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IKOC

**Improving Knowledge on Organised Crime to develop a
common European approach**

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Project coordinator name: Prof. Ernesto U. Savona

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INTRODUCTION

This document is the final activity report for project IKOC – *Improving Knowledge on Organised Crime to develop a common European approach*, financed by the European Commission, DG Research, under the VI Framework Programme for Scientific Research and Technological Development, coordinated by the *Università Cattolica del Sacro Cuore* (Italy), begun on 1 June, 2004 and concluded on 31 December, 2006.

Partners in the project were: University of Wales Cardiff (United Kingdom); Transcrime, Joint Research Centre on Transnational Crime, Università di Trento – Università Cattolica del Sacro Cuore (Italy); Centre National de la Recherche Scientifique (France); Vrije Universiteit Amsterdam (the Netherlands).

Also Europol, the International Federation of Phonographic Industries and Telecom Italia S.p.A. cooperated in the effort as third parties.

The first part of this document is a summary of all the main elements in the project and the research activity carried out, namely:

- objectives of the project;
- contractors involved;
- work performed and methodology;
- end results of the project;
- achievements of the project to date;
- impact of the project;
- project website and logotype;
- dissemination and use of the knowledge collated.

There follows a series of annexes (Annexes 1–21) representing consolidated versions of all the deliverables produced during the execution of the project. These annexes yield deeper understanding of the methodology, work performed and results. In order facilitate access to greater detail, the first part of this document contains some hyperlinks to these annexes.

1. PROJECT EXECUTION

1.1 Objectives of the project

The intention of the IKOC Project was to elaborate a methodology to measure the probability and impact of organised criminal activities. Accordingly, the **goal** of this Project was twofold:

- to update knowledge on organised crime with specific regard to 1) the *organised criminal groups* operating in EU Member States (types of groups, their organisational structure, and the socio-economic and cultural framework in which they operate), and 2) the *activities* they carry out in both legal and illegal markets and their related *modi operandi*;
- to elaborate a methodology to develop a common knowledge-based European approach to organised crime and to examine its feasibility.

In order to achieve the goal, the Project set itself the following **objectives**:

- Objective n. 1:** *to update existing information on organised criminal groups, by collecting quantitative and qualitative data on the types of groups operating in EU Member States, their organisational structure, their resources and the socio-economic and cultural framework in which they operate* – This means updating quantitative and qualitative knowledge about organised crime.
- Objective n. 2:** *to update existing information on the activities carried out by organised criminal groups, by collecting quantitative and qualitative data on the activities carried out by the above groups in both legal and illegal markets and their related modi operandi* – This means updating quantitative and qualitative knowledge about the different activities carried out by organised crime in both legal and illegal markets. This is necessary to move towards a methodology with which to understand the probability and impact of those activities. The review of the links to legal markets will include an analysis of the way in which European companies approach security issues and crime prevention and the contribution that the contribution private security services could make to the fight against organised crime.
- Objective n. 3:** *to synthesise existing data on organised crime groups, their activities in legal and illegal markets, and opportunities for countering these groups and preventing their activities* – This means summing up and disseminating the findings of the first year's activities.
- Objective n. 4:** *to evaluate the usefulness of existing data on organised crime (groups and activities in legal and illegal markets) available at national, regional and European levels in order to build a common European approach to organised crime – where 'usefulness' means utility in the construction of indicators regarding the probability and impact of OC activities* – This means identifying the asymmetries and the limits of existing information sources which may hamper the organisation of a common European approach to organised crime.
- Objective n. 5:** *to develop an EU common methodology to measure the probability and impact of organised criminal activities, and to preliminarily examine its feasibility* – This means developing a methodology, i.e. to identify indicators to measure the probability and impact of organised criminal activities (for instance, indicators relative to organised criminal groups and their activities, law enforcement risk for criminals, the opportunities for crime and the vulnerability of certain sectors to certain forms of crime) and required to evaluate the effectiveness of organised crime reduction policies. A preliminary examination of the feasibility of the methodology elaborated will also be made.
- Objective n. 6:** *to run a pilot study to examine the feasibility of the elaborated common EU methodology to measure the probability and impact of organised criminal activities in relation to one*

aspect of crime, i.e. international fraud – This means examining the feasibility of the elaborated methodology in relation to one specific aspect of crime, i.e. international fraud.

Objective n. 7: *to compile and highlight the practical and policy implications that emerge from the Project as a whole, with attention being paid to the balance between the fight against organised crime and civil liberties* – This means examining the practical and policy implications of the Project, with particular attention being paid to the balance between the fight against organised crime and the need to respect civil liberties and the analysis of possible critical aspects emerging from a common European approach to organised crime.

1.2 Contractors involved

The project has been carried out by a consortium coordinated by the Università Cattolica del Sacro Cuore (Italy) including the following contractors:

- University of Wales Cardiff (United Kingdom);
- Transcrime, Joint Research Centre on Transnational Crime, Università di Trento – Università Cattolica del Sacro Cuore (Italy);
- Centre National de la Recherche Scientifique (France);
- Vrije Universiteit Amsterdam (the Netherlands);

with the cooperation of:

- Europol;
- The International Federation of Phonographic Industries;
- Telecom Italia S.p.A.

The coordinator contact details are as follows:

Ernesto U. Savona

Professor of Criminology, Università Cattolica di Milano

Director of TRANSCRIME (Joint Research Centre on Transnational Crime) Università di Trento–Università Cattolica di Milano)

Largo A. Gemelli 1 – 20123 Milan (Italy)

Phone: +39-02-7234-3715/3716; Fax: +39-02-7234-3721

mobile: +39-3357544803

1.3 Work performed and methodology

1.3.1 Updating knowledge of organised crime, with specific regards to 1) the organised criminal groups operating in EU Member States (types of groups, their organisational structure, and the socio-economic and cultural framework in which they operate), and 2) the activities they carry out in both legal and illegal markets and their related modi operandi

With reference to goal 1 of the Project, the main research activities of the first year (months 1–12) mainly concerned reviewing and comparing existing qualitative and quantitative data on organised crime groups and on their activities collected by EU bodies (Europol and Council of Europe) and national law enforcement agencies at MS level, as well as reviewing and comparing existing (organised) crime risk assessment models. These activities were the following:

- *Collection of existing qualitative data (at national, regional and European levels) on organised criminal groups in order to systematise the information available on the nature of organised crime in EU Member States.* This activity consisted in review and comparison of existing qualitative data sources on organised criminal groups set up at the EU level by supranational bodies (Europol and Council of Europe) and at MS level by national law enforcement agencies. In particular, these data sources were reviewed and compared on the basis of the variables concerning organised criminal groups on which they collected information. The analysis covered law enforcement data sources. However, as the information collected by law enforcement agencies is for operational intelligence purposes, the analysis could only focus on publicly available data. In order to have up-to-date information, data sources produced during the last five years (1999–2004) were reviewed.

At the EU level, the two main qualitative data sources on organised criminal groups in the EU were reviewed, i.e.: 1) the European Union Organised Crime Situation Report, annually produced since 1994 and, from 1998 onwards, under the primary responsibility of Europol; 2) the Council of Europe Organised Crime Situation Report annually produced since 1998 by a group of specialists on criminal law and criminological aspects of organised crime set up by the Committee on Crime Problems of the Council of Europe. First, the variables on the OC groups collected by the EU OCSR were listed. Attention then turned to detailed analysis of the actual data collected in relation to each variable by individual MSs. Likewise, the variables on the OC groups collected by the CoE OCSR were first listed. In this case, too, attention then turned to detailed analysis of the actual data collected in relation to each variable by individual MSs. The same procedure was followed for the analysis of the MS data sources. However, this was possible only for those countries which disseminate qualitative information on OC groups, i.e. Austria, Denmark, Germany, Italy, and the United Kingdom. A Table was finally compiled to summarise the qualitative variables on OC groups collected both at the EU and MS level, and their modalities, so as to enable their comparison.

The results of this research activity are set out in ANNEX 1 – *Deliverable 1 – Review of existing qualitative data on organised criminal groups.*

- *Collection of existing quantitative data (at national, regional and European levels) on organised criminal groups in order to systematise the information available on the structures of organised crime in existing databases.* This activity consisted in the review and comparison of existing quantitative data sources on organised criminal groups set up at an EU level by supranational bodies (Europol and Council of Europe) and at MS level by national law enforcement agencies. In particular, these data sources were reviewed and compared on the basis of the variables concerning organised criminal groups on which they collected information. The analysis covered law enforcement data sources. However, as the information collected by law enforcement agencies is for operational intelligence purposes, the analysis could only focus on publicly available data. In order to have up-to-date information, data sources produced during the last five years (1999–2004) were reviewed.

At the EU level, the two main quantitative data sources on organised criminal groups in the EU were reviewed, i.e.: the European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report. The analysis of the European data sources on organised criminal groups made it possible to present the aggregate number of organised criminal groups active in the EU framework and of their members as contained in the EU OCSR. Figures provided by the COE OCSR enabled more detailed quantification to be made by presenting rough estimates of numbers of groups and members at national level within the EU Member States. Attention was then paid to existing sources of quantitative information on organised criminal groups at MS level in the original 15 EU Member States. A Table was finally compiled to summarise the quantitative variables on OC groups collected both at the EU and MS level, and their modalities, so as to enable their comparison.

The results of this research activity are set out in ANNEX 2 – *Deliverable 2 – Review of existing quantitative data on organised criminal groups.*

- *Collection of existing qualitative and quantitative data (at national, regional and European levels) on the activities carried out by organised criminal groups in illegal markets and on the related modi operandi in order to understand trends.* This activity consisted in the review and comparison of existing quantitative and qualitative data sources on the activities carried out by organised criminal groups in illegal markets, and set up at an EU level by supranational bodies (Europol and Council of Europe) and at MS level by national law enforcement agencies. In particular, these data sources were reviewed and compared on the basis of the variables concerning organised criminal illicit activities on which they collected information. The analysis covered law enforcement data sources. However, as information collected by law enforcement agencies is for operational intelligence purposes, the analysis could only focus on publicly available data. In order to have up-to-date information, data sources produced during the last five years (1999–2004) were reviewed.

The two main data sources at EU level that contain information on the illicit activities carried out by organised criminal groups in the EU were first reviewed, i.e.: the European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report. By reviewing these two principal European data sources, it was noted that the principal activities carried out by OC groups, which were therefore selected for analysis, were as follows: trafficking in drugs; trafficking in human beings; smuggling of immigrants; fraud; counterfeiting; tobacco smuggling; trafficking of stolen vehicles and trafficking in arms. The variables on these OC activities collected by these two sources were first listed. Attention then turned to detailed analysis of the actual data collected in relation to each variable by individual MSs. The review of MS data sources on the same activities was then carried out. This followed the same procedure as above, i.e. listing of the variables and then detailed analysis of the actual data collected in relation to each variable by individual MSs. Owing to the confidential character of this information, the focus was only on those MSs where information on OC activities are

publicly available, which are Austria, Belgium, Denmark, Germany, Greece, Italy, Spain, The Netherlands and The United Kingdom. A Table was finally compiled to summarise the variables on OC illicit activities collected both at the EU and MS level, and their modalities, so as to enable their comparison.

The results of this research activity are in ANNEX 3 – *Deliverable 3 – Review of existing qualitative and quantitative data on the activities carried out by organised criminal groups in illegal markets and on the related modi operandi*.

- *Collection of existing qualitative and quantitative data (at national, regional and European levels) on the activities carried out by organised criminal groups in legal markets and on the related modi operandi*. This activity consisted in the review and comparison of existing quantitative and qualitative data sources on the activities carried out by organised criminal groups in legal markets, and set up at an EU level by supranational bodies (Europol and Council of Europe) and at MS level by national law enforcement agencies. In particular, these data sources were reviewed and compared on the basis of the variables concerning organised criminal activities in legal markets on which they collected information. The analysis covered law enforcement data sources. However, as information collected by law enforcement agencies is for operational intelligence purposes, the analysis could only focus on publicly available data. Owing to the fact that information on organised crime activities in legal markets included in these data sources is extremely scarce, this has been supplemented by information on two crimes that can be regarded as related to the infiltration of organised crime into the legal market, i.e. money laundering and corruption. While corruption is the contact point between organised criminals and the state, money laundering is a necessary step for criminal infiltration into the legal world. In order to have up-to-date information, data sources produced during the last five years (1999–2004) were reviewed.

The two main data sources at EU level that contain information on the organised crime activities in the legal market in the EU were first reviewed, i.e.: the European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report. The variables on the organised crime activities in the legal market's collected by these two sources were first listed. Attention then turned to detailed analysis of the actual data collected in relation to each variable by individual MSs. The review of MS data sources on the same activities was then carried out. This followed the same procedure as above, i.e. listing of the variables and then detailed analysis of the actual data collected in relation to each variable by individual MSs. Owing to the confidential character of this information, the focus was only on those MSs where information on OC activities are publicly available, which were 12 out the 15 original EU Member States. A Table was finally compiled to summarise the variables on organised crime activities in the legal market collected both at the EU and MS level, and their modalities, so as to allow for their comparison.

The results of this research activity are set out in ANNEX 4 – *Deliverable 4 – Review of existing qualitative and quantitative data on the activities carried out by organised criminal groups in the legal markets and on the related modi operandi*.

- *Review and analysis of case studies highlighting the infiltration of organised criminal groups into legal markets, with special regard to the manufacturing industries*. This activity consisted in the review and analysis of the Internet and academic literature on links between organised crime and the music and DVD industries, as well as of two case studies highlighting the infiltration of organised criminal groups into the music sector. The first study is an Italian case which allowed conclusions to be drawn on the activities of a large criminal group, the second is a Northern Irish case study involving a small criminal organisation.

The results of this research activity are set out in ANNEX 5 – *Deliverable 5 – Review and analysis of case-studies highlighting the infiltration of organised criminal groups into legal markets, with special regard to the manufacturing industries.*

- *Analysis of the contribution that the private security services may make to the fight against organised crime, in order to improve cooperation between the private and public sectors.* This activity consisted of analysis of the ways in which organised crime is shaped by and responds to the environments provided by the licit sphere – the private and public sectors, as well as law enforcement. Private security is of particular relevance to each of these environments as it works in both the public and private sectors as well as in cooperation with law enforcement. Its contribution to the shaping of opportunities for organised crime is therefore of particular interest. For this reason, both current and potential contributions made by private security actors were taken into consideration.

Practitioners and specialists in private security, both in specialist security firms and networks and in the security departments of large companies were consulted. Of those interviewed, two respondents headed small private security firms; one person was knowledgeable about kidnap and ransom aspects; two worked for anti-counterfeiting organisations; two worked on enforcement aspects of insurance markets, consulted by telephone, email and a personal interview, in London and in Brussels; one worked in pharmaceuticals; two coordinated investigator associations; and two were security practitioner-academics who were in a position to give pan-EU perspectives. About half of these interviewees had previously worked in public enforcement agencies. E-mail exchanges also took place with a number of security practitioners and experts across the 'old' and 'new' EU, which was helpful in ensuring balance, and information was gleaned from attendance at sessions and discussions with academics at the 2004 European Conference on Criminology. Alongside these interviews and consultations, searches were made of international academic, practitioner, 'grey' and www literature.

The results of this research activity are set out in ANNEX 7 – *Deliverable 7 – The private security industry and its possible role/contribution in the development of a common European approach to organised crime: would less but better quality cooperation be helpful?*

- *Review of organised crime risk assessment models.* This activity consisted in the review and comparison of existing (organised) crime risk assessment models. It first defined (organised) crime risk on the basis of the existing criminological and non-criminological literature as the result of the probability that an (organised) crime event, as a negative event, will happen and of its impact (or harm). It then reviewed existing (organised) crime risk assessment models, finally summing up these models in a table.

The results of this research activity are set out in ANNEX 10A – *Deliverable 10A – Review of Organised Crime Risk Assessment Models.*

With reference to goal 1, the main research activities of the second year (months 13–31) were as follows:

- *Review of the private sector's current approach to security and crime prevention.* This research activity consisted in a review of the private sector's current approach to crime prevention and managing security with regard to the risks of organized crime. Data were collected by analysing social-scientific literature and documents and by interviewing persons in key positions with regard to security management in business. A detailed description of the strategies applied by businesses focused on the risks of organized crime, together with the main impediments against the development of these strategies, is provided.

The results of this research activity are set out in ANNEX 6 – *Deliverable 6 – Strategies of business to manage risks of organised crime.*

- *Analysis of the similarities and differences of organised crime's modi operandi in the illegal and legal markets.* This research activity consisted in horizontal analysis of the EU and MSs level law enforcement data sources previously reviewed on organised crime activities and *modi operandi* in illegal and legal markets, as well as in a review of relevant literature not previously dealt with. The purpose was to analyse similarities and differences in organised crime *modi operandi* in the illegal and legal markets. Finally, the results achieved from law enforcement data sources were juxtaposed with the forms of OC involvement in legal and illegal markets and relevant MO, as identified in the literature.

The results of this research activity are set out in ANNEX 8 – *Deliverable 8 – Analysis of the similarities and differences in organised crime's modi operandi in the legal and illegal markets.*

- *Working seminar with representatives from the public and the private sectors, selected from both the 15 original Member States and the new ones, to present and explain the results of the research and to elicit feedback.* This activity consisted in a seminar with representatives from the public and the private sectors selected from both the 15 original Member States and the new ones, to present and explain the results of the first year research activities and to elicit feedback. This working seminar took the form of a panel session (panel session 3.3) within the 5th Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology, held in Krakow (Poland) from the 31 August to 3 September 2005. Panel session 3.3 was on “Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry”. This panel session, chaired by Dina Siegel (Vrije Universiteit Amsterdam), presented the results of the first year of activities of the IKOC Project. It took place on the 1 September 2005 from 15.30 to 16.15. Thirty-nine people attended this session.

The results of this research activity are set out in ANNEX 12 – *Deliverable 12 – Working seminar with representatives from the public and the private sectors, selected both within the original 15 Member States and the new ones, to present and discuss the results of WP 11.*

- *Updating and finalising all documentation including any necessary revisions by partners and the final editorial process required to complete the Intermediate Report and, following that, part 1 of the Book presenting the overall results of the Project.* This consisted of all the activities necessary to produce the Intermediate Report (for the European Commission) and, subsequently, ‘Book presenting the overall results of the Project – Part One’ (wider dissemination). The following processes were envisaged: producing deliverable 10B – ‘Chapter 10 – Conclusions regarding existing knowledge’; producing deliverable 10C – collation of ALL the above deliverables, from all WPs, in one coherent document; producing deliverable 10D – Book presenting the overall results of the Project – Part One on ‘Organised Crime – Knowledge Audit’.

The results of this research activity are set out in the following Annexes: ANNEX 10B – *Deliverable 10B – Conclusions regarding the existing knowledge*; ANNEX 10C – *Deliverable 10C – Intermediate Report*; ANNEX 10D – *Deliverable 10D – Outline of part 1 of the Book presenting the overall results of the Project on ‘Organised Crime – Knowledge Audit’.*

1.3.2 Elaborating a methodology to develop a common knowledge-based European approach to organised crime and to examine its feasibility

With reference to goal 2 of the Project, the main research activities of the second year (months 13–31) were directed mainly at evaluating the usefulness of existing data on organised crime (groups and activities in legal and illegal markets) available at national, regional and European levels in order to build a common European approach to organised crime; at developing an EU common methodology with which to measure the probability and impact of organised criminal activities, as well as at preliminarily examine the feasibility (financial, organisational/operational, political and legal feasibility) of the proposed methodology; at

examining the feasibility of the elaborated methodology in relation to one specific aspect of crime, i.e. international fraud; at examining the practical and policy implications of the Project, with particular attention being paid to the balance between the fight against organised crime and the need to respect civil liberties and the analysis of possible critical aspects emerging from a common European approach to organised crime. These activities were the following:

- *Evaluation of the usefulness of existing qualitative and quantitative data on organised crime groups and activities in the legal and illegal markets available at national, regional and European levels.* Considering that different methodologies exist to measure OC probability and impact, this research activity consisted in the review of these methodologies in order to highlight their advantages and disadvantages in the construction of a common EU methodology for measuring probability and impact. It was first necessary to define the criteria to be considered in the construction of a common EU methodology to measure OC probability and impact. A review of the different methodologies to measure OC probability was then carried out in order to identify, in light of the above criteria, their advantages and disadvantages in the construction of a common EU methodology to measure OC probability. In particular, two main methodologies relevant to the measurement of OC probability were reviewed in detail. One was suggested by Vander Beken et al. and uses OC activities as the unit of analysis. The other, proposed by Europol, uses OC groups as the unit of analysis. The same was done with reference to the impact of OC activities. Here, two methodological approaches relevant to the measurement of OC impact were reviewed. The first, based on relevant literature, considers the average impact of each OC offence, while the second, proposed in the framework of the Project by Dorn and Levi, considers the overall impact (aggregate harms) of OC activities.

