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**Direct and indirect costs of crime? A
discussion of penological paradigms in relation
with crime prevention strategies**

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**Direct and indirect costs of crime?
A discussion of penological paradigms
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The present report is a product of **Work package 1**. The first work package, as described in the Annex I - "Description of Work", was devoted to theoretical premises of research, and it should generate an analysis of the **theoretical paradigms** that shape European penal policies, with special concern for criminological and penological paradigms and for strategies of crime prevention and crime repression.

In order to reach these objectives, the research assumed the existence of two ideal-types: the retributive-incapacitating paradigm and the social-preventive-resocializing paradigm. These are both mainstream paradigms in European penological literature and in public debate.

Work package 1 was meant to demonstrate that there are many contradictions within the models associated to the retributive-incapacitating ideal-type as regards costs definition and evaluation. Disagreements are more important than common guide-lines. Moreover, these models ignore some effects of penal policies that are generally considered as costs by public opinion, practitioners and sociologists. Work package 1 was also meant to show the discrepancies between the retributive-incapacitating theoretical model and public-political discourse and discrepancies between theoretical models and concrete political-administrative inputs.

This stage of the research was crucial in order to plan the entire research work. The main result expected, to single out the specific features of the two main ideal-types identified, the one aiming at retribution and incapacitation and the one aiming at social-prevention and resocialization, are fundamental parameters to understand the actual penal policies and to recognize exactly their legal and sociological framework. Moreover, this part of the research was meant to check the coherence between theoretical frameworks, political-public discourse and operational praxis.

An in depth discussion took place during **Project Management Meeting 1**, held in Florence on May 24th – 26th, on the specific contribution of every partner for Work package 1. During that meeting every partner confirmed its intention to take part to the activities foreseen for this workpackage, as described in Annex I, with the sole exception of partner 10, that expressed the intention to have an only indirect involvement, revising and discussing the other partners contributions.

Moreover, besides the general description of this workpackage, partner 6 expressed the intention to focus on other theoretical paradigms that shape European penal policies, beside the ones sketched in the description of WP1. Partner 8 planned to discuss in particular the impact of the incapacitating model on Cyprus penitentiary system and Partner 4 to focus also on the soviet paradigm, very influential for the evolution of the Lithuanian penal policies.

Most of the partners wanted to discuss the issues covered by WP1 with a specific concern for their national situation. The discussion of the international debate on these same issues has been developed by Partner 1, 6 and 4.

The results of this work package has been extensively discussed during **Workshop 1**, held in Barcelona on 23rd and 24th November 2007. Data, deliverables and results presented during the workshop converged in real time on the research online platform, developed using a software (Moodle) designed to create an online research community (www.tsd.unifi.it/CRCC), in order to make possible an immediate debate among the partners

The results of work package 1 will be presented here, with a discussion of the research activities developed and presented during the first workshop in Barcelona.

Penological paradigms: an introduction

Recently David Garland described the crisis of what he named *penal welfarism* and the birth of a complex of theoretical and practical approach to the crime question that crystallized a *new culture of control* (D. Garland, 2001). What was defined *penal welfarism* was the theoretical and practical complex that characterized the criminological paradigm of post war western democracies.

This complex grounded itself on the basic theoretical assumption of the positivist human sciences, namely on the image of the *homo criminalis* typical of the classic criminological knowledge (P. Beirne, 1993; P. Pasquino, 1991), arguing that every criminal is an individual affected by some criminogenetic factor which in some way drive him toward crime and deviance. From these theoretical assumptions derived the idea, imbued by the epistemological optimism typical of the positivist culture, to eliminate crime by acting on its genetic factors. This strategic objective should be reached by means of two kind of public agencies' interventions: on one hand by developing a sort of indirect criminal policy, directed toward what were considered to be the social and economic determinants of crime; on the other hand by using penal agencies as rehabilitative instruments intended to affect what were considered to be the psychological determinants of crime.

This approach to the criminal question was strictly connected with the social-democratic culture that for a long time hegemonized the political scene of western democracies. After the Second World War, political and economical powers responded to the economical, political, and social crisis with the construction of the so-called Welfare State. This model of the State was characterized by the extension of well-being and comfort to most people by using the "keynesian equation". This equation involves the combination of economic growing with social equity by politics of wealth distribution, by the establishment of a generalized security system and the growing of salaries in relation to productivity (Silveira, 1998). The creation of the Welfare State meant a political and social agreement between social classes, by which the labour movement renounced to call capitalist accumulation into question in return for assistance and interventionist policies to improve the working class' living conditions . In order to do that, the State needed a great deal of public money. Within this framework, penal and penitentiary intervention had the aim of resocialization and rehabilitation.

However, around the 70's, the Welfare State began to crumble in Western countries. According to Silveira (1998) two different readings of the crisis of Welfare State can be done. On the one hand, we have the "institutionalist" reading which interprets the crisis in terms of ingovernability. This ingovernability is apparent in the constant growth of demands by civil society, demands which cannot be satisfied by the State, every day increasingly more demanding. This phenomenon has been called fiscal crisis of State, understood as the tendency of governative expense to grow faster than incomes (O'Connor, 1981).

On the other hand, we have the reading which understands that the crisis is related to the transformations of the fordist model of society. The capital wanted to finish full employment policies, social security and welfare society, and neo-conservative governments (Margaret Thatcher in United Kingdom and Ronald Regan in the United States of America in the early 80's) started to reduce the Welfare State and privatise public services.

These changes resulted in another model of society, the so-called "postfordism".

