially or otherwise unable to meet the conditions of bail, the defendant can be detained in jail until the next court appearance. Bail involving a financial deposit is usually set for defendants with no known ties to the community or who are considered a poor risk for reappearance. Other defendants may be granted release without depositing bail, i.e., they are released on their own recognisance (ROR).

If the crime was particularly heinous and the defendant is considered too dangerous to be released into the community or there is a serious reason to believe the defendant will abscond, bail may be set at a prohibitively high rate or denied altogether in order to secure the defendant's preventive detention in jail. The eighth amendment of the United States Constitution gives defendants the right not to have excessive bail imposed, but the term "excessive" has been interpreted to mean bail that is no more than necessary to secure the person for trial. About 40% of felony defendants are detained in jail from the time of arrest until case disposition.

### **The judicial system**

The hierarchy of the federal judicial system is as follows (highest to lowest):

- 1) Supreme Court (the highest federal appellate court, nine Justices);
- 2) Circuit Courts of appeals (intermediate appellate courts, each circuit has jurisdiction over a particular group of states and territories; 12 circuits total);
- 3) district courts (federal trial courts; 94 districts).

Most state judicial systems follow the hierarchy below:

- 1) state Supreme Courts (the final appellate court; panel of three to nine Judges);
- 2) appellate courts (intermediate courts);
- 3) trial courts;
- 4) magistrates (defendants enter through this stage).

Cases are tried in Federal Courts when there are inter-state jurisdiction issues such as interstate theft or drug trafficking. About 90% of all criminal cases are disposed of by the state courts.

In many states judges below the level of appellate courts are elected to office. Above that level, judges are usually appointed to office by the



Governor of the state. Judges must be lawyers and almost all are employed as full-time judicial officers. Magistrates, who often handle “First Appearance” after arrest for the purpose of setting bond or bail, are frequently lawyers acting as part-time officials.

Tribal courts are used by the Native American population to settle offences under tribal jurisdiction according to a code of Indian tribal offences (i.e. abduction, theft, fraud, bribery and embezzlement). The tribal court follows guidelines set by the Department of the Interior or a tribal code. Court jurisdiction is limited to offences committed within the Indian community (commonly referred to as “reservations”) and various offences committed by an Indian outside of the community.

Trial court judges, including those of the tribal courts, have the opportunity of judicial training not only within their own jurisdictions but also at the National College of the Judiciary, at Reno, Nevada.

The minimum age of criminal responsibility varies from state to state. The age of full adult criminal responsibility is between 16 to 18 years of age in most states. When a minor has committed an offence, his or her case is usually disposed of in a special court for juveniles. When a juvenile is arrested by the police for a delinquent act, the youth first goes through an intake screening process that will determine how best to serve the needs of the child. If the offence is minor, the youth may be diverted from formal court proceedings and be referred instead to community treatment centres or even be released to the parent(s) with instructions to bring the child to counselling.

Many states have established family court systems to process cases involving domestic disturbances. Among the cases which may be diverted to a family court instead of a formal criminal court are those involving family violence, divorce and annulment, child custody, and juvenile delinquency.

In criminal cases, the accused has the right to be informed of the nature of the charges being brought against him or her. In addition, the accused has the right to confront opposing witnesses, the right to subpoena witnesses, and the right to legal representation. The accused also has a right to be tried by a jury of ordinary citizens (unless accused of crimes that carry a penalty of less than six months confinement. In some cases, states permit the jury’s decision to be majority-rule decisions (non-unanimous verdicts). Generally, a defendant may request a bench trial, where the judge alone decides the question of guilt or innocence.

Defendants have the right to a speedy and public trial. The defendant is allowed to waive this right. All defendants have a right against self-incrimination and the right not to be tried twice for the same crime (referred to as protection against double jeopardy).

If an accused cannot afford counsel to represent him or her in a criminal case, the state must provide defence counsel in any criminal case that could result in imprisonment. Court-appointed defence attorneys are generally called public defenders. Public defence attorneys may either be employees of the city or county, hired by the city or county on contract, or part of a



legal-aid organisation. There are different requirements governing eligibility in each state, and in some cases (e.g., New York) in each county of the state. For the most part, eligibility is determined by the suspect's income level and number of dependents. Most states or counties have provisions by which the defendants must pay back all or a portion of the defence cost if their economic situation improves. Eligibility standards are more complex for juveniles, although a determinant standard is whether they are declared legally emancipated from their parents. Since public defence programs are diverse in their organisation (state-wide and county-wide), there is currently no national figure on the proportion of defendants represented by public defenders. Estimates run from 50 to 90%, depending on state or county jurisdiction.

## 2 Statistics

### 2.1 Victimisation

The breakdown below presents the victimisation rates in USA and its major cities.

**Table 1. Victimisation rates (in %) according to the ICVS, nation-wide and major cities: average results from the 1989, 1992, and 1996 surveys**

	Contact crimes	Burglaries	Violence against women	Car theft
Nation-wide	3.5	3.3	6.4	2.2
Major cities	4.7	3.9	6.1	3.2

### 2.2 Reporting and recording

**Table 2. Number of crimes recorded in the criminal police statistics**

	1990	rate/ 100,000	1992	rate/ 100,000	1994	rate/ 100,000
All recorded crimes	14,475,600	5792.3	14,438,200	5653.0	13,989,500	5367.1
Homicide	23,440	9.4	23,760	9.3	23,330	9.0
Assault	1,054,860	422.1	1,126,970	441.2	1,113,180	427.1
Rape	102,560	41.0	109,060	42.7	102,220	39.2
Robbery	639,270	255.8	672,480	263.3	618,950	237.5
Theft	9,581,600	3834.0	9,526,000	3729.7	9,419,100	3613.7
Theft of cars					-	-

**Background.** The Uniform Crime Reporting program, run by the Federal Bureau of Investigation, collects national crime statistics and aids in the analysis of crime trends by tallying the crime statistics from over 15,000 individual law enforcement agencies. The FBI classifies crimes reported by law enforcement agencies according to whether they are index or non-index crimes, with index crimes being the most serious. Index crimes include murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. Non-index offences include among others forgery and counterfeiting, fraud, embezzlement, vandalism, drug abuse violations and driving under the influence of alcohol, gambling, vagrancy, and curfew violations.

The definitions of the following crimes are constructed by the Federal Bureau of Investigation to aid local police in their reporting of crimes to the Uniform Crime Reporting system, and have no legal standing.

**Murder.** The FBI defines murder as the wilful (non-negligent) killing of one human being by another. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicides are excluded.

