

Conference at the Council of Europe

Three Decades of Crime and Criminal Justice Statistics in Europe:

Methods, Trends and the Impact on Policy Making

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**Prosecution: The missing link between
police and court level**

Jörg-Martin Jehle

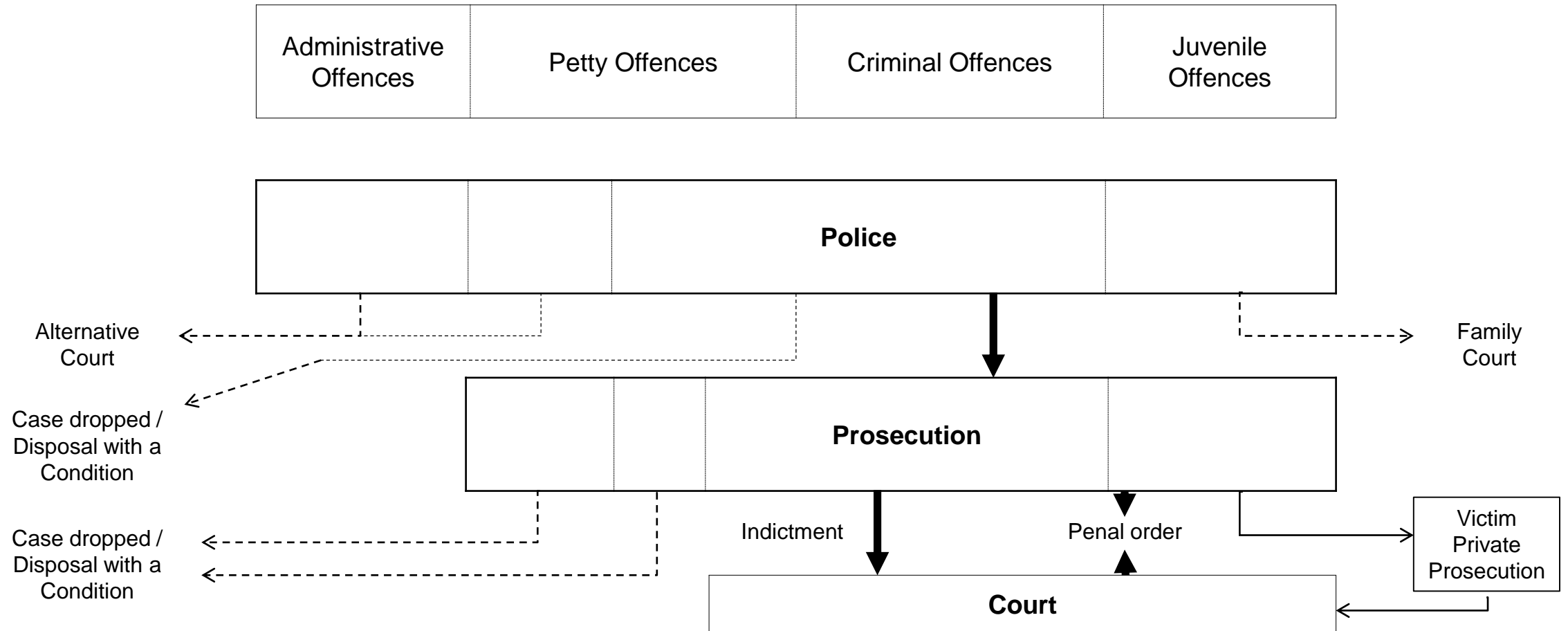
The function of prosecution

- Prosecution as the intermediate stage between police and court level is decisive for dealing with criminal cases within the criminal justice system.
- The rates of offences and offenders on police level compared to the rates of convicted persons demonstrate a huge attrition of criminal cases.
- This attrition is essentially due to the decisions of the prosecutorial authorities. They decide whether a criminal case is brought before a court or is ended in a different way.
- So, the prosecution stage is a link between police and courts. What is going on there, is not totally missing, but as we will see only partly or poorly reflected in the national statistics of prosecution.

Prosecution within the criminal justice system

- Let us firstly have a look at the criminal justice system as a whole and determine which functions the public prosecution authorities have within this system.