The results of this research activity are set out in ANNEX 11 – *Deliverable 11 – Evaluation of the usefulness of existing OC data in construction of a common EU methodology to measure OC probability and impact.*

- *Working seminar with representatives from the public and the private sectors, selected from both the actual 15 Member States and the accession countries (including some of the same people who participated in the working seminar outlined at WP9).* This in order to present and discuss the results of WP 11 on the potential for developing indicators from (a) existing data, (b) potential data from the same sources (especially quantitative, bearing in mind the utility of qualitative data sources). This activity consisted in a working seminar with representatives from the public and the private sectors selected from both the original 15 EU Member States as well as the new Member States, and was aimed at presenting and discussing the results from the first year of activities of the IKOC Project, as well as the draft deliverable of WP 11 on the potential for developing indicators of probability and impact of organised crime (OC). This working seminar took the form of a panel session within the 5th Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology, held in Krakow (Poland) from 31 August to 3 September 2005. This was panel session 4.3 on “Organised crime in Europe. Toward the common EU’s strategic concept of Organised Crime”, chaired by Hans Nelen (Vrije Universiteit Amsterdam). Its purpose was to introduce the second year of activities of the IKOC Project by discussing the usefulness of existing OC data in constructing a common EU methodology to measure the probability and impact of OC activities. It took place on 1 September 2005 from 16.45 to 18.00. Twenty-six people attended this session

The results of this research activity are set out in ANNEX 12 – *Deliverable 12 – Working seminar with representatives from the public and the private sectors, selected both within the original 15 Member States and the new ones, to present and discuss the results of WP 11.*

- *Development of common EU indicators for measuring the volumes of specific activities carried out by organised criminal groups.* This research activity consisted in the development of common EU indicators for measuring the volume (i.e. probability) of the specific activities previously identified as

the main OC activities. The reasons for adopting the proposed methodology for measuring OC probability and the necessary conditions for its future implementation were first discussed. Discussion then moved to the selection of the indicators of OC probability themselves. In particular, the assumption linking each indicator to OC probability was discussed, together with the relevant literature supporting the link of each indicator to OC probability, and the modalities to be attributed to each indicator in order to measure it.

The results of this research activity are set out in ANNEX 13 – *Deliverable 13 – Development of common EU indicators for measuring the probability of OC activities.*

- *Development of common EU indicators for measuring the impacts of specific organised criminal activities on the public and private sectors.* This research activity consisted in the development of common EU indicators for measuring the impact of the specific activities previously identified as the main OC activities. The work first involved a review of the existing literature on the costs arising from (organised) crime. The different strata of consequences imposed on society by organised crime were then discussed. After discussing the limits of the social cost calculation method in relation to crime risk assessment, the research activities resulted in the development of an original methodology; and the conditions for its implementation were also clarified.

The results of this research activity are set out in ANNEX 14 – *Deliverable 14 – Development of common EU indicators for measuring the impact of OC activities.*

- *Preliminary examination of the feasibility of the common methodology for the EU to measure the amount and impact of organised criminal activities, across organised crime as a whole.* This research activity consisted in preliminary examination of the feasibility of the common EU methodology for measurement of the probability and impact of specific organised criminal activities, as previously elaborated. As the concept of (organised) crime risk is defined in the context of the Project as the product of the probability that an (organised) crime event, as a negative event, will happen, together with its impact, the resulting methodology therefore has two components: 1) a set of indicators that measure the probability of a given OC activity across the EU member states and 2) a set of indicators for measuring the impact of a given OC activity. The purpose of WP 15 was to examine separately the feasibility of the two above-mentioned components of the IKOC methodology. Various types of feasibility were examined, namely: a) the financial feasibility of the proposed methodology, defined as the existence of sufficient funds available to implement the proposed methodology in a given country; b) the organisational/operational feasibility of the proposed methodology, defined as the possibility of integrating the proposed methodology with the existing national crime data collection system; c) the political feasibility of the proposed methodology, defined as the compatibility of the proposed methodology with the prevailing goals of each country's political system; d) the legal feasibility of the proposed methodology, defined as the compatibility of the proposed methodology with the laws and regulations of a given country. A questionnaire designed to assess separately the feasibility of the IKOC methodology for measuring 1) the probability and 2) the impact, of a given OC activity was sent to experts working for law enforcement agencies specialised in the fight against organised crime in two selected countries, one of common law (UK) and another one of civil law (Belgium).

The results of this research activity are set out in ANNEX 15 – *Deliverable 15 – Preliminary examination of feasibility of the methodology in relation to OC generally.*

- *A more detailed examination of the feasibility of the common methodology for the EU to measure the volume and impact of organised criminal activities, in relation to one aspect of crime, i.e. international fraud. A pilot study.* This research activity consisted in the examination of the feasibility of the proposed methodology with reference to a specific criminal area, namely international fraud.

The results of this research activity are set out in ANNEX 16 – *Deliverable 16 – Pilot study to examine the feasibility of a methodology for the EU to measure the amount and impact of organised criminal activities in relation to international fraud.*

- *Practical and policy implications: the balance between the fight against organised crime and the need to respect civil liberties. Analysis of possible critical aspects emerging from the common European approach to organised crime.* The IKOC common European approach to organised crime raises an ethical issue regarding the balance between the need for in-depth knowledge about organised crime and respect for the lives and liberties of individual civilians, which are the core of our societies. This entails striking a balance between gathering and analysing information in order to obtain ‘insider knowledge’ about organised crime and certain critical issues regarding individual citizens’ civil liberties, such as data access, data retention rules, ethical standards and other guiding principles. This research activity focused on the possible practical and policy implications emerging from the project as a whole. Before addressing this subject, a more general outline of how society is currently dealing with crime, civil liberties and the common European approach to organised crime was provided. It was noted in this regard that the distinguishing features of the contemporary culture of crime control are the focus on risk, prevention and the responsabilisation of non-state actors. The IKOC project fits with this culture by stressing the importance of a policy instrument to assess risk, building knowledge for prevention and examining the role of private actors. The practical and policy implications of the project in light of civil liberties and privacy were then discussed.

The results of this research activity are set out in ANNEX 17 – *Deliverable 17 – Practical and policy implications: the balance between the fight against organised crime and the need to respect civil liberties.*

- *Final working seminar – representatives from the public and the private sectors, selected from both the actual 15 Member States and the accession countries (including some of the same people who participated in the working seminar outlined at WPs 9 and 12 as well as some of the experts who cooperated in WP 15) participated in this final seminar. The aim of the final seminar was to present and discuss the results of the research.* This activity consisted in a working seminar with representatives from the public and the private sectors, as well as from the academia, selected from both the original 15 Member States and the new ones. The purpose was to present and discuss the results of the Project. This working seminar took the form of the IKOC/AOC “Knowledge on Crime in the EU”, where the IKOC consortium presented the results from the Project jointly with the consortium of Project AOC, another one funded by the European Commission under the Sixth Framework Programme of the European Commission and coordinated by Tilburg University (The Netherlands). The conference took place in Brussels, at the premises of DG Research, on 12 December 2006. The idea of joint presentation of the results from the two Projects arose because both studies, from different perspectives and employing different methodologies, dealt with the issue of measuring organised crime in the EU and sought to formulate recommendations to improve data collection and to enable better use of the knowledge potential of current organised crime. The Joint Conference aimed at providing interested policy makers of EU and national institutions, national law enforcement agencies, academia and the private sector with a common methodology to be used for assessing and comparing the risk of organised criminal activities across the EU Member States. During the Joint Conference, members of the IKOC and AOC consortia presented the results of the two projects. Besides the members of the two research teams, the working seminar was attended by the representatives of national law enforcement agencies.

The results of this research activity are set out in ANNEX 18 – *Deliverable 18 – Discussion: issues arising from seminars with representatives of the public and private sectors.*

- *Updating and finalising all documentation including any necessary revisions by partners and the final editorial processes required to complete the Final Report and, following that, part 2 of the Book presenting the overall results of the Project.* This consisted of all the activities necessary to produce

the Final Report (for the European Commission) and, subsequently, 'Book presenting the overall results of the Project – Part Two' (wider dissemination). The following processes were envisaged: producing deliverable 19A – Preface [or Introduction] to Final Report: 'Summary of part 1 of the Book' + the need to improve methodologies'; producing deliverable 19B – 'Chapter 20. Conclusions on improving knowledge. Round-up of proposals for policy, practice, indicators and research'; producing deliverable 19C – collation of ALL the deliverables 11 to 19B in one coherent document, i.e. the Final Report; producing deliverable 19D – Book presenting the overall results of the Project – Part Two on 'Organised Crime – Improving Knowledge'.

The results of this research activity are set out in the following Annexes: ANNEX 19B – *Deliverable 19B – Conclusion on improving knowledge. Round-up of proposals for policy, practice, indicators and research*; ANNEX 19C – *Deliverable 19C – Final Report*; ANNEX 19D – *Deliverable 19D – Outline of part 2 of the Book presenting the overall results of the Project. on 'Organised Crime –Improving Knowledge'*.

1.4 End results

1.4.1 Updating knowledge of organised crime, with specific regards to 1) the organised criminal groups operating in EU Member States (types of groups, their organisational structure, and the socio-economic and cultural framework in which they operate), and 2) the activities they carry out in both legal and illegal markets and their related modi operandi

With reference to goal 1, the final achievements of the research activities can be summed up as follows.

A) Key findings from the review of the qualitative law enforcement data sources on organised criminal groups in the EU

The two main qualitative data sources on organised criminal groups in the EU at the EU level are the European Union Organised Crime Situation Report, annually produced since 1994 and, from 1998 onwards, under the primary responsibility of Europol; and the Council of Europe Organised Crime Situation Report annually produced since 1998 by a group of specialists on criminal law and criminological aspects of organised crime set up by the Committee on Crime Problems of the Council of Europe. The variables on the OC groups collected by the EU OCSR are the following: origin of OC groups; composition of OC groups; structure of OC groups; links/cooperation among OC groups; use (or threat) of violence; use of corruption/undue influence; use of Information Technology (IT). The variables on the OC groups collected by the CoE OCSR are instead the following: origin of OC groups; composition of OC groups; structure of OC groups; links/cooperation among OC groups; use (or threat) of violence; use of corruption/undue influence. A certain uniformity can be noted among the variables on which data are collected by the two entities. Differences sometimes arise as far as the modalities of the variables are concerned, even if, in many cases, these are not clearly indicated in the abridged versions of the reports produced by Europol and by the Council of Europe.

With reference to qualitative data sources on organised criminal groups at MS level, marked differences can be noted among MSs. In most cases, data on a given variable are collected and disseminated only by one or a very limited number of MSs (e.g. variable 'links/cooperation between OC groups and professionals', variable 'use of IT'). The remaining MSs do not collect or not disseminate any data on the variables considered. Even in those cases where some MSs collect data on the same variable, they may use different modalities. For instance, Austria, Denmark, Germany, Italy and the UK collect information on the variable 'origin' of the OC groups. However, as far as the modalities of the variable are concerned, while Austria, Italy and the UK focus on whether or not the groups involved are of domestic or foreign origin, Germany focuses on the ethnic background of the criminals and on the nationality of the members who dominate the criminal activity. In most cases, however, modalities are not clearly indicated.

B) Key findings from the review of the quantitative law enforcement data sources on organised criminal groups in the EU are as follows

The two main quantitative data sources on organised criminal groups in the EU at the EU level are, also in this case, the Europol European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report. Their analyses made it possible to present the aggregate number of organised criminal groups active in the EU framework and of their members as contained in the EU OCSR. Figures provided by the COE OCSR enabled more detailed quantification to be made by presenting rough estimates of numbers of groups and members at national level within the EU Member States. The conclusions reached on this point were as follows. First, the central role of the European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report in persuading Member States of the importance of adequately measuring organised crime. The consequence has been greatly improved homogeneity in the collection of data and considerable refinement of the relative methodology since the first experiments of the early 90's. Nevertheless, it was noted that there are still marked disparities in the quality and quantity of data contained in the national contributions to the EU OCSR and COE OCSR, which in turn reflect disparities in the quality and quantity of data collected at national level. This can be explained by the different interpretations given to the terms 'organised criminal groups' and 'organised criminal member', and by the different counting rules and data collection systems used. But the intrinsic difficulty still remains of correctly interpreting these quantitative items of information, influenced as they are by the geographically and chronologically variable extent of law enforcement efforts against the phenomenon.

C) Key findings from the review of the qualitative and quantitative law enforcement data sources on the illicit activities carried out by organised criminal groups in the EU

First, the review of the two main relevant data sources at the EU level – the Europol European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report – showed that the principal activities carried out by OC groups, which were therefore selected for analysis, were as follows: trafficking in drugs; trafficking in human beings; smuggling of immigrants; fraud; counterfeiting; tobacco smuggling; trafficking of stolen vehicles and trafficking in arms. This said, the following conclusions were reached on the variables on the above OC activities on which data are collected and disseminated at EU and MS level, and on the related modalities.

With regard to the MS level, marked differences can be noted among MSs, both in the variables and in the modalities. In fact:

- in most cases, data on a given variable are collected and disseminated only by one or a very limited number of MSs. The remaining MSs do not collect or do not disseminate any data on the variable. So, for example, in relation to trafficking in human beings, information related to the variable 'charges against perpetrators' appears to be collected and disseminated only by Denmark, while data on the variable 'overseas routes' are only collected by Germany. Germany also appears to be the only MS collecting data on variables related to fraud (e.g. origin and composition of the OC groups involved) and trafficking in stolen vehicles (e.g. origin of OC groups involved, origin countries of stolen cars and overseas routes), while only the UK collects data on trafficking in arms (e.g. origin of OC groups and links with other criminal activities). The result is a highly fragmented knowledge on OC in the EU;
- even in those cases where some MSs collect data on the same variable, they use different modalities. Specifically, in relation to drug trafficking, both Austria and Denmark collect information on the variable 'origin of OC groups involved'. However, as far as the modalities of the variable is concerned, Austria focuses on whether or not the groups involved are of domestic or foreign origin, while Denmark focuses on the ethnic background of the criminals involved in carrying out the activity.

With regard to the EU level, a certain uniformity can be noted. So, for example, in relation to drug trafficking both Europol and the Council of Europe collect information on the large majority of the variables indicated in the tables, the only exception being the variable 'persons arrested', in relation to which data are collected only from the CoE. This is confirmed by inspection of the variables collected for the other OC activities selected for analysis in the present study.

However, different modalities are sometimes used to collect data on the same variable. So for example, in relation to trafficking in human beings, different modalities are used to collect data on the variable '*modi operandi*' (specifically Europol collects data on recruitment and transport modalities, while the Council of Europe does so on recruitment, use of violence, victims reselling, links with other criminal activities).

D) Key findings from the review of the qualitative and quantitative law enforcement data sources on the activities carried out by organised criminal groups in the licit market in the EU

First, *direct information on the organised crime activities in the legal market* included in MS data sources is extremely scarce. When data are collected and disseminated on variables directly related to the infiltration of organised crime into the legal market, this is done only by one or a very limited number of MSs. So, for example, the only data on the OC infiltration in the real estate sector are collected and disseminated in Austria, in relation to the variables 'real estate properties purchased by OC members' and '*modi operandi*'. Equally, data on the OC infiltration in the diamond sector are only collected and disseminated in Belgium, in relation to the variables 'criminal actors' and '*modi operandi*'.

No information of this type can be found in the two key EU data sources, i.e. the Europol and the CoE Reports. With reference to *indirect information on the organised crime activities in the legal market*, which consists in information on two proxy crimes for criminal infiltration in legal markets, i.e. money laundering and corruption, the following conclusions can be drawn.

With regard to the MS level, marked differences can be noted among MSs, both in the variables and in the related modalities. In fact:

- with the sole exception of data collected on some variables related to money laundering (i.e. 'suspicious transaction reports', 'predicate offences' and '*modi operandi*'), which are collected by almost all MSs, in most cases information on a given variable is collected and disseminated only by one or a very limited number of MSs. The remaining MSs either do not collect or do not disseminate any data on the related variable. So, for example, in relation to money laundering, information related to the variable 'country of origin of the suspects' is collected and disseminated only by Germany, while data on the variable 'money laundering cases' are only collected by Spain. In relation to corruption, information related to the variable 'origin of the OC groups involved' is again collected only by Germany. The result is a highly fragmented knowledge on OC in the EU;
- in those cases where some MSs collect data on the same variable, different modalities are used. For example, in relation to money laundering, both Austria and Italy collect data on the variable 'seizures' but, as far as the modalities of the variable are concerned, Austria focuses on the number of seizures, while Italy focuses on the amount seized (in euros). In many cases, also, the modalities are labelled as 'various', which may imply differences among MSs.

With regard to the EU level, a certain uniformity can be noted among the variables on which data are collected. Differences arise, however, as far as the modalities of the variables are concerned. So, for example, in relation to money laundering, both the reports by Europol and by the Council of Europe collect information on the large majority of the variables indicated in the tables, the only exception being the variable 'country of origin of suspects', in relation to which data are collected only from the CoE.

However, different modalities are sometimes used to collect data on the same variable. So for example, in regard to corruption, different modalities are used to collect information on the variable 'use of corruption', with Europol focusing on whether or not use of corruption occurs, while the Council of Europe focuses on the use of corruption at national/international level per MS.

E) Key findings from the review of the private sector's current approach to security and crime prevention

The analysis of strategies applied by businesses to prevent and control risks of organized crime raises a variety of important questions. Many of these questions have to do with the lack of adequate and valid information. There is a shortage of empirical studies in this field. No systematic evaluation studies were found on the effects of strategies of businesses in regard to organized crime. Many questions also arise concerning international co-operation on strategies by businesses to counter the risks of organized crime.

On the one hand, the role of international institutions like the EU or IMO is growing more important, with international rules and requirements imposed on companies, for instance the ISPS-code. The contemporary 'war on terrorism' promotes this development. On the other hand, presumably with the exception of the music industry and multinational companies, many of the strategies adopted by businesses to counter organized crime seem to be largely confined within national borders. This also seems to apply to a considerable degree to internationally oriented economic sectors like road transport and banks.

Important questions concern the relations between the strategies on crime adopted by businesses and those of public agencies like the police and public prosecution. To what extent do these two types of strategies operate in parallel? To what extent is there a more or less clear division of tasks and responsibilities? In many respects it seems that there is a gap between two different domains and perspectives: those of law enforcement and security management. Public policing is more focused on prevention and the repression of (potential) offenders in accordance with justice and formal rules. Security management, however, is more oriented to the reduction of loss. Speed and efficiency are therefore often more important to it than formal rules and justice. Its aims are often pursued by exclusion and limiting participation, rather than by punishing or rehabilitating offenders.

Often only informal, personal relations between representatives of the public and private sectors, with the emphasis on mutual trust and personal acquaintance, seem able to bridge this gap. Nevertheless, cooperation among companies, private sector organization and the (public) police often seem to be hampered by differences in perspectives and priorities. The relations between public and private agencies has also become more complex, owing to the advent of new regulatory bodies, supervisory agencies and indirect forms of regulation and self-regulation, in some cases even enforced by the state.

In this highly fragmented field, where both business and public agencies have their own views and interests, relations between public and private agencies are often partial, or may even be non-existent.