This new model of production has the service sector as its main source, at least in Western countries. Jobs become partial, flexible, precarious, not structured and feminine (Bauman, 1999). Moreover, unemployment is massive and structural (De Giorgi, 2000; Matthews, 2001). The three mainstays of work in industrial society totter: labour schedule, place of work and labour law (Beck, 1998), and this leads workers to loose their own identity as a group. Nowadays workers are isolated

and without links among them. They have passed from being citizens to be consumers, if they have means to consume, and if they do not, they will be reduced to live in social exclusion spaces. All of what we have said causes economical precariousness, social insecurity and pauperisation (De Giorgi, 2000). Little by little, we are entering into a new society which has been called “society of risk” (Beck, 1998).

As the other side of the disbanding of the Welfare State, we find the process of globalization of economy. The world wide liberalization of goods and services markets and, above all, of finance market has broken the relationship between economy and state territory. The fordist factory is substituted by the net society. The productive process is fragmented into a flexible structure by distributing the productive unities all around the world (Silveira, 1998). This productive system has generated such an enormous wealth concentration that it was unimaginable by industrial capitalism (Bergalli, 2001).

As a result of the mentioned transformations, new tendencies on criminal policy have appeared. In the face of a situation of economical instability and social insecurity, the maintenance of order is managed by the hardening of punitive policy -criminal policy of Welfare was considered soft, costly and ineffective- (De Giorgi, 2000). This produced drastic changes within the political scene of western democracies, triggering what many consider a real neo-conservative and neo-liberal political revolution. This revolution profoundly affected the complex that following David Garland we named *penal welfarism*, weakening the old optimistic idea of eliminating crime by means of social and rehabilitative programs. Within this picture falls another interesting process to take into account: privatisation. Since the 80's, neo-liberal governments have been defending economy, efficiency and effectiveness in the use of public sources. One of the aspects of this trend was the privatisation of criminal justice system (Garland, 2001). Christie (1993) considers that it supposes the emergency of a new industry of crime control. On the other hand, Garland (2001) thinks that it is a consequence of the collapse of the Sovereign State, which has controlled crime for the last two centuries.

Privatisation has reached functions of custody of people under arrest, security of trials, prevention of crime, and, above all, the management of prisons. The expansion of private Police and security staff (home security, surveillance services, home alarms, private investigations, armour-plating of cars, etc.) would be some examples (Zysman, 2005).

Regarding prisons, privatisation has been put into practice by hiring some specific functions: hiring activities such as food, education, health, security services inside prisons; promoting the design and construction of prisons by the private sector; encouraging private funding of new prisons; hiring the management of specific prisons; hiring not only the mentioned functions but also the design of the prison policy, and so on (Zysman, 2005). 50% of prisons of the United States of America are being managed by the company named Correctional Corporation of America (Matthews, 2003).

Another aspect that has to be considered as context for the criminological discourses developed in the last years, is the long lasting notion of penal emergency/exceptionality. After the Second World War, Europe adopted the social constitutionalism, which implied a criminal policy based on the principles of Welfare. However, at the same time, terrorism and political violence appeared, and the States resorted to some antiterrorist laws and practices which later on were known as “penal emergency and/or exceptionality culture” (Ferrajoli, 1998).

The scope of these measures was enormous. Firstly, punishment of terrorist crimes were substantially risen by antiterrorist laws and many journals and publishing companies were closed. Secondly, some reforms of procedural laws were done in the sense of allowing the incommunication of arrested people, or restricting procedural guarantees, etc. Thirdly, special police sections with special prerogatives were created. Finally, special courts were formed to prosecute terrorist crimes (Ospdh, 2005).

Penal emergency has had myriad repercussions on penitentiary regulations. Terrorism opened the era of prisons of maximum security regimes, prison isolation practices, dispersion of groups of inmates, computerized surveillance, etc.

All of these changes were thought to fight against an exceptional State's enemy (terrorism), and were supposed to be repealed when terrorism disappeared. Nevertheless, nowadays terrorism is almost extinguished in Europe, but this emergency legislation is still in force, and, what is even worse, it has been spread to other fields. It has permitted the State to maintain exceptional practices without needing to declare a state of emergence, but subverting the constitutional framework (Ospdh, 2005).

It is within this picture that, under the slogan *nothing works* (R. Martinson, 1974), a new criminological discourse developed. A criminological discourse that simply empathizes the needs of control and articulate the meaning of *security* in the sense of the need of protection from a reality, crime, that being not totally eliminable, should be at least confined within tolerable limits. We will try now to analyze this new criminological discourse.

Economics in criminology

A new criminological discourse filled the vacuum created by the demise of the rehabilitative ideology, namely the economic approach to crime and punishment developed by the pioneeristic work of Gary Becker (G.S. Becker, 1968; 1976; F. Jenny, 1977; R. Cooter, T. Ulen, 1988; J. Dohnohue, 2007). As we will try to show, it was this economic approach to crime and punishment the main theoretical element backing the radical turn in criminal policies that characterized last decades, supporting by the intellectual hegemony of the economic knowledge what was named the *new culture of control*.

As widely known, compared with the classic positivist criminology, the economic approach to crime and punishment starts from a radically different anthropological model, eliminating from the scene the old *homo criminalis* affected by some psychological or socio-economic deficit and replacing him with the *rational actor* (*homo oeconomicus*) who evaluates costs and rewards deriving from its actions. Even the criminal actor can be transformed into an economic actor, because from the point of view of the Chicago school of economics every action, even the one that does not appear at first sight to have any economic rationality, could be studied as an economic one. As Gary Backer explains, indeed, every action has in some way to accept the reality, every choice, even the wrong one from a strictly economic point of view, has to move itself within the framework of opportunities provided by a given environmental reality (G. Becker, 1976).

