



HAL
open science

The fourth power. A mapping of police oversight agencies in Europe and Quebec

Simon Varaine, Sebastian Roché

► **To cite this version:**

Simon Varaine, Sebastian Roché. The fourth power. A mapping of police oversight agencies in Europe and Quebec. *Policing and Society*, 2023, 33 (9-10), pp.1007-1030. 10.1080/10439463.2023.2223741 . hal-04371382

HAL Id: hal-04371382

<https://hal.science/hal-04371382v1>

Submitted on 5 Feb 2024

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

The fourth power. A mapping of police oversight agencies in Europe and Quebec

Simon Varaine

(Corresponding author)

Grenoble-Alpes University, Sciences Po Grenoble, Pacte simon.varaine@sciencespo-grenoble.fr

Sebastian Roché

Grenoble-Alpes University, CNRS, Sciences Po Grenoble, Pacte sebastian.roche@sciencespo-grenoble.fr

Abstract

Independent police oversight bodies are advocated by human rights organizations to be the most credible and effective solutions to address the misbehavior and systemic malfunction. They have emerged in parallel with independent regulatory agencies in various economic sectors, thus signaling a new trend in governance interpreted as the rise of a “fourth power.” Still, comparative knowledge is scarce about the nature of delegation of power to police oversight agencies (POAs) and their actions. By analyzing 25 POAs in 20 countries, this article seeks to precisely describe their features in Europe and Quebec: the timeline of their birth, the scope of delegation (remit, formal independence, powers, resources), and the variations in how they execute their mandate. We unveil a profound heterogeneity across countries. In terms of national patterns, the main divide is between specialized (police only, limited formal independence, more abundant resources) and non-specialized (all public administrations, strong formal independence, limited resources) agencies. The latter tend to act as a public fire alarm to compensate for their lack of resources. Our mapping also contrasts European countries’ oversight mechanisms, which rely on professional agencies that are mostly established at the national or regional level, with local civilian oversight boards in the US. And, while our results confirm that the 1990s marked a watershed, they question the notion that agencification in the police sector has been a vector for revolution in its governance, since no POA incorporates all the traits required for them to be the fourth power just yet.

Key words

Agencification, accountability, police, complaints, independent agencies, delegation

Acknowledgements

This research is part of the POLDEM project, with Sebastian Roché as PI, which received financial support from the French Defender of Rights and practical support from the Independent Police Complaints Authorities Network (IPCAN) members, as well as additional agencies. We would like to express our thanks to all the participating organizations. Data can be made available on reasonable request. We also want to thank Jacques de Maillard for his useful comments.

The fourth power. A mapping of police oversight agencies in Europe and Quebec.

In both Western and non-Western countries, there has been a massive and enduring public outcry for a better response to the issue of police violence, especially as it has become more visible due to a combination of technology and civil society mobilization. This “new police visibility” (Goldsmith, 2010), fueled by videos shared on social media, has shed fresh light on harmful police practices. Police violence has drawn immense media and public attention in recent years as it has sparked massive unrest and protests in Western cities. In response to these grave concerns regarding police ethics, the creation of police oversight agencies (POAs) is politically critical as they embody a credible commitment of governments to redress the wrongs allegedly committed by police agents. They are entrusted with such a role by the governments and via the norms of international human rights organizations. The rise of POAs is part of a larger agencification process. While independent regulatory agencies (IRAs) aim to regulate capitalism (Gilardi, 2005a), POAs’ goal is to regulate state bureaucracies and the exercise of citizens’ rights vis-à-vis them. A peculiarity, therefore, is that POAs are tasked with regulating a kind of administration that they themselves are in charge of and that regulates citizens’ behavior: the police. Provided that IRAs have been depicted as the fourth branch of the government (Bulmer, 2019), may the delegation of government power to independent POAs signal the rise of the fourth power in the sector of policing? To what extent is police accountability now under their authority? International norms have placed their independence and capacity to promote fairness and effectiveness in processing complaints at the core of police regulation. How is independence guaranteed, and what exactly does oversight consist of? At present, there is no comparative survey of POAs in Europe that covers their mandate, governance, independence, and resources. Here, we intend to present the first large-scale pan-European

investigation of the panoply of so-called independent bodies that have an oversight function concerning the police. This comparative survey on the new accountability of police examines the modalities of delegating oversight powers to two dozen POAs, as well as their tactics of influence.¹ It will improve knowledge about their organizational structure and the tasks they fulfill and will examine the notion that agencification in the police sector has been a vector for revolution in its governance.

2. A need for comparative studies of police oversight agencies

Two famous recent examples illustrating the insufficient regulation of the use of police force are the deaths of George Floyd in Minneapolis and of Cédric Chauviat in Paris, both of whom were choked to death in 2020. Other incidents like these may exacerbate contentious relations between the police and certain sections of society and erode positive attitudes toward and trust in the police (Thompson & Lee, 2004). In the US, minority groups and low-income neighborhoods tend to have a relatively bad relationship with the police (Huang & Vaughn, 1996; Walker, 1997), and the same is true in most EU states (FRA, 2021). In the early 1990s, the “trend to external review,” which refers to the outsourcing of reviews of police complaints, was identified (Goldsmith, 1991). Previously, police managers had been in full control of handling complaints, and the norm was to have internal police investigations. The search for a robust mechanism to ensure the proper regulation of officers’ behavior and increase the legitimacy of the police is currently underway in many Western democracies. Over the past 50 years, governments have more often than not decided, for the sake of impartiality, to place the public (and sometimes private) police partly under the authority of a police oversight agency (POA). The idea of having external oversight was considered “highly controversial, dismissed as radical and dangerous” (Walker, 2001: 6) in the late 1950s and throughout the 1960s before it was revived at the end of the decade in some US cities, as well as Australia, Canada, the UK, and continental Europe (del Prado and Lemay-Langlois, 2020; Ferdik et al., 2013; Johansen, 2013; Aden, 2016; Fairley, 2020; de Maillard 2022).

1

Today, POAs are no longer a rarity. This mechanism is an addition to pre-existing police sector accountability mechanisms, primarily judicial oversight and internal control.

As early as 1972, Berleman had hoped that “placing between police and the disaffected community an intervening governmental agency”, such as a civilian review board or an ombudsman, would help (1972: 160). Expectations of POAs have increased since then and even started to be codified by international organizations in charge of protecting human rights: The United Nations, the Council of Europe (Byrne and Priestley, 2015; Smith, 2015), and major NGOs have listed the multiple international conventions that “guarantee the right to the effective investigation of alleged serious crimes committed by police and other state agents” (Open Society Justice Initiative, 2021, 12-13). Independent bodies are seen as the instrument par excellence for an impartial investigation. The Venice Principles developed by the European Court of Human Rights established several criteria to ensure independence, including the appointment and fixed term of a director (Open Society Justice Initiative, 2021, 20). The Council of Europe’s 2001 recommendations (i.e., the “European Code of Police Ethics”) indicate that independent oversight is a desirable standard, and the High Commissioner for Human Rights did the same in 2009 (see de Maillard and Roché, 2021; Reif, 2011).

Despite the dissemination of a norm of impartiality and POA standards in numerous countries, the subject of their implementation remains understudied from a comparative perspective. In their review, Feys et al. (2018) underscore the dearth of knowledge in the field of police accountability: They found a very low number of empirical studies and little methodological information about the production of the data. Kristine Eck (2018: 33) writes that “[t]he current state of knowledge regarding the design and performance of police misconduct institutions is virtually nil. (...) At present, best practice regarding institutional design is based on normative considerations and anecdotal evidence, underscoring the need for systematic and comparative analysis.” A few years later, this remains largely true despite the development of comparisons between civilian review boards (CRBs) in US cities (de Angelis et al., 2016; Fairley, 2020). In Europe, single-country studies have surfaced (e.g., Holmberg, 2019); however, the only cross-country studies to date are the ones

by den Boer and Fernout (2008) and Johansen (2013), as well as an overview of selected US and European bodies (Aden, 2016; de Maillard, 2022), all based on secondary analysis of published information (e.g., found in national annual reports). These agencies were established in parallel with a movement known as “agencification,” a critical reform of governance whereby governments entrust the regulation of a sector to an independent authority. Examples include the audiovisual sector, central banks, and public transportation (Bulmer, 2019; Curtin et al., 2010). By mobilizing Gilardi’s typology of independent regulatory agencies (IRAs),² POAs would be an additional category, “self regulation agencies”, but still regulation agencies, even though policing scholars and – more broadly in the world of law enforcement – external oversight mechanisms are “conceptualized in accountability rather than regulatory language” (Smith, 2009: 422). Unlike other domains regulated by agencies (Gilardi, 2005b), we did not identify any comparative work on European POAs supported by portable concepts and a standardized research design. Finally, the theoretical literature on agencification, which has debated the risks and potential drawbacks of delegating policy review or even aspects of policymaking authority to bureaucrats with expertise and can make government worse off (Lupia, McCubbins, 1994), has not incorporated POAs. It is arguably because POAs are a special type of regulatory agency where the government is both the principal and the agent (di Mascio, Maggetti, and Natalini, 2020) and because of the lack of empirical research. This situation has resulted in a lack of both empirical and theoretical research on European POAs.

Here, we only intend to do a comparative analysis of selected aspects of POAs. The study of police oversight agencies is less obvious than it may appear. The UN’s and the Council of Europe’s legal norms and standards were designed to be universal, but they may obscure substantial heterogeneity. And, the reality of legal provisions being in alignment with international norms and standards has not been verified by empirical observations. For example, are Nordic Ombudsmen or the Independent Office for Police Conduct (IOPC) in England and Wales really more independent than their counterparts in Southern Europe? Originally, the main focus was on complaint processing, but today their tasks are far more diverse (de Angelis et al.,

² Gilardi (2005b) delineates three types or sectors: utilities (e.g., telecom), other economic regulation (e.g., financial markets), and “social regulation” (e.g., food safety and environment).

2016; Johansen, 2013), which may lead to a reconsideration of the scope of POAs' activities. In addition, we lack proper classification of European POAs due to the lack of standardized data. For example, it is not known what proportion of POAs are local or national or have investigative or sanctioning powers. A systematic classification of European POAs in the field of policing has yet to be carried out.

We build on several research streams regarding the definition of types of oversight mechanisms. We intend to explore two main questions: "What is the degree of political control over agencies (where government is the principal and POA the agent)?" and "What are the capacity and tactics of influence of POAs (as principal) to oversee the police (as the agent)?" Regarding the research stream, first, policing scholars have attempted to categorize civilian oversight bodies as per their oversight tasks and proposed a tripartite delineation comprising review, investigation, and audit (Walker, 2001; Green, 2007; de Angelis et al. 2016), and some have considered the scope of their authority (Ali and Nicholson-Crotty, 2020). Second, comparative studies on justice systems, on the one hand (Feld and Voigt, 2003; Melton and Ginsburg, 2014; Herron and Randazzo, 2003; Voigt et al., 2015), and independent regulatory agencies (IRAs), on the other hand (Gilardi, 2002; Elgie and McMenamin, 2005; Edwards and Waverman, 2006), have insisted on the importance of independence for the effectiveness and credibility of authorities, and scholars have produced empirical measures for the dimensions of formal independence and powers. By adapting these works to police oversight, we measure the multiple dimensions of independence vis-à-vis the executive branch in charge of directing the police, as well as the remit, formal powers, and resources of POAs. In addition, inspired by scholars who use the notion of a "fire alarm" (McCubbins and Schwartz, 1984) to study political oversight (principal) *of* independent agencies (agent), we have transposed the notion. Here, a "fire alarm" tactic is used *by* the POA (principal) to oversee the police (agent) when sending out informational cues via media communication to raise awareness about police misbehavior. We have combined these approaches for a more comprehensive description of POAs.

The paper is structured as follows. In section 2, we describe our research strategy based on in-depth survey forms filled out by POAs. After taking a quick look in section 3 at the timeline of when agencies were established, section 4 is devoted to

a description of the agencies' key structural traits, adapting the methodology of previous comparative studies on IRAs and judicial systems, aiming to offer a general typology of the POAs in Europe. Then, section 5 focuses on the two main aspects of the POAs' activity: their handling of complaints and their interaction with the environment. We assess whether the different structures we have identified correspond to patterns of concrete activities carried out by the agencies. Finally, in section 6, we discuss our main findings in relation to the literature and present the limitations of our survey.

2. Comparative research strategy, methods, measurements

We define POAs as “non-police,” i.e., they are external to the police organogram and not subject to hierarchical control by the head of police. They deal with police oversight in two minimal ways: They treat individual complaints regarding officer misconduct, and they are involved in drafting public recommendations about policing policies.³ To gather data on POAs in Europe, we mobilized contacts from the Independent Police Complaints Authority Network (IPCAN), which covers 22 POAs in Europe plus Quebec, Canada. We obtained responses from all agencies in the network except two (i.e., the Independent Police Complaints Board in Hungary and the Ombudsman's Office of the Republic of Latvia). We identified six additional European agencies that were not members of the network but met our definition of a POA: in Poland (1), Portugal (1), the Spanish region of Catalonia (1), and all concerned German Länder (3). We received responses from all these institutions, except the Portuguese Ombudsman. None of the POAs under study are subject to hierarchical control by the head of police. However, three of them do fall within the organogram of the ministry in charge of directing the police, although they are granted a special status (in Switzerland, Quebec, and Denmark). In total, our sample

³ Independent bodies that are limited to inspecting police detention facilities (e.g., in Austria) are not considered in this study as their remit is too narrow. It is limited to monitoring the “deprivation of freedom” premises (police detention facilities).

covers 25 POAs in 20 countries; all but one – Quebec – are located in Europe (see the list in Table 1).

To measure the characteristics of the agencies in a systematic and comparable way, we asked contacts within each organization to complete an in-depth online survey on key aspects of their own organization. Representatives provided standardized information about their organization in the form of roughly 250 specific questions of a legal and practical nature. Around half of the respondents were heads of their POA (president, ombudsman, or executive director), and in the remaining cases, the respondents were heads of internal divisions or legal experts and advisors. In general, respondents validated their responses by cross-checking with other members of their organization.