F) Key findings from the analysis of the contribution that the private security services may make to the fight against organised crime, in order to improve cooperation between the private and public sectors

The private security industry extends from local surveillance to international private military companies, with the investigation activities of corporate and private security firms working for corporate and governmental clients lying between these local and international extremes. Cooperation with public enforcement agencies varies from being close in some areas, to low or non-existent, although some informal 'helping out' occurs in other areas. This variation is analysed in terms of formal priorities and constraints on both sides, and in terms of cultural and occupational closeness. Implications for the shaping of organised crime include its restraint, and possibly its reduction, in areas of relatively close cooperation, such as antiterrorist action, at the expense of its resilience and possibly its growth in areas in which cooperation is relatively low, such as insider frauds and competitive business behaviour.

For further details the reader is referred to ANNEXES 1 to 10D.

1.4.2 The IKOC methodology to develop a common knowledge-based European approach to organised crime

With reference to goal 2, the final achievement of the research activities is a methodology for measuring the risk of organised crime activities across EU Member States, by proposing common EU indicators for measuring a) the probability and b) impact of OC activities. This is because the concept of (organised) crime risk was defined in the context of the Project as the product of the probability that an (organised) crime event, as a negative event, will happen, together with its impact.

G) The IKOC methodology for measuring the probability of a given organised criminal activity in a given MS

The IKOC methodology for measuring the probability of a given organised criminal activity in a given MS consists of 9 indicators. These are presented in the Table below. For each indicator, the related modalities are also indicated.

	INDICATORS OF PROBABILITY OF A GIVEN OC ACTIVITY	MODALITIES
CHARACTERISTICS OF OC GROUPS	Links/cooperation between the OC groups involved	a range from 1 to 5, where 1 = 0–20% of annual reported OC offences of a given type involving cooperation between two or more groups 2 = 21% to 40% of annual reported OC offences of a given type involving cooperation between two or more groups 3 = 41% to 60% of annual reported OC offences of a given type involving cooperation between two or more groups 4 = 61% to 80% of annual reported OC offences of a given type involving cooperation between two or more groups 5 = 81% to 100% of annual reported OC offences of a given type involving cooperation between two or more groups
	Geographic distribution of the OC groups involved (or overseas routes)	a range from 1 to 5, where 1 = 0–20% of the annual percentage of reported OC offences of a given type involving more than one country 2 = 21% to 40% of the annual percentage of reported OC offences of a given type involving more than one country 3 = 41% to 60% of the annual percentage of reported OC offences of a given type involving more than one country 4 = 61% to 80% of the annual percentage of reported OC offences of a given type involving more than one country 5 = 81% to 100% of the annual percentage of reported OC offences of a given type involving more than one country
	Specialisation/Use of expert knowledge by the OC groups involved	a range from 1 to 5, where 1 = 0–20% of the annual percentage of reported OC offences of a given type involving the participation of one or more specialists 2 = 21% to 40% of the annual percentage of reported OC offences of a given type involving the participation of one or more specialists 3 = 41% to 60% of the annual percentage of reported OC offences of a given type involving the participation of one or more specialists 4 = 61% to 80% of the annual percentage of reported OC offences of a given type involving the participation of one or more specialists 5 = 81% to 100% of the annual percentage of reported OC offences of a given type involving the participation of one or more specialists
	Intimidatory power of the OC groups involved by the use or threat of violence	a range from 1 to 5, where 1 = 0–20% of the annual percentage of reported OC offences of a given type involving the use or threat of violence within and outside the criminal world 2 = 21% to 40% of the annual percentage of reported OC offences of a given type involving the use or threat of violence within and outside the criminal world 3 = 41% to 60% of the annual percentage of reported OC offences of a given type involving the use or threat of violence within and outside the criminal world 4 = 61% to 80% of the annual percentage of reported OC offences of a given type involving the use or threat of violence within and outside the criminal world 5 = 81% to 100% of the annual percentage of reported OC offences of a given type involving the use or threat of violence within and outside the criminal world

	Use of corruption by the OC groups involved	a range from 1 to 5, where 1 = 0–20% of the annual percentage of reported OC offences of a given type involving the use of corruption 2 = 21% to 40% of the annual percentage of reported OC offences of a given type involving the use of corruption 3 = 41% to 60% of the annual percentage of reported OC offences of a given type involving the use of corruption 4 = 61% to 80% of the annual percentage of reported OC offences of a given type involving the use of corruption 5 = 81% to 100% of the annual percentage of reported OC offences of a given type involving the use of corruption
	Use of legitimate business structures by the OC groups involved	a range from 1 to 5, where 1 = 0–20% of the annual percentage of reported OC offences of a given type involving the use of legitimate business structures 2 = 21% to 40% of the annual percentage of reported OC offences of a given type involving the use of legitimate business structures 3 = 41% to 60% of the annual percentage of reported OC offences of a given type involving the use of legitimate business structures 4 = 61% to 80% of the annual percentage of reported OC offences of a given type involving the use of legitimate business structures 5 = 81% to 100% of the annual percentage of reported OC offences of a given type involving the use of legitimate business structures
	Use of Information and Communication Technology by the OC groups involved	a range from 1 to 5, where 1 = 0–20% of the annual percentage of reported OC offences of a given type involving the use of ICT 2 = 21% to 40% of the annual percentage of reported OC offences of a given type involving the use of ICT 3 = 41% to 60% of the annual percentage of reported OC offences of a given type involving the use of ICT 4 = 61% to 80% of the annual percentage of reported OC offences of a given type involving the use of ICT 5 = 81% to 100% of the annual percentage of reported OC offences of a given type involving the use of ICT
LAW ENFORCEMENT RISK	Probability of conviction for a given OC activity	a range from 1 to 5. where 1 = ratio number of persons convicted for a given OC offence/number of persons reported for a given OC offence ranging from 0.81 to 1 2 = ratio number of persons convicted for a given OC offence/number of persons reported for a given OC offence ranging from 0.61 to 0.80 3 = ratio number of persons convicted for a given OC offence/number of persons reported for a given OC offence ranging from 0.41 to 0.60 4 = ratio number of persons convicted for a given OC offence/number of persons reported for a given OC offence ranging from 0.21 to 0.40 5 = ratio number of persons convicted for a given OC offence/number of persons reported for a given OC offence ranging from 0 to 0.20
	Probability of having the proceeds of a given OC activity confiscated	a range from 1 to 5. where 1 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0.81 to 1 2 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0.61 to 0.80 3 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0.41 to 0.60 4 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0.21 to 0.40 5 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0 to 0.20

H) The IKOC methodology for measuring the impact of a given organised criminal activity in a given MS

The IKOC methodology for measuring the probability of a given organised criminal activity in a given MS is summed up in the Table below.

	INDICATORS OF IMPACT OF A GIVEN OC ACTIVITY	MODALITIES
PRIMARY DAMAGE	Direct loss for the victims of the given OC activity (e.g. loss of turnover for the companies and their suppliers whose products have been counterfeited)	$Loss = \sum C_i$ With: i : number of cases with $i = [1...i...n]$ C_i : Range of compensation awarded by the courts [or ONLY IN THE CASE OF TRAFFICKING IN STOLEN VEHICLES] $Loss = \sum (IC_i + P_i)$ With: i : number of cases with $i = [1...i...n]$ IC_i : Increased insurance premiums for consumers P_i : Compensation awarded by insurance companies
	Loss of the taxes which would have been paid by the legal business sector if its turnover included the illegal market share.	$T = \text{loss of taxes}$ $T = t * S$ with t , global tax rate applied on a representative variable of the business activity ($S = \text{sales}$)
COST OF PUBLIC RESPONSE	Public expenditure on policing	PE: Amount of public expenditure
	Cost of judicial system	CJ: Number of cases X prosecution cost
	Cost of correctional institutions	CC: Number of prisoners X cost

For a description of the entire process which produced this methodology, the reader is referred to ANNEXES 11, 13 and 14.

1.5 Achievements of the project to the state-of-the-art

The importance of creating a common knowledge-based European approach to organised crime derives from the need to step up progress towards a European area of freedom, security and justice by furthering efforts to provide internal security while at the same time guaranteeing respect for freedoms and fundamental civil liberties. Beginning with the fact that people expect to live without fear of crime and violence in the EU and given that security is also fundamental for economic development, organised crime prevention and reduction remain at the forefront of the activities conducted by both European institutions and EU Member States. As stated by scientific and academic research, and also by official documents from European and international institutions/organisations, the threat/harm posed by organised crime and new organised criminal groups is extremely serious and on the increase. What is needed is a sound knowledge-based approach to organised crime related issues which benefits from the expertise of both public and private sectors. Despite strong demand for a sound common knowledge-based European approach to combating organised crime, research on the matter is very fragmented.

Current efforts to collect and analyse information on organised crime at an EU level suffer from two weaknesses: 1) qualitative information is not cross-country comparable because it is collected from different organisations, different levels in the same organisation, and there is no standardised procedure to collect the information within countries. In fact, the qualitative information analysed is probably more up-to-date than the quantitative information, because it is collected more or less directly from the people that have observed the phenomena during a working year. 2) quantitative information suffers from the fact that it is usually collected in a form that has been decided a long time ago, so it is not up to date in that sense, nor in the sense that it is specifically recent, because collection, processing and dissemination takes so long at Council of Europe level.

There is a widely felt need for research able to yield comparable national and supranational statistics that aid law enforcement agencies and policymakers as much as possible in the fight against organised crime. In this respect, recent research in the European Union on the measurement of organised crime has underlined the need for a set of indicators with which to gauge its volume, the threat that it poses for society, and the effectiveness of policies to combat it.

The achievements of Project IKOC represents a major contribution in this field because they include a common EU methodology to measure the probability and impact of organised criminal activities whose implementation by national policy makers and law enforcement agencies would make it possible to render the levels of risk of specific OC activities across the MSs comparable.

1.6 Impact of the project

The **short term strategic impact** of the IKOC Project is the definition of common indicators for measuring the probability and impact of organised criminal activities and for assessing the effectiveness of crime prevention policies, at national and European Union levels.

The **long term strategic impact** of the IKOC Project is the creation of a knowledge-based common European approach to organised crime, with the implementation of the above mentioned set of indicators.

1.7 Website and logotype

During the research activities, a project logotype (see ANNEX 20) and a website were designed. The website can be seen at the following url: <http://ikoc.unicatt.it/>. The website has a free area accessible to all where information and news on the project are provided and a members' area, accessible only to partners, that has been used to exchange relevant information among the researchers (see ANNEX 21).

2. DISSEMINATION AND USE

2.1 Exploitable knowledge and its Use

Not applicable for this kind of research.

2.2 Dissemination of knowledge

The knowledge achieved in the project was disseminated with different means by all the project partners.

Several papers were given to conferences, lectures and seminars on the IKOC methodology to measure the risk of OC activities and on its background by researchers involved in the project at the national and, especially, international levels. University lectures on the topic were held as well.

A website was constructed showing the project activities and results (<http://ikoc.unicatt.it>).

Specialised publications on the topics covered by the Project have also been produced or are being finalised.

Two panel sessions (panel sessions 3.3 and 4.3) within the 5th Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology, held in Krakow (Poland) from 31 August to 3 September 2005, were devoted to presenting, respectively, the results of the first year of activities of the IKOC Project and introducing the second year activities (see ANNEX 12).

Finally, the IKOC/AOC Joint Conference "Knowledge on Crime in the EU" held in Brussels, at the premises of DG Research, on 12 December 2006 made it possible for the IKOC consortium to present the results from the Project. This was done jointly with the consortium of Project AOC, another one funded by the European Commission under the Sixth Framework Programme of the European Commission and coordinated by Tilburg University (The Netherlands). The Joint Conference aimed at providing interested policy makers of EU and national institutions, national law enforcement agencies, academia and the private sector with a common methodology to be used for assessing and comparing the risk of organised criminal activities across the EU Member States (see ANNEX 18).

The table below summarises all the activities undertaken in order to disseminate knowledge.

Planned/actual Dates	Type	Type of audience	Countries addressed	Size of audience	Partner responsible /involved
26-27 May 2004	5 th Offshore Financial Summit - <i>Capitalising on the Latest Developments in Offshore Finance</i> London (UK)	Bankers, auditing companies, law enforcement	European	80	1/UCSC
26 - 28 May 2004	International Seminar: <i>Le nuove mafie transnazionali in Europa e in Italia: riflessi sulla sicurezza europea e nazionale e strumenti di contrasto</i> Castello di San Martino, Priverno, Latina (Italy)	Law enforcement, Academics, policy makers	International	200	1/UCSC
27-30 June, 2004	ISMA 2004 Summer Meeting on <i>"Europe and Beyond - Dynamics of Crime Understanding Dynamics of Crime and Finding Appropriate Remedies: the co-operation between Business and Academia Brussels (Belgium)"</i>	Business and Academia	EU	50	1/UCSC
2-4 September 2004	6th Colloquium on <i>Cross-Border Crime, Scenarios on crime and crime policies after the EU enlargement</i> Berlin (Germany)	Academics, prosecutors, law enforcement, EU officials	EU	50	1/UCSC

Planned/actual Dates	Type	Type of audience	Countries addressed	Size of audience	Partner responsible /involved
5-11 September 2004	Twenty-Second Cambridge International Symposium on Economic Crime <i>The Financial War on Terror and Organised Crime</i> Cambridge (UK)	Bankers, Layers, Prosecutors, Academics, Policy makers, law enforcement	International	650	1/UCSC
14-15 April 2005	Seminar on the <i>Fight against Organised Crime</i> , European Commission, DG Enlargement, TAIEX, Skopje (Former Yugoslav Republic of Macedonia)	Law enforcement	Former Yugoslav Republic of Macedonia	100	1/UCSC
18-25 April 2005	Eleventh United Nations Congress on <i>Crime Prevention and Criminal Justice. Synergies and responses: strategic alliances in crime prevention and criminal justice</i> , Bangkok (Thailand)	Research / higher education, Government	International	1000	1/UCSC
19-20 May 2005	Seminar on the <i>Fight against Organised Crime</i> , European Commission, DG Enlargement, TAIEX, Tirana (Albania)	Law enforcement	Albania	100	1/UCSC
6-8 October 2005	Seventh Colloquium on Cross-border Crime in Europe on <i>The organisation of crime: Towards a realistic assessment in the Balkan region</i> , Sarajevo (Bosnia Herzegovina)	Research, law enforcement, governmental institutions	European countries	200	1/UCSC
15-19 November 2005	American Society of Criminology 2005 Annual Meeting, Toronto (Canada)	Research / higher education	International	800	1/UCSC
25-28 August 2004	Conference European Society of Criminology Amsterdam	Research / higher education	European and non-European	500	5/VU
17-20 November 2004	Conference American Society of Criminology, Nashville, Tennessee (USA)	Research / higher education	International	800	5/VU
15 December 2004	"Organised crime and the real estate sector" (seminar of Centre for Information and Research on Organised Crime (CIROC), Vrije Universiteit Amsterdam)	Research / higher education/ law enforcement/ private sector/ governmental institutions	The Netherlands	80	5/VU
23 February 2005	The Dutch approach to organised crime in an international perspective (seminar of Centre for Information and Research on Organised Crime (CIROC), Vrije Universiteit Amsterdam)	Research / higher education/ law enforcement/ private sector/ governmental institutions	The Netherlands	80	5/VU
6 April 2005	Organised Crime and Gambling (seminar of Centre for Information and Research on Organised Crime (CIROC), Vrije Universiteit Amsterdam)	Research / higher education/ law enforcement/ private sector/ governmental institutions	The Netherlands	80	5/VU

Planned/actual Dates	Type	Type of audience	Countries addressed	Size of audience	Partner responsible /involved
2004	Bunt, H.G. van de (2004), "Organised Crime policies in the Netherlands", in Fijnaut, C. & Paoli, L. (Eds.), <i>Organised Crime in Europe. Concepts, Patterns and Control Policies in the European Union and beyond</i> , Dordrecht: Springer (pp. 617–716)				5/VU
2004	Bunt, H.G. van de & Kleemans, E. (2004). "Transnational Organized Crime: new directions for empirical research and public policy", in Bruinsma, G. (ed.), <i>Punishment, Places and Perpetrators, developments in criminology and criminal justice research</i> , London: Willan Publishing (pp. 198–214)				5/VU
2004	Nelen, H., "Hit them where it hurts most; the proceeds-of-crime approach in the Netherlands", in <i>Crime, Law and Social Change</i> , June 2004, Volume 41 (Issue: 5), pp. 517–534				5/VU
2004	Nelen, H., "Facilitating organised crime; contemporary dilemmas for lawyers and notaries", presented at the <i>4th Annual conference of the European Society of Criminology (ESC)</i> Amsterdam, 25–28 August 2004				5/VU
2004	Nelen, H., <i>Dilemmas Facing the Legal and Financial Professions in their Professional Relationships with Criminal Clients</i>				5/VU
2004	Siegel, D., "The culture of mazzel. Trust and Crime among the diamond traders in Antwerp", presented at the <i>56th Annual conference of the American Society of Criminology (ASC)</i> Nashville, 17–20 November 2004				5/VU
2004	Siegel, D., "East and Central European Organized Crime in the Netherlands", Newsletter CIROC, vol. 4, nr. 1, August 2004				5/VU
2004	Bunt, H.G., "Anti-money laundering efforts in the Netherlands", Newsletter CIROC, vol. 4, nr. 1, August 2004				5/VU
2004	Siegel, D., <i>Organised crime in the Netherlands</i> , International Summer School, Leiden University				5/VU

Planned/actual Dates	Type	Type of audience	Countries addressed	Size of audience	Partner responsible /involved
	Newsletter Centre for Information and Research on Organised Crime (CIROC), vol. 4, nr. 1, August 2004	Research, higher education, law enforcement, governmental institutions, private sector	European	400	5/VU
	Nieuwsbrief Centre for Information and Research on Organised Crime (CIROC), vol. 4, nr. 3, August 2004	Research, higher education, law enforcement, governmental institutions, private sector	The Netherlands	300	5/VU
	Nieuwsbrief Centre for Information and Research on Organised Crime (CIROC), vol. 4, nr. 4, December 2004	Research, higher education, law enforcement, governmental institutions, private sector	The Netherlands	300	5/VU
	Nieuwsbrief Centre for Information and Research on Organised Crime (CIROC), vol. 5, nr. 1, April 2005	Research, higher education, law enforcement, governmental institutions, private sector	International		5/VU
	Website Centre for Information and Research on Organised Crime (CIROC); www.ciroc.org	Research, higher education, law enforcement, governmental institutions, private sector			
31 August–3 September 2005	Fifth Annual Conference of the European Society of Criminology on <i>Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland)	Research / higher education	International	500	All partners
2006	Publication of intermediate results in a special, monographic, issue of <i>European Journal of Criminal Policy and Research</i> .	Researchers, legislators, practitioners, manufacturers	World-wide	N/A	All partners
2006	Final Working Seminar to present and discuss the results of the research with representatives of the private and public sector (WP 18).	Public and private sector and EU representatives	Europe wide	To be defined	All partners
2006	Publication of the final results of the research – in one or more volumes – with the international publisher Springer (Dordrecht, The Netherlands).	Researchers, legislators, practitioners, public and private sector	World-wide	N/A	All partners

Planned/actual Dates	Type	Type of audience	Countries addressed	Size of audience	Partner responsible /involved
31 August-3 September 2005	<p><u>Speech</u> by E.U. Savona in Panel 3.3 <i>(Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry)</i> on “Project IKOC (Improving Knowledge on Organised Crime) what we achieved until now” at the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology, Krakow (Poland).</i></p>	Researchers, higher educated audience	International	500	1/UCSC

Planned/actual Dates	Type	Type of audience	Countries addressed	Size of audience	Partner responsible /involved
31 August–3 September 2005	<u>Speech</u> by B. Vettori in Panel 4.3 (<i>Organised crime in Europe. Toward the common EU's strategic concept of Organised Crime</i>) on "Evaluation of the usefulness of existing OC data in the construction of a common EU methodology to measure OC probability and impact" at the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland).	Researchers, higher educated audience	International	500	1/UCSC
31 August–3 September 2005	<u>Speech</u> by B. Vettori in Panel 7.6 (<i>Organized crime 2</i>) on "Towards a measurement of organised crime: mapping and comparing data sources on organised crime at international, regional and MS levels. Results from the EUSTOC Project under the AGIS Programme" at the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland).	Researchers, higher educated audience	International	500	1/UCSC
5 September 2005	<u>Presentation</u> by E.U. Savona on "Organised crime & terror – the risks to the business environment" at the <i>23rd International Symposium on Economic Crime</i> , Jesus College University of Cambridge, Cambridge (United Kingdom).	Researchers, higher education, law enforcement, governmental institutions, private sector	International	400	1/UCSC
26–27 September 2005	<u>Speech</u> by B. Vettori on "Organised Crime in the SEE Countries: Analysis and Remedies, with a Special Focus on Croatia" at the <i>Seminar on the Fight against Organised Crime</i> , European Commission, DG Enlargement, Zagabria (Croatia).	Researchers, law enforcement, governmental institutions	European countries	50	1/UCSC
30 September 2005	<u>Speech</u> by E.U. Savona on "Finance And Organised Crime" at the <i>2nd Geneva Forum on Organised Crime</i> , Geneva (Switzerland).	Researchers, law enforcement, governmental institutions	EU + Switzerland	60	1/UCSC