Economics, from this point of view, is the science that studies the systematicity of individual actor's replies to the environmental variables (M. Foucault, 2004, 219). Consequently, within the framework of the economic theory of crime and punishment, the actions of the social control agencies have to affect the balance between gains and losses deriving from the criminal action.

From the point of view of the economic approach to crime there are two strategies of enforcement available, both presenting some inconvenient that must be taken in consideration (J. Dohnohue, 2007, 382). On one hand there is a, let's say, *symbolic* strategy, which aims at increasing costs of criminal actions by hardening the punitive responses. Such a strategy does not have an extraordinary economic costs, it does not imply – at least theoretically speaking - an extensive use of penalties but faces the problem that the criminal action usually is not totally elastic to the penal response as the theoretical model tends to assume. On the other hand there is a let's say, more *technocratic* strategy, which aims at increasing risks of criminal actions by increasing the efficacy of the agencies of social control and extending their action. Such a strategy could, to some extent, set aside from the problem of the elasticity of criminal actors, because it tends to make their action more risky or at least physically impossible, but has to consider the costs of an indefinite extension of the social control agencies' action.

These two possible articulations of the criminal policy proposed by the economic approach to crime, reflect the different ways to think about the criminal question typical of late modern societies (Garland 2001; K. Beckett, 1999; J. Young, 1999). On one hand, the *symbolic strategy* seems to reflect the answers to crime problem coming from political actors: more symbolic, centred over discourses about repression, tough justice, war on crime. Here we have a sort of *populist criminological discourse*, a discourse that characterized mostly the rhetoric of neo-conservatives political movement, imposing during the last decades their hegemony over public debate on crime and punishment issues. On the other hand, the *technocratic strategy* seems to reflect the answers to crime problem of technicians, administrators, penologists: more concerned about the question of costs and rewards and therefore careful in evaluating the costs of the extension of the penal realm. Here we have a sort of *administrative criminological discourse*, calling for a more selective and economic criminal policy capable of extending its efficaciousness at the lowest price possible, a discourse that represents a typical expression, on the ground of criminal policies, of what was named *advanced liberalism* (N. Rose, 1999).

We are therefore facing two radically different articulations of the same theoretical proposal, coming from two different political cultures, the neo-conservative and the neo-liberal. But these two different articulations, just as the political culture that they express, present many points of contact. More than simply sharing the anti-state or anti-fiscal rhetoric, they converge in advocating a radical cultural reform that should bring at the core of the political debate the need to eradicate the so called *culture of dependence*, enforcing individuals' responsibility and their ability to autonomously solve their own problems and deal with their own needs. As was said by Mitchel Dean, "neo-liberalism and neo-conservatorism share this same diagnosis of the problem of the corruption of the people and the need to lead them to accept their responsibilities and become virtuous citizenry again" (M. Dean, 1999, 163).

These political cultures share then a common aim: to restore the culture of autonomy and individual responsibility, spreading an entrepreneurial ethos over society. Anyway, the implications of this common political project over the strategies of social control proposed by the two political cultures are radically different. On one hand, indeed, the neo-conservatives continue to call for the hardening of the classic *juridical technologies*, using the language of repression and punishment for the mistakes of individuals. The discourse of advanced liberalism, on the other hand, is developing a complex of new *actuarial technologies* that concretizes what was recently defined *new prudentialism* (P. O'Malley, 1992, 260; M. Dean, 1999, 166; N. Rose, 1999, 159). A complex that uses the language of insurance and security and tries to govern within tolerable limits the inevitable costs of liberty.

As we will try to show discussing these two strategies of social control, there is to large extent a complex interplay between them, in spite of the antinomy of the strategies suggested for fighting crime.

Penal populism

The *crime question* became, during the 80s, a central issue within the political debate mostly thanks to neo-conservative politics that transformed it into the main issue of English and American electoral campaigns. It was this political climate that definitely undermined the rehabilitative ideal and allowed to build the criminal question as a social control problem rather than a public health or socioeconomic problem (K. Beckett, 1999; S. Hall *et. al.*, 1978; S. Sheingold, 1984).

The neo-conservative proposal for reforming the criminal policies called indeed for firm and speedy application of criminal penalties, mandatory sentences for certain types of crimes, especially drug related crimes, increased use of dead penalties. But, what is more interesting, it explicitly rejected the whole criminological positivism and the rehabilitative ideal that for long time explained crime as the outcome of a psychological or socio-economic deficit, blaming it to be the expression

of the “liberal leniency and pseudo intellectual apologies for crime” (R. Reagan, cit. in K. Beckett, 1999, 49).

Individual characteristics are assumed to be an unalterable nature and policy maker has to focus on the environment and inducements rather than class and propensity. Wilson was, in particular, the strenuous advocate of a criminal policy intended to modify the situational factors that allow or induce to crime, stressing the need for an hardening of criminal penalties and to get back to their pure deterrent function by introducing a system of mandatory sentencing (J.Q. Wilson, 1975). But, what is more important, he was - with George Kelling – author of a popular proposal to reform the police activity based on the idea of *order maintenance policing*, or as was otherwise called, *zero tolerance policing*. That is the idea that the police, more than limiting itself in detecting crimes, should go back to its old function of maintaining order within the communities (J.Q. Wilson, G. Kelling, 1982; G. Kelling, 1996; W.J. Bratton, N. Dennis, 1998).

