

# Modernization of the Criminal Justice Chain

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The Importance of Trust, Cooperation  
and Human Capital

## International Conference

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Brussels, 30-31 October 2014

National Archives  
Rue de Ruysbroeck, 2-6  
1000 Brussels

# Introduction

Research on ‘Justice in Relation to Society’ is an expanding domain but is generally lacking a multidimensional approach in the social sciences. The IUAP (Interuniversity Attraction Poles) project 7/22 “Justice & Populations: The Belgian Experience in International Perspective, 1795-2015” is a multidisciplinary program by BELSPO (Belgian Science Policy Office), studying the relationships between justice and populations. The program takes on an interdisciplinary, long-term perspective, covering the period from 1795 (end of the Ancien Régime in Belgium) up to the present.

Within the program, different thematic workpackages are defined (for more information on all packages see [www.bejust.be](http://www.bejust.be)). This conference concerns more specifically workpackage 1b: “The State Justice System: Functioning, Reform, Actors”.

The judicial system is taken as a point of departure to examine different levels of justice-society relationships. Both the structure and functioning of the national justice system are shaped by constant interaction between institutional actors at various levels of the “judicial chain” (policing, prosecution, judgment, penal practice), which is, in turn, subject to change and reform as a result of varying public demands and attitudes towards justice.

Examining the agency of collective judicial actors also necessitates further study of the intellectual, social and professional networks of justice: prosopography of justice personnel; processes of professionalization and professional culture; (inter)national associations of judicial actors such as magistrates, police officers, lawyers.

The workpackage involves 5 partners:

- KU Leuven
- UCL: Université catholique de Louvain
- ULg: Université de Liège
- UNamur: Université de Namur
- Cездip: Center for Sociological Research on Law and Criminal Justice Institutions , CNRS

The main objective of the conference is to present the first research results of the projects in this workpackage and to open a discussion on the topics with international scholars and policy makers in Belgium.

# Conference Program

## Day 1: Thursday October 30<sup>th</sup>

9.00 Welcome Coffee

9.30 Welcome Speech & General Introduction

### 10.00 **Judicial Trust (Part 1)**

**Jolien Vanschoenwinkel**, KU Leuven “*Trust in Justice: Degree and Antecedents of Trust in the Criminal Justice chain*”

Discussants:

- Patrick Vandenbruwaene, Prosecutor General of the Court of Appeal of Antwerp
- Daniel Kettiger, Senior Researcher, Center of Competence for Public Management (CCPM), University of Bern, Co-Chair Research-Project “Basic Research into Court Management in Switzerland”, Co-Chair of the EGPA Study Group on Justice and Court Management

11.30 Break

### 11.45 **Accelerating Judicial Response Time. Measures and Stakes involved in the Belgian and French Cases**

**Frédéric Vesentini**, CESDIP, “*Recent Evolutions of Prosecuting Practices in French and Belgian Jurisdictions: A Statistical Approach*”

**Virginie Gautron**, University of Nantes, “*French Courts faced with Paradoxical Political Injunctions: Heterogeneous but Convergent Penal Practices*”

**Christian Mouhanna**, CESDIP, “*Accelerating Judicial Time Response : to the Detriment of Quality? The French and Belgian Cases*”

Discussants:

- Cécile Vigour, Sciences Po Bordeaux
- Christian De Valkeneer, Prosecutor General of the Court of Appeal of Liège
- Pierre-Yves Couilleau, Public Prosecutor in Metz

13.30 Lunch Break

### 14.30 **Reconfiguring the Criminal Justice Chain (Part 1)**

**Joséphine Bastard**, ULg, “*The Execution of Sentence: from Policy to Practice*”

Discussants:

- Neil Hutton, Professor at the University of Strathclyde
- Freddy Pieters, Judge of the Sentence Implementation Court of Brussels

16.00 Break

### 16.15 **Judicial Trust (Part 2)**

**Marloes Callens**, KU Leuven, “*Interorganisational Trust and Distrust within the Belgian Juvenile Justice System*”

Discussants:

- Philip Langbroek, Professor of Justice Administration and Judicial organisation, Utrecht School of Law
- Stefaan Van Mulders, Administrator General– Youth Welfare Agency

17.45 **Panel**

## Day 2: Friday October 31<sup>st</sup>

8.30 Welcome Coffee

9.00 **Prosopography, Crisis, and Modernization of Justice: the Belgian Magistrates**

**Xavier Rousseaux** UCL, **Emmanuel Berger** UNamur, **Mélanie Bost** Cegesoma/Royal Military Academy, **Kirsten Peters** USaint-Louis Brussels, **Laurence Montel** University of Caen, **Enika Ngongo** USaint-Louis Brussels, **Françoise Muller** Cegesoma, **Aurore François** UCL/ULg, “*Belgian Magistrates facing Revolution, Wars and Colonisation*”

Discussants:

