This is a timely report, not least because its emerging findings expose something of the irony of contemporary drug law enforcement. The fate of the recent ‘experiment’ in South London, in which the Metropolitan Police adopted a much more low-key response to personal drug possession is a case in point, revealing something of the predicament facing policy makers. This initiative was blown entirely off-course following allegations regarding the private life of the chief police officer involved. This case aside, the ‘harm reduction’ case for diverting substance misuse interventions away from the criminal justice system has recently been gaining ground well beyond the health promotion field. Even so, it may well be that the simple burden of dealing with so much drug-involved and drug-related offending will prove far more decisive in effecting changes in European criminal justice policy and practice.

The present study further develops EMCDDA’s initiative to establish an information system on drug laws and law enforcement in Europe. Having already created a database on European legal systems, the current report consists of a comparative survey of European drug laws, focusing in particular upon the gaps between law, policy and practice, whilst highlighting the real outcomes for individuals arrested for using, selling, distributing or trafficking drugs, or for committing property crimes in support of drug habits.

Already, the comparative methodological issues to be overcome will appear considerable and, to complicate matters further, the Report draws upon information from 14 European countries. Although roughly three-quarters of this book is devoted to a template of issues provided to sets of national researchers by EMCDDA, the real value of this research is to be found in the overall synthesis of law, policy and practice found in the first section of the book. The country-by-country reports are undoubtedly a vital resource for verifying and grounding the book’s overall conclusions, but they are also of rather variable quality and emphasis, containing their own biases. For example, while some of the country-specific reports have clearly been written by proponents of ‘diversion’ who were willing to be quite open about this, other contributors were a little more cautious and, as the editors of this volume acknowledge, some ‘national officials and independent observers involved in the present study sometimes could not bring themselves to acknowledge’ (p. 77) the widespread observable variance between the law, official policy and day-to-day practice.

To produce the information contained in the country-by-country reports, questionnaires were sent to key informants in each of the participating countries. These persons, either experts in law or criminal justice policy in relation to drugs, were asked to consult with a range of key personnel (police officers, prosecutors, judges) regarding the pattern of enforcement activity in relation to a number of drug-related offence scenarios. The questionnaires were to be completed, following this consultation, in broad percentage terms—using aggregated estimates of the frequency with which certain types of case disposals were achieved. The scenarios used to examine these patterns of enforcement activity included, inter alia: (1) ‘hard’ and ‘soft’ drugs, possession only, consumption in private, (2) ‘hard’ and ‘soft’ drugs held in quantities indicating ‘intent to supply’ in public or private, (3) drug trafficking, (4) property offences undertaken to support addiction, and so on. While there clearly were important differences between the practices adopted in different countries (including significant variation between the letter of the law and actual practice), the offence scenarios themselves seemed to afford a reliable basis for distinguishing degrees of perceived culpability (operationalized across diverse legal systems) and

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thereby helping to explain differing patterns of enforcement.

The broad percentage results emerging from this survey were then contrasted with the ‘official position’ articulated by the relevant jurisdiction in either law or policy form. Here, as has been noted already, it was possible to detect some significant ambiguity in the ways that some countries approached their drug-law enforcement—and then further ambiguity regarding how this was explained by various national experts.

To assist in the process of explaining these variations between existing law and actual practice, informants were asked to consult with key drug enforcement officials and/or policy makers with a view to assessing how much common ground existed concerning the future direction of drug control strategies. Informants were given a series of propositions drafted by the study coordinators and asked to assess how much agreement these were able to command amongst their respective interviewees. Although, for example, there was overwhelming agreement to the proposition that ‘actions taken by the legal system should be proportional to the harms which they seek to prevent’ (p. 67), there was noticeably more disagreement with propositions which tended towards implying the de facto decriminalization of possession for personal use. Even as the actual evidence on enforcement practice supplied by a number of countries revealed them to be largely ignoring (‘de-prioritizing’) or responding to ‘personal use’ increasingly by administrative (rather than penal) sanctions, nevertheless there appeared a marked reluctance to state this formally and unambiguously.

As we have noted already, despite the tight methodological structure intended by the project coordinators for the country-by-country reports, the latter remain something of a mixed bag and the real value of this study is to be found in the first section of the book containing a synthesis of the country reports. The project refers initially to the important distinction between European criminal justice systems adhering to a ‘legality’ principle (in which there is little formal scope for localized discretion) and those operating in accordance with the ‘expediency’ principle (very much based upon operational discretion). Although all countries were reported as agreeing with the ‘proportionality principle’, outlined earlier, both types of jurisdiction have been struggling to cope with the pressure under which drugs enforcement has been placing them. Equally, whilst both types of system have been evolving ‘alternatives’ to full criminal justice processing [such as various forms of diversion, administrative sanctioning or (voluntary) treatment orders], a combination of legal and political considerations still appears to be impeding the further development of effective harm reduction strategies.

A consequence of this, although the coordinators of the study appear to fall short of actually saying so, is that European criminal justice systems appear to be facing convergence pressures driven more by managerial pragmatism, coping with the pressure of drugs-related enforcement activity on limited resources, rather than any more principled (research-aware, harm-reduction-oriented) policy development. There exists a striking parallel to this situation, described in Scull’s path-breaking analysis of ‘decarceration’ (Scull, 1977). The issues are very similar. Whereas advocates of ‘community treatment’ for juvenile delinquents or mentally disordered persons had long insisted upon the unsuitability of institutional treatment for ‘deviant’ groups, it was, according to Scull, the fiscal pressures of maintaining these large institutions that led, eventually, to their closure, rather than any emerging reformist communitarian ideology. Perhaps the lesson is a disappointing one for anyone advocating a more enlightened, research-informed, harm-reduction approach to substance misuse issues in Europe. On the other hand, with the criminal justice systems of Europe facing acute fiscal crisis and struggling to cope with the growing burden of drug law enforcement, there may never be a better time to press for a change of approach.

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