This proposal was outlined in a paper that became probably the most influential criminological essay of the last years, thereby influencing policy maker over the world (V.D. Donnes, Morgan R., 1997; L. Wacquant, 1999; A. De Giorgi, 2000; B. Harcourt 2001). The *Broken Windows* paper stressed the value of the norm of orderliness as a crucial factor in determining social behaviours within a given community. From the point of view of Wilson and Kelling, indeed, the spreading of disorder launches the message that in that area there is a certain degree of tolerance, triggering a spiral of urban decay that leads to more serious crimes.

Zero tolerance policing reflect in some way the same political culture that called for the hardening of criminal penalties, invoking more strict control over incivilities and the so called soft crimes, as a way to restore morality and order within the communities. But, beside this unison appeal to deterrence, there is a clear image underlying these neo-conservative and revanchist criminological discourses, namely the image of the *demoralized other*. All these discourses express the conservative obsession for a segment of population perceived as extremely threatening and unable to cope with the duty and the responsibility that the neo-liberal idea of active citizenry implies. An *underclass* by now exhausted by the culture of dependence and the laxism stimulated by years of welfare and indulgent criminal policies (M. Katz, 1993; L. Wacquant, 1999; J. Young, 1999; L. Morris, 1999).

New prudentialism

The first to speak about actuarial or insurance technologies of social control was Stanley Cohen (1985), who described the demise of the old *homo criminalis* from the landscape of control strategies and criminological discourse. As Cohen explained, the real focus was starting to be the criminal behaviour, in its physical dimension and its relations with the external environment “the talk now is about spatial and temporal aspects of crime, about systems, behaviour sequences, ecology, defensible space, target hardening” (S. Cohen, 1985, 148). The so-called *actuarial strategies* look at criminal behaviours, at their spatial and temporal distribution, at their consequences over security levels. We can define *actuarial technologies of social control* all those that aim at manipulating the course of risky behaviours, at governing risky populations and managing risky situations to achieve a given standard of security.

The agencies of control here are no longer called to eliminate the causes of crimes, but to reduce and redistribute risks, “the new practices (...) target something very different, that is the crime rate, understood as the distribution of behaviours in the population as a whole” (M. Feeley, J. Simon, 1994, 178).

The *new prudentialism* is grounded on an overall extension of these insurance technologies that multiplies the social spheres to be monitored and governed. Surely there are situations and populations that present higher level of dangerousness and need particular attention, but generally speaking is the entire social environment that should be considered always *at risk*. This prudentialism is *new* in the sense that it considers the entire social body responsible for dangers and

risks implied by its own life styles and different social environments. The distinction is no longer between risky subjects/situations and those who are not. The basic distinction is now between those, the new active and responsible citizen, who are capable to deal with their own risks, and the others that still need State intervention (O'Malley 1992, p. 260, 261; M. Dean, 1999, 167). We can differentiate two different spheres of this *new prudentialism* regarding mostly the main target of the technologies of social control implied: the *environment* or the *governed*.

Actions on the environment. This kind of actuarial action is quintessentially economic in its approach to crime because its main aim is to increase the efforts, multiply the risks and reduce the rewards of criminal actions by modifying their own environment, "while the disciplinary regime attempts to alter individual behaviour and motivation, the actuarial regime alters the physical and social structures within which individuals behave" (J. Simon, 1988, p. 773).

The aim of reducing opportunities for criminal behaviours and increasing their riskiness, is then achieved by studying the so called *criminogenetic situations*, that is the environment within which the actors find its targets with their physical and personal characteristics, their life styles, and all that is supposed to affect the victimization risks. This criminological paradigm developed a complex of social control strategies that was named *situational crime prevention*, that is "a whole of measures directed against highly specific forms of crimes, which involves the systematic and permanent management, organization and manipulation of their environment as a way to reduce opportunity for crime and increase risks as they are perceived by a wide series of potential offenders" (R. Clarke, 1983, 225; R. Clarke, 1995).

Action on the governed. The spreading of the actuarial technologies implies even a partial redefinition of the action that agencies of control exert on the governed. A redefinition that is developed along a line of division between actions and techniques intended to stimulate the population in order to autonomously deal with their own risks and to produce the kind of active citizen that advanced liberal societies need, namely the *homo prudens* who is capable to satisfy his need of protection from dangers (O'Malley 2004 139, 140; T. Pitch, 2006); and techniques called to deal with the level of dangerousness represented by those who are unable to exercise the new form of responsible and provident citizenry, exposing themselves and the others to treats.

The last type of strategy clearly implies an action that "is concerned with techniques for identifying, classifying and managing groups assorted by levels of dangerousness" (M. Feeley, J. Simon, 1994, 173). It is another example of the economic approach to crime and punishment, because this actuarial strategy tries to multiply the efficaciousness of control agencies by increasing their ability to select their targets.

Despite this clear economic logic that drives their functioning, the main aim of actuarial technologies applied by control agencies when acting upon the governed is not to influence the decision of individual would-be criminal, but simply to identify and incapacitate a designed high-risk population. Differently from the pure economic logic, the *incapacitative logic* treats the offender as an inert risk bearer to be simply neutralized (M. Feeley, J. Simon, 1994, 189). This strategy concretizes itself in a wide range of incapacitative technologies that cover the entire spectrum of criminal justice, from the police activity, to the penitentiary. On one hand we have a first complex of strategies of police action specifically directed to target dangerous situations and dangerous individuals (the so called *profiling*; O'Malley 2004, 140ss.; M. Feeley, J. Simon, 1994; B. Harcourt, 2007). On the other hand we have a second complex of judicial instruments intended to select and treat differently high-rates offenders by increasing the rigour and the duration of the penalties imposed. A complex that was defined as *new penology* (M. Feeley, J. Simon, 1992, 1994; M. Pavarini, 1994; 2001; 2002; A. De Giorgi, 2002; K. Kempf-Leonard, 2000; B. Harcourt, 2007), that covers from the guidelines for judges, to the statistical instrument for parole-prediction and selective incapacitation, passing through the systems for mandatory sentencing, the so called *three strikes laws*, that giving an extreme relevance to prior criminal records of the defendant have a strong incapacitative nature.