**Larceny-theft.** The FBI defines larceny-theft as “The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pick-pocketing, or the stealing of any property or article which is not taken by force and violence or by fraud”. Attempted larcenies are included in this number, but motor-vehicle theft, embezzlement, “con” games, forgery, worthless checks, etc. are excluded.

**Robbery.** The FBI defines robbery as “taking or attempting to take anything of value from the care, custody or control of the person or persons by force or threat of force or violence and/or by putting the victim in fear”.

**Burglary.** The FBI defines burglary (including breaking and entering) as the “unlawful entry of a structure to commit a felony or a theft”. Attempted forcible entry is included.

**Assault.** The FBI defines aggravated assault as “an unlawful attack of one person upon another for the purpose of inflicting severe or aggravated bodily injury”. These assaults are usually committed with a weapon. Simple assaults are excluded.

## 2.3 Sanctions

**Table 3. Custodial sentences, prisoner rate and convicted prisoners**

		1990	1994
Custodial sentences / 100,000	Adults	179.8	-
Prisoner rate <sup>1</sup>		460.0	600.0
% women in the prison population		-	-
Prisoner rate / 100,000 (convicted only)	Adults	143.0	-
	Juveniles	22.2	-
% of females of convicted prisoners	Adults	11.1	-
	Juveniles	-	-
% of juveniles		13.4	-

<sup>1</sup> Data from Walmsley 1997. The data refer to the years 1990 and 1995.

The range of typical penalties in use is: fines, restitution, probation, shock probation (where the defendant serves the first part of the sentence in jail and the second part on probation), incarceration, shock incarceration (boot camps), half-way houses, jail, and prison (which is used for sentenced felony offenders).

In restitution programs, offenders are required to make direct monetary payments to victims to help compensate for losses resulting from the crime. Non-financial restitution may require the performing of community service. Restitution may be imposed by itself or in connection with incarcerative sentences.

Shock incarceration is used as an alternative to incarceration. The convicted offender is placed in a military style "boot camp" where labour, discipline, and structured living are emphasised. First-time, non-violent, young offenders are the most eligible for this type of program. The time spent in shock incarceration is less (3 to 6 months), but more intensive than that spent in prison (i.e., 16 hour work-days, intense physical training, and punishments for infractions). Most programs also include alcohol and drug treatment programmes, counselling and education. On 1 January 1995, there were 35 state shock incarceration programmes in 73 boot camps, as well as 2 programmes by the Federal Bureau of Prisons, involving 9,121 inmates (at the same date the total number of inmates in American state or federal prisons was 854,908). In 1994 there were 11,691 prisoners completing such a programme (*Sourcebook 1995*: 94-95).

Probationers and parolers may be required to live in halfway houses under the community release agreement. Halfway houses are used as alternatives to institutionalisation or incarceration. Violations of house rules result in imposition of full sentences.

Jails are used for offenders receiving incarceration of one year or less. Jails are locally operated. They house pre-trial detainees, some convicted of misdemeanour offences, and some convicted of lesser felony crimes.

Generally, murder is punished by imprisonment. As for other crimes, sentencing varies according to individual state statutes. For example, rape is typically punished by a prison sentence, but every state has a variety of aggravating and mitigating circumstances which may affect the length of time spent in prison or whether prison is considered at all. For example, whether a property crime involving the theft of USD 200 results in a fine or a 30-day jail sentence depends on specifications in state sentencing statutes, and in some cases, the discretion of the judge. The distribution of sentences by type of punishment and offence for district courts are shown in the following table. An estimated 24 states have developed "Sentencing Guidelines" based on offence level and offender characteristics in an effort to better standardise sentencing; however, not all of these are deemed binding.

The aggravating and mitigating factors referred to above are contained in the pre-sentencing investigation report, prepared by the Court's probation department, considered by the judge prior to sentencing. The mitigating and aggravating factors permitted to affect sentencing are different for each crime (and these factors vary considerably by state and jurisdictions within states). Mitigating factors (sentence leniency) include:

- 1) the mental health of offender (mentally incompetent defendants are held less accountable for crimes, often resulting in hospital treatment being imposed instead of prison;
- 2) age;
- 3) no prior criminal history;
- 4) non-violent crime.

Aggravating factors (sentence enhancement) include:

- 1) prior criminal record (repeat offender);
- 2) violent crime;
- 3) weapon used;
- 4) more than one victim involved;
- 5) crime committed while out on bail;
- 6) crime committed while serving probation, parole, or participating in work release program.

The death penalty is allowed in 38 states for aggravated murder (*Sourcebook 1995*: 604). In addition, federal statutes provide for the death penalty for certain crimes if specific aggravating factors are present. These crimes are espionage, treason, death resulting from the commission of another crime, and certain categories of murder, for example, murder of federal officials, law enforcement and prison personal, witnesses or informants, and murder for hire. There are several other offences that are listed in state statutes as capital crimes, such as treason (California, Mississippi); rape of a child under

14 by an adult (Mississippi); aircraft piracy (Mississippi); and kidnapping resulting in serious injury to the victim (Montana and South Dakota).

The minimum age for which the death penalty can be imposed ranges from 10 to 18 years, depending on the state. But the U.S. Supreme Court has held imposition of capital punishment to perpetrators who committed their crimes under the age of 16 to be unconstitutional. Methods of execution also vary by state, and include lethal injection, lethal gas, electrocution, hanging, and firing squad (*Sourcebook 1995*: 616). The following number of executions have been carried out over the last years: 18 in 1986, 25 in 1987, 11 in 1988, 16 in 1989, 23 in 1990, 14 in 1991, 31 in 1992, 38 in 1993, and 31 in 1994 (*Sourcebook 1995*: 609). On 30 April 1996, there were 3,122 inmates in prison under death sentences (*Sourcebook 1995*: 604).

**Table 4. Trends in sentencing, adults convicted by type of sentence, 1986-1994**

Sentence	1986	1988	1990	1992	1994
Capital punishment	306	295	256	285	304
Life imprisonment	4,954	4,246	4,482	5,219	-
Deprivation of liberty	419,878	432,412	444,946	438,679	-
Fine	-	-	-	-	-
Control in freedom	206,806	220,384	254,283	283,793	-

Source: UN Fourth and Fifth Surveys

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In the United States, only 8% of the respondents would have favoured a fine, 1.8% a suspended sentence, 28% community service and 56% imprisonment. Among those favouring imprisonment, the average suggested sentence was 37 months. The results suggest that respondents in the United States are more apt than respondents in most other European and North American countries to regard imprisonment as appropriate in this case. This parallels the fact that prison population in the United States is considerably higher than in most other European and North American countries; however, direct comparisons are difficult in the absence of truly comparable data on court “intake”, in other words the types of cases which the courts must decide.

