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Inspecting the European crime prevention strategy towards incivilities

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Abstract

In recent years the crime prevention (henceforth: CP) policies of many EU countries have been expanded up to including the regulation of uncivil and disorderly behaviour, and have been implemented at the local level through measures that have often excessively constrained individuals' rights and freedoms.

By drawing on the analysis of EU policy documents retrieved in the database EUR-lex, this paper investigates whether the European CP strategy has also focused on the regulation of incivilities. Furthermore, it inspects whether any attention has been paid at the EU level to how local authorities have exercised their CP powers in the field of urban disorder. In the conclusions, the emerging results are compared against the backdrop of the existing literature on the legitimacy of incivility regulation, with the aim to draw conclusions informing the EU CP strategy targeting nuisance and its regulation.

Keywords

Crime prevention; incivilities; EUCPN; local authorities; human rights

Introduction

Starting from the late 1970s, the field of crime prevention (henceforth: CP) has undergone a number of substantial changes in many European countries. As pointed out by many scholars throughout the years (Hughes, 1998; Duprez and Hebberecht, 2002; Hughes and Edwards, 2005; van Swaaningen, 2005; Crawford, 2009a), examples of changes at the level of public policies concerned with CP are the establishment of preventive partnerships, the setting up of actuarial systems of crime control, and the adoption of punitive regulations and measures targeting crime and disorder. According to Garland (2001: 16), the field of CP and community safety in the US and UK has evolved towards an "expanding infrastructure", whose objectives differ from, and are rather broader than, the ones traditionally ascribed to the criminal justice system. Such objectives are "prevention, security, harm-reduction, loss-reduction, fear-reduction" (Garland, 2001: 17). Not only the UK, also many other European countries have undergone what Crawford (2009a) called a "preventive turn". As Crawford contends (2009b: 15), if the existence of a "European model of crime prevention" (or a model of CP that is common in the European countries) is to be recognised, one of its common traits is to be identified in its given "emphasis upon *wider social problems*, including public perceptions and fear of crime, quality of life, broadly defined harms, incivilities and disorder" (emphasis in the original). In other words, the CP strategies adopted in many European countries have tended to include measures that target not only crime, but also fear of crime, insecurity feelings and (criminal as well as non-criminal forms of) anti-social, uncivil behaviour.

Changes in the scope of European Member States' (henceforth: MS) CP strategies have had repercussions also at the EU level. Firstly mentioned in the 1997 Treaty of Amsterdam as a means to maintain and develop the Area of Freedom, Security and Justice (AFSJ) within the Union,¹ the concept of European CP has been further developed by the 1999 Tampere European Council. In the meeting held in Tampere on 15 and 16 October 1999, the European Council concluded on the need to develop CP measures at the EU level, as well as to develop the exchange of best practices, to strengthen the network of national authorities competent for CP and the co-operation between the relevant national organisations. Shortly after the meeting in Tampere, the Council of the European Union (2001) established the European Crime Prevention Network (EUCPN), which has mainly been tasked with developing CP at the level of the EU by supporting CP initiatives and activities at the national and local levels.

In an effort to establish a common understanding of CP between the MS in the framework of the EUCPN, the European Commission (2000) and the Council of the European Union (2001) provided a specific definition of crime and of CP, which included references to both incivilities and insecurity feelings. For example, in the Communication proposing the establishment of the EUCPN (European Commission, 2000), the Commission has extended the definition of crime to "anti-social conduct which, without necessarily being a criminal offence, can by its cumulative effect generate a climate of tension and insecurity". The Council, on its part, in the decision establishing the EUCPN (Council of the European Union, 2001), provided a definition of CP that "covers all measures that are intended to reduce or otherwise contribute to reducing crime and citizens' feeling of insecurity".

When commenting and explaining these policy documents, Crawford (2002) made reference to two different logics. First, an EU interest in highly localised forms of petty crimes and incivilities has been associated with a "perceived interconnectedness of transnational developments and highly localised activities" (Crawford, 2002: 44). In other words, crime and disorder happening at the level of the locality are understood to be linked with more serious forms of (transnational, organised) crime and to reflect shared security concerns among European countries that are considered to be deserving of EU responses. Second, Crawford explained the reference in these policy documents to incivilities, anti-social behaviour, and quasi or sub-criminal activities engendering insecurity feelings, in light of the logic of "defining deviance up", according to which behaviour previously considered "normal" or tolerated is then qualified as deviant. Hömqvist (2004: 4-5) explained the importance accorded in these EU policy documents to the levels of perceived insecurity through the emergence at the European level of a "security mentality" that ruptures the law "downwards" legitimising the use of coercive measures to penalise minor public order disturbances and undesirable behaviour.