These incapacitative strategies, despite the fact that can appear radical different in their use of actuarial technologies and prediction instruments, owe much for their spread over the criminal system to the neo-conservative culture and the debate about the underclass as dangerous population to be controlled, moralized and neutralized by means of repressive instruments (J. Young, 1999; M. Feeley, J. Simon, 1994). The *new prudentialism* is in some way the technocratic face of the drive toward a repressive management of poverty and social marginality that characterize the political discourse.

Conclusion

We described two radically different discursive strategies for which any crime (even the petty one) is a considerable cost (the petty ones because pave the way towards the more serious ones). One appears to be a populist rhetoric that call for severe punishment, a criminology of the intolerance that constantly launches the idea of a permanent *war on crime* as symbolic instrument for political campaigns (J. Young, 1999). The other appears to be a typical expression of a technocratic rationality that renounced to eliminate crime from the landscape of our society, trying to govern it within tolerable limits in terms of its social, political and economic costs. But, despite the differences, these two strategies appears to be different articulations of the same political project.

What is relevant to stress here as a conclusion, is that, within the articulation of this political project, and its complex relationship with the actual policies of the European countries, the technocratic answer is also compatible with the rehabilitation policies. Assuming a notion of costs of crime that takes into account both the financial costs of the penal and penitentiary apparatus, and the costs of that same apparatus in terms of compression of individual liberties and of the, not uncommon, risk of violation of human rights, the costs of crime can and has to be confronted with the costs of punishment. Strategies such as decriminalization, or the resettlement policies to contrast relapses, can be considered as rational strategies to face these specific costs of crime, costs that seem to be doomed to increase because of the permanent *war on crime* mentioned above.

If there is not a necessary link between this technocratic rationality and the rejection of the rehabilitation policies, and if the decline of these policies can be clearly connected with the decline of the welfare state, it is following the logic of an economic rationality that these same policies can find their new rationale. The expansion of the penal state, and the legitimate quest of democratic countries for human and legal sentence serving conditions, are going to make the costs of punishment unbearable. It is within this framework that the promotion of policies such as de-penalization and social resettlement become another answer that is consistent with that very same technocratic rationality. If, as L  ic Wacquant showed, the slogan *less State* means to large extent *more penal State*, the extension of the penal realm need to be governed by the economic rationality provided by the new prudentialism.

Bibliography

- Bauman, Z. (1999), *La società della' incertezza*. Bologna: Il Mulino. Trans. R. Marchisio and S. neirotti.
- Beck, U. (1998), *La sociedad del riesgo. Hacia una nueva modernidad*. Barcelona: Paidós Ibérica. Trans. J. Navarro, D. Jiménez and M. R. Borrás.
- Becker, G. (1968), *Crime and punishment. An economic approach*, in "Journal of Political Economy", LXXVI, 2, pp. 169-217.
- Becker, G. (1976), *The economic approach to human behaviour*, The University of Chicago Press, Chicago.
- Beirne, P. (1993), *Inventing Criminology. Essays on the Rise of Homo Criminalis*, State University of New York Press, New York.
- Bergalli, R. (2001), "Globalización y control social: post-fordismo y control punitivo", in *Sistema. Revista de Ciencias Sociales*, n. 160, January, pp. 107-124. Madrid.
- Bratton, W.J., Dennis N. (1998), *Zero Tolerance. Policing a free society*, London, IEA Health and Welfare Unit.
- Christie, N. (1996), *Crime Control as Industry*. London, New York: Routledge.
- Clarke R. (1983), *Situational crime prevention. Its theoretical basis and practical scope*, in "Crime and Justice", IV, pp. 225-256.
- Clarke R. (1995), *Situational crime prevention*, in "Crime and Justice", XIX, pp. 151-236.
- Cohen S. (1985), *Visions of Social Control. Crime, Punishment and Classification*, Polity Press, Cambridge.
- Cooter R., Ulen T. (1988), *Law and Economics*, Harper Collins, New York.
- De Giorgi, A. (2000), *Tolerancia Cero. Estrategias y prácticas de la sociedad de control*. Barcelona: Virus. Trad. I. Rivera and Marta Monclús.
- Dean M. (1999), *Governamentality. Power and rule in modern society*, Sage, London.
- Donnes D., Morgan R. (1997), *Dumping the "Hostage to fortune?" The politics of law and order in post war Britain*, in Maguire M., Morgan R., Reiner R., a cura di, *The Oxford Handbook of Criminology*, Oxford University Press, Oxford, pp. 87-134.
- Donohue J. (2007), *Economic models of crime and punishment*, in: "Social Research", LXXIV, 2, pp. 379-412.
- Feeley M., Simon J. (1994), *Actuarial justice. The emerging new criminal law*, in Nelken David, *The future of criminology*, Sage, London, pp. 173-201.
- Ferrajoli, L. (1998), *Derecho y Razón. Teoría del garantismo penal*. Madrid: Trotta.
- Foucault M. (2004), *Naissance de la biopolitique. Cours au Collège de France 1978-1979*, Éditions Gallimard, Paris, trad. It.: *Nascita della biopolitica. Corso al Collège de France, 1978-1979*, Feltrinelli, Milano, 2005.
- Garland, D. (2001), *The culture of Control Crime and Social Order in Contemporary Society*. Oxford-New York: Oxford University Press.
- Hall S., Critcher C., Jefferson T., Clarke J., Roberts B. (1978), *Policing the Crisis. Mugging, The State, and Law and Order*, Macmillan, London.
- Harcourt B. (2001), *Illusion of order. The false promise of Broken Windows Policing*, Harvard University Press, Cambridge.
- Harcourt B. (2007), *Against prediction. Profiling, policing, and punishing in an actuarial age*, The University of Chicago Press, Chicago.
- Jenny F. (1977), *La théorie économique du crime. Une revue de la littérature*, in: Rosa J.J., Aftalion F., *L'économie retrouvée. Veilles critique et nouvelles analyses*, Economica, Paris.
- Katz M. (1993), eds., *The Underclass Debate*, Princeton University Press, Princeton.
- Kelling G. (1996), *Fixing broken windows. Restoring order and reducing crime in our communities*, The Free Press, New York, 1996.
- Martinson R. (1974), *What Works? Questions and answers about prison reform*, in "The Public Interest", XXXV, 2, pp. 22-54.