**Prison capacity and population.** In 1995, all state and federal correctional facilities together were designed to hold 756,141 persons (state: 687,920; federal: 68,221). However, these correctional facilities were occupied at 114.9% of their capacity (*Sourcebook 1995*: 94). There were 541,434 admissions into prison institutions in 1994. The incarceration rate increased from 460 inmates per 100,000 inhabitants in 1990 to 600 in 1994 (Walmsley 1997).

## 2.4 Personnel and resources

**Table 5. Criminal justice system personnel**

		1990	1994
Police officers	total / 100,000	330.3	300.1
	% female	23.6	24.4
Prosecutors	total / 100,000	8.9	-
	% female	-	-
Judges	total / 100,000	4.4	4.3
	% female	-	-
Prison staff <sup>1</sup>	total / 100,000	105.7	-
	% female	4.7	-

<sup>1</sup>Data only for adult prisons

## 3 Crime and criminal justice profile<sup>3</sup>

### 3.1 The crime situation

As can be seen in section 2.2, the rates of reported crime have tended to remain stable during the period under review. According to the results of the 1996 ICVS, 24% of the respondents in the United States had been the victim of a crime during the preceding year, placing the United States in the medium range internationally. This proportion appears to be decreasing; the rate for the 1989 survey was 29%, and for the 1992 survey 26%. For individual offences, the victimisation rate in 1996 was 2.6% for burglary and 5.7% for assault or threat (the second highest rate for this offence internationally).

On the index of homicide, the United States was fourth highest rank out of 47 countries. The United States was fourth highest on the index of serious violence, and second highest (together with the Russian Federation) on the index of violence in general. This internationally speaking rather high level of violence can also be seen reflected in the World Competitiveness Study, when respondents were asked about the extent to which harassment and violence are sources of destabilisation at the workplace; the respondents in the United States were second only to the Russian Federation in stating that

<sup>3</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

such harassment and violence exists. In this respect, there was a significant gap to the other countries included in the study.<sup>4</sup>

The relatively high level of violence, however, has apparently not appreciably affected the public's sense of security. 44.5% of the ICVS respondents stated that they tend to avoid certain places in their neighbourhood at night; this is almost the same as the mean for all countries in Europe and North America, 43.4%.

Internationally speaking, the United States appears to have a very high amount of burglary and of petty crimes. The United States had the third highest rate of offences directed against motor vehicles, out of 47 countries.

On the index of the amount of corruption, the United States scores very low. However, the Transparency International index for the United States is only 7.8 on a scale of zero (considerable corruption) to ten (no corruption), in the middle range for the 21 European and North American countries for which data are available. The World Competitiveness Yearbook 1997, on asking respondents to assess the extent to which such improper practices as bribing and corruption prevail in the public sphere – again on a scale of zero to ten – elicited the result of 7.6, again in the middle range.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I; other factors, which could not be operationalised for the purposes of this study, include individual self-identities and cultural sex-role definitions). According to the ICVS, respondents in the United States are relatively satisfied with their income (3.22 on a scale of 1 for “not satisfied” to 4 for “very satisfied”). This was the third highest rate of satisfaction out of the 20 countries for which comparable urban data are available. In 1995, unemployment was 5.6% of the active labour force, significantly lower than the European average. The general “motivation index” calculated for this study for the United States was 0.8, which is among the lowest in Europe and North America.

In the international perspective, the United States is a highly developed country. According to the UN Compendium on Human Settlements, 75% of the population in the United States live in urban areas. The 1997 Human Development Report assigns the United States with a high “human development index” of 0.94 (fourth highest in the world), and the World Bank reports a GNP of USD 25,860 per capita (1994), the fifth highest in Europe and North

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<sup>4</sup> Very much the same result was found when these respondents were asked about the extent to which alcohol and drug abuse pose problems at the workplace; the respondents in the United States and the Russian Federation were considerably more likely to have perceived such problems.

America. 78.6 % of the population live in detached or row housing; internationally speaking, also this is a high percentage. (Criminological theory suggests a positive correlation between the proportion of detached and row housing, and burglary.). According to the ICVS, 94% of US households have a motor vehicle, the highest rate in Europe and North America. The ICVS also indicated that the population in the United States is very active in spending their leisure time outside of the home, with respondents reporting an average of 3.55 evenings per week away from home. This is the second highest proportion among the European and North American countries (after Northern Ireland, at 3.59).

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index”, the score of the United States is 82.41, which together with Sweden is the highest of any European and North American country. (The mean for the European Union countries, as a point of comparison, is 64.7.) This high opportunity index may help to explain in part the high burglary rate, despite the wide extent to which the public uses security devices: 58% of the urban population report the use of special door locks, 20.9% the use of special window grills, and 17.7% the use of burglar alarms in their household – among the highest reported rates in Europe and North America

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. The results of the ICVS showed that 31.4% of the respondents stated that their household had a firearm, and 27.4% stated that their household had a handgun. The latter figure, highest among the 36 European and North American countries in which the study has been carried out, is twice as high as the rate in the second highest country, Switzerland. Alcohol consumption, according to the World Drink Report, is somewhat above average, with a per capita annual consumption of 1.96 litres of strong alcohol, 85 litres of beer and 6 litres of wine.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, the United States is in the middle range. According to the ICVS, 8.5% of the respondents were divorced, which is the highest proportion among the responding countries. According to the 1997 Human Development Report, the so-called gender-related development index in the United States in 1994 was 0.928, placing it fifth among the 47 European and North American countries for which the data are available (and indeed the fifth highest in the world). 11% of seats in Congress are held by women. The UNICEF “The Progress of Nations” report states that 14% of persons at the



top levels of government are female. One could assume that such indicators of (internationally speaking) relatively strong efforts in society to promote sexual equality would in turn be reflected in a low amount of violence against women. However, the United States appears to have a relatively high rate of violence against women, ranking, together with Kazakhstan, third highest. 102 rapes were reported per 100,000 in population in 1994, far and away the highest number. (The second highest, 32 per 100,000, was in Canada.) This high rating, however, is not supported by the results of the 1996 ICVS: 3.9% of the female respondents in urban areas and 2.2% of the female respondents in rural areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. Such results would fall within the middle range, internationally. One possible and presumably only partial explanation for the high level of reporting of violence against women, in a country noted for discussions on sexual equality, is the greater awareness of such violence, which can well translate into a greater propensity to report violence either to the authorities or, in surveys, to researchers.

According to the World Values Study attitude survey, respondents in the United States were in the middle range among European and North American respondents in respect of their tolerance for deviance: one third (31%) of the respondents indicated their readiness to justify deviant lifestyles or the commission of misdemeanours and petty offences under certain conditions. US respondents were also somewhat more likely than the international average to profess tolerance of minorities.