Table 1: POAs covered by our study, country, and jurisdiction

Country or region	Original name	English name
Belgium	Comité permanent de contrôle des services de police – Vast Comité van toezicht op de politiediensten - (Comité P)	Standing Police Monitoring Committee (Committee P)
Quebec (Canada)	Commissaire à la déontologie policière	Police Ethics Commissioner
Croatia	Pučki pravobranitelj	Ombudsman
Denmark	Den Uafhængige Politiklagemyndighed	Independent Police Complaints Authority (IPCA)
Estonia	Õiguskantsler	Chancellor of Justice
Finland	Eduskunnan oikeusasiamies	Parliamentary Ombudsman
France	Défenseur des droits	Defender of Rights
Baden-Württemberg (Germany)	Bürgerbeauftragte	Regional Parliamentary Ombudsman
Rheinland-Pfalz (Germany)	Bürgerbeauftragte	Regional Parliamentary Ombudsman
Schleswig-Holstein (Germany)	Bürgerbeauftragte	Regional Parliamentary Ombudsman
Greece	Συνήγορος του Πολίτη	Ombudsman

Ireland	Garda Síochána Ombudsman Commission	Garda Síochána Ombudsman Commission
Malta	Ombudsman	Ombudsman
Netherlands	Nationale ombudsman	National Ombudsman
Norway	Spesialenheten for politisaker	Norwegian Bureau for the Investigation of Police Affairs
Poland	Rzecznik Praw Obywatelskich	Commissioner for Human Rights
Serbia	Zaštitnik građana Republike Srbije	Ombudsman
Slovakia	Kancelária verejného ochrancu práv	Public Defender of Rights
Spain	Defensor del Pueblo	Defender of the People
Catalonia (Spain)	Síndic de Greuges de Catalunya	Parliamentary Ombudsman
Sweden	Riksdagens ombudsmän	Parliamentary Ombudsman
Geneva (Switzerland)	Organe de médiation de la police	Police Mediation Office
England and Wales (United Kingdom)	Independent Office for Police Conduct (IOPC)	Independent Office for Police Conduct (IOPC)
Northern Ireland (United Kingdom)	Police Ombudsman for Northern Ireland (OPONI)	Police Ombudsman for Northern Ireland (OPONI)
Scotland (United Kingdom)	Police Investigations and Review Commissioner (PIRC)	Police Investigations and Review Commissioner (PIRC)

* Non-IPCAN members

We were aware there could still be ambiguities in the meaning of some words and that some questions would not apply to every POA. For this reason, we provided space for respondents to add additional qualitative comments on top of the closed-ended responses to help us understand their responses and to add details about their specific organization. Once the survey was completed, we reviewed each individual response to identify any inconsistencies between responses and/or missing responses. We then asked our contacts some clarifying questions to correct any problems. The collection phase of the survey ran from July 2021 to March 2022.

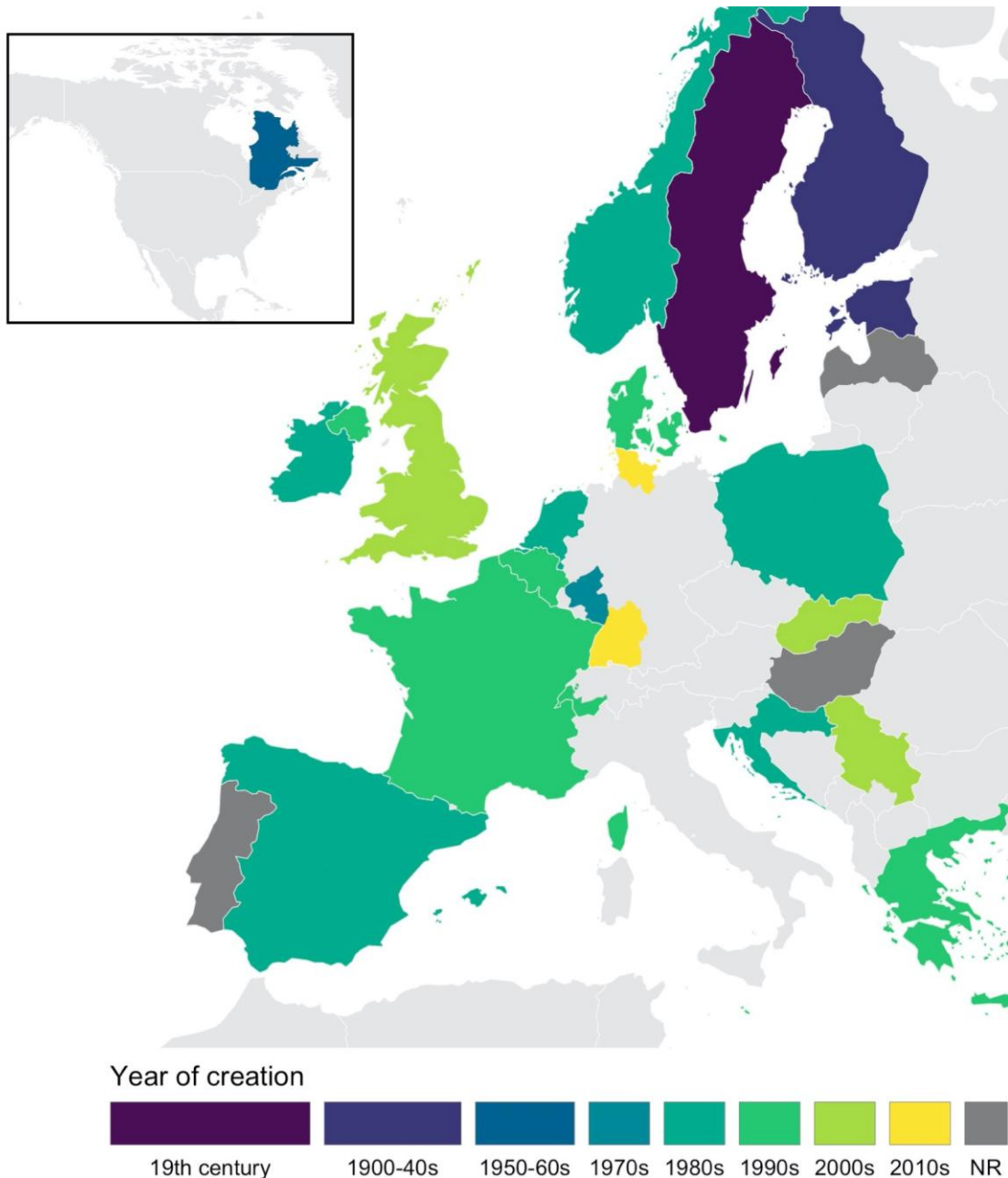
Our comparative approach is based on quantitative measures of key concepts. In particular, we captured qualitative concepts (e.g., remit, formal independence, and

formal powers) by summarizing responses to factual questions measuring different sub-dimensions, a standard approach in comparative studies of justice systems (Feld and Voigt, 2003; Melton and Ginsburg, 2014; Herron and Randazzo, 2003; Voigt et al., 2015) and IRAs (Gilardi, 2002; Elgie and McMenemy, 2005; Edwards and Waverman, 2006). Specifically, to construct our indicators, we re-coded all the questions of interest into variables ranging from 0 to 1. We then averaged separate sets of variables to create sub-indexes ranging from 0 to 1. In so doing, we gave equal weight to the different variables of a sub-index, a decision that is generally used in studies on IRAs due to the absence of pre-existing knowledge about the relative importance of elements (see, for instance, Gilardi, 2002: 880; Edwards and Waverman, 2006: 41). Finally, for the description of each dimension (e.g., competence and missions, formal independence, etc.), we averaged the sub-indexes to create a single general index ranging from 0 to 1. The questions used to construct each sub-index in the following sections are presented in Appendix A.

3. Timeline of creation of POAs

Figure 1 shows the geographical localization of POAs under study and the time when they were created. Having an oversight body had long been a Nordic feature: The first such body was created in Sweden in 1809, and the second came in 1920 in Finland. The third was the Estonian Chancellor of Justice, established in 1938. The latter was maintained by the Estonian government-in-exile during German and Soviet occupation before being restored in 1992.

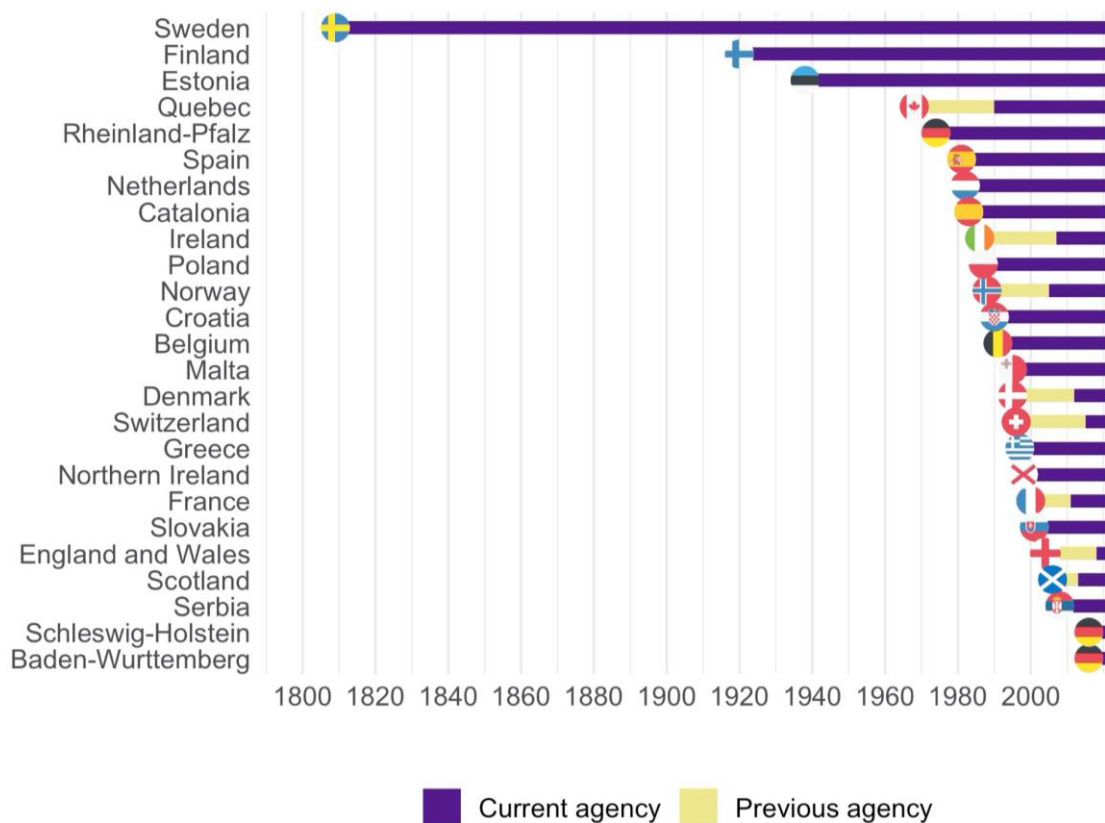
Figure 1: Map of the POAs, with their year of creation. (Light gray indicates countries without a POA. "NR" denotes non-participating countries with an identified POA).



As shown in Figure 2, the creation of POAs took the form of a temporal wave: Most of the studied POAs were created between the 1980s and 2000. Today, having one has become the rule in Europe, although not all countries have them (e.g., Italy does not); others, such as Germany, have them only in certain regions (the creation of such a body at the federal level was recently announced but is not in place yet). Before 1980, only five states in the sample had an independent authority. By 2001, when the Council of Europe issued its “Code of Police Ethics”, which includes such a standard for establishing an external oversight body, there were more than 15. The wave of emergence suggests a process of regional imitation or policy transfer

through channels not revealed by our study. Previous studies have shown that the European Union affected the creation of IRAs – e.g., through European Union directives requiring the structural separation of regulation and ownership of telecom (Gilardi, 2005). No such constraining directive exists for police oversight, but European soft law may have mattered in the case of POAs – in particular, for countries wishing to join the union. In the same vein, Risse et al. (1999) suggest the spread of human rights norms at the global level is best explained by the influence of neighboring countries rather than other types of factors.