- Fred Stevens, KU Leuven, Emer. Prof. Legal History
- Katia Weidenfeld, University Paris Panthéon Sorbonne, Prof. Legal History, Administrative magistrate
- Jean-Claude Farcy, founder of the “Annuaire rétrospectif de la magistrature française, XIX<sup>e</sup>-XX<sup>e</sup> siècles” (CNRS)
- Derk Venema, Radboud University, Nijmegen

11.00 Break

11.15 **Reconfiguring the criminal justice chain (Part 2)**

**Alice Croquet**, ULg, “*Managing Public Security: Insight on Police Institutions*”

Discussants:

- Jacques de Maillard, CNRS, CESDIP - University Versailles Saint-Quentin
- Philip Willekens, SPF Intérieur, Director General Security and Prevention

12.45 **Concluding remarks** by Jacques Commaille, Emer. Prof. of Sociology, ENS Cachan (ISP/CNRS)

13.15 Lunch Break

14.30 - 17.00 Follow-up Committee Meeting & **Annual General Assembly** of the IAP 7/22 Justice & Populations (for IAP members and promotors)

Attendance is free of charge but registration is compulsory on <http://www.bejust.be/event/international-conference-modernization-criminal-justice-chain>.

For more information on the conference, please contact [acroquet@ulg.ac.be](mailto:acroquet@ulg.ac.be)

# Themes and Researchers

## Theme 1

### Judicial Trust (KU Leuven)

**Jolien Vanschoenwinkel**, KU Leuven - *Trust in Justice: Degree and Antecedents of Trust in the Criminal Justice chain*

The criminal justice system can be viewed as a form of governance that resolves disputes, manages risks and imposes social order. Through a series of decisions and actions taken by a network of agencies (interorganizational relationships or IORs), it responds to criminal activity or activities in the boundaries of criminal law, protecting people from wrongful treatment and conviction (Bednarova, 2011).

The successfulness of such IORs is based on several characteristics, and one of these is trust (Wehmeyer, Riemer, & Schneider, 2001). Although trust has become one of the most commonly cited concepts in the literature on interorganizational relationships (Kroeger, 2012), there are relatively few studies (or insufficient data) available that focus on trust among public authorities, and none that focus on the criminal justice chain (Tasdöven & Kapucu, 2011). In this context, the focus has instead been on the public's trust in justice, its belief in the legitimacy of judicial institutions and its commitment to the rule of law, mostly measured through the use of public surveys. This project will focus on trust between organizations (interpersonal and interorganisational trust). Trust can be important for reducing risk, a good cooperation and sharing of information. Too much trust on the other hand can lead to blind trust, inefficiency and ineffectiveness. A certain degree of functional distrust can therefore enhance a critical view towards the conduct of others and improved performance.

The case that will be investigated will be the criminal justice chain in Belgium and more specifically the triangular relationship between the police, the public prosecutor and the examining magistrate.

The aim of the research is twofold. First to deepen our insight in the meaning of trust with attention for the specific judicial context. Second to identify factors that facilitate or impede trust, with specific attention for the institutional context. Awareness of these factors is useful to guide future justice system reforms. In view of the above aim we formed the following main research questions: What does trust/distrust mean in the Belgian criminal justice chain?; What are the current levels of trust/distrust; Which are the antecedents of trust/distrust in the Belgian criminal justice chain?

#### Discussants

- Patrick Vandenbruwaene, Prosecutor General of the Court of Appeal of Antwerp
- Daniel Kettiger, Senior Researcher, Center of Competence for Public Management (CCPM), University of Bern, Co-Chair Research-Project "Basic Research into Court Management in Switzerland", Co-Chair of the EGPA Study Group on Justice and Court Management.

**Marloes Callens**, KU Leuven – *Interorganisational Trust and Distrust within the Belgian Juvenile Justice System*

Within the same theme on judicial trust, a second study will focus on the relationship between the judicial actors dealing with cases where minors are involved. More specifically, the aim is to include the juvenile public prosecutor's office, the juvenile courts and the social service supporting the courts with information and the execution of measures. This part of the juvenile justice system plays a crucial role in the way the cases will be resolved, they cover a large amount of cases (139 982 new protectionist

cases nationally in 2012), and are often the last resort to protect minors from dangerous situations or a criminal future. Since the literature suggests sustained effective coordinated action is only possible where there is mutual confidence or trust in complex organisational systems, it is predicted that also in the juvenile justice system this will be an important factor. However, so far, there is no knowledge on the nature of interorganisational trust or distrust in this specific context, let alone on the levels of interorganisational trust or distrust. For these reasons, the aim of this study is to do a thorough exploration of the interorganisational trust and distrust phenomena in the Belgian juvenile justice system, and in this way to add to the broader social discussion on court performance and the broader academic discussion on the nature of interorganisational trust.