From the policy developments of the early 2000s, the European CP framework has undergone a number of changes. Such changes have been brought about, for example, by the Hague and the Stockholm Programmes (European Council, 2004, 2010) and by the 2007 Treaty of Lisbon, which at article 84 TFEU provided legal grounds for the EU to establish measures to promote and support the CP action of MS. In contrast with the academic works published in the first half of the 2000s, more recent academic theorisations of the European crime control policy have under-addressed to inspect the EU prevention strategy and its (eventual) interest in petty crimes, everyday criminality, disorder and incivilities. Rather, scholars have tended to focus more generally on the recent EU criminal policy developments, which have been understood as being informed by an ideology of security (Baker, 2010; Kerezsi, 2014).

Inspecting the evolution of the European CP strategy with respect to nuisance is especially relevant and required if one is to consider the recent body of research showing that the local adoption of policies and mechanisms aimed at the prevention and punishment of incivilities occurs in many European countries (Di Ronco, 2014; Di Ronco, forthcoming; Peršak, 2016 etc.) and that local urban security action has often been problematized by scholars and courts (Di Ronco and Peršak, 2014) in light of their excessive interference with individuals' rights. In other words, exploring the European CP strategy serves the purpose of detecting not only whether (and, if so, in which way) incivilities are actually included in such an approach, but also whether EU institutions have paid attention to the fact that local safety policies have sometimes been implemented in violation of individuals' fundamental rights and freedoms.

Drawing on an analysis of the relevant EU criminal policy documents retrieved in the database EUR-lex, this article will, firstly, inspect the evolution (if any) in the area of European CP with respect to the regulation of incivilities. Secondly, it will investigate whether any attention has been paid at the EU level to how local authorities have exercised their CP powers in the field of urban disorder and nuisance. The emerging results will then be compared against the backdrop of the existing literature on the legitimacy of incivility regulation, with the aim to draw conclusions informing the EU CP strategy targeting nuisance and its regulation.

Methods

In order to detect the developments in the area of European CP with respect to incivilities, the EUR-lex database has been entered with a number of pilot searches (see below). We decided to run the searches only in the database EUR-lex, which offers free access to a number of different documents, including treaties, legislation, case law, and preparatory acts. It was decided not to use the public register of the Council of the European Union (i.e., the database Consilium), which includes a much broader number of Council's documents that are often repetitive in their content. Examples of such acts are the monthly summaries of the Council's acts, the press releases and the minutes of the Council's meetings that, as argued by Hagemann (2007) provide a very high level of procedural details, which were considered not to be relevant to the present study.

The searches have been run through all documents and led to results containing the search strings in the text (i.e., not in the title) of the documents. The database has been searched for the period of time stretching from 1 January 1999 to 30 June 2015. The year 1999 has been selected as the starting point as it coincides with the entry into force of the Treaty of Amsterdam, which has established the AFSJ and the EU competences in the field of CP, and with the holding of the Tampere European Council, which has introduced EU competences in CP.

From a pilot work of looking into the database EUR-lex, the two keyword searches "anti-social" (the first) and "'crime prevention" AND local" (the second) were selected. In the pilot, the search string "crime prevention" was first entered the database, resulting in 552 documents generally dealing with CP at the EU level. After having reviewed the first 200 hits and have acknowledged their broad focus (which was not only on urban safety issues, but also on the prevention of a wide range of crimes, such as organised crime, terrorism, cybercrime, human trafficking etc.), it was decided to include in the string the adjective "local" to allow for a final selection of documents where CP strategies and measures at the local (or municipal) level were addressed.

In order to make sure that all relevant documents dealing with incivilities were included, other six keywords have also been entered the database. They are "incivility", "incivilities", "antisocial", "insecurity", "nuisance" and "disorder". While the former three keywords led to a limited number of results (see below), the latter returned a very high number of items.² In order to narrow down the last three searches to only acts presenting a connection with crime and crime control, the noun "crime" has been added in the search strings (i.e., "insecurity AND crime", "nuisance AND crime" and "disorder AND crime"), which have then been run in the database for the selected time span (from 1 Jan. 1999 to 30 June 2015) in the texts of all the documents.

The documents have subsequently been screened for relevance: they have been considered relevant only when containing a reference to the European, national or local CP approaches to crime in general or to incivilities. Policy acts addressing the EU CP strategy towards crime in general have been considered relevant in light of the broad definitions of crime and of CP that have respectively been provided by the Commission (2000) and by the Council (2001) at the beginning of the last decade, which also included anti-social conduct and insecurity feelings (see the introductory section).

For example, among the acts resulting from the first ("anti-social") and the second ("crime prevention" AND local") keyword searches, which were respectively 56 and 375, the relevant ones addressing the European CP strategy towards crime and incivilities, as well as the national or local approaches to general

crime or nuisance, were 11 (in the first search) and 48 (in the second search),³ leading to a total number of 59 documents.