- Matthews, R. (2003), *Pagando tiempo. Una introducción a la sociología del encarcelamiento*, Barcelona: M. J. Bosch. Trad. A. Piombo.
- Morris L. (1999), *Dangerous class. The underclass and social citizenship*, Routledge, London.
- O'Connor, J. (1981), *La crisis fiscal del Estado*. Barcelona: Península. Trad. G. Di Masso and J. M. Custòdio.
- O'Malley P. (1992), *Risk, power and crime prevention*, in "Economy and Society", XXI, 3, pp. 252-275.
- OSPDH (2005), *El populisme punitiu*. Barcelona: Regidoria de Dona i Drets Civils.
- Pasquino P. (1991), *Criminology the Birth of a Special Knowledge*, in Graham B., Gordon C., Miller P. (ed.), *The Foucault Effect. Studies on Governmentality*, Harvester Wheatsheaf, London, Toronto, Sydney, pp. 235-251.
- Pitch T. (2006), *La società della prevenzione*, Carocci, Milano.
- Rose N. (1999), *Powers of Freedom. Reframing political thought*, Cambridge, Cambridge University Press.
- Scheingold S. (1984), *The Politics of Law and Order. Street Crime and Public Policy*, Longman, New York.
- Silveira G., H. C. (1998), *El modelo político italiano. Un laboratorio de la tercera vía a ala globalización*. Barcelona: Edicions Universitat de Barcelona.
- Simon J. (1988), *The ideological effect of actuarial practices*, in "Law & Society Review", XXII, pp. 771-800.
- Wilson J. (1975), *Thinking about crime*, New York, Basic Books.
- Wilson J., Kelling G. (1982), *Broken windows. The police and neighbourhood safety*, in "The Atlantic Monthly", vol. 249, 3, pp. 29-38.
- Young J. (1999), *The Exclusive society. Social exclusion, crime and difference in late modernity*, Sage Publication, London, Thousand Oaks, New Delhi.
- Zysman, D. (2005), "La crisis del Welfare y sus repercusiones en la cultura política anglosajona", in Iñaki Rivera (cord.), *Política Criminal y Sistema Penal. Viejas y nuevas racionalidades punitivas*. Barcelona: Anthropos.

Annex I

During the Barcelona Workshop, beside the presentation of the works produced for Work package 1, the partners decided to upload on the online platform a very short report for every country on its penitentiary system, on its criminal policies on drugs, and few figures on his national penitentiary system, presented according to the following template:

- Prison population in the last 10 years.
- Prison population rate (per 100.000 of national population) in the last 10 years.
- The number of persons entering prison yearly in the last 10 years.
- The number of foreigner prisoners in the last 10 years.
- The number of drug addict prisoners in the last 10 years.
- The number of pre-trial detainees (considered as prisoners not serving a final sentence) in the last 10 years.
- Occupancy level in prison in the last 10 years.
- The yearly number of people serving a community sentences in the last 10 years.
- Cost of the penitentiary system, considered as the yearly national budget for the penitentiary system in the last 10 years. If possible, split according the most significant items (staff, facilities maintenance, activities, etc.).

Please find attached to below a synthesis of the data collected.

Prison Population									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	48.495	64.680	13.628	14.361	35.792	13.405	263	60.606	10.787
1998	47.811	68.029	14.404	14.598	44.371	14.366	226	66.165	11.541
1999	51.814	69.917	14.412	12.808	44.197	15.110	247	67.581	11.237
2000	53.165	80.610	9.516	12.675	45.104	15.539	312	49.512	10.147
2001	55.275	70.252	11.566	13.025	47.571	17.275	369	55.609	8.971
2002	55.670	78.707	11.070	13.698	51.882	17.838	345	59.429	8.994
2003	54.237	78.506	8.063	13.817	56.096	16.507	355	64.296	9.422
2004	56.068	79.567	8.125	13.152	59.375	16.543	546	57.930	10.066
2005	59.523	79.676	8.137	12.889	61.054	15.720	536	55.870	10.871
2006	39.005	78.992	8.079	12.636	63.452	14.811	-	70.277	11.436
2007	48.693	76.629	7.866	-	65.628	14.793	-	90.868	11.058

The significant decrease of prison population in **Italy**, that can be noticed also in the other charts, depends on the 2006 "Indulto" pardon law. Also for **Portugal** the decrease of prison population refers to amnesties (1999). These days in Portugal amnesties are not any more politically acceptable for "cleaning" the prison system.