#### Discussants

- Philip Langbroek, Professor of Justice Administration and Judicial organisation, Utrecht School of Law
- Stefaan Van Mulders, Administrator General– Youth Welfare Agency.

## Theme 2

### Penal Reform in the Wake of the Dutroux Affair: Reconfiguring the Criminal Justice Chain (ULg)

Following the Dutroux case in 1996, the Belgian criminal justice chain was reformed. Among this, the local security plans and the sentence execution act, are meant to reconfigure both police and prison policies and practices. This panel will account for the new relationships arising in increasingly multidisciplinary areas, such as security policies and the execution of punishment.

#### **Joséphine Bastard**, ULg - *The Execution of Sentence: from Policy to Practice*

Since 2007, the Belgian sentence implementation courts are expected to reconfigure prison policies and early release processes. A hybrid system – both administrative and judicial – is meant to interact in a complex decision-making process related to the execution of sentences.

Based on two cases studies, taking place in two sentence implementation courts, this presentation will first describe the actors involved in decision-making process and their practices related to the execution of sentence: the offender, the supervising probation officer (justice assistant in Belgium), the prison governor, the prison administration, the lawyer, the socio-psychological team, the victim, etc.

Secondly, the analysis will center on interactions between all these actors and the sentence implementation court. This will enable us to compare both the internal and external dynamics enacting the process of the sentence execution. The focus will be put on cooperation or conflict and trust or distrust between all the stake-holders.

Finally, the impact of these relationships on the Belgium prison policy will be questioned.

#### Discussants

- Freddy Pieters, Judge of the Sentence Implementation Court of Brussels
- Neil Hutton, Professor of Sociology, University of Strathclyde

**Alice Croquet**, ULg – *Managing Public Security: Insight on Police Institutions*

Based on five case studies conducted in parallel in police areas (still being), the presentation will describe the translation of official speeches in current police practices. It means first analyze the deeply-anchored philosophy and principles that found the security policy such as the community policing, the global and integrated security and the management. The presentation will then understand the way the local security plans are implemented by the policemen and how they structure (or not) the daily work of the police areas. Moreover the relationships between the police institution and its judiciary and political authorities will be analyzed through the study of the security policy.

Discussants

- Philip Willekens, SPF Intérieur, Director General Security and Prevention
- Jacques de Maillard, Professor, University Versailles Saint-Quentin.

### Theme 3

#### Accelerating Judicial Response Time: Measures and Stakes involved in the Belgian and French Cases (ULg, Cездip)

**Frédéric Vesentini** (Cездip), **Christian Mouhanna** (Cездip), **Virginie Gautron** (University of Nantes)

Ways of managing cases brought to the attention of the Public Prosecutor Offices have greatly evolved in the last 25 years. Faced with an ever more critical public opinion, both as regards the practice of dropping cases and as well as the time taken by justice to deal with cases, new methods of treatment have been implemented in the public ministry. Accentuated by a managerial current within the magistrature, these changes have nonetheless been introduced in different ways in Belgium and France.

This session will seek to measure the magnitude of these transformations in time, but also in space, in paying special attention to the ways of spreading of “innovative” practices. There will also be room for studying the whys and wherefores of these particular transformations within national contexts, but also from the viewpoint of international comparison.

Discussants:

- Cécile Vigour, Sciences Po Bordeaux
- Christian De Valkeneer, Prosecutor General of the Court of Appeal of Liège
- Pierre-Yves Couilleau, Public Prosecutor in Metz

### Theme 4

#### Prosopography, Crisis, and Modernization of Justice: the Belgian Magistrates (UCL & UNamur)

**Xavier Rousseaux** UCL, **Emmanuel Berger** UNamur, **Mélanie Bost** Cegesoma/Royal Military Academy, **Kirsten Peters** USaint-Louis Brussels, **Laurence Montel** University of Caen, **Enika Ngongo** USaint-Louis Brussels, **Françoise Muller** Cegesoma, **Aurore François** UCL/ULg, “*Belgian Magistrates facing Revolution, Wars and Colonisation*”

Criticisms on Justice management frequently point out the characteristics of the Belgian Magistracy

as an closed establishment. The contribution will address the question of collective biographies, composition of the courts and collective profiles of the magistracy. Through three experiences of creation (The Revolutions), of domination (military occupation) and of domination (Colonial Belgian Africa). The research has been supported by a specific application linking individual biographies, institutional composition of the courts and social relations of the magistrates.

#### Discussants

- Fred Stevens, KU Leuven, Emer. Prof. Legal History.
- Katia Weidenfeld, University Paris Panthéon Sorbonne, prof. Legal History, Administrative magistrate
- Jean-Claude Farcy, founder of the « Annuaire rétrospectif de la magistrature française, XIX<sup>e</sup>-XX<sup>e</sup> siècles » (CNRS)
- Derk Venema, Radboud University, Nijmegen, Legal Philosopher

## Organizing & Scientific Committees

#### Organizing Committee

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