Tolerance, however, is not the same as acceptance, or as confidence in the criminal justice system. According to the 1997 World Competitiveness Yearbook 1997, respondents in the United States rated their country as only average in respect of the extent to which they believed that the person and property is protected in their country: the result was only 6.55 on a scale of zero to ten. The ranking of the United States on the indicator of the extent to which there was full confidence in the fair administration of justice in society was slightly higher (6.60), but in the low intermediate range internationally.<sup>5</sup>

In a factor analysis of the determinants of crime, the United States had a negative loading in respect of strain-related violence (-.61), a very high positive loading in respect of serious property crime in urban settings (+1.58), and a high positive loading in respect of opportunistic petty crime (+.97) (see Table 10 in part I, p. 49). This can be interpreted to suggest that the various indicators (housing structure, car ownership, etc.) point to an above-average potential for serious property crime and opportunistic crime.

Overall in respect of its crime rates, the United States lies in the high range for the European and North American countries.

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<sup>5</sup> In this Survey, 25 European and North American countries were covered, including all 15 EU countries. The highest on the "protection" indicator was Austria, with 9.06, and the highest regarding the "fair administration" indicator was Denmark, with 8.29.

### 3.3 Operation of the criminal justice system

The country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system) is 32, which is above the mean for Europe and North America (27). The number of police officers (300 per 100,000) is below the mean for the region (390), but is almost tripled by the number of private police (582 per 100,000), giving a sum total which is the highest in the region. The number of prosecutors (9 per 100 000 population; the mean is also 9) is in the middle range, but the number of judges (4 per 100,000; the mean is 14) is comparatively low, and the number of correctional staff (140 per 100,000; the mean is 64) is comparatively quite high. Despite this high number of correctional staff, one result of the very high prison population is that the inmate/staff ratio is 4 to 1, which is one of the highest in the region.

The score of the United States on the Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78–80) is 47, which is very high (the mean is 28), the fourth highest in the region.

On the Citizen Evaluation of Police Performance Index the United States also scores very high (46), again the fourth highest in the region. This indicates very high public satisfaction with police performance. The mean score for the EU countries, as a point of comparison, is 37. According to the ICVS, 55% of victims reported the offence to the police, a relatively high proportion. One third of victims in the United States who reported an offence to the police were dissatisfied with the way in which the matter was dealt with, one of the lowest rates of dissatisfaction among the countries participating in the ICVS. Both rates suggest that, despite the relatively high amount of crime, the law enforcement community has the relatively high confidence of the community. Indeed, only 18% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood. This is the third lowest level of dissatisfaction in Europe and North America (after Canada and Norway).

A comparison of the number of persons brought into formal contact with the criminal justice system (suspects) with the number of police officers can be regarded as a very rough measure of police “productivity” (see part I, pp. 102-105). This proportion in the United States – 1,519 – is the second highest. (In comparison, the mean is 414, and the EU mean is 621.)

As noted, the prisoner rate is very high (600 per 100,000 population), the highest in the region after the Russian Federation (at 694), and considerably above the regional mean (158) and the mean for the EU countries (86). The prisoner rate has been increasing during the period under review, from 460 per 100,000 in 1990. No data are available on the proportion of the prison population that is waiting trial.

The average length of sentences in the United States is 109 weeks, which is close to the mean for the region of 107. However, the EU mean is only 37

weeks. (Data on the average length of sentences is missing from some EU countries: Austria, Germany, Italy and Portugal.)

To summarise the data on crime and criminal justice, in an international comparison the United States does not appear to have an exceptional crime rate except in one regard: the United States appears to have a very high violent crime rate. Although a very heavily and hotly debated issue (with opponents of gun control pointing out that firearms may also deter crime), the available data suggest a strong correlation between the high level of gun ownership (in particular hand gun ownership) and the high level of violence.

This high level of violence, however, does not explain the high level of incarceration. Research suggests that a very large proportion of those in prison in the United States have been sentenced for drug-related crime. The increase in mandatory minimum sentences, “three-strikes-and-you’re-out” legislation and similar statutory policies are decreasing the discretion traditionally exercised by the judiciary, and are contributing to an unprecedented increase in the rate of imprisonment.

In this respect, it may well be that the differences between the United States and other countries seem to be largely ideological, and reflect differences in the approach to criminal justice. Notwithstanding the fact that there is an immense diversity in and outside the United States in respect to sentencing strategies, the generalisation can apparently be made that American policy-makers, and in particular American legislators, appear to place greater stress than their Canadian and Western European colleagues on the “just deserts” model and on deterrence through the large-scale use of imprisonment. (One could also cite the popular belief that increased punitiveness in itself deters crime.) Accordingly, punishment is designed to increase the cost of crime to such an extent that rationally acting individuals will no longer have incentives to commit crimes. In Canada and Western Europe, on the other hand, there appears to be greater acceptance in general of diversionary and rehabilitative measures.

## 4 Selected issues

### 4.1 Groups most victimised by crime

Victimisation rates vary according to the type of criminal incident involved. Black males between the ages of 12 and 24 years had the highest violent crime victimisation rates. Violent crime as measured by victimisation was higher for males than females. Victimisation rates for theft were higher for males than females, and for people between the ages of 16 and 24. These data are derived from the National Crime Victimisation Survey (NCVS) sponsored by the Bureau of Justice Statistics. The rates reflect the number of reported victimisation (both attempted and completed) disclosed to the NCVS.

## 4.2 Prison populations

The U.S. incarceration rate is one of the highest (with that in the Russian Federation) in the world. This is a relatively recent phenomenon. The incarceration rate was much lower and relatively stable until the 1970s. The only exception was an increase in the 1930s, which was presumably due to the Great Depression.

About twenty years ago the U.S. incarceration rate started to rise sharply. The number of inmates in the nation's jails and prisons has more than tripled between 1978 (452,790 inmates) and 1994 (1,507,202 inmates). According to specialists, that increase will continue. Even though crime rates have tended to decrease, prison populations are not expected to decline during the next few years. The rising incarceration rate appears to be an issue for which the numbers paint a grim picture while viable solutions and alternatives remain elusive or unaddressed. Indeed, the current trend among law makers toward tougher sentencing and heightened law enforcement promises to exacerbate rather than alleviate the conditions faced by corrections.