The items retrieved through the other six keyword searches were 3 for “incivility”, 3 for “incivilities”, 26 for “antisocial”, 502 for “insecurity AND crime”, 123 for “nuisance AND crime”, and 446 for “disorder AND crime”. During the screen for relevance, however, it was observed that the acts obtained through these searches were irrelevant, as they did not cover the CP strategies towards crime or incivilities adopted at the European, national or at the local level, or that, when relevant, they consisted of documents that were already included in the two initial keyword searches (namely, “anti-social”, the first, and ““crime prevention” AND local”, the second). The only exception was made by the keyword search “nuisance AND crime”, which led to the identification of two relevant acts not included in the previously-run searches. Such two items have been added to the initial sample, leading to a total number of 61 documents.

Findings

The definition of crime and of crime prevention

Along the considered years, the European Commission (the Commission), the European Parliament (EP), the Council of the European Union (the Council), the Committee of the Regions (CoR) and the European Economic and Social Committee (EESC) have identified broad definitions of crime and of CP that have also included anti-social conduct and behaviour that generates insecurity feelings among the population. Such definitions have been addressed by them in 18 documents, which represent the 29% of the total retrieved items. In the following paragraphs, examples of the most relevant definitions included in such acts are provided.

A pivotal definition of crime is found in the Communication of the Commission referred to in the introduction of this article (European Commission, 2000), where crime is understood to include also anti-social behaviour that engenders feelings of insecurity. In the same Communication, the Commission also clarifies that “the sense of insecurity is a matter for the individual or collective perception of the citizens”, which “does not necessarily correspond to reality, but is, however, fundamental in the Union citizens’ assessments of their quality of life” (European Commission, 2000, 1.).⁴ As a result, reducing the sense of insecurity is indicated in the document as one of the main targets to be achieved by the European CP strategy (3.2).

Other three policy documents, one authored by the EESC (2001) and two by the CoR (2001, 2005), are of relevance with respect to the definition of crime. By making reference to (and positively evaluate) the definition provided in 2000 by the European Commission, these EU bodies viewed crime as including also anti-social conduct which, although not (yet) criminal, makes people feel unsafe. More accurately, the inclusion of non-criminal anti-social conduct in the definition of crime has been justified by the EESC (2001, 1.2.) in light of the need to prevent the occurrence of more serious offences, to which incivilities are conducive (through a “snowball’ effect”).⁵

The close connection between insecurity and crime, as well as between incivilities and more serious forms of criminality, is also emphasised in other EU policy documents dealing with CP. For example, in an opinion on “Crime and Safety in Cities”, the CoR (2000) linked CP initiatives with the behaviour that engenders feelings of insecurity among the EU citizens. According to this policy document, feelings of insecurity (as shaped by the media) are generated by “everyday crime” (which is exemplified in physical offences and in material crimes such as graffiti and other forms of vandalism) and, within it, by “visible crime and disorder” such as “[n]oise, shouting, aggressive and threatening behaviour and vandalism”, which are also said to have a connection with more serious forms of (organised and cross-border) criminal activities.

Furthermore, in its 2004 Communication entitled “Crime prevention in the European Union” (European Commission, 2004), the Commission identified “volume crimes”, or the crimes that recur frequently and

with easily identifiable victims, as the “number one cause of concern for European citizens” (1.2.1.). Such crimes do not only include crime proper, such as domestic burglary, theft from vehicles, assault, and street robbery. They also encompass incivilities and behaviour that engenders insecurity feelings. As it reads from the Communication of the Commission (2004, 1.2.2.), disorderly behaviour and fear of crime fall under the scope of CP strategies, as they have the effect of reducing informal crime control mechanisms, which, in turn, lead to the creation of favourable conditions for the commission and thriving of more serious forms of criminal activity:⁶

“Preventive measures should thus not only address crime *stricto sensu*, but also cover “anti-social behaviour”, which forms, so to speak, a sort of 'pre-stage' of crime. Examples of such behaviour are noisy neighbourhoods, neighbourhoods characterised by teenagers hanging around, drunk or rowdy people, rubbish or litter lying around, deteriorated environments and housing. Such conditions can affect the regeneration of disadvantaged areas, creating an environment in which crime can take hold. Anti-social behaviour undermines the sense of security and responsibility that is needed for people to participate in their community. From a prevention perspective, it is therefore also an important area to concentrate upon. Prevention should also address the issue of fear of crime, since research [...] shows that such fear can often be as harmful as crime itself. Fear of crime can lead to withdrawal from social life and loss of trust in police and the rule of law”.