06–10 October 2005	<u>Presentation</u> by B. Vettori on “Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach” at the <i>Seventh Colloquium on Cross–border Crime in Europe on The organisation of crime: Towards a realistic assessment in the Balkan region</i> , Sarajevo (Bosnia Herzegovina).	Researchers, law enforcement, governmental institutions	European countries	50	1/UCSC
25 October 2005	<u>Speech</u> by E.U. Savona at the conference <i>Quale criminalità organizzata per quale contraffazione</i> , Agenzia delle Dogane, Milan (Italy).	Law enforcement agencies, lawyers	Italy	200	1/UCSC
16 January 2006	<u>Meeting</u> <i>Joint meeting of the projects IKOC and AOC</i> , Milan (Italy).	Partners	International	10	1/UCSC, 3/UNITN
03 February 2006	<u>Speech</u> by E.U. Savona on “I costi dell’illegalità come freno agli investimenti”, at the conference on <i>I costi dell’illegalità</i> , Fondazione Chinnici, Palermo (Italy).	Policy makers, law enforcement agencies, researchers, general public	Italy	200	1/UCSC
07 February 2006	<u>Speech</u> by E.U. Savona on “Introducing Project IKOC – Improving Knowledge on Organised Crime” at the <i>EU Forum on the Prevention of Organised Crime on “Measuring organised crime – Researchers meet policy-makers on concepts, indicators and tools”</i> , European Commission, Brussels (Belgium).	Law enforcement officials and policy makers	EU	80	1/UCSC
08 February 2006	<u>Presentation</u> by E.U. Savona on “Measuring organised crime in a comparative perspective” at the <i>Expert Group Meeting on Crime Data Collection</i> , United Nations Drug and Crime, Vienna (Austria).	Researchers, international officials	International	25	1/UCSC
23 March 2006	<u>Lecture by</u> by E.U. Savona on “Quale criminalità organizzata per quale contraffazione” at the <i>Master in Diritto Transnazionale</i> , Università degli Studi di Trento, Trento (Italy).	Master students	Italy	30	1/UCSC
15 June 2006	<u>Speech</u> by E.U. Savona on “What do(n)t we know about organized crime in Europe” at the <i>Stockholm Criminology Symposium</i> , Stockholm (Sweden).	Academics	International	30	1/UCSC

26–29 August 2006	<u>Speech</u> by B. Vettori in Panel 3.09 (Current Issues in Human Trafficking III) on “Harmonising definitions and data collection procedures for corruption, counterfeiting, fraud, illicit trafficking in cultural goods and sexual exploitation of children in the EU” at the <i>Sixth Annual Conference of the European Society of Criminology on Understanding Crime: Structural and Developmental Dimensions, and Their Implications for Policy</i> , Tübingen (Germany).	Researchers, higher educated audience	International	500	1/UCSC
26–29 August 2006	<u>Speech</u> by E.U. Savona and B. Vettori in Panel 2.11 (Costs of crime) on “Which cost for which crime? Discussing models for assessing the harm of (organised) crime” at the <i>Sixth Annual Conference of the European Society of Criminology on Understanding Crime: Structural and Developmental Dimensions, and Their Implications for Policy</i> , Tübingen (Germany).	Researchers, higher educated audience	International	500	1/UCSC
03 September 2006	<u>Speech</u> by E.U. Savona on “Criminal Enterprises – Responding to Unfair Competition to Good Business and Protecting Reputation” at the <i>XXIV Cambridge International Symposium on the Price of Crime</i> , Jesus College University of Cambridge, Cambridge (United Kingdom).	Researchers, higher education, law enforcement, governmental institutions, private sector	International	400	1/UCSC
20 September 2006	<u>Speech</u> by B. Vettori on “Exemplar III: examples of the types of information generated by studies of costs/impacts of crime – what you get from these approaches, and what you do not”, at the <i>Europol Organised Crime Threat Assessment Meeting</i> , The Hague (The Netherlands).	Officials from EU national law enforcement agencies specialised in the fight against OC	EU	40	1/UCSC
17 November 2006	<u>Lecture</u> by E.U. Savona on “Prospettive europee per il contrasto al crimine economico-finanziario transnazionale” at the <i>Corso CEPOL sulla criminalità economico-finanziaria</i> , Rome (Italy).	Law enforcement agencies	EU	30	1/UCSC

12 December 2006	<u>Speech</u> by E.U. Savona on "IKOC starting point: existing data sources on organised crime in Europe", at the <i>IKOC/AOC Joint Conference – Knowledge on crime in the EU: Joint presentation of the results of two research projects investigating organised crime assessment in the EU</i> , European Commission, DG Research, Brussels (Belgium).	Academics, policy makers and law enforcement agencies	EU	35	1/UCSC
12 December 2006	<u>Speech</u> by E.U. Savona and B. Vettori on "The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: proposing common EU indicators for measuring the probability of OC activities across the EU Member States", at the <i>IKOC/AOC Joint Conference – Knowledge on crime in the EU: Joint presentation of the results of two research projects investigating organised crime assessment in the EU</i> , European Commission, DG Research, Brussels (Belgium).	Academics, policy makers and law enforcement agencies	EU	35	1/UCSC
2006	<u>Publication</u> by E.U.Savona and S. Stefanizzi (edited by), <i>Measuring Human Trafficking</i> , Springer, Dordrecht.	International			1/UCSC
2006	<u>Publication</u> "Comparing data sources on organised crime across the EU. A first step towards an EU statistical apparatus", by B. Vettori, in P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe, J.L. Newell (edited by), <i>The organisation of crime-for-profit. Conduct, law and measurement</i> , Wolf Legal Publishers, Nijmegen, 2006, pp. 43-67.	International			1/UCSC
31 August-3 September 2005	<u>Speech</u> by M. Levi and N. Dorn in Panel 3.3 (<i>Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry</i>) on "Private security services to the corporate sector: an analysis" at the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland).	Researchers, higher educated audience	International	500	2/UWC

31 August–3 September 2005	<u>Speech</u> by N. Dorn and M. Levi in Panel 4.3 (<i>Organised crime in Europe. Toward the common EU's strategic concept of Organised Crime</i>) on "Towards a European Criminal Intelligence Model: how could the EU's strategic concept of OC translate into information flows and policy?" at the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland).	Researchers, higher educated audience	International	500	2/UWC
03 November 2005	<u>Seminar</u> <i>Talk to senior police intelligence officers, SOCA, UK</i> Title: Serious Organised Crime Agency, London, academic seminars Connecting concepts of harm and their uses in policing serious organised crime.	Police and academics	UK mainly, but there were academics participating from other EU MS	25	2/UWC
21 February 2006	<u>Seminar</u> <i>Talk to Criminology Section meeting, Erasmus, NL University Rotterdam</i> Title: The private–public security interface: international, national, local.	Academics		12	2/UWC
5–6 April 2006	<u>Conference</u> <i>Crime, Justice and Surveillance Conference, Sheffield UK</i> Title: European strategic intelligence on serious economic crime and terrorism.	Academics	Mostly UK, some international	30	2/UWC
12 December 2006	<u>Speech</u> by N. Dorn on "Examining the feasibility of the IKOC methodology in relation to international fraud: a pilot study", at the <i>IKOC/AOC Joint Conference – Knowledge on crime in the EU: Joint presentation of the results of two research projects investigating organised crime assessment in the EU</i> , European Commission, DG Research, Brussels (Belgium).	Academics, policy makers and law enforcement agencies	EU	35	2/UWC
December 2006; printed version forthcoming	<u>Publication</u> Paper in peer–refereed journal 'Policing and Society', Dorn, N and Levi, M, 'European private security, corporate investigation and military services: collective security, market regulation and structuring the public sphere'.	Academics, police, some policy makers	International circulation (in English language)	In the thousands	2/UWC

31 August–3 September 2005	<u>Speech</u> by A. Antoniou in Panel 3.3 (<i>Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry</i>) on “Quantitative and qualitative data on organised crime collected by law enforcement agencies in the EU” at the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland).	Researchers, higher educated audience	International	500	3/UNITN
02–04 December 2005	<u>Speech</u> by A. Di Nicola on “Review of Official Statistics on Trafficking in Human Beings and Their Validity in the 25 EU Member States. From Official Statistics to Estimates of the Phenomenon” at the <i>International Conference on Measuring Human Trafficking. Complexities and Pitfalls</i> , Courmayeur (Italy).	Academics, researchers, law enforcement institutions	International	200	3/UNITN
20 and 28 April 2006	<u>Lectures</u> by A. Di Nicola on <i>Innovative strategies to fight and prevent Organised crime</i> , Faculty of Law, University of Trento (Italy).	Scholars	Italy	50	3/UNITN
11 December 2006	<u>Speech</u> By A. Di Nicola on “Organised Crime and its Impact on Urban Security. The Italian Case” at the seminar organised in the framework of the AGIS project “ <i>Buon Vicinato. Le città europee condividono le politiche di prevenzione della criminalità urbana</i> ”, New Scotland Yard, London (United Kingdom).	Researchers and law enforcement officials	EU	20	3/UNITN
2006	<u>Publication by</u> A. Di Nicola, <i>La criminalità economica organizzata: le dinamiche dei fenomeni, una nuova categoria concettuale e le sue implicazioni di policy</i> , Angeli, Milan.	National			3/UNITN

2006	<u>Publication by</u> A. Di Nicola, "Review of Official Statistics on Trafficking in Human Beings for Sexual Exploitation and their Validity in the 25 EU Member States. From Official Statistics to Estimates of the Phenomenon" (with A. Cauduro), in E.U. Savona and S. Stefanizzi (edited by), <i>Measuring Human Trafficking. Complexities and Pitfalls</i> , Springer, Dordrecht, pp. 69–88.	International			3/UNITN
October 2006	<u>Seminar</u> by P. Kopp on IKOC related issues at the University <i>La Sorbonne</i> , Paris (France).	Scholars	France	20	4/CNRS
December 2006	<u>Workshop</u> by P. Kopp on IKOC related issues at the University <i>La Sorbonne</i> , Paris (France).	Scholars and professionals	France	20	4/CNRS
12 December 2006	<u>Speech</u> by P. Kopp on "The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: proposing common EU indicators for measuring the impact of OC activities across the EU Member States", at the <i>IKOC/AOC Joint Conference – Knowledge on crime in the EU: Joint presentation of the results of two research projects investigating organised crime assessment in the EU</i> , European Commission, DG Research, Brussels (Belgium).	Academics, policy makers and law enforcement agencies	EU	35	4/CNRS
31 August–3 September 2005	<u>Chair</u> of Panel 3.3 (<i>Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry</i>) of the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland) by D. Siegel. This panel session was specifically devoted to IKOC Project.	Researchers, higher educated audience	International	500	5/VU

31 August–3 September 2005	<u>Speech</u> by J. Terpstra in Panel 3.3 (<i>Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry</i>) on “Strategies of business to manage risks of organised crime” at the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland).	Researchers, higher educated audience	International	500	5/VU
31 August–3 September 2005	<u>Chair</u> of Panel 4.3 (<i>Organised crime in Europe. Toward the common EU’s strategic concept of Organised Crime</i>) of the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland) by H. Nelen. This panel session was specifically devoted to IKOC Project.	Researchers, higher educated audience	International	500	5/VU
31 August–3 September 2005	<u>Speech</u> by H. van de Bunt in Panel 4.3 (<i>Organised crime in Europe. Toward the common EU’s strategic concept of Organised Crime</i>) on “Critical analysis of existing methods and reports on measurement of organised crime” at the <i>Fifth Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology</i> , Krakow (Poland).	Researchers, higher educated audience	International	500	5/VU
14 December 2005	<u>Seminar</u> “Innovative strategies to fight and prevent Organised crime and the real estate sector” of <i>Centre for Information and Research on Organised Crime (CIROC)</i> , Vrije Universiteit Amsterdam (The Netherlands).	Researchers, law enforcement/ private sector/ governmental institutions	The Netherlands	80	5/VU Prof. Dr. H.G. van de Bunt / dr. D. Siegel / dr. J.M. Nelen
15 March 2006	<u>Seminar</u> “Organised crime and Third world countries” of <i>Centre for Information and Research on Organised Crime (CIROC)</i> , Vrije Universiteit Amsterdam (The Netherlands).	Researchers, law enforcement/ private sector/ governmental institutions	The Netherlands	80	5/VU Prof. Dr. H.G. van de Bunt / dr. D. Siegel / dr. J.M. Nelen

17 May 2006	<u>Seminar</u> "Smuggling Havens in the Caribbean" of <i>Centre for Information and Research on Organised Crime (CIROC)</i> , Vrije Universiteit Amsterdam (The Netherlands).	Researchers, higher education academics, law enforcement/ private sector/ governmental institutions	The Netherlands	80	5/VU Prof. Dr. H.G. van de Bunt / dr. D. Siegel / dr. J.M. Nelen
20 December 2006	<u>Seminar</u> "East meets West; the criminal threat of EU-enlargement" of <i>Centre for Information and Research on Organised Crime (CIROC)</i> , Vrije Universiteit Amsterdam (The Netherlands).	Researchers, higher education academics, law enforcement/ private sector/ governmental institutions	The Netherlands	80	5/VU Prof. Dr. H.G. van de Bunt / dr. D. Siegel / dr. J.M. Nelen
26-29 August 2006	<u>Speech</u> by H. Nelen in Panel 2.14 (Areas of Activity in the Context of Organised Crime) at the <i>Sixth Annual Conference of the European Society of Criminology on Understanding Crime: Structural and Developmental Dimensions, and Their Implications for Policy</i> , Tubingen (Germany).	Researchers, higher educated audience	International	500	5/VU
1-4 November 2006	<u>Conference</u> <i>American Society of Criminology</i> , Los Angeles (USA).	Researchers higher education academics	International	2500	5/VU Dr. D.Siegel/ Dr. J.M. Nelen
August 2005	<u>Publication</u> <i>Newsletter Centre for Information and Research on Organised Crime (CIROC)</i> , vol. 5, nr. 1, August 2005.	Researcher, higher education, law enforcement, governmental institutions, private sector	European	400	5/VU
August 2005	<u>Publication</u> <i>Nieuwsbrief Centre for Information and Research on Organised Crime (CIROC)</i> , vol. 5, nr. 2, August 2005.	Researcher, higher education, law enforcement, governmental institutions, private sector	The Netherlands	300	5/VU
October 2005	<u>Publication</u> <i>Nieuwsbrief Centre for Information and Research on Organised Crime (CIROC)</i> , vol. 5, nr. 3, October 2005.	Researchers, higher education, law enforcement, governmental institutions, private sector	The Netherlands	300	5/VU

March 2006	<u>Publication</u> <i>Nieuwsbrief Centre for Information and Research on Organised Crime (CIROC)</i> , vol. 6, nr. 1, March 2006.	Researchers, higher education, law enforcement, governmental institutions, private sector	The Netherlands	300	5/VU
October 2006	<u>Publication</u> <i>Nieuwsbrief Centre for Information and Research on Organised Crime (CIROC)</i> , vol. 6, nr. 2, October 2006.	Researchers, higher education, law enforcement, governmental institutions, private sector	The Netherlands	300	5/VU
October 2006	<u>Website</u> <i>Website of the Centre for Information and Research on Organised Crime (CIROC)</i> (www.ciroc.org).	Researchers, higher education, law enforcement, governmental institutions, private sector	International		5/VU
October 2006	<u>Publication</u> <i>Newsletter Centre for Information and Research on Organised Crime (CIROC)</i> , vol 6, nr. 1, October 2006.	Researchers, higher education, law enforcement, governmental institutions, private sector	European	400	5/VU
12 December 2006	<u>Speech</u> by H. van de Bunt and B. ter Luun on "Discussing the practical and policy implications from the IKOC methodology: the balance between the fight against organised crime and the need to respect civil liberties", at the <i>IKOC/AOC Joint Conference – Knowledge on crime in the EU: Joint presentation of the results of two research projects investigating organised crime assessment in the EU</i> , European Commission, DG Research, Brussels (Belgium).	Academics, policy makers and law enforcement agencies	EU	35	5/VU
December 2006	<u>Publication</u> <i>Nieuwsbrief Centre for Information and Research on Organised Crime (CIROC)</i> , vol. 6, nr. 3, December 2006.	Researchers, higher education, law enforcement, governmental institutions, private sector	The Netherlands	300	5/VU

2.3 Publishable results

In order to disseminate the results of the research (both the intermediate and final ones) officially, the Consortium Board decided to publish them in a book brought out by the international publisher Springer (Dordrecht, The Netherlands), which specialises in criminological publications.

ANNEX 1

REVIEW OF EXISTING QUALITATIVE DATA ON ORGANISED CRIMINAL GROUPS

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Paola Zoffi, Università Cattolica del Sacro Cuore

DELIVERABLE FOR WP 1 OF:

Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach



A Project financed by the European Commission – DG Research under the Sixth Framework Programme

and coordinated by:



in partnership with:



and in-cooperation with:



DECEMBER 2005

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1. FOREWORD

This paper is the deliverable for WP 1 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 1 aimed at the collection and review of existing qualitative data sources (at national, regional and European levels) on organised criminal groups.

The paper is organised as follows. Section 2 briefly reflects on why it is important to map organised criminal groups within the EU framework. Sections 3 and 4 review qualitative data sources available respectively at the EU and at MS level and identify the qualitative variables they consider. Section 5 sums up the results from the previous.

This paper has been produced by the Università Cattolica, leader of WP 1. In particular, it has been written by Paola Zoffi of the Università Cattolica del Sacro Cuore, acting under the direction of Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore. Apart from the authors, on behalf of the Università Cattolica del Sacro Cuore, the following researchers have cooperated in producing this deliverable: Areti Antoniou and Francesca Romana Pandolfi.

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Since the data we are interested in here are primarily collected by law enforcement agencies, the sources used to draft this deliverable are law enforcement data sources. However, being information collected by law enforcement agencies for operational intelligence purposes, the present analysis may only focus on publicly available data. It is also worth mentioning that the focus here is on the original 15 EU Member States, as per the approved project, and that in order to have up-to-date information, the focus is mainly on data sources produced during the last five years (1999–2004).

2. WHY MAP ORGANISED CRIME GROUPS IN THE EU FRAMEWORK?

A question to be addressed before reviewing qualitative data sources on organised criminal groups is why should organised criminal groups be mapped at all (considering some OC groups' variables, such as their origin, their composition, their structure, the links/cooperation between OC groups and also between the OC groups and other criminals or professionals; the OC groups' use of violence and corruption, and also the OC groups' use of technology) within the EU framework. The reply is simple: because this mapping contributes to the measurement of the OC probability, which is one of the two components of (organised) crime risk assessment models.

The concept of 'organised crime risk' and a tentative methodology with which to measure it have been recently developed by various authors (Queensland Crime Commission, 1999; Black et al., 2000; Transcrime, 2002) and taken up by Europol (Council of the European Union, 2002).

Their starting point is the definition of 'crime risk' as a measure of the probability that a crime (as an undesirable event with a negative impact) will occur. The authors accordingly suggest that an 'organised crime risk' could be assessed by evaluating probability and impact (harm), where probability is the likelihood that an organised criminal event, as a negative event, will occur and impact is the harm caused to society and individuals by a particular crime:

$$OC Risk = OC Probability \times OC Harm$$

Since the likelihood of a given organised criminal activity (OC probability) is linked to the 'evaluation of the seriousness and organisation' of the criminal groups involved in it, a particularly important role among the variables that define and measure the OC probability is played by qualitative information on organised crime groups.