Figure 2: Timeline of creation of the POAs



4. Structural traits of POAs: remit, formal independence, formal powers and resources

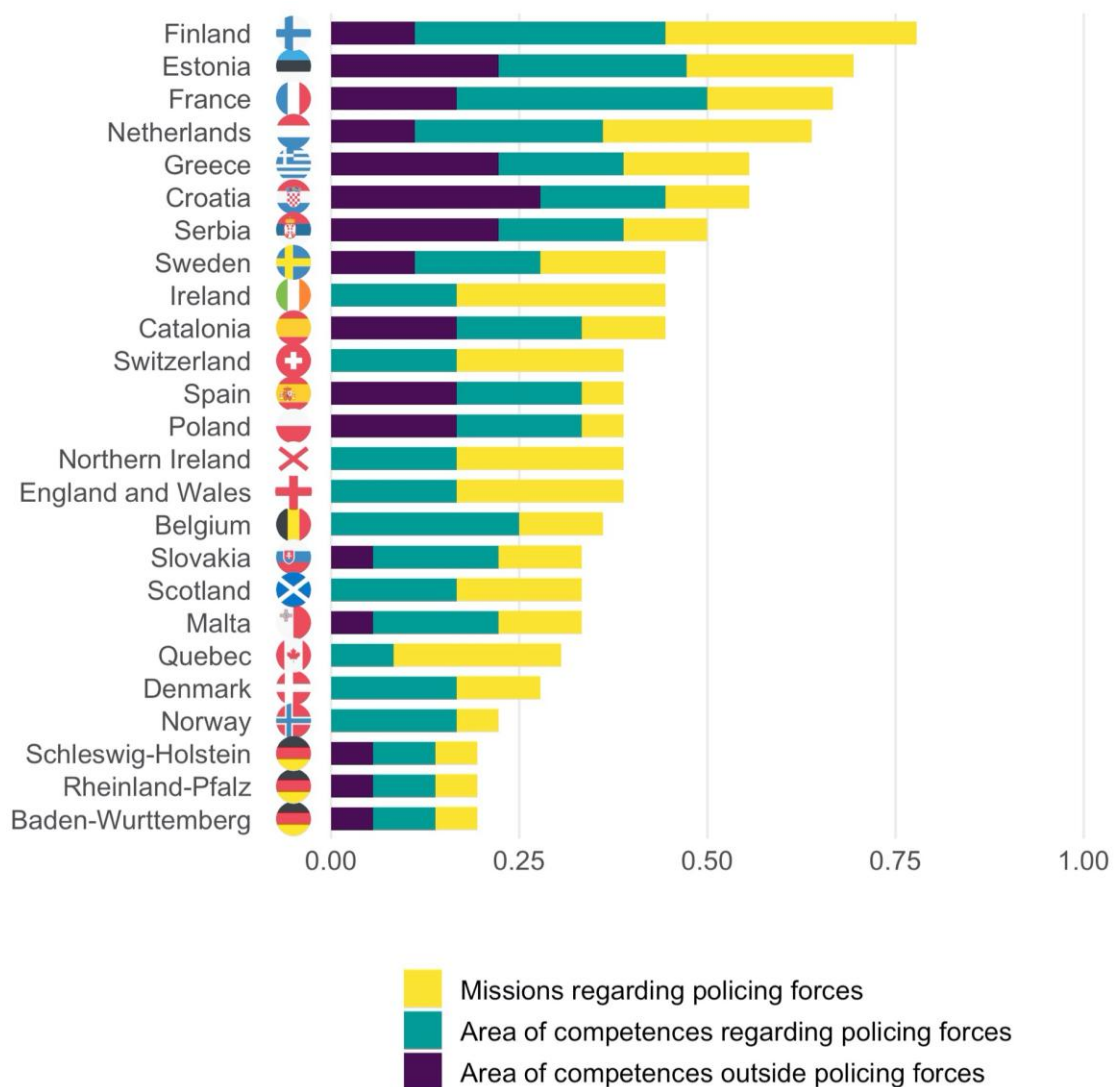
We present the key traits of POAs adapting empirical measures from comparative studies on IRAs and judicial systems to the case of POAs: their remit, formal independence, formal powers, and financial resources. For each dimension, we

present the construction of the indexes and the distinctive positions of POAs. We then analyze the combined relationships between these dimensions by using a principal component analysis, which allows us to produce a typology of POAs based on their structural characteristics.

4.1. Remit

The literature on IRAs generally starts with a classification of agencies by identifying the sector they regulate – e.g., competition, financial markets, telecommunication, energy, food safety, medicines, and the environment – and the regulating missions such as the fixation of prices in some sectors or health and safety in others (Gilardi, 2009). Thus, the first step for mapping POAs is to determine their remit (area of competence and missions). We constructed an index of the POAs' remit based on three sub-indexes, presented in Figure 3.

Figure 3: Remit by country based on its three sub-indexes



While IRAs are generally limited to a specific sector, one specificity of POAs is that they may cover several domains other than the police. Our first sub-index measures the area of competence outside police forces. The Croatian Ombudsman ranks highest here because, in addition to its role concerning the police force, it combines the additional functions of the National Human Rights Commission, National Equality Body, Office of the Ombudsman, National OPCAT Body/Custody Supervision, and Commission for the Protection of Children’s Rights. The POAs of Serbia, Greece, Estonia, and, to a lesser extent, Poland, Spain, Catalonia, and France also score highly because they have several other missions besides police oversight. By contrast, nine POAs (36% of our sample) score zero on this sub-index because they focus solely on police oversight. We will refer to these nine agencies as *specialized*

POAs. Specialized organizations are found in the UK (England and Wales, Scotland, and Northern Ireland), Ireland, Denmark, Norway, Quebec, Switzerland, and Belgium. Geographically, all countries of the Anglosphere in our sample fall into the category of specialized POAs. In terms of the timing of their creation, the specialized organizations emerged much more recently. While the ombudsman model appeared in 1809, the first specialized POA in the police force in our sample appeared after World War II, with most created after 1990. In addition to having emerged later, the specialized POAs are characterized by institutional change (i.e., all of them followed the reform of an earlier agency, except for Belgium's Committee P), whereas this is not the case for any non-specialized POA, except for France's Defender of Rights.

The agencies operate at a certain level of governance: While most IRAs are found at the national level (Gilardi, 2009), some operate at the supranational level – e.g., the European Aviation Safety Agency (Trondal and Jeppesen, 2008) – or the regional level – e.g., energy regulators in Belgium (Mathieu et al., 2020). Most of the POAs under study operate at the national level, but a significant proportion – namely 36% (9 out of 25) – are regional-level organizations (in the UK, Quebec, Switzerland, Germany, and Spain). Unsurprisingly, regional-level organizations are mostly found in federal (Canada, Switzerland, Germany) or regionalized states (United Kingdom), where the main police forces are sub-national. Our second sub-index measures areas of competence within police forces (i.e., the extent to which agencies cover all private and public police forces operating on their territory). Both the French Defender of Rights and the Finnish Parliamentary Ombudsman get the maximum score because they cover all public and private forces in their countries. Regional POAs in the UK and Switzerland obtain an intermediate score as they cover all public forces on their territory since police forces are regional in those countries but do not cover any private forces. By contrast, the agencies in Quebec and Germany have a low score as they only have jurisdiction over public regional forces on their territory and do not cover federal-level police forces operating in their area. Spain is a special case, as it combines a national POA (the Defender of the People), which is responsible for all public police forces in Spain, and a regional POA in Catalonia (the Catalan Ombudsman). He describes his role in our survey as such: the ombudsman “supervises all police forces dependent on the Catalan Government (PG-ME) as well as all local police forces (around 200 municipalities in Catalonia have local police,

namely the city of Barcelona, with a force of around 1.800 officers).” Thus, the regional and local police forces of Catalonia enter the scope of both those agencies, with potential competence conflicts (Mathieu et al., 2020). Interestingly, most POAs under study do not cover private police forces, except for France, Finland, and, to a lesser extent, Belgium, the Netherlands, Catalonia, and Estonia. Given the importance of private policing in European countries, particularly in Nordic countries (van Steden and Sarre, 2007), this is an important point. It leaves a large part of police activity without a supervisory agency. Another interesting point is that none of the specialized POAs cover private police forces, except for Belgium’s Committee P, which covers police forces more broadly defined than the other specialized agencies (e.g., rural wardens, agents working for public transport companies, etc.).

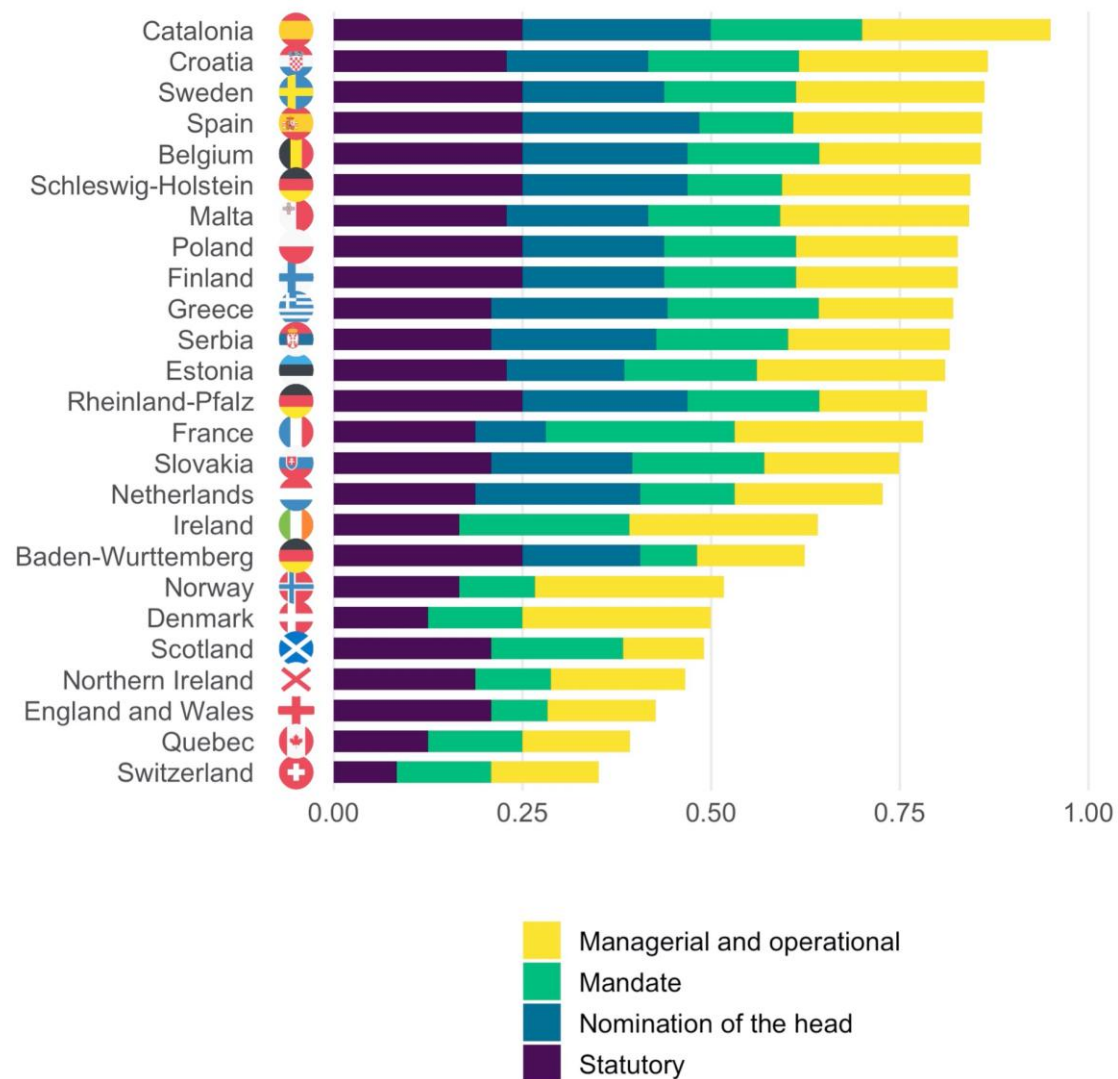
The third sub-index measures the diversity of POA missions concerning the police force. Finland’s Parliamentary Ombudsman gets the highest score because its missions include monitoring violations of the penal code, ethics/deontology, and human rights violations, fighting corruption, and doing mediation between citizens and police forces; in addition, the organization is among the few agencies that set the standards for handling complaints for police forces’ handling of the complaints (with the Netherlands, Estonia, England and Wales, Scotland, and Switzerland). By contrast, at the lowest level of this sub-index, all three regional ombudsmen in Germany indicate that their only mission is to do mediation between citizens and police forces. Only a few organizations include anti-corruption in their missions concerning the police forces (in Ireland, Finland, Northern Ireland, England and Wales, and the Netherlands). In addition, roughly half (48%) of the agencies indicate they do mediation (in Quebec, Switzerland, Slovakia, the Netherlands, Greece, Finland, Serbia, Ireland, Estonia, and the three German Länder), understood here as dispute resolution, while the rest of them have no such mandate.

4.2. Formal independence

As for IRAs or judicial institutions, the POAs’ legitimacy lies in the principle of having formal independence from the government. Indeed, most of the POAs under study define themselves as independent: Most of the agencies that were surveyed are

members of IPCAN (the “I” stands for “independent”). In the literature, attention has been devoted to conceptualizing and measuring the underlying dimensions of the IRAs’ (Gilardi, 2002; Verhoest et al., 2004; Elgie and McMennamin, 2006) or the judiciary’s (Feld and Voigt, 2003; Voigt et al., 2015) formal independence. Based on these studies, we measured POAs’ formal independence by adding four sub-indexes presented in Figure 4.

Figure 4: Formal independence by country based on its four sub-indexes



As noted by Verhoest et al., the first aspect relates to whether an agency is “shielded from influence by the government through lines of hierarchy and accountability” (2004: 105; see also Christensen, 2008). Our first sub-index measures statutory independence from the police force and its affiliation department. Nine agencies (in

Sweden, Spain, Catalonia, Poland, Finland, Belgium, and the three German Länder) get the maximum score because they meet all of the following criteria: They do not fall under the hierarchical authority of and are not accountable to the general management (chief) of any police force, nor are they under the hierarchical authority of or accountable to any affiliated ministry (e.g., Ministry of the Interior, Ministry of Justice, Ministry of Defense) in charge of the police force in the country. Furthermore, they do not have to present the results of their activity to the government every year, and their budget is decided by Parliament alone, without the intervention of the executive branch. Apart from those countries, a majority of agencies scored high on this index. By contrast, three POAs (in Switzerland, Quebec, and Denmark) are characterized by a low level of statutory independence since they indicated they are under the hierarchical authority of and accountable to a ministry in charge of the police forces.

The second sub-index measures the independence of the procedure of nominating the head of the POA, which is generally considered a (if not the) core aspect of an authority's formal independence, in studies on both *de jure* judicial independence (Feld and Voigt, 2003) and IRAs (Gilardi, 2002). Independence is regarded as low when the government is responsible for the appointment and high when the nomination is made by the legislature or professionals within the organization (Gilardi, 2009) – such as judges or jurists in the case of judicial independence (Feld and Voigt, 2003). The latter case does not apply to the POAs under study, as their heads are appointed by either the executive or the parliament. To reach the highest score on our sub-index, the head(s) of an agency must be directly elected by Parliament, with a majority vote ensuring the head can never be elected by the governing party (or ruling coalition) alone. The Catalan Parliamentary Ombudsman achieves the highest rank, being directly elected by a qualified majority with two-thirds of the votes. In the case of the Greek Ombudsman, it used to be a qualified majority with four-fifths of the votes, but it was changed to three-fifths in the recent constitutional revision. Similarly, the Spanish Ombudsman is appointed by a three-fifths majority. By contrast, seven organizations (28%) score zero because their head is not directly appointed by Parliament: This is the case in England and Wales (appointed by the monarch on the advice of the Home Secretary), Scotland (Justice Directorate of the Scottish government), Northern Ireland (the monarch on the

recommendation of the Minister of Justice), Switzerland (the Grand Council of Geneva), Denmark (Ministry of Justice and the members of the Police Complaints Board, who are themselves appointed by the Minister of Justice), Ireland (president) and Quebec (government).