The incarceration rates vary between American states. At the end of June 1995 California and Texas together accounted for more than one in five inmates in the country. The incarceration rates of state and federal prisoners sentenced to terms longer than one year reached a record 659 per 100,000 population in Texas, 573 in Louisiana, 536 in Oklahoma, and 510 in South

**Table 6. Incarceration rates across the United States, 1993 (state and federal institutions as well as jails). Source: *Sourcebook of Criminal Justice Statistics 1995*, tables 6.15 and 6.22.**

State	Rate per 100,000 inhabitants	State	Rate per 100,000 inhabitants	State	Rate per 100,000 inhabitants
Louisiana	899	Ohio	470	Connecticut	320
Georgia	715	Kentucky	454	South Dakota	303
Texas	692	Alaska	446	Oregon	291
Nevada	649	Arkansas	444	Massachusetts	285
South Carolina	645	Colorado	439	Montana	263
Florida	634	North Carolina	434	Nebraska	258
Oklahoma	633	Illinois	418	New Hampshire	257
Arizona	614	Missouri	404	Utah	254
Alabama	600	Indiana	395	Iowa	231
California	590	New Mexico	395	Hawaii	198
Maryland	571	Delaware	394	West Virginia	195
Virginia	571	Pennsylvania	376	Maine	173
Michigan	546	Idaho	369	Minnesota	173
Mississippi	545	Wyoming	343	Rhode Island	172
Tennessee	532	Kansas	337	Vermont	154
New York	518	Washington	337	North Dakota	127
New Jersey	493	Wisconsin	322		

Carolina. The following table shows that the south-western states seem to be much more punitive than the north-eastern ones. Nonetheless, one has to be careful when making comparisons between states because some of them have already given up on finding more space within the walls of their institutions and have begun to transfer prisoners to other states.

Several historical explanations have been presented for this increase in the prison population: the increase of fear of crime after President Kennedy's assassination in 1963, the loss of confidence in the authorities after the Watergate scandal in 1972, Martinson's 1974 study of the impact of rehabilitation programs (which was widely interpreted to conclude that "nothing works") and the 1976 "Just Deserts" report edited by Andrew von Hirsch and others (which emphasised what is known as a neo-classical approach to criminal justice), as well as socio-economic disparities, and the increase of the length of the imposed sentences. But one thing is evident: the increase in incarceration rates cannot seriously be explained by crime rates. The magnitude of the difference between the United States and other nations is so great that crime rates can clearly not be the primary factor behind that disparity. There has not been a wave of violent crime inside the United States that could explain the huge increase in incarceration rates.

Another way to explore this issue is to investigate whether the sentencing policies are harsher in the United States than in other nations. In the United States, 22.3 per cent of persons in prison on 1 January 1996 were serving a sentence of twenty years or more; the average length of sentence for inmates admitted in 1993 was 75.6 months (6 years and 4 months); and the average length of time served by inmates released in 1993 was 26.0 months (Camp & Camp, 1994). At the same time in Western Europe, the average length of imprisonment varied between a high of 11.4 months in Portugal and a low of 1.1 month in Denmark (Council of Europe, *Penological Information Bulletin* 19-20, 86). Furthermore, the number of persons sentenced to an unsuspended prison term per 100 convicted is much higher in the United States than in the European countries. Such data offer strong indications that the American criminal justice system is much more punitive than the European systems. Even allowing for differences in crime rates (and crime types), American sentencing severity (use of prison as a sentence and length of prison sentences) is much higher in the U.S. than in Europe.

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# The Federal Republic of Yugoslavia (Serbia and Montenegro)<sup>1</sup>

## 1 Background

Yugoslavia was founded in 1918. Before 1918, Serbia and Montenegro were independent states and had their own criminal legislation (Serbia had the Criminal Code of 1860, and Montenegro the Criminal Code of 1906). New penal legislation, based upon a draft for a new Serbian Criminal Code (1910), was enacted in 1930.

In 1946, after the Second World War, a law was issued repealing the former legislation, which was deemed to be in conflict with the Constitution. In 1948 the general part of a new Penal Code, prepared under the influence of Soviet penal law, was adopted. A completely reformed Penal Code was issued in 1951. It represents a partial return to the legislation of 1930. A series of gradual changes followed up to 1960. Among these the most important remains the amendment of 1959. This amendment was brought about under the influence of the movement for social defence. It brought more up-to-date provisions on the treatment of minors and a reduction of the maximum prison term. The possibility of imposing “strict imprisonment in duration for life” for offences punishable by capital punishment was abolished. Capital punishment was retained and could be commuted to strict imprisonment for twenty years. The general maximum of strict imprisonment was lowered to fifteen years, although twenty years could be imposed in certain particular serious cases.

In 1974 a new Constitution was adopted. Partial decentralisation of penal law was introduced, and thus in 1977 six republican and two regional penal statutes came into operation in addition to the Federal Penal Statute, which contained the general part of criminal law with a special part containing “federal” offences. The basic tenets of the Code have remained as promulgated in the amendment of 1967. The criminal procedure remained the prerogative of federal legislation.

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<sup>1</sup> This profile has benefited from comments from Mr Justice Dusan Cotic, Supreme Court (rtd.) and Ms Dragana Filippi, Head of the International Relations Division, Federal Statistical Office, Federal Republic of Yugoslavia.



After the disintegration of the Socialist Federative Republic of Yugoslavia, the much smaller federation of the Federative Republic of Yugoslavia (Serbia and Montenegro) was created in 1991. In April 1992, the Constitution of the new federation was enacted. The previous federal Penal Statute of 1977 and the criminal procedure remained in force in the new federal, but the delimitation between federal and republican competence in the area of criminal legislation is not so explicit and precisely regulated (Art. 77 of the FRY Constitution) as it was in the Socialist Federative Republic of Yugoslavia's Constitution of 1974 (Art. 281 p. 13).

The 1977 Criminal Code, which thus remained in force in the Republic of Serbia, has been amended several times.

Montenegro enacted a new Criminal Code on 11 October 1993. The Code only contains the special part on the offences subject to the competence of the republic. The Code is essentially a slight modification of the 1977 Penal Statute of Montenegro.

The Federal Constitution of the Federative Republic of Yugoslavia (art. 21) abolished capital punishment but only for federal crimes. Aggravated murder, which is subject to the republic Criminal Code, is still punishable with capital punishment. This is not the case for such federal crimes as crimes against humanity and international law, aircraft hijacking, military and war crimes, etc. for which the abolition of capital punishment entered into force on 31 December 1993, and was applicable from 1 January 1994.

A new Criminal Code of Yugoslavia is now under preparation. The Assemblies of Serbia and Montenegro agreed that a new Yugoslav Criminal Code for the entire federation should be prepared. The draft of the Code is now being elaborated and debated among academics and professionals. A total abolition of capital punishment is envisaged, and the question of which punishment should replace capital punishment is being debated. At present it is abolished for federal crimes, but not for crimes in the sphere of the republics.