To explain the decrease in prison population after 2002 in **Hungary**, it has to be considered that the repressive turn in the second part of the 90's was soon followed by another change of paradigm, embodied by Act II of 2003, the new novel of Criminal Code, and in other pieces of law and on the field of criminal procedure. At the same time judicial practice extended the application of conditional release. The new legal institution, called mediation (it can be ordered since 01/01/2007) will probably further reduce the number of inmates.

Why the increase of Germany in 2000?

Why decrease in Lithuania?

Why this huge increase in Cyprus?

Why huge increase in Turkey?

Why decrease in Bulgaria in 2001?

Prisoners per 100.000 of national population									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	85	87	383	145	-	135	-	96	-
1998	84	92	407	146	110	144	-	101	-
1999	91	98	410	128	110	150	-	101	-
2000	93	95	273	124	113	155	218	73	-
2001	97	95	333	131	117	173	-	81	-
2002	97	95	320	132	124	178	-	86	-
2003	94	96	234	132	131	165	233	92	-
2004	96	96	237	126	137	165	237	81	-
2005	101	95	239	124	135	157	195	78	-
2006	66	93	238	120	141	148	-	96	-
2007	81	-	234	110	147	144	-	123	-

Why German figures don't follow population figures?

Why 1997 in Spain is missing?

Why 1997, 98, 99, 01 and 02 in Cyprus are missing?

Why Bulgaria is missing?

Persons Entering Prison Yearly									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	88.305	146.675	-	7.980	-	19.371	750	62.946	-
1998	87.134	153.407	6.468	6.865	47.446	18.698	817	69.077	2.742
1999	87.862	150.745	6.397	6.192	42.108	15.872	1.155	83.466	2.188
2000	81.397	143.280	5.334	5.884	41.564	17.269	1.150	98.969	2.483
2001	78.649	137.917	6.838	-	41.360	20.312	1.318	112.237	2.588
2002	81.185	136.383	6.614	7.264	41.720	22.533	1.254	98.955	2.759
2003	81.790	135.002	5.427	6.872	40.462	20.867	1.314	99.876	3.351
2004	82.275	129.152	5.338	5.632	41.949	20.570	1.385	101.308	3.765
2005	89.887	-	5.477	5.617	39.178	21.922	1.188	52.716	3.962
2006	90.714	-	5.208	5.775	44.222	21.606	-	77.884	4.236
2007	91.620	-	4.628	5.420	-	10.642	-	-	3.355

Why number of people entering the penitentiary system in Spain decreases, whereas prison population increases?

Why huge decrease in Bulgaria in 2007?

Foreigner Prisoners									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	10.825	-	-	1.442	-	638	73	-	-
1998	11.973	-	138	1.398	7.850	623	45	-	-
1999	14.057	-	144	1.244	7.900	729	48	-	189
2000	15.582	-	122	1.547	8.990	807	96	-	156
2001	16.294	-	107	1.582	11.095	874	129	-	136
2002	16.788	23.509	111	2.095	13.413	825	131	-	155
2003	17.007	-	97	2.145	15.205	746	140	-	191
2004	17.819	22.474	44	2.275	17.302	697	212	-	207
2005	19.836	22.095	43	2.386	18.616	593	188	-	219
2006	13.152	-	50	2.552	20.643	538	-	1.241	247
2007	18.252	-	54	2.371	22.447	531	-	1.207	222

Germany: source Council of Europe, SPACE I.

Why data missing in Turkey?

Foreigner Prisoners %									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	22,3%	24,6%	-	10,0%	-	4,8%	27,8%	-	-
1998	25,0%	24,7%	1,0%	9,6%	17,7%	4,3%	19,9%	-	-
1999	27,1%	24,3%	1,0%	9,7%	17,9%	4,8%	19,4%	-	1,8%
2000	29,3%	-	1,3%	12,2%	19,9%	5,2%	30,8%	-	1,4%
2001	29,4%	22,5%	0,9%	12,1%	23,3%	5,1%	35,0%	-	1,2%
2002	30,1%	29,9%	1,0%	15,3%	25,9%	4,6%	38,0%	-	1,5%
2003	31,3%	-	1,2%	15,5%	27,1%	4,5%	39,4%	-	2,1%
2004	31,7%	28,2%	0,5%	17,3%	29,1%	4,2%	38,8%	-	2,3%
2005	33,3%	28,0%	0,5%	18,5%	30,5%	3,8%	35,1%	-	2,3%
2006	33,7%	28,2%	0,6%	20,2%	32,5%	3,6%	-	1,8%	2,5%
2007	37,4%	-	0,70%	20,5%	34,2%	3,6%	-	1,3%	2,0%

Germany: source Germany, Federal Statistical Office (various years). 2006: Kings College London, International Centre for Prison Studies, Prison Brief for Germany (2007).

Why data missing in Turkey?

Drug Addicts Prisoners									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	14.074	-	-	-	-	-	-	-	87
1998	13.567	-	672	-	19.081	-	-	-	109
1999	15.097	-	1.057	-	21.858	-	-	-	123
2000	14.440	-	635	-	23.069	-	-	-	157
2001	15.442	-	1.301	-	24.304	-	-	-	251
2002	15.429	-	1.464	-	24.015	-	-	53	476
2003	14.501	-	1.148	-	23.353	-	-	19	565
2004	15.558	-	1.265	-	-	-	-	48	693
2005	16.135	-	1.476	-	21.272	-	-	100	1.071
2006	8.363	-	1.488	-	-	-	-	144	1.342
2007	10.753	-	-	-	-	-	-	94	-

Portugal: The official report “Relatório do Grupo de Trabalho Justiça/Saúde do Plano de Acção Nacional para Combate à Propagação de Doenças Infecciosas em Meio Prisional” 2006, mentions 4073 forbidden drugs “active consumers” out of 10182 counted total inmates found in 10 central prisons, 2 special prisons and 8 regional prisons, out of the total of 53 prisons (including all types of prisons). This number is near the number produced by 2002 report on the same subject.