Another dimension relates to independence during the head's mandate. In particular, the non-renewability of the head's term is considered an important guarantee in studies of both IRAs and judicial independence because of the heads' "incentive to please those who can reappoint them" (Feld and Voigt, 2003: 502). Moreover, independence increases when the head cannot be dismissed during their mandate by the appointing authority (Gilardi, 2002). An additional indication is the politicization of the agency leader (Ennsner-Jedenastik, 2016), which in POAs is the case if the head has served in the police force or its affiliated ministry. France's Defender of Rights received the highest score on our sub-index because it meets all the following criteria: The mandate is not renewable; the head cannot be dismissed by the president or the government before the end of their mandate; the executive branch cannot initiate legal proceedings against the head during their mandate; and for the past 10 years, the Defender of Rights has never been a member or former member of the police/military forces, nor a civilian administrator of the ministry affiliated with the police. Most of the terms of office of POA leaders are renewable (except for France, Greece, Croatia, Catalonia, and Northern Ireland) even though international soft law discourages such legal provisions. The Norwegian Bureau for the Investigation of Police Affairs is a special case in this respect, since the mandate of the head has no fixed term, which is considered a dangerous situation for independence in IRA studies (Gilardi, 2002). In the past 10 years, most POAs have not been chaired by former members of the police forces or a civilian administrator of the ministry affiliated with the police (the exceptions are Baden-Württemberg, the Netherlands, Norway, and Denmark). In most countries, the executive cannot remove or prosecute the head of the POA.

One last important aspect is managerial and operational independence. Studies on judicial independence highlight the importance of the "accessibility of the court and its ability to initiate proceedings" (Feld and Voigt, 2003). An independent agency should also be autonomous in its internal management: It must control its budget,

internal organization, and personnel (Gilardi, 2002). Some 40% of agencies (i.e., Sweden, Malta, Ireland, France, Estonia, Denmark, Croatia, Spain, Catalonia, and Schleswig-Holstein) get the maximum score in our sub-index of managerial and operational independence because they meet the following criteria: They can act on self-referral; they can receive all types of complaints and claims directly; they have budgetary independence to spend their resources according to their priorities without regard for the executive or legislative branches; when a case involving a police or gendarmerie officer is investigated, they rely on their own investigative staff and not on investigative officers employed by the main police forces; and they decide on the profile and qualifications for the recruitment of any investigative staff without executive oversight.⁴ The Police Investigation and Review Commissioner (PIRC) in Scotland has the lowest score because it generally cannot take action on self-referral, and it does not receive complaints directly from the public – except for reviews of the police’s handling of complaints; in addition, it does not have full independence in the use of its resources without executive control, and it relies on investigating officers employed in the main police forces. The IOPC in England and Wales is similar to the PIRC in these respects, except that it can decide to act on self-referral (when there is either a death or a serious injury as a result of police contact or an indication that a police officer or staff member may have committed a crime and/or disciplinary offense). These are the only two organizations that do not receive complaints directly from the public. Two other agencies cannot act on self-referral (in Quebec and Scotland). In total, 40% of the POAs rely to some extent on officers employed in the main police forces to investigate cases. In some cases (i.e., Rheinland-Pfalz and Baden-Württemberg), the agencies rely solely on police officers. In other cases (i.e., Serbia, Poland, Finland, the Netherlands, England and Wales, Scotland, Ireland, and Belgium), the agencies may use their own officers or the police, depending on the case.

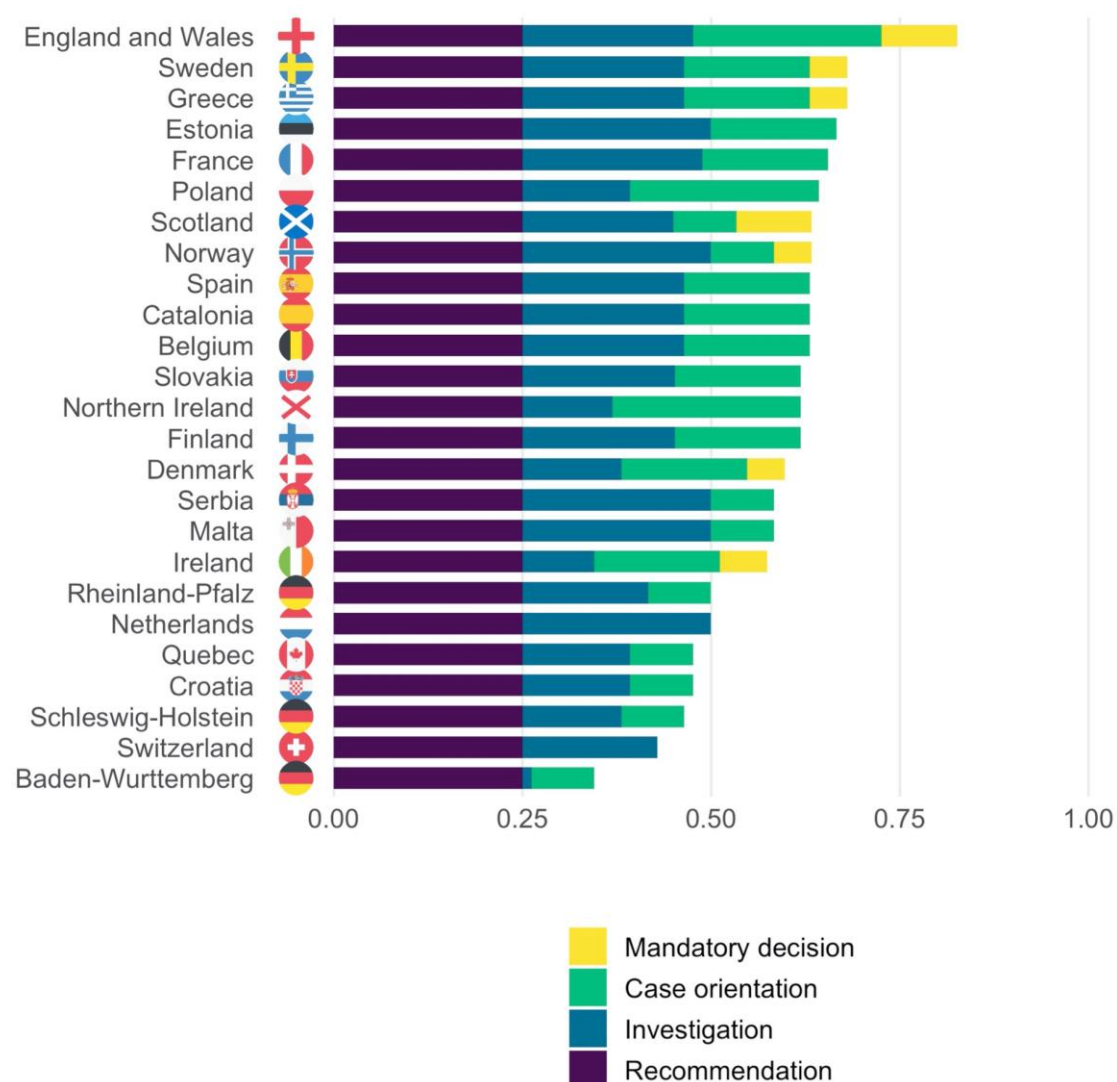
4.3. Formal powers

We define formal powers as authorizations to do something (take action in a given remit) given by law or executive orders. Extant studies of IRAs have incorporated

⁴ To investigate is understood to mean that an incident or allegation of an incident is examined to establish its plausibility.

formal powers, sometimes as a specific facet of a more general concept of independence (see Elgie and McMennamin, 2005). In the field of policing, CRBs have been classified into different categories, and those that are found to have a “larger scope of authority” may be more efficient in correcting ethnic discrimination (Ali and Nicholson-Crotty, 2020). We measured POAs’ formal powers based on four sub-indexes, presented in Figure 5.

Figure 5: Formal powers of POAs based on its four sub-indexes



In their study of Independent Administrative Authorities, Elgie and McMennamin identified the first power to “give advice, make recommendations, or present proposals to the government” (2005: 540). Our first sub-index measures the extent to which organizations have the power to recommend changes in policing policies or

techniques (e.g., use of force, anti-discrimination, recording/complaint handling) to the affiliated ministry or police officials. As Figure 5 shows, all POAs have the legal authority to make such recommendations.

Second, Elgie and McMennamin consider the power to “hold an official investigation into a particular topic, to request that a representative of the body under investigation appear before the authority, or to make an on-site inspection” (2005: 540). In this regard, our second sub-index measures the investigative powers of POAs. The POAs in Serbia, Norway, the Netherlands, Estonia, and Malta score the highest because they meet all the following criteria: They can receive anonymous information about malpractice, summon anyone to a hearing without exception (including any officer or chief of police, elected officials); they have unlimited powers to access any documents and videos (except classified defense secret ones), and conduct on-site visits to the premises of the police or the affiliated ministry. Most agencies have some degree of investigative powers, except for the Baden-Württemberg Regional Parliamentary Ombudsman, which does not investigate but only receives investigation reports from the police. The Garda Ombudsman in Ireland does not have the power to summon police officers and chiefs of police or elected representatives, whereas most POAs have these powers. In addition, it does not have the power to conduct on-site visits and faces limitations on its access to certain documents (if they are considered sensitive by the police). Sometimes, including in Quebec and Schleswig-Holstein, there is a right for police officers not to cooperate with the investigation and to refuse to give statements.

One specificity of POAs is that their remit – i.e., treating complaints about police officers – overlaps with other disciplinary mechanisms inside the police or the judicial system. For that reason, we designed a third sub-index measuring the POAs’ ability to orient individual cases by referring them to disciplinary or criminal proceedings. Three agencies (in England and Wales, Northern Ireland, and Poland) reach the maximum score because they meet three criteria: They can order a criminal investigation into an officer, refer an officer to a departmental disciplinary mechanism, and refer a case to a prosecutor/judge (for prosecution). By contrast, two POAs (in Switzerland and the Netherlands) do not have the power to refer individual cases to the prosecutor, as their role is defined as “alternative conflict

management to punitive justice” (in Switzerland) and “learning” rather than “punishment” (in the Netherlands). Many countries – including Sweden, Ireland, France, Finland, Serbia, Schleswig-Holstein, Rheinland-Pfalz, Quebec, Croatia, Baden-Württemberg, and Catalonia – have the option of referring cases to a prosecutor (for prosecution) but cannot refer officers to a disciplinary body (i.e., mechanism) of the affiliated department. By contrast, all countries that can refer officers to a disciplinary body – including Slovakia, Greece, Estonia, and Belgium – can also refer the case to a prosecutor.

Finally, one core aspect of formal powers is the ability to make binding decisions. For instance, Elgie and McMenamin (2005) measure whether authorities have the power to issue decrees, authorize appointments and contracts such as issuing licenses to telecommunications operators (which is not relevant in the case of POAs), and impose sanctions. The notion of mandatory decision powers is close to the capacity to “take decisions on individual cases” and “issue general regulations,” as highlighted by Verhoest et al. (2004: 105). Another critical aspect identified by Gilardi (2002) is whether the IRA is the only regulating agent in its sector. Drawing on these studies, our sub-index measures the ability of POAs to compel police forces to change their practices and/or apply sanctions on individual cases. To reach the maximum score, agencies must be able to impose disciplinary sanctions on police officers, prosecute them criminally, and issue binding guidelines to police forces on policing policies or techniques (which must be put into practice); in addition, concerning the police complaints system, organizations should be solely responsible for setting standards for how police forces deal with complaints and should be able to produce mandatory statutory guidelines on practices for dealing with police complaints. No agency combines all of these powers. Two organizations (i.e., 8%) have some involvement in disciplinary decisions against officers: The Swedish Parliamentary Ombudsman specified that it may have “a ‘party position’ and take part in the decision of the disciplinary board” after reporting a civil servant to such a board, and the Greek Ombudsman decides on the nature of the offenses committed by officers, which automatically leads to disciplinary sanctions. Two agencies (in Norway and Denmark) have the power to prosecute police officers. Finally, three agencies (in England and Wales, Ireland, and Scotland) are the sole authority in their countries for setting standards for how police forces handle citizens’ complaints related to

police agents. Only the IOPC (England and Wales) and PIRC (Scotland) also produce statutory guidance on police practice in handling complaints that must be followed. The remaining organizations (72%) score zero on this sub-index because their decisions are not binding.