Considering the importance of qualitative variables on organised criminal groups in assessing OC probability, the following two Sections review those variables currently collected both at the EU level (section 3) and at the

national level within the EU (section 4). This in order to provide Project IKOC with the background knowledge necessary to develop an innovative and feasible OC risk methodology.

3. MAPPING ORGANISED CRIME GROUPS IN THE EU FRAMEWORK: A REVIEW OF EUROPEAN DATA SOURCES

There are two main qualitative data sources on organised criminal groups in the EU framework at the European level:

- The *European Union Organised Crime Situation Report*, annually produced since 1994 and, from 1998, under the primary responsibility of Europol;
- The *Council of Europe Organised Crime Situation Report* annually produced since 1998 by a group of specialists on criminal law and criminological aspects of organised crime set up by the Committee on Crime Problems of the Council of Europe.

3.1 The European Union Organised Crime Situation Report

The primary aim of the European Union Organised Crime Situation Reports (henceforth EU OCSRs) is to obtain and disseminate qualitative (and also quantitative) information about organised crime (OC) in the EU with a focus on its cross-border manifestations. The OC groups' variables collected by the EU OCSR are:

- Origin of the OC groups;
- Composition of the OC groups;
- Structure of the OC groups;
- Links/cooperation between OC groups;
- Use (or threat) of violence;
- Use of corruption/undue influence;
- Use of Information Technology (IT).

Origin of the OC groups: the European Union Organised Crime Situation Reports consider the origin of the OC groups active in the EU, distinguishing between indigenous (or OC groups with an indigenous nature) and non-indigenous OC groups. According to the latest EU OCSRs:

- About half of the organised crime groups in the EU are indigenous groups or dominated by nationals from the Member States, and particularly those with extensive international networks (among these, Dutch, British, Belgian and Italian organised crime groups), represent a major threat, mainly due to the fact that they are already well integrated in their own countries and have a better understanding of political, legal, economic and social processes (Europol, 2003, 2004);
- Regarding the non-indigenous groups, although a great number of non-indigenous groups are active in the EU only a few were described to deserve particular attention, such as ethnic Albanian, Chinese, Colombian, Nigerian, North African, Russian and Turkish organised crime groups (Europol, 2002). Albanian organised crime groups, in particular, were reported to be a great problem to some Member States, but only a latent problem to others (Europol, 2002). The presence of large expatriate communities in the member states is regarded as a useful asset to non-indigenous OC groups, especially traditionally insular groups such as Turkish or ethnic Albanian criminal groups, but it can be of benefit to other non-indigenous OC groups active in the EU, such as Nigerian, Former Yugoslavian, Polish, Romanian, Bulgarian, Lithuanian, Colombian, Indian, Iraqi or Iranian groups (Europol, 2002; 2003, 2004).

Regarding the origins of OC groups identified in the 15 EU member states, the 2004 Europol OCSR reported that:

- In Austria the most active OC groups are Russian and Italian, which continue to use this country as a refuge and an operations base for conducting their strategic activities (Europol, 2004: 18);
- In Belgium more than one third of OC group membership consists of Belgian nationals, the other nationalities involved include Dutch, Italian, Moroccan, Albanian and Romanian nationals (Europol, 2004: 18);
- In Finland there are mainly two distinct OC groups: Estonian and Russian and outlaw motorcycle gangs (Europol, 2004: 19);
- In Germany, as in previous years, OC is dominated by German groups. Turkish organised crime groups have an impact on the OC situation in this country, followed by Lithuanians, Poles and Russians (Europol, 2004: 20);
- In Greece the 40% of suspects are Greek, followed by Albanians, Bulgarians, Pakistanis and Turks (Europol, 2004: 20);
- In Ireland the most active OC groups are the Irish with only a minor involvement of non-nationals (Europol, 2004: 21);
- In Italy, as in previous years, OC is dominated by mafia type organisations (e.g. traditional mafia organisations in Northern and Central Italy, *'Ndrangheta*, *Camorra* and *Apulia's* criminal groups in Southern Italy). Next to Italian OC some non-indigenous crime groups have been very active in the last few years, above all North Africans, Romanians, Albanians and Nigerians (Europol, 2004: 21);
- In Portugal the most common OC group nationalities involved are Portuguese, Spanish, Italian, Moldavian and individuals belonging to travelling communities (Europol, 2004: 23);
- In Spain the most predominant nationalities identified in the known OC groups are: Spanish, Romanian, Colombian, Moroccan and Serbian and Montenegrin (Europol, 2004: 24).

Composition of the OC groups: the composition of the organised crime groups active in the EU is another variable considered in the EU OCSRs. According to the latest EU OCSRs, the groups' composition mirrors the international aspect of OC as nowadays it includes a greater mix of ethnicities and nationalities, although indigenous criminals still tend to dominate. Even those groups traditionally associated with ethnic homogeneity can be seen to include more nationalities (Europol, 2003).

Structure of the OC groups: in describing this variable, the EU OCSR uses basically a three-fold categorization/approach, according to which OC groups are structured hierarchically, horizontally or as a network of individuals or cells.

According to the 2003 EU OCSR, OC groups that still occupy key positions within the EU are structured hierarchically but the Report highlights that the traditional perception of hierarchically structured OC groups is being challenged. There is now a development suggesting that a greater percentage of powerful OC groups are far more cellular in structure with loose affiliations made and broken on a regular basis and less obvious chains of command (Europol, 2003).

Analysing more deeply some of the OC groups' internal structure, the latest EU OCSRs reported that:

- Colombian organised crime groups are no longer organised in large, monolithic cartels but rather in smaller, more adaptable cells. In some member states (Spain, the UK and the Netherlands), these OC groups maintain cells which supervise the supply of cocaine to local OC groups. Their structure is fragmented and decentralised. (Europol, 2002, 2004: 11);
- Ethnic Albanian OC groups are hierarchal, disciplined and based on exclusive group membership (Europol, 2004: 8);
- Former Yugoslavian OC groups operate with a horizontal cluster of different independent groups (Europol, 2004: 10);
- Indian OC groups are often not hierarchically structured. They have cells based on family ties or common origin, e.g. same village (Europol, 2004: 11);

- Nigerian OC groups have an extremely loose structure of cells and groups that collaborate as an OC group and they employ individuals and groups from a range of nationalities to work for them (Europol, 2003);
- Romanian OC groups often operate in small cells which are frequently part of a larger hierarchical OC group. These are pyramidal organisations which enjoy a clear division of tasks and a strict centralised control (Europol, 2004: 9–10).

Links/cooperation between OC groups: the links/cooperation between OC groups is a variable considered by the EU OCSR, and the 2003 EU OCSR reports a high degree of international cooperation between organised crime groups, especially between OC groups within the EU and the accession States, as well as with groups throughout the rest of the world (in countries such as Canada and the United States, China, Colombia, Iran, Morocco, Nigeria, Pakistan, Surinam, Turkey and Vietnam).

Analysing more deeply the cooperation between the OC groups, the 2003 and 2004 EU OCSRs described that the links/cooperation between indigenous OC groups and other groups and between non-indigenous groups and other groups, reporting that:

- Almost all the member states reported links between their indigenous OC groups and Dutch OC groups (Europol, 2003);
- Similarly, most west European countries (e.g. Italy, Portugal, France, Germany, the United Kingdom and the Netherlands) mentioned links with Spanish OC groups, in particular with respect to cannabis and cocaine trafficking (Europol, 2003, 2004: 24);
- Belgian OC groups have international contacts with groups in the United Kingdom, the Netherlands, Germany and France, as well as Albania (Europol, 2003: 14, 2004: 8);
- French OC groups have increasing links with OC groups from, or based in, other European countries with respect to drug trafficking (Europol, 2004: 20).
- Italian OC groups are collaborating with other OC groups such as ethnic Albanian OC groups with respect to drug trafficking and trafficking in human beings (Europol 2003, 2004: 22);

Regarding the cooperation between non-indigenous OC groups and other groups, the 2003 and 2004 EU OCSRs reported that:

- An increased amount of contact between ethnic Albanian OC groups and other OC groups was noted, although in most cases these contacts concerned other ethnic Albanian groups with which they share family ties (Europol, 2003: 14);
- Chinese OC groups cooperate with other OC groups in controlling every stage of the illegal immigration process for Chinese immigrants (Europol, 2004: 9);
- Indian OC groups are known to cooperate with OC groups of other nationalities, e.g. ethnic Albanian and Surinamese (Europol, 2004: 11);
- Polish OC groups because of their cooperation with other OC groups as service providers, can be regarded as a serious problem for EU member states, although they are taking their first steps in international organised crime involvement (Europol, 2004: 9);
- Turkish OC groups were described as collaborating with groups of different ethnicities and nationalities and this was explained by the fact that many of the Turks settled in communities in the EU are now second generation and thus are more familiar with the host country. Above all Turkish OC groups are increasingly linked to ethnic Albanian OC groups (Europol, 2003, 2004: 10).

Use (or threat) of violence: the use (or threat) of violence is a variable considered by the EU OCSRs when describing and analysing OC groups operating in the EU framework. According to the EU OCSRs, OC groups resort to the use (or threat) of violence in the preparation of crime, the commission of crime and the 'post-commission phase', for example to conceal the primary offence. The use (or threat) of violence is also used to

maintain discipline inside the group and in some cases is directed to other criminal groups or individuals outside the criminal sphere (Europol, 2002).

The 2003 EU OCSR reported that (Europol, 2003):

- Ethnic Albanian OC groups are often associated with extreme use of violence, especially when they compete with other groups;
- Turkish groups are associated with high levels of violence and intimidation often directed at other Turkish nationals living abroad;
- Part of the Russian OC groups' strong position is due to their tight discipline often accompanied by high levels of violence against group members or competitors;
- OC groups from the former Yugoslavia are known to use violence as well as Estonian OC groups;
- Chinese OC groups are implicated in the use of violence, especially towards their own nationals.

According to the 2004 EU OCSR Polish OC groups commonly use violence to control not just major towns and cities but also smaller towns and villages (Europol, 2004: 9).

Use of corruption: Europol's OCSRs consider corruption to be a key instrument of OC groups, in order to efficiently acquire, hinder access to or prevent the use of information, either to conceal or facilitate crime and it is also considered a more successful means of securing the compliance of certain individuals than the use of violence and intimidation as this two way relationship is more durable (Europol, 2000; 2002).

The 2003 EU OCSR described the OC groups' use of corruption, reporting that these groups use political and economic instabilities in countries outside the EU to facilitate crime, particularly in source and transit countries, but politically few OC groups pose a direct threat to the EU Member States.

Use of IT: according to the 2000, 2003 and 2004 EU OCSRs, organised crime groups use IT tools to an increasing extent not only to commit their crimes, but also to enhance and facilitate systems of communication while often obscuring the identity of group members. This was described to be particularly apparent through the use of pre-paid telephone cards, the frequent exchange of mobile phones, and the increased use of SMS text messaging systems (Europol, 2000; 2003, 2004).

3.2 The Council of Europe Organised Crime Situation Report

The EU OCSR is complemented by the Council of Europe (CoE), whose European Committee on Crime Problems (CDPC) has created a committee of experts on criminal law and criminological aspects of organised crime (PC-CO), which was replaced in 2000 by the group of specialists in criminal law and criminological aspects of organised crime (PC-S-CO). Since 1998 this body has produced, on the basis of the Member States' replies to a questionnaire, an annual Report on the Organised Crime Situation in Council of Europe member states (henceforth CoE OCSR).

The OC groups' variables collected by the CoE OCSR are those listed below:

- Origin of the OC groups;
- Composition of the OC groups;
- Structure of the OC groups;
- Links/cooperation between OC groups;
- Use (or threat) of violence;
- Use of corruption/undue influence.

Origin of the OC groups: regarding this variable, the CoE OCSRs distinguish between the domestic and the foreign origin of the OC groups operating in the CoE Member States. Only in the 1998 CoE OCSR the origin of

the majority of organised crime groups was reported in a table with the limit – highlighted by the same report– that although 23 member states provided some kind of information on this topic, very few answers clearly stated whether groups had a domestic or a foreign origin. The table below is the elaboration of the data reported in the 1998 CoE OCSR and it shows the origin (domestic or foreign) of the majority of OC groups. In cases where the reply to the questionnaire was received, but no information specifically related to this topic was given, it was assumed that the answer to this question did not change during 1998 and therefore the answers to the 1997 questionnaire were in those cases repeated (CoE, 1999: 9).

TABLE 1. ORIGIN OF THE MAJORITY OF OC GROUPS IN 1998

Domestic origin	Foreign origin
Belgium, Cyprus, Denmark, Finland, France, Hungary, Ireland, Italy, Lithuania, Poland, Portugal, Slovakia, Spain, The Netherlands, The United Kingdom	Austria, Czech Republic, Estonia, Germany, Greece, Luxembourg, Malta, Slovenia, Spain, Sweden

SOURCE: CoE data (CoE, 1999).

Composition of the OC groups: the composition of the OC groups is a variable described by the CoE OCSRs inside each country profile grouped on the base of a geographical criterion. Regarding the OC groups' composition, the latest CoE OCSRs reported that:

- In Denmark the criminal groups known in more detail are biker groups and street gangs and the members of the street gangs are typically boys or young men of non-Danish ethnic background. Biker support groups and street gangs were reported to have some common members (CoE, 2001; 2002);
- In Finland out of 23 identified groups, 14 had domestic members only, while in six groups two or more nationalities were represented. Three of the identified (domestic) groups were biker groups. Among the foreign criminals involved, those from neighbouring countries dominated: Estonians (in 9 groups), Russians (in 4 groups), and Swedes (in 2 groups) (CoE, 2001). The 2001 CoE OCSR reported that OC groups in Finland were observed to be growing and gaining power with an increase in the influence of foreign offenders. Out of 27 identified groups with some 400 'core' members, 20 had members of one nationality only (19 Finnish, one Estonian). Seven groups were multinational, always having Finnish members as well. Typically these groups were Finnish-Russian or Finnish-Estonian (CoE, 2002);
- France did not reply in 1999 and in the 2000 report the country gave no definitive answers to questions on composition, number, size, or structure of organised criminal groups;
- In the 1999 German reply the groups investigated were heterogeneous in terms of nationality; the reply for 2000 was equally brief and for the year 2001 Germany described the nationality of most of the OC groups as heterogeneous (CoE, 2000; 2001);
- In the 2000 reply of Luxembourg 28 known OC groups were analysed and the criminals identified originated from some 20 countries;
- The 2001 Portuguese reply reported 42 groups investigated with 105 members of 15 different nationalities apprehended (CoE, 2002);
- In Sweden's 2001 response OC groups were characterized by an ad hoc structure and not completely homogeneous in terms of ethnicity, but often with a core of members of the same ethnic origin (CoE, 2002);
- In 1999 the Netherlands provided an extensive and up-to-date analytic report of the organised crime situation and described 118 investigations, stating that the majority of the OC groups investigated had a hierarchical structure and in some cases the report analysed also the ethnic composition of the groups (CoE, 2000);
- In 1999 OC groups operating in the United Kingdom were mainly composed of UK nationals (791, or 82%), but foreign nationals were identified as members of 589 (61%) criminal groups. The UK did not report for 2000 and in its 2001 reply reference was mainly made to the annual *NCIS Threat Assessment of Serious and Organised Crime* (CoE, 2000; 2001; 2002).

Structure of the OC groups: in the light of the descriptions of the organised criminal groups' structures provided in the CoE OCSR, which were said to reflect differences not only in the structures of the groups but also in the understanding of the phenomenon and the paradigm predominating in different countries (CoE, 2000), the latest CoE OCSRs used basically a three-fold categorization/approach according to which organised criminal groups are structured hierarchically, horizontally or as a network of individuals or cells (CoE, 2000; 2001; 2002).

The same CoE OCSRs specified that the social harm imposed by organised crime was not necessarily determined by the form or degree of the groups' organisation (CoE, 1998:6; 1999:127) and highlighted the limits that a systematic analysis and comparison of the groups' structure can meet with:

- The consideration that different forms of organisations may be found within a given country and that the actual prevalence of different types may also vary from country to country (Council of Europe, 2002: 76);
- The consideration that the nature and degree of organisation of criminal groups often differs across sectors and countries in which the groups are involved (CoE, 1999; 2000; 2002);
- The consideration that when comparing data from one year to another, major changes in the assessment of the groups' structure (as well as number, size and geographical scope) could be a result of new law enforcement methods or a switch in the opportunities influencing the choice of criminal operations (CoE, 2002).

In accordance with this approach, in the 1998 CoE OCSR, from the 21 countries of which data on this topic was available, most countries- among which Denmark, Finland, Ireland and Italy - reported that they had mainly hierarchical organised criminal groups while the Netherlands and Portugal reported that OC groups operating in their countries were mainly organised in a different way (CoE, 1999: 6).

The OCSRs of 1999, 2000 and 2001 described the OC groups operating in the EU as ranging from complex and permanent hierarchical groups to more or less permanent, horizontally organised networks or project groups, highlighting that the national reports received from many eastern European countries, and also the Italian report, reflected a definite hierarchical 'Mafia' paradigm while the horizontal and project approaches were more often found in replies from western European countries. On the basis of the replies to the questionnaire received, the 2001 OCSR indicated in a table, reproduced below, how member states perceived the structure of criminal organisations in their respective country (CoE, 2002).

TABLE 2. STRUCTURE OF THE CRIMINAL ORGANISATION (YEAR 2001)

State	Hierarchical	Network	Cellular
Denmark	•		
Finland	•	•	
Germany	•	•	•
Greece		•	
Hungary	•	•	
Ireland		•	
Italy	•	•	•
Poland	•		•
Slovakia	•		
Slovenia	•	•	•
Sweden		•	
The Netherlands	•	•	•

SOURCE: CoE data (CoE, 2002).

According to the last CoE OCSR (Summary) an important shift in the understanding as to what constitutes an organised crime group can be found in reports received in 2004 from the European countries where the

notion of criminal networks has replaced the notion of clearly defined hierarchical organisation (CoE, 2004: 6).

Links/cooperation between OC groups: this is another variable collected by the CoE OCSRs. The latest CoE OCSRs reported that:

- In Denmark some of street gangs operating in the country had established cooperative contacts with biker circles in larger towns (CoE, 2001; 2002);
- In Germany cooperation between OC groups was established and a significant majority of the OC groups had international links (CoE, 2000; 2001; 2002);
- Ireland described the twelve major OC groups operating in the country as having connections to foreign criminal structures, both European and non-European (CoE, 2000, 2001 and 2002);
- Italy reported an extensive cooperation between OC groups, in different constellations, with foreign organised criminal groups in both European and non-European countries. The Calabrian *'Ndrangheta*, for example, was described as having connections with other Italian mafia organisations as well as with foreign organisations (CoE, 2000; 2001; 2002);
- Spain reported that only few of the Spanish OC groups had cooperation or connections with other organised criminal groups. The Spanish 2000 reply described 56 organised criminal groups, less than half of them having cooperation or interconnection with other OC groups. The 2001 reply identified 176 groups, part of them having connections with other criminal groups within and outside the country (CoE, 2000; 2001; 2002).

Use (or threat) of violence: the OC groups' use of violence is another variable considered by the CoE OCSRs and in the 1998 and 1999 Reports the use of violence was reported in terms of intimidation and physical violence, both inside and outside the criminal world (CoE, 1999: 46; 2000: 67). The 2000 OCSR reported the OC groups' use of violence both within and outside the criminal world while the 2001 OCSR distinguished between the use of violence into three areas: within organised crime groups, within the criminal world and outside the criminal world (CoE, 2001: 83; 2002: 113), as showed in the table below:

TABLE 3. SPHERE OF VIOLENCE OF THE OC GROUPS IN THE YEAR 2001

State	Within OC groups	Within criminal world	Outside criminal world
Austria		•	
Cyprus	•	•	•
Czech Republic	•	•	•
Denmark		•	
Estonia	•	•	•
Finland	•	•	•
Germany	•	•	•
Greece	•	•	•
Hungary	•	•	•
Ireland	•	•	•
Italy	•	•	•
Latvia	•	•	•
Lithuania	•	•	•
Poland	•	•	•
Slovakia	•	•	•
Slovenia	•	•	•
Spain	•	•	•
The Netherlands	•	•	•
The United Kingdom	•	•	•

SOURCE: CoE data (CoE, 2002).