A relevant definition of CP is also found in the Council’s decision establishing the EUCPN referred to in the introduction of this article (Council of the European Union, 2001), which associates it with the activities that contribute to reducing crime and insecurity feelings. The 2001 Council’s definition of CP has been transposed in other policy documents. It is not only found in a 2001 resolution of the European Parliament (2001). It is also referred to in more recent policy documents, such as in the 2005 opinion of the CoR (2005), the 2009 initiative of some Member States setting up a EUCPN (Member States, 2009), and in the Regulation No 513/2014 (European Parliament and Council of the European Union, 2014). A reference to the inclusion of individuals’ insecurity feelings in the European CP strategy can also be found in the 2009 Stockholm Programme (European Council, 2010). Here, more effective CP measures are understood to target also behaviour that engenders insecurity feelings, in the conviction that citizens of the Union “have similar experiences and are affected in similar ways by crime and related insecurity in their everyday lives” (4.3.2). The programme also recognises the growing connections between local crime and organised and more serious forms of transnational crimes.

The European crime prevention strategy

The sampled documents cover three main themes that are relevant to the understanding of the CP strategy at the EU level.⁷ Firstly, they address and describe the EU CP action, which is mostly focused on supporting MS CP efforts and on facilitating cooperation and the exchange of information between MS, and between them and their relevant national authorities involved in CP, which are activities that are referred to in 57% of the sampled items (or 35 documents). Secondly, they focus on the CP work of local authorities, which in 49% (or N. 30) of the sampled documents is recognised a crucial role in the prevention of crime, anti-social behaviour and petty crimes. Thirdly, documents deal with the relation between the (European, national and local) CP action and human rights, which is addressed in 16% of the total sample.

Examples of an EU CP strategy primarily focused on MS are offered by three Communications of the Commission (European Commission, 2000, 2004, 2009). In such documents, MS are identified as the responsible actors in CP matters. As such, they are competent to adopt and strengthen various national policies contributing to CP (that are not only limited to the field of criminal law, but also extend to social policy, education, town planning, taxation etc.), which are understood to facilitate the preventive work that develops and occurs at the “grass-roots level” (European Commission, 2000, 2004), or at the level of the region or the community. The competences and actions of the MS in this field are, in turn, supported

at the EU level mainly through the promotion of cooperation and networking between the competent European, national and local authorities.

A prominent focus on supporting the CP efforts of the MS is also found in the 2001 decision of the Council establishing the EUCPN (Council of the European Union, 2001). In the decision, although the network is entrusted with supporting “crime prevention activities at the *local* and *national* level” (article 3, par. 1, emphasis added), it is mainly tasked with facilitating cooperation, contacts and exchanges of information and experience between the MS (as well as between their national organisations, and between the MS and the Commission, see article 3, par. 2(a)).

The EU powers to support the MS CP action have also recently been strengthened by the Treaty of Lisbon, which has crystallised the EU competence to promote the crime prevention action of MS by providing the legal basis for the adoption of CP measures at the EU level (article 84 TFEU). A possible future expansion of the EU cooperation powers directed towards MS has also been foreseen by the 2009 Stockholm Programme (European Council, 2010) and by regulation No 513/2014 (European Parliament and Council of the European Union, 2014). While the former act anticipates the establishment of an Observatory for the Prevention of Crime (OPC), which is entrusted (among others) to support MS and the Union institutions in the process of adopting preventive measures and of exchanging best practices, the latter puts forward an Instrument for the financial support for police cooperation, preventing and combating crime, and crisis management that seeks to “promote and develop measures strengthening MS capabilities to prevent crime”⁸ (article 3, par. 3(a)).

Although the CP strategy adopted by the EU institutions has mainly centred on promoting cooperation between the MS, in a significant number of documents (N. 30 or 49%) it has also focused on the local CP action. In such acts, local authorities’ crucial role in the prevention of crime has not only been stressed in general terms (11).⁹ The local CP efforts have also substantially been encouraged through (non-binding) policy recommendations (7) and funding plans (12) aimed at (further) developing the CP action at the local level. For example, in seven non-binding documents the EU institutions have placed emphasis on the need for local authorities to reduce or remove the structural (criminogenic) conditions of socio-economic deprivation that affect a part of the population in degenerated urban areas. Additionally, they have also highlighted the need to manipulate the situational opportunities present in the urban design of certain areas, which are conducive to criminal activities and engender insecurity feelings.¹⁰ An example of the interconnection between urban design features and perceptions of safety is offered by a 2006 Commission staff working document (European Commission, 2006), where a solution to the problem of perceptions of safety (and crime) is identified in the implementation at the local level of urban regeneration and requalification programmes:

“Cities should adopt a joined-up and proactive approach to local crime reduction policies. For example, by improving the planning, design and maintenance of public spaces, cities can “plan out” crime, helping to create attractive streets, parks and open spaces which are safe and feel safe.”