The age of full criminal responsibility is 18. Offenders between the ages of 14 and 18 are dealt with as juveniles.



## 2 Statistics

### 2.1 Victimization

The breakdown below presents the victimisation rates in the major cities of Yugoslavia. (The ICVS was not carried out on the national level in Yugoslavia.)

**Table 1. Victimization rates (in %) according to the ICVS, city survey 1996**

	Contact crimes	Burglaries	Violence against women	Car theft
Major cities	3.3	2.9	7.1	1.4

### 2.2 Reporting and recording

The response from Yugoslavia did not provide any data on crimes recorded in the criminal police statistics.

The response to the Fifth United Nations Survey only provided data on the number of "known perpetrators of criminal offences" (as recorded by the offices of the public prosecutor), the number of persons prosecuted and the number of persons convicted (tables 5, 7 and 14 in the Fifth United Nations Survey questionnaire). The federal statistics do not note the number of offences recorded by the police. Intentional homicide includes murder, voluntary manslaughter and infanticide. Burglary is a form of aggravated theft (committed by breaking and entering).

**Table 2. "Known perpetrators of criminal offences", as reported by the offices of the public prosecutors**

	1990	1991	1992	1993	1994
Total	81,010	80,116	81,681	97,684	97,013
- female	6,941	6,193	5,608	5,983	6,6068
- male	74,069	73,923	76,073	91,701	90,945

**Table 3. Number of persons convicted**

Number of persons convicted	1990	1991	1992	1993	1994
Total	42,072	35,756	30,197	34,855	35,269
Intentional homicide (incl. attempts)	257	338	259	277	274
Causing death by negligence	25	17	16	23	30
Aggravated assault	1,152	1,145	802	800	663
Other assault	4,421	4,187	3,129	2,819	2,418
Robbery	1,816	1,635	1,868	2,103	2,435
Aggravated theft (not including burglary)	3,823	2,853	2,585	2,454	2,789
Burglary	111	161	100	166	269
Drug-related crime	97	79	68	52	31

A very significant proportion of the persons prosecuted in court are not convicted. In the absence of data, it can only be conjectured that this is due in part to the possibility that exists in courts in Yugoslavia for court-ordered mediation. However, it may also be pointed out that the largest discrepancy between the number of persons prosecuted and persons convicted is for robbery; for example in 1994, only 2,435 persons were convicted for this offence, while 60,437 persons were prosecuted for the offence. This presumably is not a case that often goes to mediation.

### 2.3 Sanctions

The response to the Fifth Survey did not provide any data on sanctions or on the prison population.

One of the questions asked in the ICVS was the opinion of the respondents about the appropriate sentence for a 21-year old recidivist burglar. In Yugoslavia, 5.5% of the respondents would have favoured a fine, 6.5% a suspended sentence, 41% community service and 44% imprisonment. Among those favouring imprisonment, the average suggested sentence was 34 months. Relatively speaking, this falls within the middle range in support for non-custodial sanctions when compared to other countries participating in the ICVS.

### 2.4 Personnel and resources

The response to the Fifth United Nations survey did not provide any data on personnel or resources.

## 3 Crime and criminal justice profile<sup>2</sup>

### 3.1 The crime situation

As noted in section 2.2, no statistics are available on the number of offences reported to the police. The number of suspects (as recorded by the offices of the public prosecutor) remained stable but then increased steeply from 1992 to 1993. This was apparently due to a significant increase in the number of persons prosecuted for robbery; between 1990 and 1994, the number of persons prosecuted doubled. No explanation is provided in the response to the Fifth United Nations Survey for this development.

According to the results of the 1996 ICVS, 32% of the urban respondents in Yugoslavia had been the victim of a crime during the preceding year, placing Yugoslavia in the medium range internationally. For individual offences, the urban victimisation rate was 2.9% for burglary, 5.5% for assault or threat, 10.5% for theft from or of a car, and 1.1% for robbery.

There were insufficient data to calculate Yugoslavia's ranking on the index of homicide. (Yugoslavia provided only limited data in response to the Fifth United Nations Survey, and no data are available from Interpol, WHO or the CDC.) Yugoslavia was in the high middle range in respect of the index of serious violence (17th highest out of 49 countries, with the same ranking as Finland and Slovenia), and in the middle range in respect of the index of violence in general (16th highest out of 36 countries).

In an international comparison, Yugoslavia appears to fall in the middle range in respect of the amount of burglary (19th highest ranking among 45 countries) and of petty crimes (nineteenth highest ranking among 36 countries). Yugoslavia had a relatively high rate of offences directed against motor vehicles.

On the index of the amount of corruption, Yugoslavia has a high rank. However, this was calculated on the basis of limited data, since there were no Transparency International or World Competitiveness Yearbook 1997 data for the country.

### 3.2 Determinants of crime

In respect of the motivation to commit crime, one indicator of strain is the proportion of young males who are dissatisfied with their income and/or who are unemployed (see pp. 35-36 of part I). According to the ICVS, urban respondents in Yugoslavia indicated a very low level of satisfaction, 2.05, on

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<sup>2</sup> Reference is made in several connections in this section to different "indices" of crime. The construction of these indices is presented at the beginning of the present report. A low ranking on an index reflects a low amount of the variable being measured (for example, of the amount of property crime).

a scale of 1 (“not satisfied”) to 4 (“very satisfied”). No data are available on unemployment. On the “motivation index” developed for this study, Yugoslavia’s score was 8.2, which is relatively high.

According to the UN Compendium on Human Settlements, 53% of the population in Yugoslavia live in urban areas. The estimated per capita GDP in 1995 was USD 2,000 (World Almanac 1998). According to the ICVS, 88% of the urban population lives in flats; internationally speaking, this is a high percentage. (Criminological theory suggests a positive correlation between the proportion of detached housing and burglary.) The ICVS also indicated that the population in Yugoslavia is relatively active in spending their leisure time outside of the home, with respondents reporting spending an average of 3.29 evenings per week away. This would bring Yugoslavia into the top one-third of the European and North American countries

The “opportunity scale” for property crimes developed for this study was based on three types of vehicle ownership, the frequency with which people spend time away from home for entertainment purposes, the proportion of single-person households and the percentage of females with paid employment (see part I, pp. 37-38). On this “opportunity index” for property crime, Yugoslavia, at 47.2, is somewhat above the Central and Eastern European mean of 37.9, suggesting (statistically speaking) a somewhat greater opportunity for such crime than is present in the neighbouring countries. 21.5% of the urban population report the use of special door locks, 4.2% the use of special window grills, and 3.6% the use of burglar alarms in their household – among the lowest reported rates in Europe and North America.