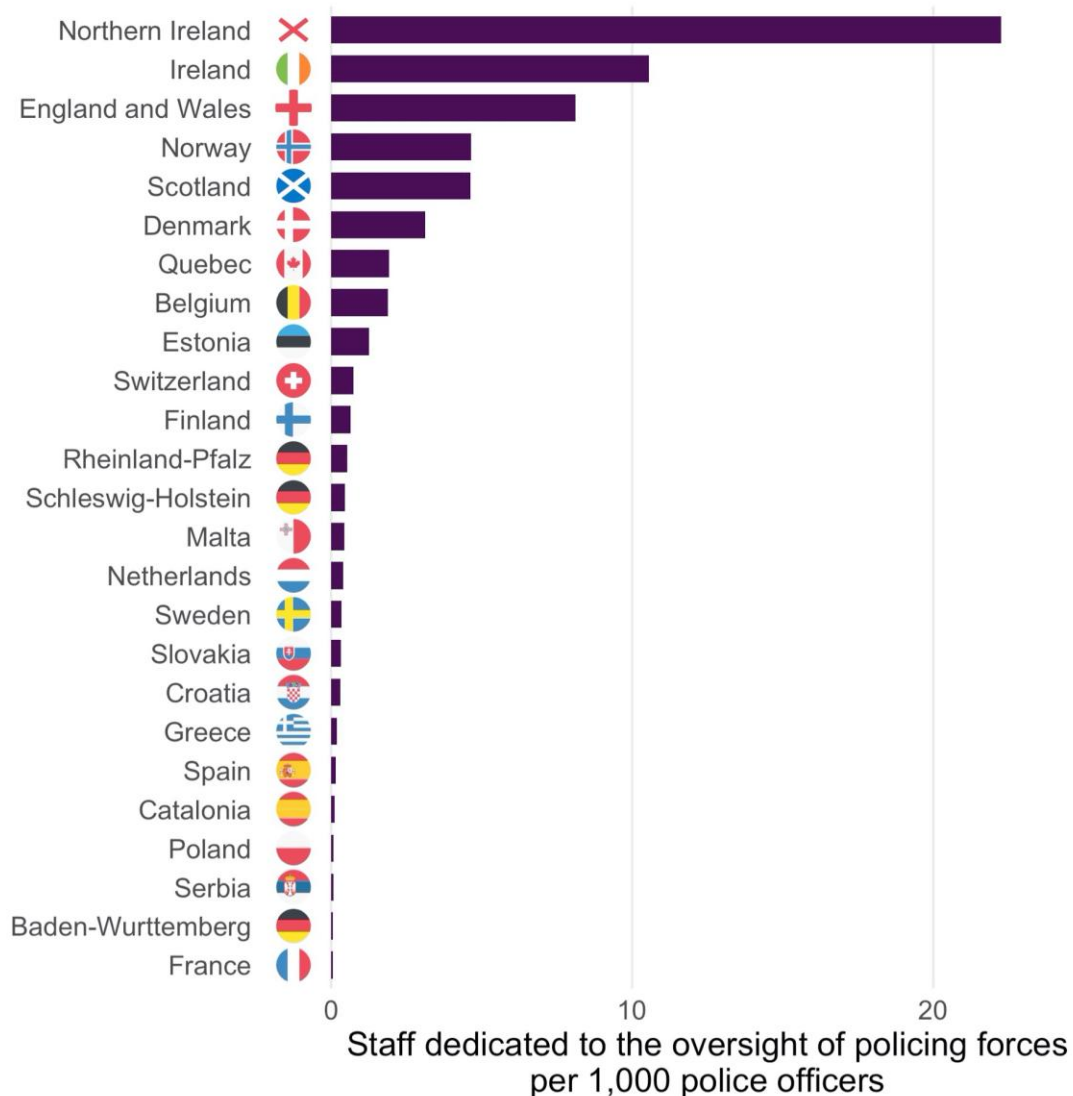
In summary, as illustrated in Figure 5, all POAs have the authority to make recommendations regarding policing policies, and most have significant formal powers to investigate complaints. However, most POAs do not have what can be conceptualized as decision-making powers (i.e., to be in a position to issue binding decisions). Seven agencies only have part of such power. Only two POAs have an influence on the distribution of sanctions (to refer individual misconduct cases to disciplinary or criminal proceedings). None of them has all the powers envisaged by the survey, and their decisions cannot constrain the choices of other actors to a significant degree.

4.4. Resources

One last condition for agencies to operate effectively is that they have the means to do so. This aspect had been neglected during early norms setting by international organizations and only emerged as a major issue to promote independence with the recommendations of the Council of Europe and its Venice Commission (Hopkins and Flemington, 2009), as well as the European Parliament (Guittet et al., 2022). To date, the material resources of agencies have been given less attention than formal independence in the literature on IRAs and police oversight (with some exceptions, e.g. Finn, 2001; Maggetti, 2010; Johansen, 2013; Vitoroulis et al. 2021). In the US, the CRBs' budgets amount to a very small fraction (i.e., 0.5%) of those of the law enforcement agencies they oversee (Vitoroulis et al., 2021: 48). Studies on de facto judicial independence show the importance of taking authorities' material means, including incomes, staff, and equipment, into account (Feld and Voigt, 2003). We assessed the resources of the agencies based on the number of professional staff

(in full-time equivalents)⁵ dedicated to law enforcement oversight in 2021 – that is, all staff of the specialized police agencies and a share of staff of the non-specialized agencies. The staff of the agencies that participated in our survey do not rely on volunteers. The raw data on staff numbers is presented in the online appendix.

Figure 6: POAs' resources relative to the total number of police in their jurisdiction



To obtain a standardized assessment of each organization's relative level of resources, we related the number of agency staff to the number of police officers they are expected to supervise in each jurisdiction. For Germany's regional ombudsmen, we measured only the number of officers of the Landespolizei (state

⁵ Staff size appears to be a reliable measure of resources; indeed, the results of a Spearman correlation indicate that the total number of staff is positively and significantly correlated with the agency's budget in euros ($\rho = .679$, $p < .001$, $N = 23$).

police); for the Police Ethics Commissioner, we considered the number of officers of the Sûreté du Québec and the Montreal police; for the Swiss Police Mediation Office, we used the number of officers in the Geneva cantonal police; for the Catalan Parliamentary Ombudsman, we used the number of officers of the Mossos d'Esquadra (regional police) and the local police. For the other territories, we based our assessment on Eurostat data concerning the number of police officers in the territory. Figure 6 shows the ratio. We can see the differences in resources between countries are considerable: The least (France's Defender of Rights) and the best-endowed organization (the Police Ombudsman in Northern Ireland) differ by a factor of 400. Such disparities are likely to have sizable implications for the work that can be achieved.

4.5. Typology of POAs according to their structural traits

To establish a typology of POAs with strong empirical foundations, we computed a principal component analysis. Such methods are employed to reduce a dataset composed of multiple quantitative indicators in input to a few principal dimensions (components) in output. We computed the analysis using, in input, all the sub-indexes that we presented and the relative amount of resources of agencies. Theoretically, resources are not a *formal* characteristic of POAs. However, we decided to include them in the principal component analysis : agencies, in addition to legal features, require resources to carry out their actions. It is important to note, however, that the resulting typology is overall unchanged when excluding resources from the principal component analysis (see the appendix).

The analysis yielded three components with eigenvalues above 1, meaning they explain more variations than a single individual input variable would be able to do. The first component explains roughly one-third of the variance, the second component one-fifth, and the third component 13.5%. Figure 7 plots the contribution of each sub-index to each of the two main components – together explaining more than half of the total variance. Results show that sub-indexes of independence – particularly the independence of the head of the agency's nomination – all contribute positively to the first component. The larger area of competence beyond police oversight also contributes positively to the first component. The arrow's orientation

indicates that this sub-index contributes only to this and not to the second component. By contrast, the relative level of resources and the power to take mandatory decisions contribute negatively to the first component. In sum, the analysis offers a key distinction of agencies separating, on the one hand, independent and unspecialized agencies and, on the other hand, well-funded agencies with powers to take binding decisions.

Figure 7: Contribution of the sub-indexes to the main components from the principal component analysis

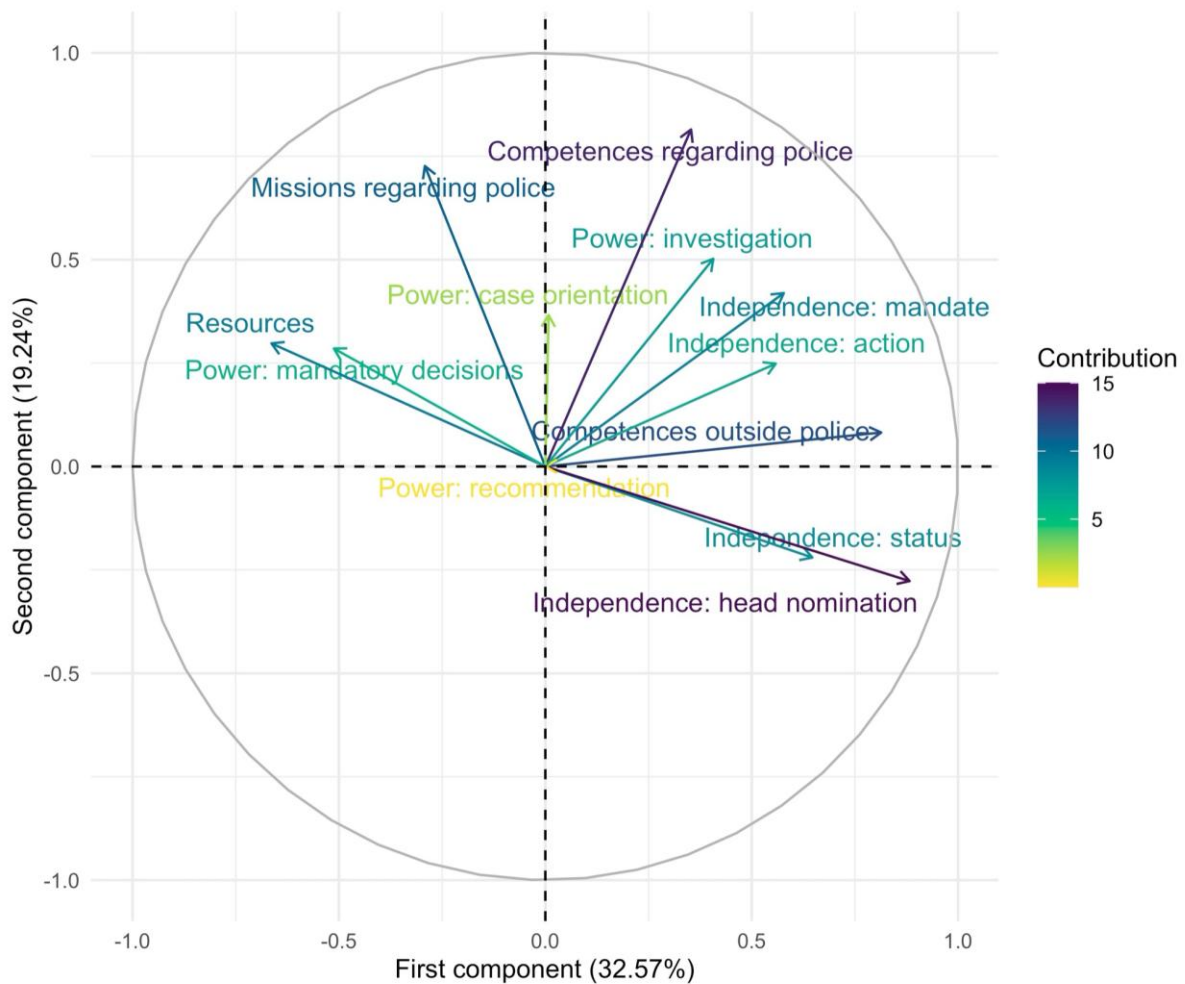


Figure 8: Positions of POAs on the main components from the principal component analysis

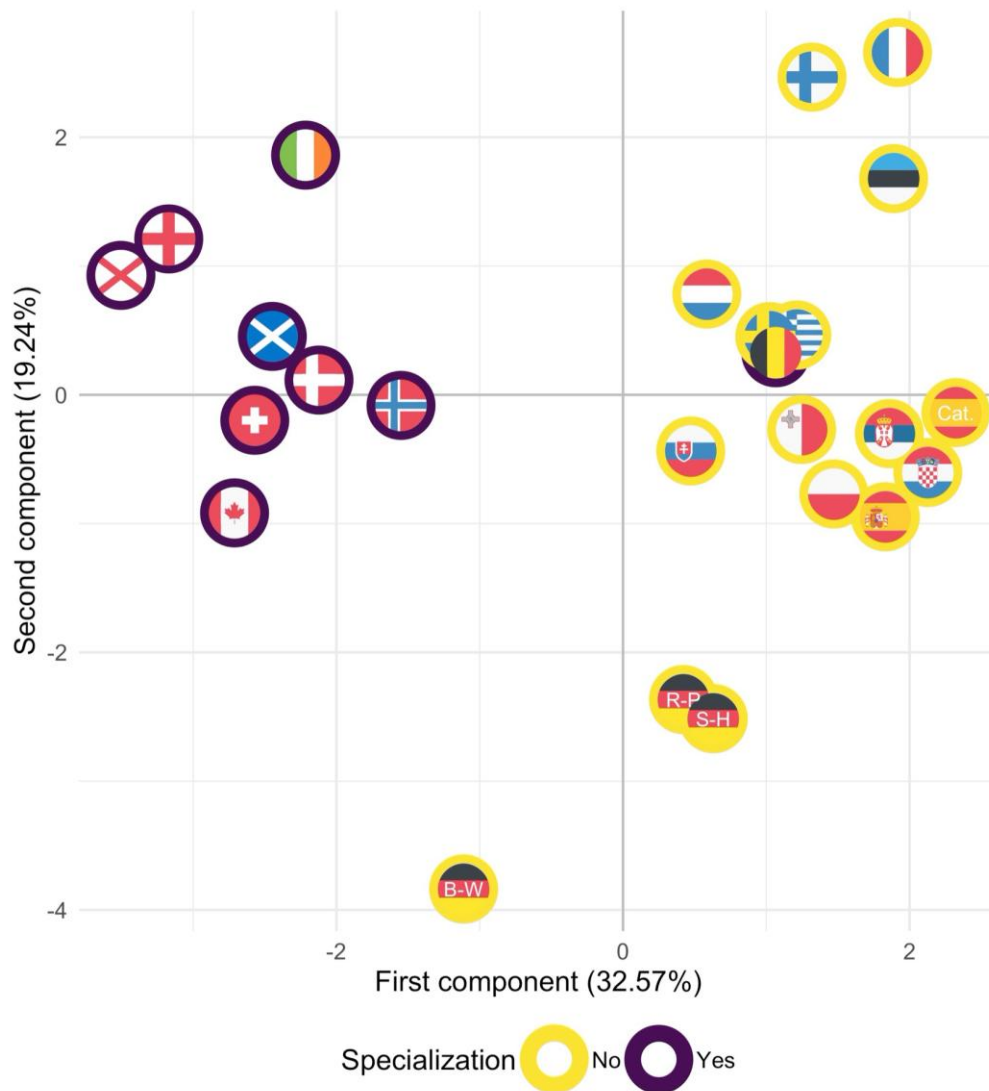


Figure 8 presents the position of each POA based on the two components from the principal component analysis. The first component distinguishes two main groups of POAs. The first group, on the right-hand side, comprises formally independent, poorly endowed, and non-binding decision agencies. These agencies are mainly located in Southern and Eastern Europe (i.e., Spain, France, Poland, Estonia, Slovenia, Croatia, Slovakia, Serbia, Malta, and Greece), although some are situated elsewhere (i.e., Belgium, the Netherlands, Sweden, and Finland). Most agencies in this group are non-specialized agencies. The only exception is Committee P in Belgium. The second group, on the left-hand side of Figure 8, comprises agencies that have low levels of formal independence, although they are financially secure

and make binding decisions. Most agencies in this group are specialized agencies, with the Regional Parliamentary Ombudsman of Baden-Württemberg in Germany being the lone exception and located mainly in Northern Europe (in England and Wales, Scotland, Northern Ireland, Ireland, Denmark, and Norway), as well as Switzerland and Quebec.