A special attention to CP strategies adopted at the local level is evidenced in twelve documents that cover funding programmes¹¹ and budgetary statements¹² adopted by the EU institutions over the years. Funds have been appropriated not only to promote cooperation and coordination between national law enforcement and CP authorities and between them and the relevant Union bodies. Appropriated funds have also addressed: i) the establishment of partnerships between private and public authorities in the prevention of crime and disorder; ii) the involvement of citizens in CP activities (through, for example, the setting up of civil mediators, community safety officers, neighbourhood watching schemes etc.); iii) the exchange of best practices and information between security actors at different levels; iv) the professionalization of security actors through training; and v) the promotion of awareness dissemination activities.

Only in ten documents (or 16% of the total sample) the focus has been on the need to respect individuals’ fundamental rights in the pursuance of CP actions. While in most of them such a need has been generally spelled out,¹³ or has been referred to the European CP strategy (with the CoR (2001, 2005, 2010) mostly

urging the EU to devise CP mechanisms and policies that are not prejudicial to the exercise of individuals' fundamental rights), in only two cases it has been applied to the CP activities of local authorities. Both these acts refer to a 2010 preliminary ruling of the European Court of Justice (ECJ),¹⁴ where the court has been tasked (among others) to assess the suitability and proportionality of a local safety regulation.¹⁵ In such a ruling, the ECJ (in this, partially in line with the opinion of the Advocate General)¹⁶ stipulated that fundamental freedoms (such as, in the case, the freedom to provide services) may legitimately be restricted by way of local public order measures only when there is a "genuine and sufficient threat to a fundamental interest of society" (point 62), when such interventions are suitable and necessary to accomplish a (EU-recognised/Treaty) objective, and when they do not disproportionately affect the exercise of people's rights.¹⁷ In light of such legal arguments, the court found the local safety regulation at issue to be suitable and proportionate to the objective it aimed to accomplish.

Discussion

Reflecting the broad scope of many MS's CP policies, also CP at the European level has entailed local manifestations of anti-social conduct and undesirable behaviour that, without necessarily being a criminal offence, engender fears and insecurity among European citizens.¹⁸ Such an EU broad view on CP has generally been grounded on the idea that there is a link between disorder occurring at the local level and more serious forms of cross-border or transnational crime, which justify EU-types of responses to incivilities (Crawford, 2002).¹⁹ However, due to its limited competence in CP, the EU has not devised a strategy in CP that has focused on the local preventive action against crime and disorder. Rather, it has promoted a CP strategy that has mostly been based on supporting the adoption and strengthening of national CP policies, as well as the cooperation between the MS, their national authorities, and between them and the Union.

Although (for subsidiarity reasons) local authorities have not been the prime focus of the EU CP action, their activities in CP have been encouraged in many ways at the EU level. For example, through recommendations and soft-law approaches the EU bodies have provided local authorities with insights on how to strengthen their local fight against crime and disorder (e.g., by bolstering their social policies or by adopting programmes aimed at regenerating the urban environment). More importantly, many EU-funded projects have been awarded over the years with the aim of enhancing CP at the local level. According to the European Commission (2015), since 2003 the areas of "Crime Prevention" (or CP) and of "Volume Crime" (or VC) have respectively been the second and the third recipients of A2 funding in project's number. By reviewing the projects' objectives and results as reported by the Commission (2015), we observed that out of a total of 89 projects funded in the area of CP (46) and of VC (43), almost the half (i.e., 41 projects, of which 13 fall under CP and 28 under VC) have actually targeted the gathering of knowledge on crime and CP, and the development of strategies for the prevention of crime and disorder at the local level. More precisely, we noticed that the main aims of 27 projects (i.e., of 16 under CP and of 11 under VC) have coincided with the gathering of knowledge on crime, social disorder, insecurity and with the exchanging of information on the CP tools and techniques adopted at the urban level. Furthermore, developing local CP programmes (also based on the manipulation of the urban design) and mechanism (such as private-public partnerships, community policing, community involvement etc.) appears to be one of the main goals in 20 projects (i.e., of 3 projects falling within the heading of CP and of 17 of the VC-funded projects). The substantial number of EU-funded projects focusing on the local development of CP practices provides a further confirmation of the importance accorded at the EU level to the CP action pursued by local authorities.

For their proximity with crime (i.e., its spaces, actors and victims) and with people's concerns and safety feelings, local CP actors are, to be sure, the best suited for effectively preventing crime, as they can tailor national CP approaches to the needs and (disorder-related) issues of the locality. The fact that local authorities are best fitted to envisage strategies and mechanisms for the prevention of crime on their

geographical territory, however, does not necessarily mean that their CP action is always legitimate and justified. On the contrary, local strategies in CP, especially when containing measures aimed to punish disorderly behaviour, have proven not to be always legitimate.