Regarding the use of violence within organised crime groups, the 2001 CoE OCSR mentioned that almost all OC groups used some form of intimidation or physical violence in order to demonstrate power and maintain internal discipline, or against other groups for elimination of competitive groups from the market, for collecting debts and, in some cases such as in the case of Germany, to begin activities in a new field of criminality (CoE, 2002: 111). The Report also briefly analysed the use of violence within organised crime groups in connection with the OC groups' structure and ethnical background, mentioning the fact that it seemed that the more sophisticated the structure, the more limited the use of violence, as in the case of OC groups in Estonia, and also mentioning that the use of violence was sometimes closely connected with the ethnical background of the OC members (CoE, 2002: 111).

As far as the use of violence outside the criminal world is concerned, the 2001 OCSR reported that OC groups usually used violence as part of their specific criminal activities and only in few cases violence was directed against law enforcement agencies, the judiciary, witnesses and journalists. A special case was described to exist in Italy where mafia-type OC groups to a certain extent used the violence with the final goal of jeopardizing social stability and gaining enough room for their activities (CoE, 2002: 112).

The 2004 CoE OCSR (Summary) makes mention of the use of violence and intimidation as one of the *modi operandi* of OC groups, especially to maintain discipline within their group or to confront competing groups and it recognizes that the way in which the OC groups make use of the violence within and outside the criminal world is still the same as reported in the 2002 Report (CoE, 2004: 6).

Use of corruption/undue influence: the OC groups' use of corruption/undue influence is another variable described in most of the OCSRs where also the difficulties and limits in reporting and analysing this variable, especially with reference to organised crime, were underlined (CoE, 2002).

Referring to the OC groups' use of corruption/undue influence, very little information was given in the 1999 CoE OCSR while in the 2000 and 2001 CoE Reports this variable was described and analysed as follow:

- The Finnish reply, acknowledging that corruption was difficult to detect, stated that only two of its organised crime groups were suspected of bribery and even in those cases it was suspected that bribes took place in Estonia or Russia. In 2001 Finland for the first time reported some problems of influence, especially against law enforcement agencies and the judiciary in the way of threats and damaged property, but still without corruption (CoE, 2001; 2002);
- France reported that it did not have any available information and that many well-published scandals in the media tended to be connected to the high politics of government rather than to organised crime conventionally defined. In 2001 France did not exclude links between organised crime groups and corruption, but described those links as be marginal (CoE, 2001; 2002);
- Italy reported that the country experienced OC influence in all areas specified in the 2000 CoE OCSR, while in 2001 the country reported some intentional activities of OC groups directed towards politicians with the intention of influencing politicians as people who make final decisions on different, sometimes even most important topics (CoE, 2001; 2002);
- Germany reported that exerting of certain types of influence from their OC groups was noticed at the national and international level (CoE, 2001; 2002);
- Spain reported a slight increase in corruption attempts and successes with no gangs bribing the judiciary and with only one (domestic) gang involved in corrupting the public administration. The most corruption-prone sectors were law enforcement and merchants, both of which had 6 domestic and three foreign organised crime groups getting some corrupt advantage or improper influence. In 2001 Spain noticed some minor links between organised crime and certain elected local representatives (CoE, 2001; 2002).

4. MAPPING ORGANISED CRIMINAL GROUPS IN THE EU FRAMEWORK: A REVIEW OF MS DATA SOURCES

The analysis of the European data sources on organised criminal groups conducted in the previous section has made it possible to present the OC groups' variables collected and analysed in the EU OCSR and in the CoE OCSR. We may therefore now move to analysis of MS data sources and determine whether they contain elements with which to carry out the analysis in greater depth. This section accordingly reviews existing sources of qualitative information on OC groups within the original 15 EU member states.

Moving to an analysis of national data sources, first to be noted is that, although all these member states collect, to different extents, a variety of qualitative data on organised criminal groups for intelligence and operational purposes, only a very limited amount of this information, if any, is made public owing to its confidential character.

This is the case with Belgium, where the Belgian report on organised crime is not disseminated. This is also the case with Finland, where qualitative information on the OC groups is disseminated only to law enforcement authorities in the country. In France little data regarding the OC phenomenon is available and that which is available mainly concerns the activities of OC groups. In Greece the majority of qualitative data regarding the OC groups is restricted to a limited audience, which includes law enforcement agencies and governmental bodies. In Ireland the level of dissemination of data on OC groups operating in the country is restricted. In Luxembourg none of the collected data on OC groups is disseminated and therefore their knowledge remains within the collecting organisations. In Portugal the official activity of structured and systematic reporting on Organised Crime is based on the yearly National Contribution to Europol OCSR, which is drawn up by *Policia Judiciaria*. This is the only report on organised crime produced in Portugal. In Spain very little qualitative data on the OC groups can be found in the Annual Balance Report produced by the Ministry of Interior. In the Netherlands only some qualitative data on organised crime groups is disseminated to the general public, generally in the case of scientific research or 'open' crime pattern analyses of the DNRI or the National Crime Squad. The most relevant publication regarding qualitative data on OC groups in Sweden can be found in the annual report on organised crime, which is produced, in Swedish, by the Analysis Unit at the National Criminal Investigation Department (NCID) in cooperation with other authorities involved.

Countries such as Austria, Denmark, Germany, Italy, and the United Kingdom disseminate qualitative information on the OC groups as shown below.

In **Austria** the most relevant publication regarding qualitative data on OC groups, which is produced annually by the Criminal Intelligence Services, is the Austrian Crime Report, which includes one chapter on organised crime. In addition to this report, the Drug-related Crime Rate Annual Report contains a section assessing the involvement of organised criminal groups (main groups and routes exploited) in drug related offences.

The OC groups' variables collected by the Austrian Crime Report and by the Drug-related Crime Rate Annual Report are those listed below:

- Origin of the OC groups;
- Structure of the OC groups;
- Use (or threat of) violence.

Origin of the OC groups: the Austrian Crime Report and the Drug-related Crime Rate Annual Report distinguish between domestic and foreign origin of the OC groups operating in the country and according to the latest reports:

- The country experiences the presence of Asian OC groups, Turkish OC groups and of many members belonging to five Italian organised crime groups (*Camorra*, *'Ndrangheta*, *Sacra Corona Unita*, *Stidda* and *Cosa Nostra*) (Bundesministerium für Inneres, Bundeskriminalamt, 2002);

- Austrian nationals were not significantly involved in organised illicit traffic in narcotics, while foreign criminal groups were mostly involved in the organisation of smuggling and trafficking of narcotics (Criminal Intelligence Service Austria, 2003: 5; 2004: 5);
- The illicit traffic in heroin and cocaine is dominated in different regions of Austria by various foreign OC groups and among these by West African OC groups, Turkish OC groups, Yugoslav, Bosnian and Albanian gangs (Criminal Intelligence Service Austria, 2003: 7,10);
- Black African gangs (consisting of members coming mainly from Ghana, Nigeria, Liberia, Gambia, Sierra Leone and Somalia) are involved in the distribution of heroin and cocaine (Criminal Intelligence Service Austria, 2003: 9; 2004: 6,9).

Structure of the OC groups: very little information on the internal structure of the OC groups are given in the Austrian crime Reports and in the Drug-related Crime Rate Annual Reports. The latest reports highlight that Turkish OC are structured hierarchically and Black African rings are also characterised by hierarchic structures (Criminal Intelligence Service Austria, 2003: 9; 2004: 8).

Use (or threat) of violence: regarding this variable the only information mentioned in the 2002 Austrian Crime Report regarded some homicides committed inside the Chinese community as probably linked to the Asian OC groups and to their attempt to eliminate some competitors in the illegal immigration and prostitution sector. In the 2002 Drug-related Crime Rate Annual Report, Black African gangs were described as ready to use violence (Criminal Intelligence Service Austria, 2003: 8,9).

The main qualitative data source on OC groups active in **Denmark** is the Danish report on organised crime. It is prepared every year by the National Police in cooperation with Danish police districts and the Prosecution Service and it primarily describes and analyses both criminal groups and a range of types of crime that are of the nature of organised crime (The National Commissioner of Police, 2004: 6). The OC groups' variables collected by the Danish reports on organised crime are those listed below:

- Origin of the OC groups;
- Composition of the OC groups;
- Structure of the OC groups;
- Collaboration/cooperation between OC groups;
- Use of corruption/undue influence;
- Use (or threat of) violence;
- Use of IT (information technology).

Origin of the OC groups: the Danish report on organised crime utilises the ethnic background for describing persons or groups who take part in organised crime and not their citizenship (The National Commissioner of Police, 2001: 9; 2002: 7; 2003: 8; 2004: 8). In accordance with this approach, the last four Danish reports on OC described that:

- People of Danish ethnic background are involved in a wide and varied range of organised crime (The National Commissioner of Police, 2001: 9; 2002: 7; 2003: 8; 2004: 8);
- Ethnic Albanians are involved in heroin smuggling (The National Commissioner of Police, 2001: 114; 2002: 10; 2003: 10; 2004: 8);
- Lithuanians are connected to cigarette smuggling, with Denmark being either the final destination for sale or the transit destination (The National Commissioner of Police, 2001: 14; 2002: 9; 2003: 9; 2004: 9);
- North Americans are not playing a relevant role in the Danish organised crime scene (The National Commissioner of Police, 2001: 15; 2002: 15; 2003: 10; 2004: 11);

- Poles are involved in crimes such as “ram raiding” (hit and run thefts) and narcotics smuggling that can either be described as organised crime or that which borders on this category (The National Commissioner of Police, 2001: 14; 2002: 9; 2003: 9; 2004: 10);
- Russians are rarely visible in the more organised criminal activities, but in some cases they were suspected of being involved in criminal activities directed against or covering Denmark (The National Commissioner of Police, 2001: 14; 2002: 10; 2003: 9; 2004: 10);
- Serbs are particularly prominent in the smuggling of heroin into Denmark (The National Commissioner of Police, 2003: 10; 2004: 10);
- Turks are involved in narcotics-related crimes (The National Commissioner of Police, 2001: 15; 2002: 9; 2003: 9; 2004: 10).

Composition of the OC groups: the Danish report on OC collected this variable determining if the OC group is formed only by members of one or more nationalities. According to the latest Danish OC reports:

- Members of street gangs are typically boys or young men from immigrant backgrounds, but groups of Danish ethnic origin also were reported to exist (The National Commissioner of Police, 2004: 9);
- Criminal networks involved in trafficking in woman are composed of both Danish and foreign kingpins (The National Commissioner of Police, 2001: 39);
- Heroin smuggling networks consist of a number of different nationalities and represent a new form of organisation compared with previous incarnations when the networks typically consisted of people of the same ethnic origin (The National Commissioner of Police, 2003: 12).

Structure of the OC groups: the Danish report on organised crime collected and described data regarding the internal structure of the OC groups with reference to the origin of the OC groups and/or their criminal activities. The latest Danish reports on OC described that:

- Organised crime in Denmark is increasingly based on flexible network cooperation; (The National Commissioner of Police, 2001: 12; 2002: 24; 2003: 21; 2004: 23);
- OC groups involved in the smuggling of ecstasy are predominantly looser networks of multi-criminal players with good contacts in the Netherlands and possibly in Spain (The National Commissioner of Police, 2004: 15; 2003: 13);
- Turkish criminal groups are under the control of clans, but autonomously established groups also exist (The National Commissioner of Police, 2001: 15; 2002: 10);
- Trafficking in woman was typically organised in networks (The National Commissioner of Police, 2001: 39).

Collaboration/cooperation between OC groups: the cooperation between OC groups is a variable collected and reported on by the Danish report on OC. According to the latest reports:

- Biker groups and street gangs collaborate in criminal activities (The National Commissioner of Police, 2001: 12; 2002: 9);
- Relations and cooperation between the biker community and other – in some cases international – organised groups have been established for the smuggling and dealing of narcotics;
- Lithuanians are collaborating with Danish and foreign criminals in the smuggling of goods subject to high levels of tax – particularly cigarettes (The National Commissioner of Police, 2003: 17; 2004: 18).

Use (or threat) of violence: the Danish report on OC highlights the impossibility of precisely analysing the use of violence in connection with the committing of organised crime since crime within criminal circles is seldom reported to the police (The National Commissioner of Police, 2001: 33; 2002: 21, 2003: 18; 2004: 19).

Accordingly, only a number of cases showed that vulnerable (criminal) individuals were coerced into committing crimes on behalf of people from the biker culture and in some cases linked to the biker community they regarded attacks on prison officers as being arranged to intimidate prison staff (The National Commissioner of Police, 2002: 21; 2003: 18; 2004: 16).

Use of corruption/undue influence: all four of the latest Danish reports on OC highlight that in Denmark there are no sign that organised crime is connected with undue influence on public administration, the law enforcement authorities or political circles (The National Commissioner of Police, 2001: 34; 2002: 21, 2003: 18; 2004: 19).

Use of IT: this variable is described as to be a major factor in a large number of cases of serious crime and it is also reported that the use of IT is expected to rise over the next few years (The National Commissioner of Police, 2002: 4; 2003: 17;)

In **Germany** the most relevant publication regarding qualitative data on OC groups is the annual Organised Crime Situation Report for the Federal Republic of Germany (Federal OC Situation Report). It describes information related to both investigations completed during the year under review and ongoing investigations. Furthermore, the structural analysis includes data obtained through interviews with experts (in particular with heads of investigation) on the central topics determined for the year under review.

The OC groups' variables collected by the Federal OC Situation Report are those listed below:

- Origin of the OC groups;
- Composition of the OC groups;
- Structure of the OC groups;
- Cooperation between OC groups;
- Use (or threat of) violence;
- Use of corruption/undue influence.

Origin of the OC groups: the Federal OC Situation Report distinguishes the origin of the OC groups considering the nationality whose members dominate the criminal activity of the group without necessarily being the majority of group members (Bundeskriminalamt, 2004: 22). According to this approach, the latest Federal OC Situation Reports described the origin of the OC groups operating in Germany as follow:

- OC groups dominated by German nationals dominate in Germany although their number dropped compared to the previous year (Bundeskriminalamt, 2002: 26; 2003: 14; 2004: 22);
- OC groups dominated by Turkish nationals continue to head the list of non-Germans suspects (Bundeskriminalamt, 2002: 26; 2003: 14; 2004: 23);
- OC groups dominated by Polish nationals form the second largest non-German groups of suspects (Bundeskriminalamt, 2003: 16; 2004: 24);
- The number of OC groups dominated by Italian nationals continued to fall in comparison to the previous years. The 2002 Federal OC Situation Report, in fact, reported a disproportionate reduction in the number of investigations (29) into OC groups dominated by Italian nationals in comparison to the year 2001 (42 investigations), where Italian nationals represented the fourth-largest group of suspects after Germans, Turkish and Yugoslavian nationals and the year 2000 (63 investigations) (Bundeskriminalamt, 2002: 27; 2004: 25);
- OC groups dominated by Serbia and Montenegro nationals (Yugoslavia nationals) again saw an increase after having decreased in 2002 while in 2001 Yugoslavian nationals were the third largest group of suspects after German and Turkish nationals (Bundeskriminalamt, 2002: 26; 2004: 25);

- OC groups dominated by Lithuanian nationals saw an increase in comparison to the previous years: in 2001 Lithuanian nationals were the sixth largest group of suspects after Germans, Turks, Yugoslavians, Italians and Poles (Bundeskriminalamt, 2002: 28);
- OC groups dominated by Russian nationals consolidated their structures inside the Germany while in 2002 the number of Russians involved in OC in Germany was reported to be roughly at the same level as the previous year when Russian groups of perpetrators occupied seventh place in the OC situation report (Bundeskriminalamt, 2002: 28; 2003: 17; 2004: 25);
- OC groups dominated by Kurdish nationals focus mainly on heroin smuggling and trafficking as well as alien smuggling and the persons investigated during narcotics proceedings were Turks and Germans of Kurdish origin only (Bundeskriminalamt, 2004: 36).

Composition of the OC groups: the composition of the OC groups operating in Germany is a variable described in the OC Federal reports with reference to the origin of the OC groups and/or to their criminal activities, distinguishing if members of only one nationality compose the group or if members of two or more nationalities compose it. As far as OC groups dominated by German nationals is concerned, the 2003 Federal OC Situation Report distinguishes between German nationals and German nationals who are nationals of a different country at birth and it reports that the Russian Federation, Turkey and Kazakhstan continue to be the most important countries of these latter (Bundeskriminalamt, 2004: 23).

Regarding the composition of OC groups dominated by non-German nationals, the latest Federal OC Situation Reports reported that:

- Only one of the Italian groups under investigation in Germany comprises exclusively Italian nationals while in 2002 five of the Italian groups under the investigation comprised exclusively Italian nationals; the other groups were composed of up twelve different nationalities (Bundeskriminalamt, 2003: 15; 2004: 25);
- The major part of the OC groups dominated by nationals of Serbia and Montenegro are composed of both German and Turkish suspects. In 2002 only one group comprised exclusively Yugoslav nationals and in the other investigations Yugoslav suspects were operating above all with German, Turkish and Italian suspects (Bundeskriminalamt, 2003: 15; 2004: 25);
- OC groups dominated by Lithuanians are composed of more than one nationality. Within these groups the Lithuanian perpetrators most commonly worked with German suspects, a large proportion of which are resettlers from the former Soviet Union (Bundeskriminalamt, 2003: 16; 2004: 24);
- OC groups dominated by Russians increasingly integrate non-Russians and in 2002 the groups of perpetrators dominated by Russian were, with the exception of one, composed of more than one ethnic group and in general two or three (Bundeskriminalamt, 2002: 25; 2003: 17);
- Most of the OC groups operating in the field of crime associated with nightlife (crime associated with nightlife includes the following offences: encouraging prostitution, living on the earnings of prostitutions, trafficking in human beings/aggravated trafficking in human beings, and illegal games of chance) were heterogeneous (Bundeskriminalamt, 2002: 16).

Structure of the OC groups: the structure of the OC groups operating in Germany is analysed in the Federal OC Situation Reports with reference to the OC groups' origin and/or to the OC groups' criminal activities. The latest Federal OC Situation Reports reported that:

- The structure of Kurdish OC groups mainly focused on heroin trafficking and smuggling vary from small gang-like groups to hierarchic structures with extensive branches (Bundeskriminalamt, 2004: 36);
- The structure of Bulgarian counterfeiting organisations showed a great level of organisation and includes distributor networks restricted to one ethnic or social group (Bundeskriminalamt, 2004: 33);
- The structure of most of the OC groups involved in missing trader fraud (dominated by German, Turkish, Yugoslavian, Polish, Russian and Lithuanian groups) was hierarchical (Bundeskriminalamt, 2002: 18);

- The structure of OC groups involved in cigarette smuggling (dominated by German, Polish, Vietnamese, Lithuanian and Russian groups) was fixed (Bundeskriminalamt, 2002: 21).

Cooperation between OC groups: the cooperation between the OC groups operating in Germany is a variable described and analysed in the OC Situation Reports with reference to the origin and to the criminal activities of the OC groups. The latest OC Federal reports reported that:

- Polish suspects work very often together with German suspects of generally Polish origin (Bundeskriminalamt, 2002: 27; 2004: 24);
- Drug trafficking was dominated by the cooperation of more than one ethnic group with most gangs comprising two ethnic groups (Bundeskriminalamt, 2002: 15);
- Numerous groups of varied ethnic origin operating in the field of organised facilitation of illegal immigration cooperated across borders (Bundeskriminalamt, 2002: 22);
- Most of the OC groups operating in the field of crime associated with nightlife acted and cooperated with other ethnic groups, e.g. by way of recruiting women and exchanging prostitutes among several groups (Bundeskriminalamt, 2002: 16).

Use (or threat) of violence: the Federal OC Situation Report makes a distinction between the violent crimes committed by the OC groups and the use of violence as a supporting measure to commit offences in other fields (Bundeskriminalamt, 2002: 22). Regarding this latter use of violence, according to the Bundeskriminalamt it is an important way to ensure that demands are met or to maintain group discipline and the subjective aspect, i.e. the question as to whether the threat of violence is eventually taken seriously by the person concerned and is thus sufficient to ensure compliance with demands, is a decisive factor in this connection.