What does the second component reflect? The sub-indexes of remit (scope of competence and missions) regarding police forces are the two main variables contributing positively to the component. To a lesser extent, investigation and case orientation powers contribute positively. This suggests that the second component reflects the mission scope and non-binding powers of POAs. As shown by Figure 8, this dimension allows us to distinguish (in addition to the two main groups highlighted based on the first component) the third group of POAs, which comprises Germany's regional ombudsmen. Those POAs are characterized by the narrow scope of their mission – since they only focus on doing mediation with regard to the Länder's police force – and limited powers. In particular, the ombudsman of Baden-Württemberg does not have any investigative power.

In sum, we have three families of POAs: specialized resourceful and formally dependent agencies, non-specialized resourceless and formally independent agencies, and mediation agencies without other powers. We will use this finding to further scrutinize POAs' tactics.

5. Activities and tactics of POAs

Policing scholars have identified several categories of possible actions and suggested that their diversity has evolved. Types of action or “models of police oversight” have been identified from the policing literature: an internal investigation conducted by the police with an external review conducted by other players (review-focused); external review and investigation model (investigation-focused); agencies comprising either professional auditors/monitors or ombudspersons who are independent of the police agency (auditors/monitors focus) (Walker, 2001; Greene, 2007; de Angelis et al., 2016). Fairley (2020: 8) adds two dimensions: adjudicative (at the end of disciplinary hearings) and supervisory (making decisions about police

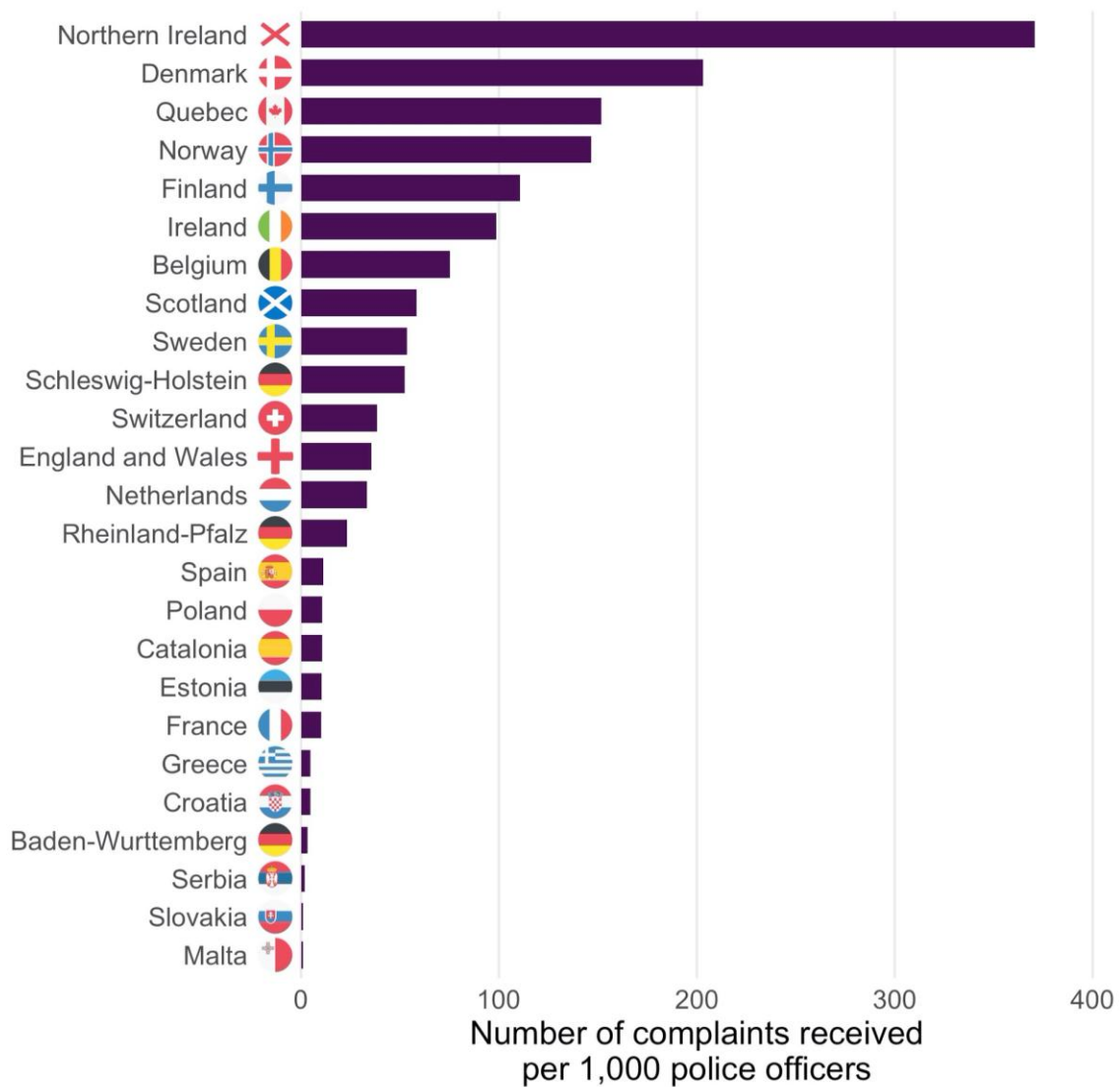
department operations). However, such categorizations are essentially based on US CRBs, and no typology for Europe is currently available. In addition, we have noted that IRA scholars propose that a “fire alarm” might allow a principal to oversee an agent (McCubbins and Schwarz, 1984), which has led us to incorporate that possibility into our mapping of actions.

5.1. Complaint handling

As noted above, most organizations can receive complaints directly from members of the public – except for the IOPC and the Scottish PIRC, which receive complaints not from the public (except for reviews in the case of the PIRC) but from the police or the Crown Prosecution Service. In any event, the handling of complaints is the core business of POAs. To what extent are POAs reached by the public, and how do they perform this task?

The ranking of countries in terms of the absolute number of complaints received is presented in the online appendix. As with the number of staff, it is necessary to relate the number of complaints received to the size of the police force that the POAs have to supervise (police strength is positively correlated to the population). Figure 9 shows the number of complaints received relative to the number of police officers in the jurisdiction. There are big differences in the relative number of complaints received: Again, the agency that receives relatively few complaints (the Malta Ombudsman) and the one that receives many complaints (the Police Ombudsman of Northern Ireland) differ by a factor of 400. Confirming the critical aspect of staffing agencies, the relative number of complaints received is strongly correlated with resources – as indicated by a Pearson correlation test: $r = 0.799$, $p < 0.001$, $N = 25$. The POAs that receive a higher proportion of complaints are disproportionately from the group of specialized POAs. On average, specialized agencies receive 131 complaints per 1,000 police officers, while non-specialized agencies receive 21 complaints per 1,000 police officers. The difference is significant according to a t-test: $t = 3.028$, $p = 0.015$, $N = 25$.

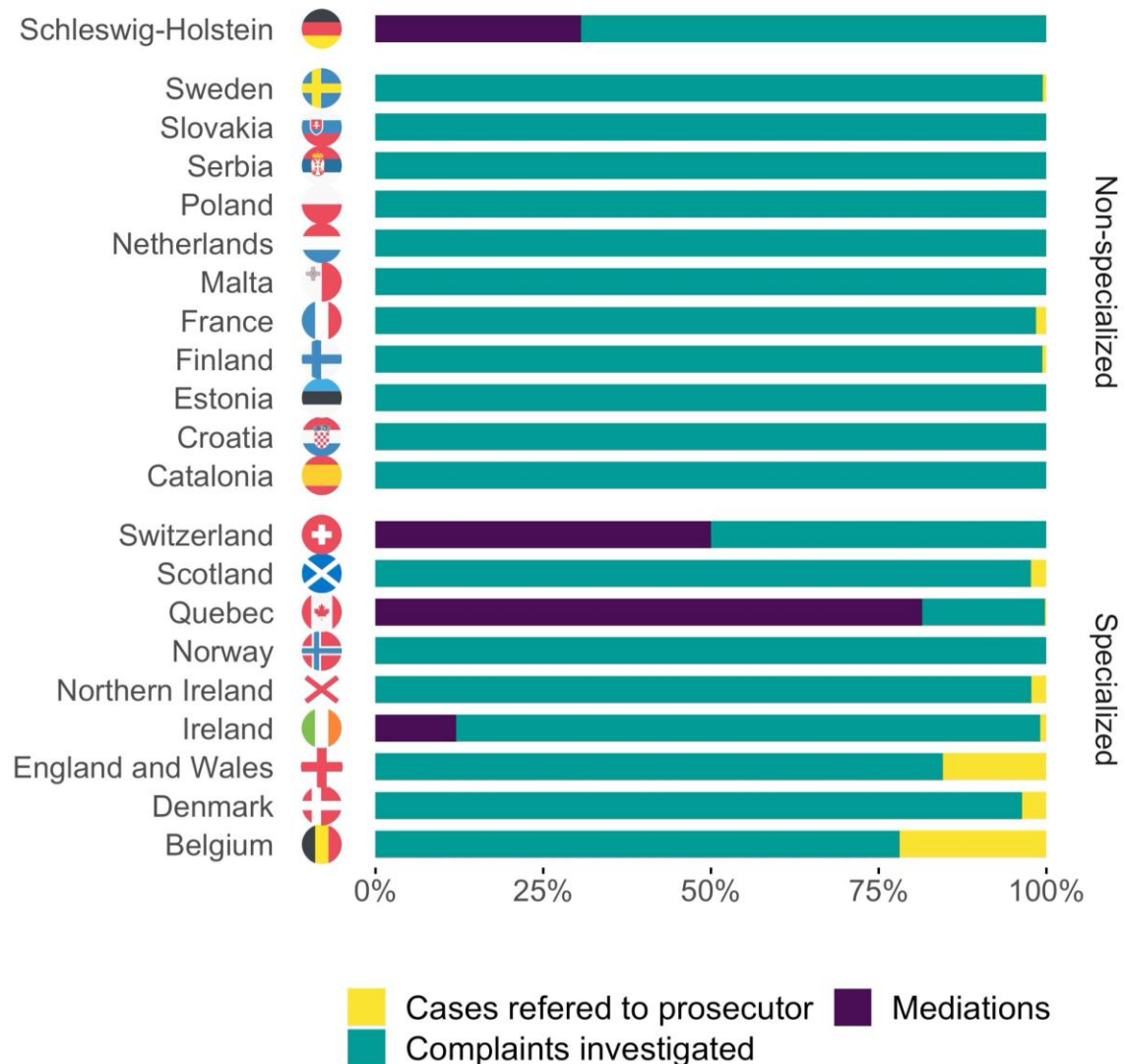
Figure 9: Number of complaints relative to police strength received by POAs



Across contexts, POAs have different ways of treating individual complaints, including investigation, case orientation, and mediation. As described before, most POAs may conduct investigations into the complaints they receive (except for Baden-Württemberg, where the POA analyzes only the reports from the police). To get a rough estimate of the volume of such investigations, we used the number of complaints against the police they investigated during the last available year (2020 for all except Quebec plus England and Wales, whose data comes from 2019). The number of cases referred to the public prosecutor during the last available year is our

measure of their case orientation activity.⁶ Finally, mediations carried out are measured by their absolute number. Since the absolute volume of complaint treatments depends on the number of complaints received, we focus on the relative proportion of these two types of complaints within each POA (for those able to provide such estimates),⁷ as shown in Figure 10.

Figure 10: Share of treatments of complaints of selected POAs



⁶ Unfortunately, our survey did not include a similar question for the number of cases referred to internal disciplinary mechanisms. However, as we mentioned earlier, all POAs that have the ability to refer cases to internal disciplinary bodies can also refer cases to public prosecution services.

⁷ Note that some treatments may overlap for certain complaints. For example, a mediation or an orientation of a case may occur after an investigation. Thus, it is hard to draw conclusions from the comparison of shares within a given agency, but it allows some preliminary comparisons of different POAs.