Starting from the 1990s, local authorities in many European countries have progressively included punitive interventions and sanctions in their public safety policies aimed to penalise uncivil behaviour, which have been considered problematic by many scholars (Edwards and Hughes, 2005; Burney, 2009; Peršak, 2016 etc.). The type of anti-social, uncivil, conduct subject to local interventions has well corresponded to criminal activities already punished by the national criminal law, such as vandalism, serious environmental offences and so forth. In many cases, however, it has also included non-criminal forms of behaviour. As it has been noted by some academics (Burney, 2009), if such a non-criminal conduct, at least when serious and persistent, may severely interfere with the individuals' exercise of rights and heavily compromise their life quality,²⁰ it can also consist of harmless behaviour that, however, may be perceived as distressing and alarming by local groups having decision-making powers.²¹ An example of such (non-criminal, although, for some, annoying) conduct is represented by young people hanging about in public places, whose presence has been deterred in many localities through the imposition of fines and, as in the case of the UK and Belgium, through the adoption of curfews and banning orders prohibiting their presence in certain times and space settings.²²

As it becomes apparent, many of these sanctions and interventions, especially when adopted to punish non-criminal forms of uncivil behaviour or nuisance, have resulted in the grave impairment of fundamental rights and freedoms of (often, already marginalised and stigmatised) individuals and groups.²³ The disproportionate character of many of these local punitive measures has also been recognised by courts in the UK, Italy and Belgium, which in their judgements have neutralised or reduced the excessive effects produced by these mechanisms on people's exercise of fundamental rights and subjected their use to the sort of (uncivil) behaviour that causes (or is likely to cause) serious harm to others (Di Ronco and Peršak, 2014). In the same countries, moreover, high courts have also associated the often illegitimate and excessive exercise of local regulatory powers with the existence in the national safety regulations of vague provisions describing the anti-social, uncivil, behaviour to be penalised, or the (broad) scope of local public security policies. In Italy and Belgium, provisions as such have also been found by the Constitutional Courts to be in breach of the (constitutional) principle of legality (Di Ronco and Peršak, 2014).²⁴

As shown by the results presented in this article, a reference to the local CP action and to its relation with individual rights and freedoms has only emerged in one preliminary ruling of the ECJ. Overall, it can be argued that the EU institutions and bodies have paid scarce attention to the local exercise of CP powers and to its relation with individuals' freedoms. This is quite understandable if one is to consider the reduced competence that the EU has in the field of CP, which has mostly been limited to the promotion of cooperation between the MS and between them and the Union, rather than between the Union and local authorities.

Notwithstanding the EU limited competence in CP matters, the EUCPN has in the past few years worked towards the promotion of a certain (basic/preliminary) level of cooperation with and between local authorities. The network has mainly pursued this aim by making available through its online knowledge centre (see <http://eucpn.org/knowledge-center>) information regarding best practices and virtuous examples in local CP, which have been collected through its national contact points.²⁵

Although it would be logic to think that these virtuous examples in the local prevention of crime and disorder are the ones that best accommodate the exercise of (and the respect for) individuals' rights, their relationship with fundamental freedoms is usually not specified in the online available documents. More accurately, when searched through the broad keyword "right", the network's knowledge centre returned 57 results, 27 of which were catalogued under the filter "Best practice" (See [http://eucpn.org/search/knowledge-center/right?f\[0\]=im_field_doc_subject%3A9](http://eucpn.org/search/knowledge-center/right?f[0]=im_field_doc_subject%3A9)). These 27 good examples in CP were then reviewed to investigate the way in which they interrelated with (the protection of) individuals' rights. Through the review, it was observed that when an individual right was evoked in

local CP best practices, it was to stress the need to protect individuals (i.e., their exercise of rights and freedoms) from crime and victimisation. By contrast, rights were never put in relation to the pursuance of local CP actions.

The fact that the link between the local exercise of CP powers and individuals' liberties has not been highlighted in the online available CP best practices, however, does not necessarily suggest that the EUCPN has not paid (any or sufficient) attention to it. The EUCPN may have a view on how local authorities should make use of their powers in the field of public safety in order not to (illegitimately and disproportionately) interfere with the legitimate exercise of people's rights.²⁶ In this case, the absence of the network's standpoint on the topic may be explained through the constrained mandate and role in CP that has so far been attributed to EUCPN, which is exemplified in the low number of personnel available to the EUCPN Secretariat (i.e., only five: a Coordinator, a Policy & Practice Officer, Research Officer, Communication Officer and an Administrative Officer) and in the time-limited funding of the EUCPN, only guaranteed until summer 2016 (see <http://eucpn.org/about/network?language=24>).

To strengthen the role that the network plays in CP and its capacity to promote better cooperation with, and exchange of best practices between, local authorities, a number of proposals have recently been put forward. Such proposals have, however, not (yet) been implemented in practice.