In respect of violent offences, factors connected with opportunity include the availability of suitable weapons, and the use of alcohol. According to the ICVS, 24.5% of the respondents in urban areas stated that their household had a handgun – the highest urban rate among the 36 European and North American countries in which the study has been carried out.<sup>3</sup> No data are available on alcohol consumption.

For the reasons noted in part I (pp. 36-37), data on female educational attainment and the prevalence of divorce were included in the examination of the relationships between gender-balance and violence against women. The amount of violence against women has been suggested to correlate with the extent of inequality between the sexes in society. In respect of female educational attainment, Yugoslavia has a very low score. According to the ICVS, 7% of the urban respondents were divorced, which is an above average rate. Regrettably, there were insufficient data for the 1997 Human Development Report to calculate the so-called gender-related development index for Yugoslavia. The UNICEF “The Progress of Nations” report states that a

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<sup>3</sup> The second highest rate, 23.9%, was in the United States. In this respect Yugoslavia and the United States were far ahead of the third highest rate, 11.6% (Croatia).

relatively low 6% of persons at the top levels of government are female. In this light, it is of interest to note that Yugoslavia appears to have a relatively high rate of violence against women. Yugoslavia's ranking on the violence against women index was twelfth highest out of 44 countries. This is supported by the results of the 1995 ICVS: 4.6% of the female respondents in urban areas reported having been the victim of a sexual offence (including sexual harassment) during the preceding year. This is the fourth highest among the 31 countries for which urban data are available.

Due to the lack of data on determinants of crime, the loadings for Yugoslavia in respect of strain-related violence, serious property crime in urban settings, and opportunistic petty crime could not be calculated (see Table 10 in part I, p. 49).

### 3.3 Operation of the criminal justice system

There were insufficient data to calculate the country's score on the Law Enforcement Resources Index (which, broadly speaking, reflects expenditure on the criminal justice system). No data were provided on the number of police, prosecutors, judges or correctional personnel. For the same reason, Yugoslavia's score on the Criminal Justice Practitioner Gender Balance Index (see part I, pp. 78-80) could not be calculated.

Indeed, the only index related to the criminal justice system that could be calculated for Yugoslavia is the Citizen Evaluation of Police Performance Index. Yugoslavia's score on this index, 18, was slightly above the mean for the Central and Eastern European countries, 17. According to the ICVS, only 34% of the victims in urban areas had reported the offence to the police, the eighth lowest proportion among the 36 European and North American countries for which comparable data are available. Only 23 % of the victims of contact crimes had reported this offence to the police. 63% of the victims in urban areas in Yugoslavia who had reported an offence to the police were dissatisfied with the way in which the matter was dealt with, a high proportion. Both rates suggest that more work needs to be done in increasing public confidence in the police. 62% of all respondents were dissatisfied with the way in which the police controlled crime in their neighbourhood, which places Yugoslavia in the upper middle range.

No data were provided on the prisoner rate.

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# APPENDIX

## Contents of the crime and criminal justice system indices

In the preparation of the present project, a total of 13 indices were developed. Each of these indices reflects, to varying degrees, theoretical considerations, empirical considerations (i.e., the degree of interrelationship between the source variables), as well as pragmatic considerations (i.e. which data are available). (These considerations are discussed in greater detail in the companion volume.) The 13 indices and the data sets used in computing them are as follows:

### A. Crime indices

#### **Burglary index:**

- averaged annual ICVS national burglary rate from 1988 to 1995;
- averaged annual ICVS urban burglary rate from 1988 to 1995;
- averaged annual ICVS rural burglary rate from 1988 to 1995; and
- Fifth UN Survey data on burglaries (based on police statistics) for the end years of the survey, 1990 and 1994.

This is theoretically the most stable index, since there are in general only minor differences among countries in how the law defines burglary and how the public understands burglary. Comparing victimisation risks for burglary with rates for other crimes shows that burglary is the best single indicator for household crimes. The index only includes completed burglaries, not attempts. (However, in some countries “burglary” does not exist as a separate legal or statistical category, and is subsumed under theft or aggravated theft.)

#### **Homicide index:**

- World Health Organization data on deaths (based on medical records) from 1992;
- Centers for Disease Control data on deaths (again based on medical records) for 1994;
- Interpol data on fatal violence (based on police statistics) for 1992; and
- Fifth UN Survey data on homicide (based on police statistics) for the end years of the survey, 1990 and 1994.

#### **Nonfatal violence index:**

- averaged annual ICVS national assault and threat rate from 1988 to 1995;
- averaged annual ICVS urban assault and threat rate from 1988 to 1995;
- averaged annual ICVS rural assault and threat rate from 1988 to 1995;
- averaged annual ICVS national robbery rate from 1988 to 1995;
- averaged annual ICVS urban robbery rate from 1988 to 1995; and
- averaged annual ICVS rural robbery rate from 1988 to 1995.



The homicide index and the nonfatal violence index together constitute the serious violence index.

**Violence against women index:**

- averaged ICVS national violence against women five year rate, 1984-1995;
- averaged ICVS urban violence against women five year rate, 1984-1995;
- averaged ICVS rural violence against women five year rate, 1984-1995; and
- Fifth UN Survey data on rapes (based on police statistics) for the end years of the survey, 1990 and 1994.

**Motor vehicle crime index:**

- averaged annual ICVS national theft from/of car rate from 1988 to 1995;
- averaged annual ICVS urban theft from/of car rate from 1988 to 1995;
- averaged annual ICVS rural theft from/of car rate from 1988 to 1995;
- HEUNI data set on stolen and misappropriated vehicles per 100,000 in population; and
- HEUNI data set on stolen and misappropriated vehicles that have not been traced, per 100,000 in population.

**Petty crime index:**

- averaged ICVS prevalence rate (proportion victimised over the preceding year) for the following six offences: vandalism of car, theft of motorcycle or moped, theft of bicycle, theft of personal belongings, indecent or offensive behaviour, and threat.

The common denominator for the offences included in the petty crime index is that the offences in general are regarded by the law although not necessarily by the victim as petty. Reporting rates tend to be low, and so the offences generally do not appear in the statistics. The source used here in all cases is the International Crime Victim Survey.

**Corruption index:**

- averaged annual ICVS national corruption rate from 1988 to 1995;
- averaged annual ICVS urban corruption rate from 1988 to 1995;
- averaged annual ICVS rural corruption rate from 1988 to 1995;
- Transparency International index; and
- the World Competitiveness Study index based on the statement, “Improper practices (such as bribing or corruption) do not prevail in the public sphere.”