Figure 10 shows that non-specialized agencies overwhelmingly focus on an investigation rather than case orientation, even though most agencies have the power to orient cases to the prosecutor (including France, Sweden, Finland, Serbia, Croatia, Slovakia, Catalonia, and Estonia). None of the non-specialized agencies reported having conducted mediation, although several may do so (including Estonia, the Netherlands, and Serbia). By contrast, Figure 10 shows specialized agencies are more involved in case orientation and mediation. On average, non-specialized POAs refer as little as 0.2% of cases to the public prosecutor, while the share reaches 5.2% for specialized POAs, the difference being significant at the 10% threshold: $t = 1.871$, $p = 0.098$, $N = 22$. The share of mediation is null for non-specialized POAs, while it is 15.9% among specialized POAs. The difference does not yet reach statistical significance ($t = 1.618$, $p = 0.144$, $N = 22$) since only a fraction of specialized POAs carry out mediations (in Quebec, Switzerland, and Ireland). It seems that, in contrast to non-specialized POAs that focus on investigation, specialized ones generally either focus on case orientation or mediation, in addition to the investigation of a complaint. Finally, Figure 10 differentiates the case of German POAs since, as observed before, they constitute a separate category. In the present case, the ombudsman for Schleswig-Holstein has an apparent specialization in mediation in its handling of complaints.

5.2. Interactions with the environment: influence tactics

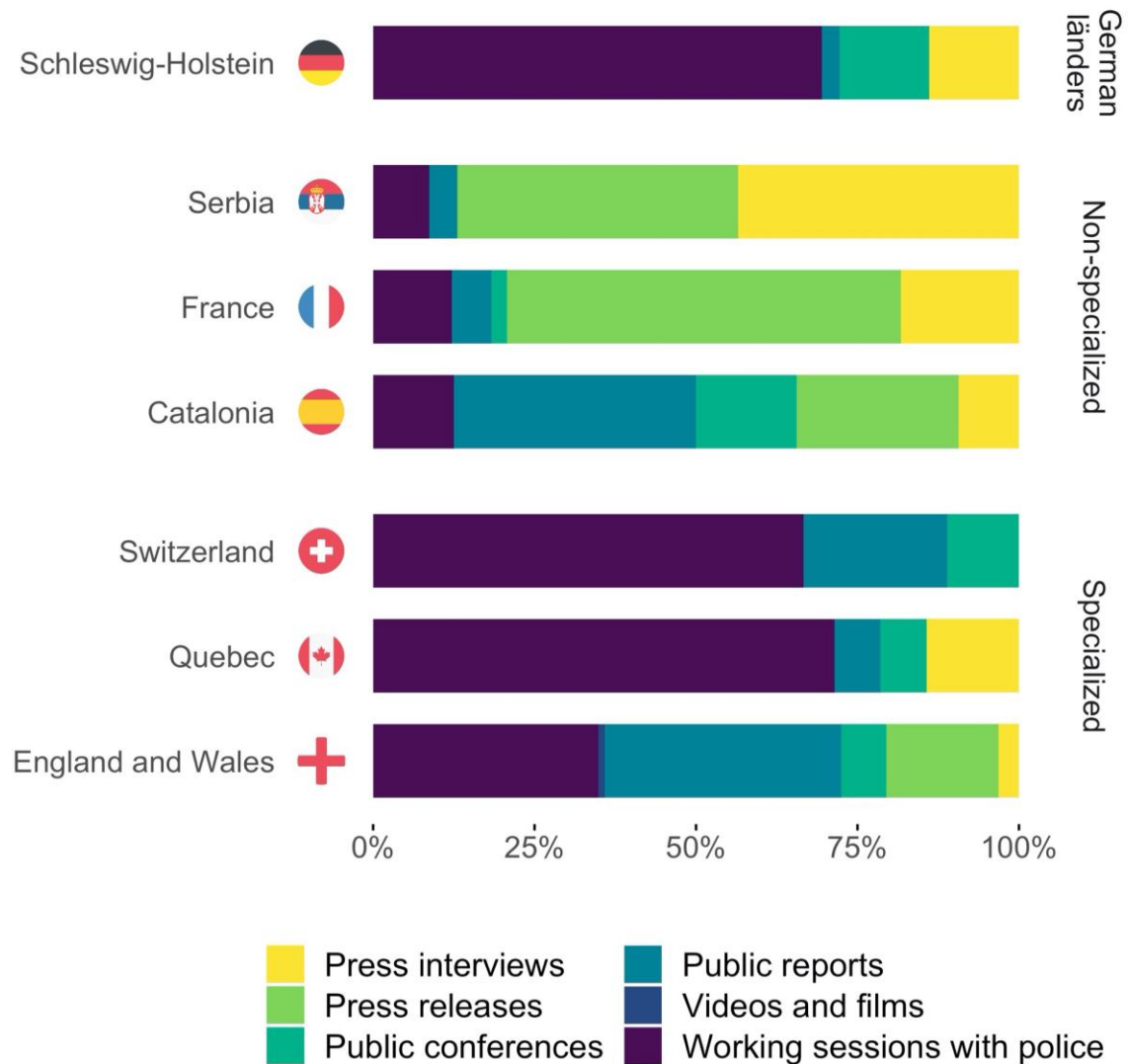
In addition to handling complaints, the POAs under study may try to influence police behavior directly or indirectly. For that purpose, we are no longer interested in their autonomy but in how they try to influence the choices of other actors. They have the power to produce and publish recommendations aimed at improving policing policies and techniques, share them with the police, and sound the alarm to mobilize public opinion. POAs may focus their efforts on a variety of targets, and in a view to understand underlying determinants, we have assessed the relative numerical importance of each of their types of actions.

We measured several forms of POAs' interactions with their environment. First, we asked POAs about the number of reports or documents issued recommending legal

changes in areas such as police use of force, weapons, and crowd management tactics in the last available year. In addition to producing public reports, another form of “soft power” is meeting directly with the police forces to influence their practices. To measure this, we asked agencies about the number of formal working sessions with police forces conducted in the last quarter.⁸ Finally, we assessed the intensity of public action and discourse directed at the POA audiences, the general public, other government administrations, or elected officials. The political principal may exercise direct surveillance, but can also react to the existence of smoke, for example, by using informational cues from the media. If “fire alarm” signals smoke, the principal may engage in oversight activities (McCubbins and Schwartz, 1984; Hopenhayn and Lohmann, 1996). We argue that, in addition to complaint processing, POAs may want to engage in sounding the alarm through the media so that political or judicial oversight is activated. We asked POAs about the number of public events and press releases on the issue of police violence, malpractice, and discrimination that organizations have conducted in the last available year. We distinguished four types of events: participation by the leader in public conferences, press releases, press interviews with the leader, and films/videos.

⁸ It is worth noting that one additional way in which POAs may directly interact with police forces is during police officer training sessions. Our survey did not measure the precise number of sessions carried out by POAs. However, we asked them whether they had carried out training sessions during the previous year. Out of 25 POAs, 13 indicated that they had. Those POAs were, on average, more involved in working sessions with the police (on average, 14.46 sessions against 1.83 for POAs not involved in training), although the relationship is only marginally significant: $t = 1.683$, $p = 0.117$, $N = 25$.

Figure 11: Proportion of various means for interaction with the environment in selected POAs



Unfortunately, we did not obtain complete answers to these questions across POAs because the organizations do not systematically compile data on such events. Figure 11 presents the share of these types of interactions for a selected number of POAs. To offer a comparative view of the relative volume of interactions, we focused on POAs that indicated a positive number of public reports, working sessions, and a positive number to at least two questions on public appearances. We chose to focus on such countries because, unfortunately, the survey did not always make it possible to separate “zero” from “don’t know” answers in response to the questions on the number of interactions. Although the limited amount of cases presented in Figure 11 prevents us from drawing general conclusions, they arguably reveal some interesting

trends. It seems that, through working sessions, specialized agencies (i.e., in Quebec, Switzerland, and England and Wales) are more involved than non-specialized agencies in direct interactions with the police forces. By contrast, non-specialized agencies (here, in Serbia, France, and Catalonia) are more involved in press interviews and releases. We found smaller differences regarding public reports and conferences, although it seems specialized POAs are slightly more involved in such activities. This suggests that non-specialized POAs, which are more independent but receive less funding than specialized POAs, are more involved in raising public awareness – especially through “cheaper” means such as interviews and press releases (as compared with public conferences and in-depth reports that require staff) – while specialized POAs, which are more dependent and financially secure, are more involved in frequent direct interactions with police forces. In sum, we find that the types of POAs that are more inclined to sound the alarm are those with fewer resources.

Do POA interventions in the public debate increase public awareness of POAs and promote referrals from the public? To explore this question, we tested whether the number of complaints received correlates with the number of public events and press releases about law enforcement operations conducted by the agency. The results of a Spearman correlation confirm that the absolute number of POA events and public statements and press releases is positively and significantly correlated with the absolute number of complaints received ($\rho = .484$, $p = .014$, $N = 25$). This suggests that POAs receive more complaints from the public if they are involved in an intensive public campaign effort.

6. Discussion

Our study sought an informed description of European POAs: their remit, independence, resources, and tactics. Several key sets of findings may be underscored. One group of questions concerned the timing and depth of change in police accountability governance. First, during the 1970s, civilian police oversight bodies were established in North America, the UK, Australia, and New Zealand

(Walker, 2001; Goldsmith, 2010; Ferdik et al. 2013; de Angelis et al., 2016; Gomez del Prado and Leman-Langlois, 2020) and later in Europe in the 1980s (Aden, 2016; Johansen, 2013; de Maillard, 2022). Arguably, the 1990s were the moment of growth both in the US (Walker, 2001) and in Europe, but the trend has not been halted since then on either side of the Atlantic (Fairley, 2020, and Figure 2 above). Today, only a few EU countries do not have a POA. Given the parallels between Western countries, the explanation of their creation by local crises seems unsatisfactory as it does not answer the question of why earlier crises had failed to have the same effect. Studying the larger picture suggests a paradigm shift is at play: Agencification relates to state credibility. Matching a major transformation in the oversight norms by human rights organizations, a new standard clearly surfaced and started to grow. Paraphrasing Fairley (2020), who completed a survey of 100 CRBs in the US, and based on POLEM findings, we can safely say that POAs in Europe are now “a normative element within the police accountability infrastructure” (2020: 6). However, owing to the contrast between a local North American and regional/national European police system (Hirschfield, 2020; Gomez del Prado and Leman-Langlois, 2020), the POAs are mostly national or regional bodies (in federal or quasi-federal states) in the EU. And, unlike the US, where patterns found include lay citizens sitting in the agencies or volunteers reviewing cases or appeals (Finn, 2001; de Angelis et al., 2016), members of civil society are included neither in European schemes nor in Quebec. Second, this wave of POAs occurred in parallel with the spread of IRAs in various sectors (banks, telecom, pharmacy industry) in Europe between the 1980s and 2000s (Gilardi, 2005a and 2005b). This suggests that the creation of POAs formed part of a global trend of agencification that extends far beyond the policing domain, which until now has been studied in isolation. State regulation, for the purposes of both credibility and effectiveness, has been deeply renewed by agencification. Even if we cannot discard that the IRAs’ birth may announce the rise of a “fourth power,” when it comes to regulating the police, POAs do not yet have the necessary formal independence from the government, the formal powers to impose their decisions, nor the resources to carry out the broad duties they were entrusted with. No POA in Europe or Quebec has all three traits. Only two POAs (Finland and Greece) have some decision-making capacity regarding individual disciplinary sanctions, and two others have this capacity with respect to producing mandatory guidelines for the police limited to the specific issue of

processing complaints (England and Wales and Scotland). One reason may be that any government faces a dilemma: delegating its power to an agency in charge of controlling its own agents may increase its credibility while simultaneously undermining its ability to direct them. As di Mascio, Maggetti, and Natalini put it, the government is both the principal and the agent of the regulatory agency (2020). Strong POAs may be deemed too costly as they can criticize not only the police but also its policies. Police oversight powers may appear too precious to be delegated, especially in turbulent times.

The second set of results concerns the nature of agencies – that is, what kind of POA they are. If having a POA is now a standard feature of Western states, the variation between them is immense. Similarly to the US, where “tremendous variation” across cities soon emerged (Finn, 2001: x), our comparative analysis reveals high heterogeneity within the sample (which consists of EU countries plus Switzerland and Quebec) regarding POAs’ independence/resources pattern and tactics of influence. There are two takeaways here. First, we observed two main patterns of the agencification of police oversight. On the one hand, we find “dependent-capable” agencies, located in Northern Europe (in England and Wales, Scotland, Northern Ireland, Ireland, Denmark, and Norway), as well as Switzerland and Quebec. These POAs are specialized (focused on law enforcement agencies) and receive significantly more resources but have weaker guarantees of formal independence. These POAs receive large volumes of complaints, which suggests their resources provide them with a real capacity to be reached by the public and to detect problems. On the other hand, we find agencies that have strong formal guarantees of independence but are sorely understaffed to carry out police oversight duties and can be described as “little dependent – little capable.” They are found mainly in Southern and Eastern Europe (in Spain, Poland, Estonia, Slovenia, Croatia, Slovakia, Serbia, Malta, and Greece), but also in the middle of Western Europe (France, Germany, the Netherlands) and even among the Nordic countries (Sweden and Finland). These are often “ombudsman-type” agencies that not only deal with police control but also carry out several other tasks in the field of human rights protection, equality, control of detention facilities, and protection of children’s rights. They are also characterized by strong stability over time.

Second, we revealed that POAs, despite their structural specificities, share two common traits with respect to their actions: Their primary work involves gathering and reviewing citizens' complaints and making advisory reports to the government or the police departments. Those features are also found in the CRBs of US cities. However, contrary to the US, where it is found in 43% of CRBs (Vitoroulis, 2021: 53), dispute resolution is rarely present and only plays a substantial role in Germany and Switzerland. Differences appear across POAs when it comes to their tools of influence: auditing, adjudicative, and supervisory decision functions and the "fire alarm." McCubbins and Schwartz (1984) coined the latter term when arguing that a political principal's apparent lack of effort in directly monitoring the bureaucratic activity of the agent is not evidence of a lack of control. We uncover that less-resourced agencies, such as in France, tend to be more vocal: They may compensate for the lack of direct monitoring by raising public awareness in the media and thereby indirectly pressuring the other branches of government in charge of police oversight, whether they be political or judicial entities. In addition, the survey also shows that the less formally independent POAs, such as the Police Ethics Commissioner in Quebec or the Police Mediation Office in Switzerland, have more frequent interactions with police forces' management during which they can convey their messages. Overall, the results suggest that POAs' tactics of influence relate to their formal structure and that the POAs are compelled to adapt their actions vis-à-vis their financial resources or the lack thereof. The notion of tactics of influence deserves more attention in the study of POAs.