Prosecution Stage as the Intermediate Level between Police and Courts

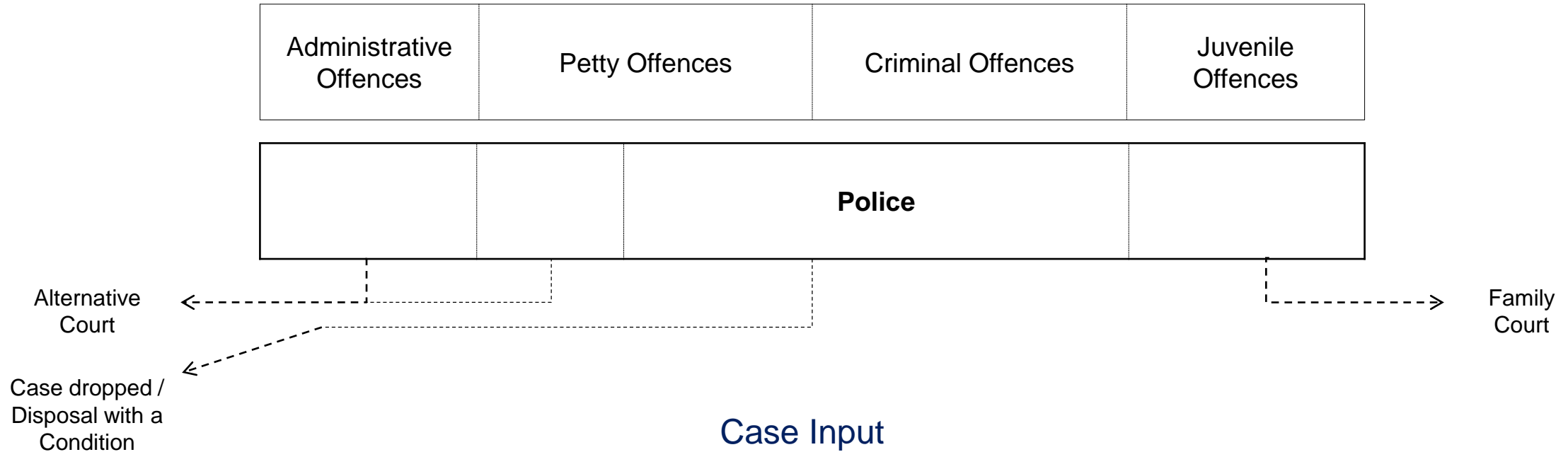


Prosecution Stage as the Intermediate Level between Police and Courts

Administrative Offences	Petty Offences	Criminal Offences	Juvenile Offences
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- There is a core of serious offences which are defined as criminal in all countries.
- Many countries have a special category of minor offences, administrative offences or offences against the public order. They are dealt with outside the criminal justice system. This mainly concerns minor traffic offences.
- A few countries even deal with “classical” offences, like theft or bodily injury, in a special way. Either the police can end the case or bring the case to a special court outside the criminal justice system. E.g., this is true for the so-called wykroczenia in Poland.
- Last but not least, some countries handle juvenile offenders when they have committed a less serious offence outside the criminal justice system.

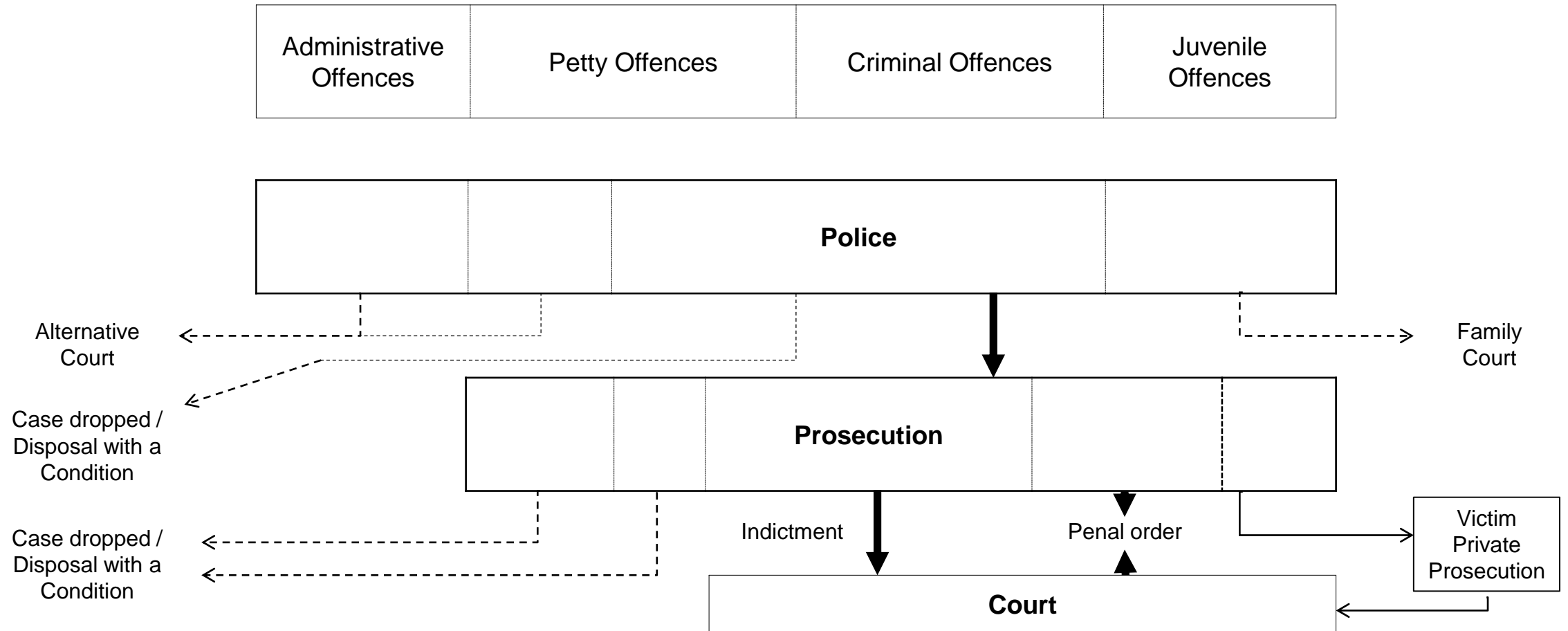
Prosecution Stage as the Intermediate Level between Police and Courts