The latest OC Federal reports reported that a special form of violence was to appear in large groups in an ostentatious manner. Thus a position of power achieved by making reference to membership in the respective groups can also be sufficient to ensure submission. In this context, the recognisable user of force is no longer necessary (Bundeskriminalamt, 2003: 8).

Use of corruption/undue influence: in describing the OC groups' use of corruption/undue influence, the 2003 Federal OC Situation Report distinguishes between that use inside Germany and outside Germany. According to this statement, the OC investigations analysed during the year 2002 highlighted:

- The absence of corruption episodes linking OC groups and persons in key positions in the political system, the judicial establishment, the public administration, the media and/or the economy in Germany; few isolated cases in which a certain influencing of decision-makers at local/regional level took place (Bundeskriminalamt, 2003: 35);
- No field of crime particularly stands out among the investigations involving corruption offences. According to the 2002 Federal OC Situation Report, German OC groups were clearly disproportionately represented and the reason was found in the fact that Germans were advantaged in respect to other ethnic groups in the commission of corruption offences as a consequence of being better 'socially integrated' in their own country (Bundeskriminalamt, 2003: 33). OC groups dominated by non-Germans were reported to commit acts of influencing predominantly in their countries of origin, where they can rely on existing contacts (e.g. acquaintances, relations, friends) in the corresponding positions of public life or use these persons to make the required contact to decision-makers (Bundeskriminalamt, 2003: 34);
- OC groups dominated by non-Germans committed acts of influencing predominantly in their countries of origin where they can rely on existing contacts to persons in the respective areas of influence (Bundeskriminalamt, 2003: 34).
- The cases of influencing that took place abroad go a lot further than the aforementioned and often affected important decision-making processes, which indicated in a significant number of cases a certain intertwining with OC by the higher levels of the political system, the judicial authorities, the economy and public administration (Bundeskriminalamt, 2003: 35).

In **Italy** the most relevant publication regarding qualitative data on OC groups are the annual Report of the Ministry of the Interior (*Rapporto sullo stato della sicurezza in Italia*) and the Semi-annual Report of the *Direzione Investigativa Antimafia* (DIA).

The annual Report of the Ministry of the Interior provides a general overview of the organised crime situation in Italy and it furnishes a list of law enforcement operations conducted by the police units. While in previous years the annual Report on OC had taken the form of an autonomous report (*Rapporto annuale sul fenomeno della criminalità organizzata*), separated from the more general report on public order and security, beginning this year it has taken the form of a chapter in the *Rapporto sullo stato della sicurezza in Italia*. The first section of the DIA's semi annual report conducts qualitative analysis of mafia-type organisations and foreign OC groups, the crimes committed by their members, and the fight against them.

The OC groups' variables collected by the annual Report of the Ministry of the Interior and by the DIA's semi annual report are those listed below:

- Origin of the OC groups;
- Structure of the OC groups;
- Cooperation between OC groups and other OC groups;
- Use (or threat) of violence.

Origin of the OC groups: the Report of the Ministry of the Interior and the DIA's semi annual report distinguish between domestic – the four main Italian mafia-type organisations (*Cosa Nostra*, *Camorra*, *'Ndrangheta*, *Sacra Corona Unita*) – and foreign OC groups. According to the latest reports:

- Although the four main Italian mafia-type organisations maintained their role in the territory under their control they have not been able to avoid the impact caused by the significant migration flow to Italy through the introduction of criminal groups, on an ethnic basis, that gradually increased their influence and strengthened their activities (Ministero dell'Interno, Direzione Investigativa Antimafia, 2001);
- Foreign OC groups in Italy operate in an organized way, especially those ones linked to organizations from Albania, former USSR, China and Nigeria (Ministero dell'Interno, 2003).

Structure of the OC groups: in analysing this variable the Reports of the Ministry of the Interior and the DIA's semi annual reports distinguish between the four main Italian mafia-type organisations and the foreign OC groups. According to the latest Reports, for what regards the structure of the four main Italian mafia-type organisations:

- *Cosa Nostra* is characterized by a pyramidal structure, but with reference to the level of dismantling that has affected the respective criminal families as a result of the counteraction conducted by the government, and has attempted to re-establish its internal organization in order to regain a balance, also due to the pressure applied by newly formed forces. It is attempting to subdivide the internal levels so as to increase the impermeability at the top, which was seriously affected during the years following the 'slaughterers' period, and to increase the security of the structure as the globalisation of the markets is attracting the big international crime circuits and offering them opportunities to make profits and reinvest illicit proceeds (Ministero dell'Interno, 2000; 2001);
- Unlike *Cosa Nostra*, *'Ndrangheta*'s structure has never been based on the hierarchical pyramid but depends primarily on family connections/groups (*'ndrine*) deliberately reinforced by intermarriage to strengthen clan loyalty and reduce the likelihood of collaboration with the authorities. Recently the *'Ndrangheta* has been characterised by a restructuring process, which has been carried out along the same patterns adopted by *Cosa Nostra* (Ministero dell'Interno, 2000; 2001; 2003);
- The Neapolitan *Camorra* is still an extremely slender, flexible and changeable criminal organization, able to modify its aims and modus operandi very easily according to strategic or tactical requirements based on the significance of economic businesses. Without a solid and hegemonic authority, this organization is

subdivided into a large number of groups whose membership is usually based on family links that are often difficult to manage within the same family (Ministero dell'Interno, 2000; 2001; 2003);

- The Apulian criminal organisation is formed by many different criminal groups and mainly operates in a temporary absence of a unitarian hierarchical leadership. The current general criminal overview is characterised by a large network of criminal groups that, according to their various criminal deals, especially smuggling, interact between one another as well as with other Italian and foreign criminal organizations (Ministero dell'Interno, 2000; 2001).

Regarding the structure of the foreign OC groups:

- The main Albanian criminal organisations are characterised by a most remarkable mafia-like cut (Ministero dell'Interno, 2001);
- Organized crime (from/in?) the former USSR has taken on the characteristics and size typical of a 'holding' of groups organised at an international level according to specific spheres of influence and mutual links in the carrying out of illicit activities (Ministero dell'Interno, 2001);
- Next to large Turkish criminal organizations operating at a transnational level, there are still smaller groups displaying a family structure, which often consist of illicit immigrants. These smaller groups are involved in the same illicit trafficking activities as the large criminal organisations, especially the exploitation of prostitution, though relying on less developed organizational and criminal skills (Ministero dell'Interno, 2001);
- Nigerian organized crime is actually well rooted and surreptitiously structured at a national and international level with clear-cut potential mafia-type intrinsic characteristics (Ministero dell'Interno, 2001).

Cooperation between the OC groups: this variable is collected by the Italian reports, according to which there has been an increase in the connection/cooperation between OC groups operating in Italy. In particular, according to the latest Italian reports:

- The Apulian OC groups according to their various criminal deals, especially smuggling, interact between one another as well as with other Italian and foreign criminal organizations, mainly of a Kosovo-Albanian ethnic origin (Ministero dell'Interno, 2001);
- Synergic connections are increasingly frequent among the Chinese and Albanian criminal groups with regards to illegal immigration through the Otranto channel. Chinese criminals are also increasingly linked with criminal groups from Slovenia, Croatia, Serbia and Montenegro as to the North-East transit (Ministero dell'Interno, 2001).

Use (or threat) of violence: the level of violence used by the OC groups – both indigenous and foreign – is a variable that takes the form of reported trends in OC related homicides (Ministero dell'Interno, 2004).

In **the United Kingdom** the most relevant publication regarding qualitative data on OC groups is the NCIS Annual Threat Assessment, which collects the following OC groups' variables:

- Origin of the OC groups;
- Collaboration between OC groups;
- Collaboration between OC groups and other criminals;
- Collaboration between OC groups and professionals;
- Use of coercion;
- Use of corruption;
- Use of technology.

Origin of the OC groups: the OC groups' origin is considered distinguishing between domestic and foreign groups. According to the latest Annual Threat Assessment reports:

- British criminal organisations sourcing cocaine shipments direct from South and Central America represent an increasing threat (NCIS, 2003: 31);
- British Caucasians (and also Colombians) seem to control cocaine distribution at the wholesale (multi-kilo) level, although there is evidence of the involvement of other groups. These groups also supply and distribute ecstasy and are involved in the distribution of crack cocaine within the UK, particularly at street-level (NCIS, 2003: 31, 32, 34);
- West African and South Asian criminals and groups are involved in the crack cocaine trade, working both independently and collaboratively, with crack frequently being sold with heroin (NCIS, 2003: 32). Also criminal groups of West Indian origin, mostly Jamaican, were seen to be the most prominent in distributing crack cocaine within the UK (NCIS, 2003: 31);
- The potential threat in the UK from ethnic Albanian criminals is considered to be significant (NCIS, 2002; 2003: 30);
- Turkish organised criminals involved in trafficking heroin have the means to smuggle firearms into the UK should they wish. Turkish heroin traffickers' dominance of large-scale importation into the UK has diminished (NCIS, 2002; 2003: 61);
- The extent of collaboration of Israeli organised crime groups, some composed of Russian emigrants, with British criminals and involvement in trafficking to and through the UK is not known (NCIS, 2003: 34).

Collaboration between OC groups: according to the NCIS, collaboration is crucial to serious and organised criminals. It is the desire or need to work with others that leads criminals to form groups and networks. In the 2003 Threat Assessment the relationship between South Americans, Spanish, Dutch, British and other criminals was described to be increasingly complex, especially around the ownership of cocaine as it transits Europe en route to the UK (NCIS, 2003: 16).

Collaboration between OC groups and other criminals: according to the 2003 Threat Assessment organised criminals routinely collaborate with people outside their immediate circle, not least with the criminals that they buy from and sell to, and those that provide them with a service such as money laundering or transport (NCIS, 2003: 16),

Collaboration between OC groups and professionals: according to the NCIS, not only organised criminals collaborate with other OC groups and criminals but often have a need for someone with specialist skills or know-how. Considering this OC groups' variable, the 2003 Threat Assessment reported that:

- Organised criminals involved in both smuggling and trafficking collude with professionals who can assist them, including those in the legal profession (NCIS, 2003: 39);
- Organised criminals make use of financial and legal professionals to launder money, either by providing expertise or lending credibility to financial targets. The service known to be in greatest demand in 2002 was conveyancing (NCIS, 2003: 57).

Use of coercion: according to the NCIS, after money laundering, coercion is perhaps the most widely identified supporting criminal activity. It takes many forms, from unspoken intimidation where criminals trade on a reputation for violence and ruthlessness to the ready use of extreme violence or murder (NCIS, 2003: 20). The 2003 Threat Assessment reported that:

- Around 40 per cent of identified groups are reported to use coercion, although there is likely to be substantial under-reporting because up to three-quarters of the victims are themselves criminals and unlikely to report incidents either because they fear reprisals, are reluctant to draw attention to their own criminal activities, or simply prefer to deal with the matter themselves (NCIS, 2003: 20);

- The use of violence to control both trafficked prostitutes and sweatshop labourers is widespread, as is debt-bondage (NCIS, 2003: 41);
- Coercion is frequently associated with Turkish and West Indian groups (NCIS, 2003: 20).

Use of corruption: according to the NCIS, organised criminals use corruption to secure help from people with access to information, influence or access they want or need. They may view corruption as preferable to coercion where threats might not work or where they are involved in a long-term relationship. Notwithstanding the fact that there are no reliable figures for the scale and spread of corruption and that it is therefore difficult to estimate how many criminals use it routinely or systematically, around a quarter of identified serious and organised crime groups are reported to use it. As with coercion the true figure is likely to be higher (NCIS, 2003: 20). Analysing more deeply this OC groups' variable, the NCIS reported that organised criminals involved in both smuggling and trafficking make extensive use of bribery and corruption to support their activities. They exploit border guards, police and customs officers, and a range of political and official contacts in order to operate unhindered (NCIS, 2003: 39).

Use of technology: according to the NCIS, organised criminals are making increasing use of the speed, accessibility and relative anonymity offered by Internet communication. They use e-mail, chat rooms, instant messaging and 'peer2peer' networks, and are beginning to relay messages via the Internet that were traditionally delivered in person or via the telephone. Some criminals are using Internet cafes or encrypting their messages as a further layer of protection (NCIS, 2003: 23).

5. CONCLUSIONS

Having reviewed the data sources on organised criminal groups and having identified a number of OC groups' variables collected and disseminated at the EU and MS level within the EU, it is possible to highlight – in the table below – these variables and their modalities:

TABLE 4 QUALITATIVE VARIABLES ON OC GROUPS COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

QUALITATIVE VARIABLES ON OC GROUPS	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES	
ORIGIN	EU OCSR	Indigenous/Non-indigenous groups	OC	Austria	Domestic/Foreign origin
				Denmark	Ethnic background
				Germany	Nationality of members who dominate the criminal activity
	CoE OCSR	Domestic/Foreign origin	Italy	Domestic/Foreign origin	
			UK	Domestic/Foreign origin	
			Other MSs	Variable not collected or not disseminated	
COMPOSITION	EU OCSR	One Nationality/Mix of Nationalities–Ethnicities	Denmark	One nationality/Mix Nationalities	
	CoE OCSR	One Nationality/Mix of Nationalities–Ethnicities	Germany	One Nationality/Mix of Nationalities	
			Other MSs	Variable not collected or not disseminated	
STRUCTURE	EU OCSR	Hierarchical/Horizontal/Network	Austria	No modalities indicated	
			Denmark	No modalities indicated	
			Germany	No modalities indicated	
	CoE OCSR	Hierarchical/Network/Cellular	Italy	Hierarchical/Flexible	
			Other MSs	Variable not collected or not disseminated	
LINKS/COOPERATION BETWEEN OC GROUPS	EU OCSR	No modalities indicated	Denmark	No modalities indicated	
			Germany	No modalities indicated	
			Italy	No modalities indicated	
	CoE OCSR	No modalities indicated	UK	No modalities indicated	
			Other MSs	Variable not collected or not disseminated	
LINKS/COOPERATION BETWEEN OC GROUPS AND OTHER CRIMINALS	EU OCSR	Variable not collected or not disseminated	UK	No modalities indicated	
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated	

QUALITATIVE VARIABLES ON OC GROUPS	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
LINKS/COOPERATION BETWEEN OC GROUPS AND PROFESSIONALS	EU OCSR	Variable not collected or not disseminated	UK	No modalities indicated
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
USE (OR THREAT OF) VIOLENCE	EU OCSR	No modalities indicated	Austria	No modalities indicated
			Denmark	No modalities indicated
			Germany	No modalities indicated
	CoE OCSR	Within OC groups/Within criminal world/Outside criminal world	Italy	No modalities indicated
			UK	No modalities indicated
			Other MSs	Variable not collected or not disseminated
USE OF CORRUPTION/UNDUE INFLUENCE	EU OCSR	No modalities indicated	Denmark	No modalities indicated
			Germany	Inside/Outside Germany
	CoE OCSR	No modalities indicated	UK	No modalities indicated
			Other MSs	Variable not collected or not disseminated
USE OF IT	EU OCSR	No modalities indicated	Denmark	No modalities indicated
			UK	No modalities indicated
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated

The previous table suggests the following comments on the qualitative variables on OC groups on which data are collected and disseminated at EU and MS level, and on the related modalities.

With regard to the MS level, great differences can be noted among MSs. In most cases, data on a given variable are collected and disseminated only by one or by a very limited number of MSs (e.g. variable 'links/cooperation between OC groups and professionals', variable 'use of IT'). The remaining MSs do not collect or not disseminate any data on the variables considered.

Even in those cases when some MSs collect data on the same variable, they may use different modalities. For instance, Austria, Denmark, Germany, Italy and the UK collect information on the variable 'origin' of the OC groups. However, as far as the modalities of the variable are concerned, while Austria, Italy and the UK focus on whether or not the groups involved are of domestic or foreign origin, Germany focuses on the ethnic background of the criminals and on the nationality of the members who dominate the criminal activity. In most cases, however, modalities are not clearly indicated.

With regard to the EU level, a certain uniformity can be noted on the variables on which data are collected. Differences sometimes arise as far as the modalities of the variables are concerned, even if, in many cases, these are not clearly indicated in the abridged version of the reports produced by Europol and by the Council of Europe.

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ANNEX 2

REVIEW OF EXISTING QUANTITATIVE DATA ON ORGANISED CRIMINAL GROUPS

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Barbara Vettori, Università Cattolica del Sacro Cuore

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1. FOREWORD

This paper is the deliverable for WP 2 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 2 aimed at the collection and review of existing quantitative data sources (at national, regional and European levels) on organised criminal groups.

It is organised as follows. Section 2 briefly reflects on why it is important to measure organised criminal groups within the EU framework. Section 3 traces the historical development of the idea/need to develop some kind of quantitative measure of organised criminal groups in the Union and analyses the principal quantitative data sources developed at the EU level, identifying the quantitative variables they consider. Section 4 reviews national quantitative data sources on criminal groups within the EU framework and identify the quantitative variables they consider. Section 5 draws some conclusions and reflects on the usefulness and reliability of the existing data sources in building a European picture of organised crime.

This paper has been produced by the Università Cattolica, leader of WP 2. In particular, it has been written by Dr. Barbara Vettori, Executive Project Manager of the Project, acting under the direction of Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore. Apart from the authors, on behalf of the Università Cattolica del Sacro Cuore, the following researchers have cooperated in producing this deliverable: Areti Antoniou and Francesca Romana Pandolfi.

Valuable assistance was provided in writing this document by the partners involved in the WP, and in particular by Cardiff University (The United Kingdom) and Vrije Universiteit Amsterdam (The Netherlands), which provided the Università Cattolica with the review of a set of relevant data sources.

Since the data we are interested in here are primarily collected by law enforcement agencies, the sources used to draft this deliverable are law enforcement data sources. However, being information collected by law enforcement agencies for operational intelligence purposes, the present analysis may only focus on publicly available data. It is also worth mentioning that the focus here is on the original 15 EU Member States, as per the approved project, and that in order to have up-to-date information, the focus is mainly on data sources produced during the last five years (1999–2004).

2. WHY MEASURE ORGANISED CRIMINAL GROUPS IN THE EU FRAMEWORK?

A question to be addressed before reviewing quantitative data sources on organised criminal groups is why organised criminal groups should be measured at all (considering some OC groups' variables, such as the number of groups operating in the EU Member States, number of members within each group, quantity of resources and proceeds available to them, etc.) within the EU framework. The reply is simple: because such measurement contributes to the measurement of the OC probability, which is one of the two components of any organised crime risk assessment.

The concept of 'organised crime risk' and a tentative methodology with which to measure it have been recently developed by various authors (Queensland Crime Commission, 1999; Black et al., 2000; Transcrime, 2002) and taken up by Europol (Council of the European Union, 2002).

Their starting point is the definition of 'crime risk' as a measure of the probability that a crime (as an undesirable event with a negative impact) will occur. 'Organised crime risk' could accordingly be assessed by evaluating probability and impact (harm), where probability is the likelihood that an organised criminal event, as a negative event, will occur and impact is the harm caused to society and individuals by a particular crime:

$$OC Risk = OC Probability \times OC Harm$$

Since the likelihood of an organised crime occurring (OC probability) is linked to the 'evaluation of the seriousness and organisation' of the criminal groups involved in a given criminal activity (*the more dangerous and well equipped the criminal groups involved in a crime, the more likely it is that the crime will occur again*), a particularly important role among the variables that define and measure the OC probability is played by quantitative information on organised crime groups (i.e. number of groups involved in a given organised

criminal activity, number of members of the groups, skills level of the groups, amount of resources available to the groups, etc.).

Considering the importance of quantitative variables on organised criminal groups in assessing OC probability, the following two Sections review those variables currently collected both at the EU level (section 3) and at the national level within the EU (section 4). This in order to provide Project IKOC with the background knowledge necessary to develop an innovative and feasible OC risk methodology.

3. MEASURING ORGANISED CRIMINAL GROUPS IN THE EU FRAMEWORK: A REVIEW OF EUROPEAN DATA SOURCES

There are two main quantitative data sources on organised criminal groups in the EU framework at the European level:

- the *European Union Organised Crime Situation Report*, annually produced since 1994 and, from 1998, under the primary responsibility of Europol;
- the *Council of Europe Organised Crime Situation Report*, annually produced since 1998 by a group of specialists on criminal law and criminological aspects of organised crime set up by the Committee on Crime Problems of the Council of Europe.