Establishing a better level of cooperation with local authorities through the setting up of working groups, forums, and meetings has, for example, been one of the targets of the proposal to strengthen and professionalise the network, which has been suggested by the Commission (2012a: 9) in response to the European Council's invitation to set up an Observatory for the Prevention of Crime (OPC) (European Council, 2010). By rejecting the proposal to establish an OPC aimed to replace or to include the network (which has been considered as something not "politically or financially desirable in the short term"), the Commission indicated the enhancement of the EUCPN through a better resourced Secretariat ("EUCPN +") and observatory-type of functions as the preferred option (European Commission, 2012a: 11). More recently, the goal to professionalise the network has been taken over in the project entitled "the development of the observatory function of the European Centre of Expertise in the Prevention of Crime within the EUCPN" (EUCPN, 2015a: 14), which will end in June 2016. Within this project, the work of the EUCPN Secretariat (which will lead it to evolve towards an improved Expertise Centre) is to be strengthened around 5 Pillars, which also include the aim to support and assist national as well as local policymakers and practitioners in their daily CP work (EUCPN, 2015b).

In conclusion, what we want to suggest in this article is that the EUCPN may offer an appropriate institutional framework to enhance the contacts between the EU and the relevant local authorities, as well as the cooperation between local CP actors, ultimately benefitting the local CP action against incivilities, also in terms of its compatibility with the (lawful) exercise of individuals' rights. This is especially the case if the network's functions are to be reinforced through a better resourced Secretariat (European Commission, 2012a; EUCPN, 2015a) or through the accomplishment of the project to turn the EUCPN Secretariat into a point of reference in CP (EUCPN, 2015b). By developing observatory-types of functions (EUCPN, 2015a) or by becoming a European Centre of Expertise in CP, for example, the network's Secretariat would be allowed not only evolve towards a sort of information exchange platform, which, by facilitating the regular exchange of CP best practices and virtuous examples between local authorities, may ultimately influence (at least, at the soft-law level) the creation and implementation of local safety programmes. It would also be empowered to provide local actors (when requested to) with assistance and guidance in the development, implementation and evaluation of local CP programmes targeting urban crime and disorder. It is in the accomplishment of this latter task, moreover, that the Secretariat may apply the criteria upheld by the ECJ and by other national courts on the necessity and proportionality of CP measures and avoid promoting situations where individuals' fundamental rights are unnecessarily jeopardised at the local level. In these terms, therefore, the achievement of the goal to strengthen and professionalise the network may enable the EUCPN to provide an added value to the local CP action towards incivilities.

Conclusion

By analysing the relevant EU criminal policy documents available through the database EUR-lex, this paper aimed to detect whether nuisance has been included in the EU CP strategy and whether the EU institutions have paid attention to the (often problematic or excessive) impact that local CP measures have on people's exercise of fundamental rights.

The results of the study show that incivilities (anti-social conduct or behaviour that engenders insecurity feelings) have been included in the EU CP strategy and that such a strategy has mostly focused on facilitating the cooperation between the MS and between them and the Union. Although the EU institutions have recognised the value of local authorities' CP efforts and have substantially supported them through the appropriation of EU-funding, they seem to have paid scarce attention to the way such authorities have exercised their CP powers, in particular with respect to their impact on individuals' freedoms. As we pointed out in the discussion of this article, a reduced attention to the local exercise of public safety powers and, especially, to their repercussions on people's fundamental rights, can be explained in light of the limited EU competence in the field of CP.

Notwithstanding such a limited competence, in the discussion we made reference to two projects, which have been put forward with the aim to reinforce the EUCPN's functions through, for example, a better resourced Secretariat (European Commission, 2012a; EUCPN, 2015a) or through the establishment of the EUCPN Secretariat as a point of reference in CP (EUCPN, 2015b). We argued that these two projects, if accomplished, may enable the network to enhance the contacts between the EU and the relevant local authorities, as well as the level of cooperation between local CP actors, ultimately benefitting the local CP action towards incivilities and, eventually, also its relationship with individuals' fundamental rights.

Notes

¹ See article 2 TEU, fourth indent, as amended by the Treaty of Amsterdam.

² They were 1198 for the search "insecurity", 718 for "nuisance" and 1995 for "disorder".

³ The relevant documents retrieved through both searches (N. 4) have been considered only once, and have usually been accounted for in the search "anti-social". The limited number of relevant items obtained through the second search (N. 48), which returned 375 hits, is linked to the fact that a large number of documents focused on specific types of crimes (e.g., organised crime, terrorism, corruption and financial crimes, cybercrime, drugs-related crimes etc.), rather than on crime in general.

⁴ A reference to the importance of citizens' perception of safety as a part of their quality of life is also found in other opinions of the CoR (2000, 2001).

⁵ A link between petty and more serious forms of crime does also emerge in an earlier policy document of the EESC (1999).

⁶ In this Communication, moreover, the Commission's rhetoric seem to resemble the "Broken Windows" argument (Wilson and Kelling, 1982) as explained more in depth by Sampson and Raudenbush (1999), who linked visible signs of disorder and fear of crime to a reduced presence of informal social control mechanisms, which are conducive to (increased) levels of criminal activity.