- The input into the prosecution level depends on the power of police.
- In some countries police have to transfer all cases to the prosecuting authority.
- In other countries police can exercise a sort of discretion and can end prosecution by themselves.
- In some countries petty offences (like shoplifting in Poland) and criminal offences of minors (e.g. in some Middle and East European countries) are handled outside the criminal justice system.

So: The input into the prosecution stage strongly varies according to the different criminal justice systems.

Prosecution Stage as the Intermediate Level between Police and Courts



Prosecution Stage as the Intermediate Level between Police and Courts

Case Output

Output means the final decisions made by the prosecution authority.

- The discretionary powers of the prosecution authorities varies from country to country.
- In most of the countries the prosecution authority has the power to decide whether or not to prosecute (e.g. because of lacking evidence).
- In some countries they can end the case under certain conditions (e.g. paying money).
- In some countries the prosecutor can impose penal sanctions that lead to a formal verdict with or without a consent of the court.
- In consequence, only a part of the criminal cases are brought before a court and lead to a conviction after a full hearing.

Categories of Disposals

The Sourcebook has developed simple categories of disposals in order to make figures comparable.

Year of reference if other than 2015: T23YR15			
		Total	Minors
Output cases	Total	Idem:T21PC15	Idem: T24OM A15
	<i>of which:</i> Cases brought before a court	Idem:T21PD15	Idem: T24OM B15
	<i>of which:</i> Sanctions and measures imposed by the prosecutor (or by the court, but on application of the prosecutor and without a formal court hearing) that lead to a formal verdict and count as a conviction	T24OTC15	T24OM C15
	<i>of which:</i> Conditional disposals by the prosecutor without formal verdict	T24OTDA15	T24OM DA15
		<i>of which:</i> Fine	T24OTE15
		<i>of which:</i> Other measures	T24OTK15
	<i>of which:</i> Proceedings dropped unconditionally due to lack of public interest or for efficiency reasons or because private prosecution is recommended	T24OTMA15	T24OM MA15
	<i>of which:</i> Proceedings dropped for legal or factual reasons (excluding cases in which the offender is unknown)	T24OTNA15	T24OM NA15
	<i>of which:</i> Proceedings dropped because offender remained unknown	T24OTO15	T24OM O15
	<i>of which:</i> Other disposals	T24OTP15	T24OM P15