Montesquieu, whose book "L'esprit des lois" (The Spirit of the Laws, 1748) tackled the concept of control, divided government into three branches. Although POAs, along with other IRAs in other sectors, have gained legitimacy and are now well entrenched in Western nations, we do not diagnose a fourth-branch revolution in police governance. However, the evolution of police accountability norms is noticeable given that it has happened despite strong skepticism and harsh criticism from police unions (Wilson and Buckler, 2010; Fairley, 2020). Their next challenge is one of influence, authoritative decision making, and effectiveness: POAs need to offer evidence of their contribution to reducing police malpractice, discrimination, and undue use of force.

The present study has several limitations. First, several improvements would be needed at the empirical level. Although we obtained responses from most of the European POAs, we lack a few cases (Portugal, Hungary, and Latvia) that would have allowed us to offer a complete picture of European police oversight. Moreover, we lacked data in assessing selected quantitative aspects of POAs, especially regarding some of their activities. Relatedly, additional questions (e.g., the number of cases referred to disciplinary mechanisms and more detailed information about the types of investigations carried out) would be needed to offer a fuller picture. Finally, as raised by several POAs' contact persons, our assessment of their activities may have been biased by the COVID-19 pandemic, which occurred during our survey. Although the pandemic affected all countries, it resulted in various degrees of restrictions that may have affected the volume of certain activities to different degrees – e.g., public conferences or working sessions with the police. For these reasons, a replication of the survey with additional specific questions would be needed. Second, there are some important issues that we did not cover. Our first aim was to come up with a portable definition of such bodies and portable measurements leading to the first comparative overview of POAs. This initial step is a necessary condition for further research comparing the effectiveness of POAs. We have not questioned the consequences of delegation to independent authorities and whether it produces fairer investigations, better performance (Filstad, Gottschalk, 2011), and more effective governance or whether there is a risk of government power dispersion or even abdication (Damonte et al. 2014; Lupia and McCubbins, 1994). We generated rankings and comparisons across countries, but our results do not allow us to draw conclusions regarding the higher effectiveness of one type of POAs over another. And, although we identified distinct types of POAs in different parts of Europe, we do not provide explanations for why some types of agencies emerged in particular countries and not in others. Several contextual factors could play a role, such as the level of economic development, the overall level of advancement of democracy and civil rights, the form of independence devoted to the judiciary (Voigt et al., 2015), or public administrative traditions (see, for instance, Painter and Peters, 2010).

References

- Aden, H. (2016). Independent Police Oversight: Learning from International Comparison. Strengthening Democratic Processes: Police Oversight through Restorative Justice with a Special Focus on Austria, Hungary and Germany, Frankfurt/Main, 15-33.
- Ali, M. U., & Nicholson-Crotty, S. (2020). Examining the Accountability-Performance Link: The Case of Citizen Oversight of Police. *Public Performance & Management Review*, 1–37. doi:10.1080/15309576.2020.1806086
- Berleman William C. 1972; Police and Minority Groups: The Improvement of Community Relations, *Crime Delinquency* 18; 160 DOI: 10.1177/001112877201800206
- Byrne J. and Priestley W. (2015), Police Oversight Mechanisms in the Council of Europe Member States, Report for the Council of Europe, Council of Europe Publishing (updated in 2017).
- Bulmer, E. (2019). Independent Regulatory and Oversight (Fourth-Branch) Institutions. International Institute for Democracy and Electoral Assistance.
- Christensen, J. G. (2008). Bureaucratic autonomy as a political asset. In *Politicians, bureaucrats and administrative reform* (pp. 132-144). Routledge.
- Coppedge, M., Gerring, J., Lindberg, S. I., Skaaning, S. E., & Teorell, J. (2017). V-Dem comparisons and contrasts with other measurement projects. V-Dem working paper, 45.
- Curtin, D., Mair, P., & Papadopoulos, Y. (2010). Positioning accountability in European governance: an introduction. *West European Politics*, 33(5), 929-945.
- Damonte A., Dunlop C. A. & Radaelli C. M. (2014) Controlling bureaucracies with fire alarms: policy instruments and cross-country patterns, *Journal of European Public Policy*, 21:9, 1330-1349, DOI: 10.1080/13501763.2014.923021
- de Angelis, J. (2016). What do citizens think about police accountability measures? Lessons from community attitudinal surveys. *Criminal Justice Policy Review*, 27(5), 520-536.
- de Angelis J, Rosenthal R, and Buchner B (2016), "Civilian Oversight of Law Enforcement: Assessing the Evidence, Washington, DC: Office of Justice Programs Diagnostic Center.
- de Maillard J (2022) *Comparative Policing*, London, Routledge
- de Maillard, J. and Roché, S. (2021). *The Rise of Comparative Policing*. Routledge.
- del Prado, G. G. and Leman-Langlois, S. (2020). *Police et policing au Québec: concepts, acteurs et enjeux*. Montréal, Éditions Yvon Blais.

- den Boer M. and Fernhout R (2008) Policing the police. Police oversight mechanisms in Europe: towards a comparative overview of ombudsmen and their competencies in Ryan P. (ed) *Improving the Role of the Police in Asia and Europe*, Singapore,
- di Mascio, F., Maggetti M., Natalini, A. (2020) Exploring the Dynamics of Delegation Over Time: Insights from Italian Anti-Corruption Agencies (2003–2016), *Policies Studies Journal*, 48(2), 367-400.
- Edwards, G., & Waverman, L. (2006). The effects of public ownership and regulatory independence on regulatory outcomes. *Journal of Regulatory Economics*, 29(1), 23-67.
- Elgie, R., & McMenamin, I. (2005). Credible commitment, political uncertainty or policy complexity? Explaining variations in the independence of non-majoritarian institutions in France. *British journal of political science*, 35(3), 531-548.
- Enns-Jedenastik, L. (2016). The politicization of regulatory agencies: Between partisan influence and formal independence. *Journal of Public Administration Research and Theory*, 26(3), 507-518.
- Fairley S. R. (2020) Survey Says?: U.S. Cities Double Down on Civilian Oversight of Police Despite Challenges and Controversy, *Cardozo Law Review*, <https://cardozolawreview.com/survey-says-u-s-cities-double-down-on-civilian-oversight-of-police-despite-challenges-and-controversy/>
- Feld, L. P., & Voigt, S. (2003). Economic growth and judicial independence: cross-country evidence using a new set of indicators. *European Journal of Political Economy*, 19(3), 497-527.
- Ferdik Frank V., Rojek Jeff & Alpert Geoffrey P. (2013) Citizen oversight in the United States and Canada: an overview, *Police Practice and Research*, 14:2, 104-116, DOI: 10.1080/15614263.2013.767089
- Feys, Y., Verhage, A., & Boels, D. (2018). A state-of-the-art review on police accountability: What do we know from empirical studies?. *International Journal of Police Science & Management*, 20(3), 225-239.
- Filstad C. & Gottschalk P. (2011) Performance evaluation of police oversight agencies, *Policing and Society: An International Journal of Research and Policy*, 21:1, 96-109, DOI: 10.1080/10439463.2010.540653
- Finn P. (2001) *Citizen Review of Police: Approaches and Implementation*, Washington, U.S. Department of Justice Office of Justice Programs
- FRA (European Union Agency for Fundamental Rights) (2021), *Your rights matter: Police stops*, Fundamental Rights Survey, Luxembourg, Publications Office
- Gilardi, F. (2002). Policy credibility and delegation to independent regulatory agencies: a comparative empirical analysis. *Journal of European Public Policy*, 9(6), 873-893.

- Gilardi, F. (2005a). The Institutional Foundations of Regulatory Capitalism: The Diffusion of Independent Regulatory Agencies in Western Europe. *The ANNALS of the American Academy of Political and Social Science*, 598(1), 84–101. <https://doi.org/10.1177/0002716204271833>
- Gilardi, F. (2005b). The institutional foundations of regulatory capitalism: the diffusion of independent regulatory agencies in Western Europe. *The Annals of the American Academy of Political and Social Science*, 598(1), 84-101.
- Gilardi, F. (2009). *Delegation in the regulatory state: independent regulatory agencies in Western Europe*. Edward Elgar Publishing.
- Gomez del Prado Grégory, Lemay-Langlois Stéphane. 2020. *Police et policing au Québec: concepts, acteurs et enjeux*. Montréal, Éditions Yvon Blais.
- Greene, J. R. (2007). Make Police Oversight Independent and Transparent. *Criminology & Public Policy*, 6(4), 747–754. doi:10.1111/j.1745-9133.2007.00
- Goldsmith A. J, (2010) Policing's New Visibility, *The British Journal of Criminology*, Volume 50, Issue 5, p. 914–934, <https://doi.org/10.1093/bjc/azq033>
- Goldsmith, A. J., (1991) *Complaints Against the Police: The Trend to External Review*. Toronto: Oxford University Press.
- Herron, E. S., & Randazzo, K. A. (2003). The relationship between independence and judicial review in post-communist courts. *The Journal of Politics*, 65(2), 422-438.
- Hirschfield, P. 2020. "Policing the Police: U.S. and European Models." *Journal of Democracy* 31(4):166–81. doi: 10.1353/jod.2020.0063.
- Hopenhayn H., Lohmann S., (1996) Fire-Alarm Signals and the Political Oversight of Regulatory Agencies, *The Journal of Law, Economics, and Organization*, Volume 12, Issue 1, Pages 196–213, <https://doi.org/10.1093/oxfordjournals.jleo.a023357>
- Hopkins, T., & Flemington, P. S. (2009). *An effective system for investigating complaints against police*. Victoria Law Foundation. Australia: Grants Publication.
- Huang, W. and M. Vaughn. (1996). Support and Confidence: Public Attitudes Toward the Police. In T. Flanagan and D. Longmire (Eds). *Americans View Crime and Justice: A National Public Opinion Survey*. London: Sage.
- Johansen, A. (2013). The Rise and Rise of Independent Police Complaints Bodies. in J Brown (ed), *The Future of Policing*, Routledge Abingdon: pp. 446–462
- Lupia A., McCubbins M. D, (1994) Learning From Oversight: Fire Alarms and Police Patrols Reconstructed, *The Journal of Law, Economics, and Organization*, Volume 10, Issue 1, Pages 96–125, <https://doi.org/10.1093/jleo/10.1.96>
- Maggetti, M. (2010). Are Regulatory Agencies Delivering What They Promise?. In *Governance of public sector organizations* (pp. 195-210). Palgrave Macmillan, London.

- Mathieu, E., Matthys, J., Verhoest, K., & Rommel, J. (2021). Multilevel regulatory coordination: The interplay between European Union, federal and regional regulatory agencies. *Public Policy and Administration*, 36(3), 343-360.
- McCubbins M. & Schwartz T. (1984), *Congressional Oversight Overlooked. Police Patrols versus Fire Alarms*, 28 AM. J. POL. SCI. p 165, 166.
- Melton, J., & Ginsburg, T. (2014). Does de jure judicial independence really matter? A reevaluation of explanations for judicial independence. *Journal of Law and Courts*, 2(2), 187-217.
- Open Society Justice Initiative (2021). *Who Polices the Police? The Role of Independent Agencies in Criminal Investigations*. Technical report.
- Painter, M., & Peters, B. G. (2010). Administrative traditions in comparative perspective: Families, groups and hybrids. In *Tradition and public administration* (pp. 19-30). Palgrave Macmillan, London.
- Reif, L. C. (2011). The Transplantation and Adaptation: The Evolution of the Human Rights Ombudsman. *BC Third World LJ*, 31, 269.
- Risse, T., Risse-Kappen, T., Ropp, S. C., and Sikkink, K. (1999). *The Power of Human Rights: International Norms and Domestic Change*, volume 66. Cambridge University Press.
- Smith, G. (2009). Citizen oversight of independent police services: Bifurcated accountability, regulation creep, and lesson learning. *Regulation & Governance*, 3(4), 421–441. doi:10.1111/j.1748-5991.2009.01061.x 10.1111/j.1748-5991.2009.01061.x
- Smith G. (2015) *The Interface between Human Rights and Police Complaints in Europe*, in Prenzler Tim and den Heyer Garth (eds). *Civilian Oversight of Police: Advancing Accountability in Law Enforcement*, pp.159-178. Boca Raton, Florida: CRC Press.
- Thompson, B. and J. Lee. (2004). Who Cares If Police Become Violent? Explaining Approval of Police Use of Force Using a National Sample. *Sociological Inquiry*, Vol. 74(3), pp. 381 – 410.
- Trondal, J., & Jeppesen, L. (2008). Images of agency governance in the European Union. *West European Politics*, 31(3), 417-441.
- van Steden, R., Sarre, R. *The Growth of Private Security: Trends in the European Union*. *Secur J* 20, 222–235 (2007). <https://doi.org/10.1057/palgrave.sj.8350052>
- Verhoest, K., Peters, B. G., Bouckaert, G., & Verschuere, B. (2004). The study of organisational autonomy: a conceptual review. *Public Administration and Development: The International Journal of Management Research and Practice*, 24(2), 101-118.

- Voigt, S., Gutmann, J., & Feld, L. P. (2015). Economic growth and judicial independence, a dozen years on: Cross-country evidence using an updated set of indicators. *European Journal of Political Economy*, 38, 197-211.
- Walker, S. (1997). Complaints Against the Police: A Focus Group Study of Citizen Perceptions, Goals, and Expectations, *Criminal Justice Review*, Vol. 22 pp. 207–226.
- Walker, S. (2001). *Police Accountability: The Role of Citizen Oversight*. Belmont, CA, Wadsworth.
- Wilson S and Buckler K (2010) The debate over police reform: examining minority support for citizen oversight and resistance by police unions. *American Journal of Criminal Justice: AJCJ* 35(4): 184–197.