⁷ Any of the sampled documents addresses at least one of the three described themes.

⁸ As noted earlier in the text, in this regulation the concept of crime is understood to include also citizens' feeling of insecurity.

⁹ For example, in a number of its opinions and resolutions, the CoR (2003, 2005, 2010, 2011) has built on the importance of the CP work carried out at the local level to argue for a higher participation of the Committee in the development of the European crime prevention strategy. The CoR is, indeed, the representative body for both regional and local authorities, as it includes representatives from both levels.

¹⁰ For examples of documents addressing both, see European Parliament (2000), CoR (2007), European Commission (2007) and EESC (2009).

¹¹ Such as the Hippocrates and the AGIS programmes (European Commission, 2001, 2003).

¹² See, for example, European Parliament (2006, 2008, 2009a, 2009b, 2010, 2012, 2013a, 2013b), and European Commission (2012b).

¹³ See, for instance, CoR (2006, 2010), European Commission (2010) and the European Parliament and the Council of the European Union (2013).

¹⁴ Judgment of 16.12.2010, case C-137/09. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62009CJ0137&qid=1443096666617&from=EN> (accessed 1 September 2015).

¹⁵ More accurately, in question number 2 the Dutch Raad van State asked the ECJ to establish whether the prohibition of the Dutch municipality of Maastricht to admit in coffee-shops non-residents is a suitable and proportionate means of countering drug tourism and the associated public nuisance.

¹⁶ Opinion of Advocate General Bot delivered on 15 June 2010. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1443096666617&uri=CELEX:62009CC0137> (accessed 1 September 2015).

¹⁷ On the criteria of necessity and proportionality applied to CP decision leading to restrictions of individual rights, see also European Council (2003) and European Commission (2012b).

¹⁸ Incivilities and anti-social behaviour have also been identified as a priority of intervention in the field of urban safety in the context of the project URBIS (2012), in which the EUCPN has participated through the collection of MS responses on issues of urban safety. Such a priority was identified by three panels made of respectively academics, national policy-makers and local practitioners.

¹⁹ A reference to such an idea has been found in a number of documents cited in this article and, for example, in CoR (2000), EESC (2001), and in the Stockholm Programme (European Council, 2010).

²⁰ Scholars who have inspected the legitimacy of incivility regulation have concluded that incivilities, in order to be legitimately regulated by the state, ought to be harmful or (in some cases, or following a set of mediating principles) wrongfully offensive (Simester and von Hirsh, 2006). For considerations on the application of the offence principle to the regulation of incivilities, see Peršak (2014).

²¹ Societal perceptions or representations of uncivil behaviour, and local enforcement responses to it, very much depend on the social context where they are formed (Whitehead et al., 2003; Burney, 2006; Millie, 2008a, 2008b; Peršak, 2014). They also vary according to the city areas where disorder occurs. For comparative empirical evidence on this point, see Di Ronco (2014) and Di Ronco (forthcoming).

²² In the UK, local authorities' dispersal powers are envisaged by part 3 of the 2014 Anti-social Behaviour, Crime and Policing Act (which has amended the 2003 Anti-social Behaviour Act). In Belgium, they have been introduced by art. 47 of the Law of 24 June 2013.

²³ The relevant literature, especially UK-based, has suggested that the adoption of punitive interventions (and especially of ASBOs) has mainly addressed marginalised groups. By drawing on official statistics, Burney (2009) has argued that in England (at least, until 2006) ASBOs have been issued against young people, mentally-ill, social tenants, prostitutes and beggars. See also Squires (2006, 2008).

²⁴ The breach of the constitutional principles of legality and of proportionality has also been acknowledged by the Spanish Supreme Court in a 2013 judgment addressing an administrative measure prohibiting the use of the Islamic burqa. See Di Ronco and Peršak (2014).

²⁵ The network has recently done so also through the engagement "with local practitioners in the course of developing toolkits or exchanges of good practices" (EUCPN, 2015a: 13), which so far has led to the adoption of (among others) the toolbox on the administrative approach to combat organised crime and to the organisation of a workshop in relation to the issuance of a manual about trafficking in human beings (EUCPN, 2015a: 13).

²⁶ This study has relied on the analysis of the publicly available documents retrieved from the EUR-lex database (and, only with respect to the part of the discussion that refers to the EUCPN, on a number of documents published by the network and available on its website). What we did not do in this (largely exploratory) study, and should perhaps be undertaken in future research conducted in the area, is the

carrying out of interviews with relevant EU policy actors (including with the officials of the EUCPN Secretariat), to inspect their views on the EU CP strategy towards incivilities, as well as on the local exercise of CP powers and on its compatibility with individuals' rights.

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