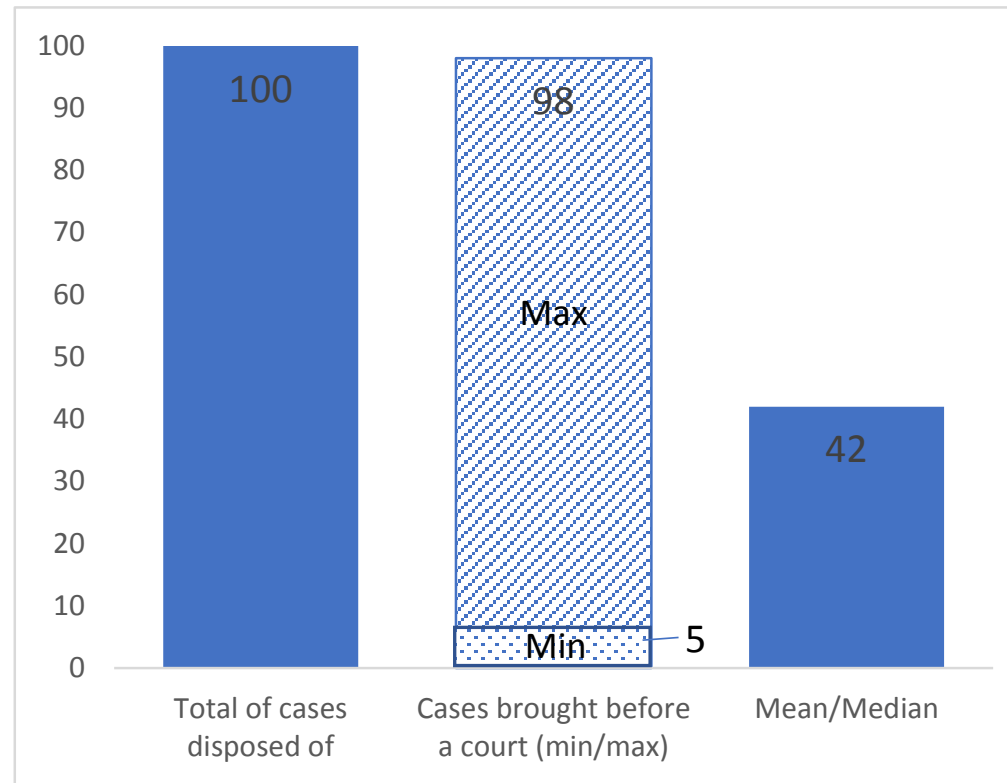
General results

- The questionnaire asked for competencies and disposals of the prosecution authorities. The metadata are very useful. They provide a good overview of the different national systems.
- Data availability is not as good as at the level of police and courts. Nevertheless, it has improved during the last decades.
- Almost all countries could provide data at least for the total of cases disposed of and the criminal cases brought before a court.
- In most countries there is a decreasing trend of criminal cases handled by prosecution between 2011 and 2016.
- Beyond these longitudinal recording there are cross-sectional data for 2015:
- Breakdown by minors, women and foreigners and by different types of disposals (data only for a minority of countries)

General results

- Breakdown by offence groups (a majority of countries could provide data)
- Additional data on persons whose freedom of movement was restricted by police custody and pre-trial detention
- Finally longitudinal recording (2011 – 2016) of staff of the prosecuting authority: employees and prosecutors
- Altogether a mixed result: basic data for almost all countries available, but poor data availability concerning the type of disposals and the suspects/defendants concerned

Percentage of Cases Brought before a Court



In half of the countries the percentage of cases brought before a court is clearly below 50 p.c.

Percentage of cases brought before a court by offence groups in 2015*

	Homicide	Robbery	Bodily Injury	Theft	Drug Trafficking
Mean	76%	71%	55%	46%	54%
Minimum	22	10	6	3	14
Maximum	100	97	88	99	93

* mean of 17 (robbery), 18 (homicide, drug offences), 19 (bodily injury, theft) countries regarding the percentage of offences that were brought before a court.

The table shows: The proportion of cases brought before a court depends on the seriousness of the offence. Concerning serious violent offences, like homicide and robbery, the percentage of indictments is much higher than in less serious cases, concerning bodily injury, theft and drug trafficking.

Percentage of Cases Brought before a Court in Relation to the Rate of Criminal Cases

		Cases brought before a court per 100,000 population in 2015		
		low: up to 25 % of total cases disposed of	middle: more than 25 % up to 50 % of total cases disposed of	high: more than 50% of total cases disposed of
Cases disposed of per 100,000 population in 2015	low: up to 1500	Armenia*	Albania* Serbia*	Czech Republic Georgia* Hungary* Latvia* Lithuania Luxembourg Montenegro* Netherlands
	middle: more than 1500 up to 5000	Austria* Estonia* Portugal* Romania*	Bulgaria* Finland* Poland* Slovenia* Scotland	England & Wales Iceland* Lithuania*
	high: more than 5000	Belgium* Denmark France* Germany	Sweden	Turkey*

The idea behind the table: There is a relationship between the two factors. Where the prosecution authorities have to deal with a relatively low number of cases, the percentage of cases brought before a court will be high, e.g. Czech Republic. Where the rate of cases is high, the percentage tends to be low, e.g. Germany. In this respect a clear trend can be observed.

* Cases disposed of include proceedings against unknown offenders.

Final remarks

- Metadata describing the various national differences concerning competencies and disposals of prosecution authorities are quite good.
- But data availability at the prosecution level is poor compared to the police and courts' level and has to be improved in the future because prosecution is a decisive stage within the criminal justice system.
- This concerns measures to end a case on the level of prosecution the European Sourcebook has developed categories of recording. But figures from national prosecution statistics are often missing. Many countries can not provide differentiated data or even any data on the various decisions of the prosecution authorities. This is especially true for alternative measures concerning minors.

Final remarks

- In order to reach a better understanding what takes place in this important field of prosecutorial discretion it is necessary that the prosecution statistics have to be essentially improved in the near future.
- Nevertheless, even now some interesting aspects and trends can be observed as hopefully demonstrated in this presentation.
- More details can be found in the coming new edition of the European Sourcebook.
- Thank you very much for your attention!