**B. Opportunity and motivation indices**

**Opportunity for crime index:**

- ICVS data on ownership of cars, ownership of motorcycles or mopeds and ownership of bicycles;
- ICVS data on average number of evenings spent away from home for recreation;

- ICVS data on the number of singleperson households; and
- ICVS data on the percentage of females with paid employment.

**Motivation for crime index:**

- ICVS data on the percentage of the population that is male, young and either unemployed or dissatisfied with their income

**C. Operation of the criminal justice system indices**

**Law enforcement resources index:**

- Fifth UN Survey data on the number of police (both sworn and civilian) per 100,000 for 1994;
- Dutch Ministry of Justice data on the number of private police per 100,000;
- Fifth UN Survey data on the number of prosecutors per 100,000 for 1994;
- Fifth UN Survey data on the number of judges per 100,000 for 1994; and
- Fifth UN Survey data on the number of correctional personnel (in adult and juvenile institutions) per 100,000 for 1994.

If 1994 data on law enforcement resources were not available, 1990 data were used. This was the case with Switzerland for police data, with the United States for prosecutorial data, with the Netherlands and Switzerland for judicial data, and with Switzerland and the United States for correctional personnel data. Where no data were provided in the Fifth United Nations Survey, data on police were taken from the survey carried out by the Dutch Ministry of Justice on private security. This was the case with Germany, Ireland, Italy, the Netherlands and Portugal.

Data on financial resources was found to be too unreliable to be used.

**Criminal justice practitioner gender balance index:**

- Fifth UN Survey data on the female share of police personnel (in percentages)
- Fifth UN Survey data on the female share of prosecutors (in percentages)
- Fifth UN Survey data on the female share of judges (in percentages)
- Fifth UN Survey data on the female share of prison personnel (in percentages)

If 1994 data on the female share of criminal justice personnel were not available, 1990 data were used. This was the case with Switzerland and the Netherlands.

**Citizen evaluation of police performance index:**

- ICVS data on the percentage of victims of contact crimes who reported their victimisation to the police
- ICVS data in the percentage of victims who were satisfied with their report to the police
- ICVS data on the percentage of all respondents who are satisfied with police crime control

## The crime and criminal justice system indices (mean rank)

Country	Burglary index	Homicide index	Non-fatal violence index	Serious violence index	Violence against women index	Motor vehicle crime index	Petty crime index
Albania	79		52	52	56	24	30
Andorra		18		18			
Armenia		80		80	7		
Austria	38	33	12	22	51	26	52
Azerbaijan	04	68		68	10		
Belarus	17	62	56	59	48	16	08
Belgium	61	54	37	44	42	47	18
Bosnia							
Bulgaria	94	68	79	71	66	92	67
Canada	79	44	73	60	90	70	78
Croatia	37	68	26	51	31	33	14
Cyprus	23	14		14	6	22	
Czech Rep	75	55	49	50	90	79	90
Denmark		45		45	74	97	
England & Wales	81	04	66	41	51	90	64
Estonia	98	95	97	96	61	71	80
Finland	40	62	55	58	76	32	43
France	64	32	30	31	54	80	37
Georgia	82	82	61	70	26	57	13
Germany		44		44		66	
Germany (W)	25	16	43	39	81	35	53
Greece	39	28		28	22	58	
Hungary	52	57	13	44	38	51	17
Iceland						33	
Ireland		08		08			
Israel							
Italy	61	61	37	48	16	89	32
Kazakhstan	25	88		88	84	12	
Kyrgyzstan	68	88	65	73	80	10	63
Latvia	57	92	48	67	33	50	74
Liechtenstein							
Lithuania	59	72	63	65	49	58	67
Luxembourg		33		33		89	
FYR Macedonia	37	35	25	30	21	23	11
Malta	18	29	38	35	15	83	41
Moldova	27	63		63	59	27	
Netherlands	60	14	60	42	57	58	99
Northern Ireland	50	92	30	55	37	40	13
Norway	25	26	36	32	52	29	15
Poland	43	54	77	71	25	56	64
Portugal		55		55		46	
Romania	29	60	51	56	62	18	38
Russian Fed	36	96	88	93	83	49	75
Scotland	59	32	40	37	66	64	30
Slovakia	76	34	61	52	57	60	73
Slovenia	45	54	61	58	74	41	57
Spain	43	18	59	45	22	99	27
Sweden	54	65	37	50	82	66	72
Switzerland	18	38	27	31	48	11	58
Turkey		17		17	5	6	
Ukraine	67	59	75	67	37	23	97
United Kingdom							
USA	80	83	88	86	84	93	76
Yugoslavia	56		58	58	69	67	50

Country	Corruption index	Opportunity for crime index	Motivation for crime index	Law enforcement resources index	Criminal justice practitioner gender balance index	Citizen evaluation of police performance index
Albania	78	27	5			28
Andorra				10	55	
Armenia				18	20	
Austria	52	68	3	21	21	26
Azerbaijan				50	2	
Belarus	65	33	9	23	34	13
Belgium	72	57	2	26	23	37
Bosnia						
Bulgaria	94	33	8	20	39	21
Canada	31	78	2	28	48	47
Croatia	84	49	7	35	34	18
Cyprus				29	15	
Czech Rep	76	61	4	30	42	23
Denmark	04			30	40	
England/Wales	34	65	2	23	28	44
Estonia	61	51	9	38	50	13
Finland	10	75	3	20	27	33
France	49	68	2	27	3	41
Georgia	98	28	13	15	18	13
Germany	56			31	21	
Germany (W)	52	67	0			33
Greece	88			16	20	
Hungary	74	38	9	36	29	23
Iceland	12					
Ireland	35			28		
Israel						
Italy	93	62	2	30		27
Kazakhstan				40	23	
Kyrgyzstan	98	26	11	29	25	3
Latvia	86	29	8	37	48	11
Liechtenstein				30	12	
Lithuania	86	29	9	38	35	14
Luxembourg	48			31		
FYR Macedonia	55	50	8	19	24	28
Malta	63	51	3	25	18	25
Moldova				25	21	
Netherlands	37	72	2	21	25	42
Northern Ireland	06	54	7	35	12	43
Norway	25	73	0	22	33	30
Poland	74	41	7	10		15
Portugal	72			34	28	
Romania	67	11	11	4	23	12
Russian Fed	95	29	10	45	40	4
Scotland	33	53	2	23	29	50
Slovakia	77	48	6	37	35	32
Slovenia	52	70	4	32	39	25
Spain	72	53	0	25	20	32
Sweden	19	82	2	25	40	45
Switzerland	24	70	1	25	25	50
Turkey	93			11	6	
Ukraine	68	19	9	29	10	14
United Kingdom	24					
USA	33	82	1	32	47	46
Yugoslavia	87	47	8			18