Reading health care situation inside each prison at official report “Relatório de Actividades da DGSP” 2005/2006, (36 over 53 prisons offer numbers) one count inmates known as drug consumers as much as 55,3% out of total number of inmates present. One can estimate the real number for all system will be higher, since big prisons, where stay long time condemned inmates (such as Carregueira, Monsanto, St.Cruz do Bispo, Vale de Judeus, Leiria), did not provide data to this counting. The real number is officially unknown.

Please comment on the lack of data.

Why such a huge increase in Bulgaria?

Pre-Trial Detainees									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	20.510	19.935	2.576	4.328	-	3.660	303	12.062	3.962
1998	21.952	19.049	2.421	4.250	10.790	3.909	405	16.315	3.303
1999	23.699	17.661	2.207	4.052	9.259	4.114	444	20.681	2.627
2000	24.295	17.524	1.915	3.854	8.868	4.105	503	24.855	2.113
2001	23.405	17.805	1.811	3.690	10.141	4.263	673	27.541	1.457
2002	21.682	18.063	1.656	4.219	11.810	4.329	551	30.879	1.744
2003	20.225	16.973	1.362	3.492	12.276	3.776	653	32.715	2.029
2004	20.036	15.999	1.284	3.000	13.112	4.101	1.005	26.010	1.861
2005	21.662	15.459	1.127	3.044	13.720	3.981	1.026	24.858	1.988
2006	22.145	-	997	2.921	15.065	3.786	-	26.336	2.080
2007	28.188	-	955	2.327	15.950	3.581	-	37.217	1.354

How can Cyprus have more pre-trial detainees than prisoners?

Prison Capacity									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	43.796	72.378	9.941	10.763	-	10.977	247	-	-
1998	43.121	73.980	9.941	11.065	-	10.221	247	-	-
1999	42.787	75.102	9.941	11.185	-	10.230	247	-	-
2000	42.723	76.646	9.941	11.371	-	10.249	247	73.419	-
2001	42.996	76.725	9.941	11.371	-	10.799	247	73.975	-
2002	41.809	77.887	9.941	11.465	-	11.416	247	71.881	-
2003	42.313	78.099	9.941	12.109	-	11.326	340	70.662	-
2004	42.523	79.204	9.578	12.789	-	11.400	340	71.164	-
2005	42.952	80.297	9.626	12.696	-	12.008	340	70.313	-
2006	43.226	79.960	9.476	12.115	-	11.374	-	74.140	-
2007	43.186	-	9.874	12.416	-	11.535	-	93.337	-

Occupancy Level %									
Year	Italy	Germany	Lithuania	Portugal	Spain	Hungary	Cyprus	Turkey	Bulgaria
1997	110,7	94,0	137,1	136,0	-	122,0	106,5	-	-
1998	110,9	95,0	144,9	134,5	-	134,0	91,5	-	-
1999	121,1	107,0	145,0	117,1	109,0	140,0	100,0	-	-
2000	124,4	92,0	95,7	112,3	106,0	152,0	126,3	67,4	-
2001	128,6	103,0	116,3	115,3	-	159,0	149,4	75,2	-
2002	133,2	100,8	111,4	120,1	112,5	159,0	139,7	82,7	-
2003	128,2	101,9	84,2	114,1	114,1	145,0	104,4	91,0	-
2004	131,9	100,6	84,4	102,8	129,5	144,0	160,6	81,4	-
2005	138,6	98,4	85,9	101,5	133,7	140,0	157,7	79,5	-
2006	90,2	95,8	81,8	104,3	140,0	130,0	-	94,8	-
2007	112,8	-	79,7	93,3	-	128,0	-	96,1	-

People serving Community Sentence									
Year	Italy	Germany	Lithuania	Portugal	Catalonia	Hungary	Cyprus	Turkey	Bulgaria
1997	49.306	-	10.806	172	-	-	60	-	-
1998	49.559	-	12.015	170	565	-	150	-	-
1999	51.072	-	12.080	171	784	-	136	-	-
2000	53.338	-	10.690	275	1.115	-	132	-	-
2001	55.193	-	11.629	481	1.148	-	161	-	-
2002	56.431	-	11.218	777	1.167	-	163	-	-
2003	56.081	-	10.406	999	1.316	-	154	-	-
2004	56.064	-	11.208	1.438	1.778	-	240	-	-
2005	58.817	-	9.005	914	3.284	-	391	-	-
2006	51.748	-	8.794	663	5.994	-	-	-	-
2007	42.453	-	9.019	-	5.811	-	-	-	-

Germany: not applicable because the German criminal law system knows two main remedies: imprisonment and fines: about 80% of all sentences are fines, about 14% suspended prison sentences. And about 6% are (not suspended) prison sentences (cf. Jehle, p. 30) – N.B. many people in prison are there because they were unable to pay there fines. Other

instruments, e.g. community work, can only be imposed by way of terminating the criminal procedure with consent of the accused and the Prosecution Service/ Criminal Court.

Hungary?

Turkey?

Bulgaria?