3.1 The European Union Organised Crime Situation Report

The importance of developing some kind of quantitative measure of organised criminal groups operating within the European Union arose in the 90's. In order to promote police cooperation amongst the Member States, the European Council decided in November 1993 to produce an annual strategic report on the scale of and trends in international organised crime in the Union, mainly based on contributions from the Member States (Europol, 2001: 8). This decision was implemented thereafter through elaboration of a questionnaire consisting of six open-ended questions on the organised crime situation in 1993. This questionnaire was sent out in 1994, and the first European Union Organised Crime Situation Report (henceforth EU OCSR) was drafted on the basis of the replies. The report has therefore been issued annually since 1994, initially by the Drugs and Organised Crime Working Groups and then, in 1998, by Europol in cooperation with the multidisciplinary group on organised crime (MDG), and the Contact and Support Network (CSN) under the guidance of the Presidency of the EU.

The first measurement exercise of 1994 produced very meagre results considering that its findings on the number of active criminal organisations were summed up as follows: "In Italy, there are four main groups (Mafia, Camorra, N'drangheta and Sacra Corona Unita). Ireland is mainly confronted with four groups. France is confronted with three groups of Italian origin (Mafia, Camorra and N'drangheta) and several Chinese groups. The Netherlands listed 321 groups in 1993, 98 of which can be considered as very organised" (Ad Hoc Working Group on International Organised Crime, 1994: 6). One may therefore conclude that in 1994:

- only 4 of the then 12 Member States reported organised criminal groups active in their country;
- there was a large discrepancy in the magnitude of the phenomenon as reported by the small number of reporting countries, with The Netherlands stating that there were more than three hundred organisations in that country, and the other three countries reporting fewer than ten.

The poverty of these results and the great differences among the few reporting Member States were due to a variety of factors, notably:

- the lack of a common definition of 'organised criminal group';
- differing national criteria and parameters to collect and analyse information;
- the lack of a common data collection system;
- the lack of a standardised structure for the preparation of national contributions to the overall EU-report (van der Heiden, 1996).

In order to overcome, at least in part, these problems, and to improve the quality and comparability of the organised crime picture in the Union, a series of meetings at expert level was held in the following years. The result of these meetings was, first of all, the reaching of an agreement on a common EU definition of organised crime to be used to count groups, which is contained in 6204/2/97 Enfopol 35 Rev 2.¹ Another major innovation was the elaboration of a clear and unitary structure that national reports should follow, with a list of topics to be addressed as well as other guidelines, thereby to a certain extent inducing Member States to produce a detailed quantitative and qualitative picture of organised crime.

As a result of these changes, as well as of enhanced awareness at the national level of the importance of collecting data on organised criminal groups, the situation has significantly improved and all the 15 original Member States now collect statistics on organised crime groups.

Though the quality and quantity of the statistics included in national contributions to the EU OCSR vary greatly, and although the comparability and reliability of the overall picture is hampered by different interpretations of the EU definition and by different data collection systems (Council of the European Union, 1999), the improvement is particularly evident if one compares the aggregate number of organised criminal groups active in the EU reported by the EU OCSR in 1994 with the much higher figures of recent years, which are:

- around 3,000 groups, with some 30,000 members, in 2002, and
- around 4,000 groups, with close to 40,000 members, in 2003 (Europol, 2003: 8).

This increase is the result, on the one hand, of an alarming rise in the number of people involved in organised criminal groups (Europol, 2002). On the other, however, it is likely to be the product of increased awareness in the Member States of the importance of collecting data on organised crime and of the consequent refinement of and changes in the methodology used by the Member States (Europol, 2003: 8). What is certain, however, is that even the more recent figures only give “a clue to the true situation where the figures are much higher” (Europol, 2002).

3.2 The Council of Europe Organised Crime Situation Report

The EU OCSR is complemented by the Council of Europe (COE), whose European Committee on Crime Problems (CDPC) has created, under its authority, a Committee of Experts on Criminal law and criminological aspects of organised crime (PC-CO), which was replaced in 2000 by the Group of specialists on criminal law and criminological aspects of organised crime (PC-S-CO). Since 1998 this body has produced, on the basis of the Member States’ replies to a questionnaire, an annual Report on the Organised Crime Situation in Council of Europe Member States (henceforth COE OCSR). This report analyses the characteristics, activities, resources, methods, geographical coverage, influence and trends of organised criminal groups operating in the COE states, which comprise 45 countries, including the 15 old MS and the 10 new ones.

Table 1 below shows COE estimates on the number of organised criminal groups active in the 25 EU Member States in the period 1996–2001. Since not all Member States were able to provide the COE with exact numbers, a distinction into 5 broad categories was adopted (Council of Europe, 1999: 13).

¹ The definition contained in 6204/2/97 Enfopol 35 Rev 2 comprises the following 11 criteria (criteria 1 to 4 and, in addition, two from 5–11 must be met for an organised criminal group to be defined as such):

1. involvement of more than two people
2. for a prolonged or indefinite period of time
3. suspected of involvement in serious crimes
4. determined by the pursuit of profit and or power
5. separate roles for each member
6. use of some form of discipline or control within the group
7. active internationally
8. use of violence or other means suitable for intimidation
9. use of commercial or business like structures
10. engagement in money laundering
11. influence on politics, the media, public administration, judicial authorities or the economy.

TABLE 1. ESTIMATED NUMBER OF ORGANISED CRIMINAL GROUPS IN THE PERIOD 1996–2001

YEAR N. OF OC GROUPS	1996	1997	1998	1999	2000 (or 1999 for countries that did not provide an estimate in 2000; 2000 data in bold)	2001 (or 1999/2000 for countries that did not provide an estimate in 2001; 2001 data in bold)
< 25	Austria, Cyprus, Denmark, Estonia, Finland, Greece, Luxembourg, Malta, Portugal	Austria, Cyprus, Denmark, Estonia, Finland, Greece, Luxembourg, Malta, Portugal	Austria, Cyprus, Estonia, Finland, Greece, Luxembourg, Malta	Cyprus, Estonia, Malta, Ireland, Luxembourg	Cyprus, Estonia, Finland, Malta, Ireland	Austria, Cyprus, Estonia, Malta
25–100	Ireland, Lithuania, The Netherlands, Slovenia, Sweden	Czech Republic, Ireland, The Netherlands, Slovakia, Slovenia, Sweden	Denmark, Ireland, Portugal, Slovakia, Slovenia, Sweden	Czech Republic, Denmark, Greece, Hungary, Finland, Latvia, Lithuania, Slovenia, Sweden	Czech Republic, Denmark, Greece, Hungary, Latvia, Lithuania, Luxembourg, Portugal, Slovenia, Spain, Sweden	Czech Republic, Denmark, Finland, Hungary, Ireland, Lithuania, Luxembourg, Portugal, Slovakia, Slovenia, Sweden
100–200	Belgium, Czech Republic, Hungary, Latvia, Spain	Hungary, Latvia, Lithuania	Czech Republic, Hungary, Latvia, Lithuania, The Netherlands, Spain	The Netherlands, Slovakia	The Netherlands	Greece, Latvia, The Netherlands, Portugal, Spain
200–500	France, Poland, The United Kingdom	Belgium, France, Spain, United Kingdom	Belgium, France, The United Kingdom	Poland, Spain	Poland, Slovakia	Poland
> 500	Germany, Italy	Germany, Italy, Poland	Germany, Italy, Poland	Germany, Italy, The United Kingdom	Germany, Italy, The United Kingdom	Germany, Italy, The United Kingdom

SOURCE: AUTHOR'S ELABORATION OF COUNCIL OF EUROPE DATA.

Inspection of the changes in the 5 categories in Table 1 prompts the following comments on trends in the reporting of organised criminal groups in the period considered:

- the reported number of organised criminal groups remained *overall stable* in 16 Member States (Austria, Cyprus, Czech Republic, Estonia, France, Germany, Italy, Ireland, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, Spain and Sweden);
- the reported number of organised criminal groups *decreased* in 1 Member State (Hungary);
- the reported number of organised criminal groups *increased* in 6 Member States (Belgium, Denmark, Finland, Luxembourg, The Netherlands and The United Kingdom);
- the reported number of organised criminal groups *significantly increased* in 2 Member States (Greece and Portugal).

Most Member States therefore tend to report quite similar figures for each year, normally reflecting the size of the country (with small countries reporting small numbers, and large countries reporting large ones). The higher number of groups reported over the years by some countries may reflect both increased attention paid by law enforcement agencies to these groups and a trend towards the improved recording and analysis of the situation, and perhaps a growth in the organised criminal phenomenon itself (Council of Europe 2002: 103).

It is however necessary to bear in mind that these findings have to be interpreted with caution. As the COE itself admits, the reliability of the data and comparability of the various countries are hampered by a variety of factors:

- *the different interpretation of the term 'organised crime'* by different Member States. As the COE noted “some countries report that they know of a given number of 'major' or 'main' groups, while others say they have no knowledge of groups that would fulfil the Council of Europe criteria but report on numbers of less structured and permanent groups” (Council of Europe, 2002: 103);
- *the different level of awareness on and sophistication of efforts against the organised crime phenomenon*, which certainly impact on its reporting, although it is likely that this is at least in part correlated to the real size and seriousness of the problem.

Table 2 presents COE estimates on the number of participants in organised criminal groups in the period 1996–2001.

TABLE 2. TOTAL ESTIMATED NUMBER OF PARTICIPANTS IN ORGANISED CRIMINAL GROUPS IN THE PERIOD 1996–2001

YEAR N. OF PARTICIPANTS	1996	1997	1998	1999	2000 (or 1999 for countries that did not provide an estimate in 2000; 2000 data in bold)	2001 (or 1999/2000 for countries that did not provide an estimate in 2001; 2001 data in bold)
< 500	Estonia, Finland, Greece, Portugal, Slovenia	Estonia, Finland, Greece, Portugal, Slovenia	Finland, Greece, Portugal, Slovenia	Cyprus, Estonia, Finland, Greece, Ireland, Luxembourg, Malta	Cyprus, Finland, Greece, Ireland, Luxembourg, Malta, Portugal	Cyprus, Estonia, Finland, Greece, Ireland, Luxembourg, Malta, Portugal, Slovakia
500–2,500	Belgium, Hungary, The Netherlands, Spain	Belgium, Czech Republic, Lithuania, The Netherlands	Belgium, <i>Estonia</i> , Lithuania, The Netherlands, Slovakia	Czech Republic, Denmark, Hungary, Latvia, The Netherlands, Slovenia	Czech Republic, Denmark, Estonia, Hungary, Latvia, Lithuania, The Netherlands, Slovenia, Spain	Czech Republic, Denmark, Hungary, Latvia, Lithuania, The Netherlands, Slovenia
2,500–5,000	Poland	Hungary, Poland, Spain	Hungary	Poland	Poland, Slovakia	Spain
> 5,000	Czech Republic, Germany, Italy, The United Kingdom	Germany, Italy, The United Kingdom	Czech Republic, Germany, Italy, Poland, Spain, The United Kingdom	Germany, Italy, Spain, The United Kingdom	Germany, Italy, The United Kingdom	Germany, Italy, Poland, The United Kingdom

SOURCE: AUTHOR'S ELABORATION OF COUNCIL OF EUROPE'S DATA.

Table 2 shows that the reported number of participants in organised criminal groups remained *overall stable* in most of the EU Member States, the only exceptions being Slovenia, Spain and Poland, where the number *significantly increased*, and the Czech Republic and Hungary, where the number instead *significantly decreased*.

Also in this case it is important to consider the limitations of such an assessment exercise and the caution required when reading the data contained in Table 2. These limitations are not only due to the lack of sufficient statistical data and to the intrinsic difficulty of estimating the number of organised crime members caused by the fact that neither all group members nor all organisational structures are known (Council of Europe, 1999: 14). The main problems are due to different definitions and interpretations of the term 'participant' and therefore arise from the different counting rules applied (Council of Europe, 2002: 103).

4. MEASURING ORGANISED CRIMINAL GROUPS IN THE EU FRAMEWORK: A REVIEW OF NATIONAL DATA SOURCES

The analysis of the European data sources on organised criminal groups conducted in the previous section has made it possible to present the aggregate number of organised criminal groups active in the EU framework and of their members as contained in the EU OCSR. Figures provided by the COE OCSR enable more detailed quantification to be made by presenting a rough estimation of number of groups and members at national level within the EU Member States. We may therefore now move to analysis of national data sources and determine whether they contain elements with which to carry out the analysis in greater depth. This section accordingly reviews existing sources of quantitative information on organised criminal groups within the original 15 EU Member States.

First to be noted is that, at national level, only very meagre information on organised criminal groups is publicly available. Although all these Member States collect, to different extents, a variety of data on organised criminal groups for intelligence and operational purposes, only a very limited amount of this information, if any, is made public, owing to its confidential character.

Moving to analysis of national data sources, in Denmark data on organised crime are collected by the National Police in cooperation with the Danish police Districts and the Prosecution Service and presented in an annual report. These reports confirm that, in comparison with other countries, Denmark is affected by organised crime to only a minor extent, mainly in the form of the Outlaw Motorcycle Gangs (OMCG) known in the country as 'bikers'. There are two main biker groups, the Hells Angels and the Bandidos. The number of their members has remained overall stable over the past years (The National Commissioner of Police, 2001: 9), with both groups having around 150 permanently affiliated individuals and a wider number of supporters – 450 people for the Hells Angels' supporters (the so called Red & White Support Crew), and 350 for the Bandidos' supporters (the Support X Team) (Danish National Police, 2003: Annex b, 10–11), making a total of around 1,100 people.

The French situation is closely consistent with the fact that organised crime is weakly defined in the country's penal code. Few data are available, and those that are available mainly concern the activities of organised criminal groups. The only relevant publication on the matter shows that crimes falling under the heading '*la criminalité organisée et la délinquance spécialisée*' have increased in recent years, rising from 3.23% of all crimes in 1999 to 13.77 % in 2002 (Ministere de l'Interieur, de la Securite Interieure et des Libertes Locales, Direction Generale de la Police Nationale, 2003: 9).

The situation in Germany is different, for in that country a variety of quantitative information on criminal groups is openly available. The main source of information in this respect is the *Situation Report on Organized Crime in the Federal Republic of Germany*, which has been produced annually by the Federal Police (*Bundeskriminalamt*) since 1991 to provide qualitative and quantitative information on the criminal organisations active in the country. These reports provide a great deal of quantitative information on organised criminal groups active in the country, such as the number of people suspected of engaging in organised crime in a given year, the percentage of German and non-German suspects, frequency of the infiltration of the legal economy by organised criminals, frequency of cooperation between suspects of different nationalities and the frequency of crimes committed at transnational level, etc. The figures are given, for the period 2000–2003, in Table 3.

TABLE 3. KEY STATISTICS ON THE ORGANISED CRIMINAL GROUPS ACTIVE IN GERMANY IN THE PERIOD 2000–2003

	2000	2001	2002	2003
OC Suspects	16,264	15,237	13,825	13,098
No. of the above as first reported	9,421	7,844	6,864	6,788
No. of nationalities	92	87	88	87
Percentage of German suspects	43.8 %	47.9 %	44.4%	38.8%

Percentage of non-German suspects	56.2 %	52.1 %	55.6%	61.2%
Largest groups of non-German suspects:				
– <i>Turkish</i>	9.6%	8.7%	9.4%	6.9%
– <i>Yugoslavian</i>	5.4%	4.4%	2.4%	3.7%
– <i>Italian</i>	5.8%	4.0%	3.0%	4.5%
– <i>Polish</i>	4.0%	3.9%	5.6%	5.6%
Heterogeneous offender structures (i.e. cooperation between suspects of different nationalities)	80.6%	80.7%	79.8%	79.9%
Homogeneous offender structures	19.4%	19.3%	20.2%	20.1%
Armed suspects	4.7%	5.1%	4.4%	4.6%
Losses identified	3,725,489,030 €	1,166,285,189 €	3,068,712,796 €	521,671,881 €
Estimated profits	782,604,725 €	761,172,771 €	1,467,051,013 €	467,643,462 €
Commission of crimes at international level	78.4%	79.2%	82.4%	84.3%
Use of commercial or business-like structures	90.2%	86.3%	87.2%	94.0%
Use of violence or other means of intimidation	46.3%	48.2%	49.9%	48.8%
Exertion of influence on politics, the media, public administration, judicial authorities or the business sector	17.8%	18.6%	19.2%	25.0%

SOURCE: AUTHOR'S ELABORATION OF BUNDESKRIMINALAMT DATA.

Although the above figures should be treated with caution, since they reflect more the extent of law enforcement efforts against organised crime than the real size of the phenomenon (Von Lampe, 2002: 14), the following comments can be made:

- *fewer OC suspects*: there has been a constant decrease in the number of organised crime suspects, which fell from 16,264 in 2000 to 13,098 in 2003 (–19.5%);
- *more foreign suspects*: in the same period of time, the percentage of non-German suspects increased (+5%);
- *transnational nature of the groups*: the percentage of heterogeneous offender structures, i.e. cooperation between suspects of different nationalities, remains constant and very high in the period considered, signalling the wide extent of transnational organised groups. This finding is reinforced by information on the percentage of crimes committed at international level, which increased (+5.9%);
- *moderate use of violence*: the data show that violence is not a distinctive feature of the *modus operandi* of criminal organisations, since, over the last four years, the use of violence has been recorded in less than half of cases;
- *constant and systematic links of organised crime with the legal economy*, mainly through the use of business-like structures and secondarily through exerting influence on politics, the media, public administration, judicial authorities or the business sector.

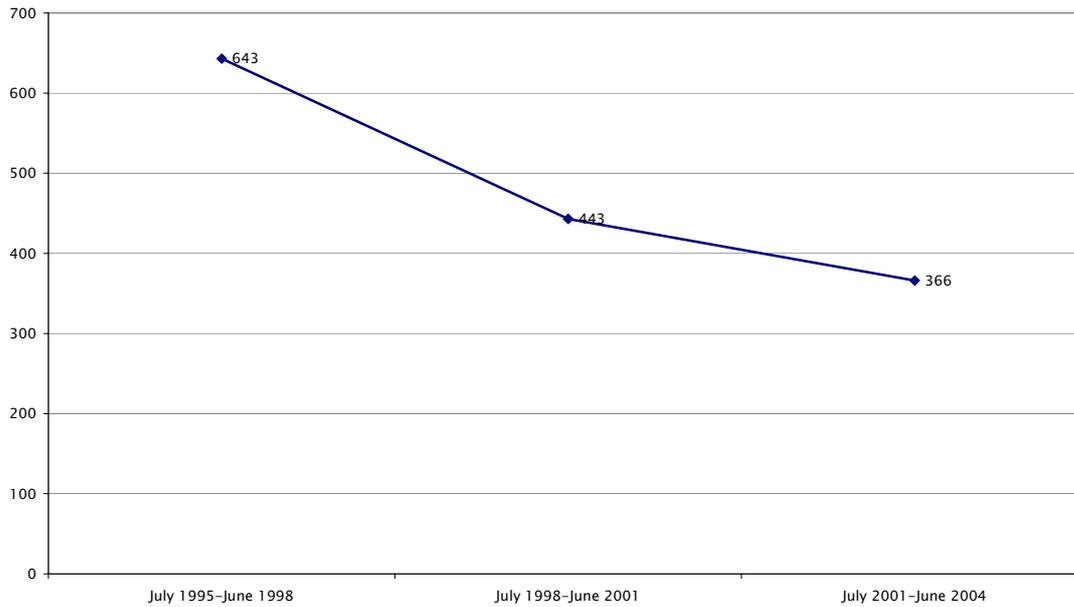
A wide variety of qualitative information on criminal organisations is available in Italy. By contrast, quantitative information is very meagre and is mainly provided by the Ministry of the Interior in its annual report on the state of security. This report shows that, in the period July 2003–June 2004, the number of criminal organisations identified by police forces in the following regions of Southern Italy – the area most affected by the phenomenon – were (Ministero dell'Interno, 2004: 19–23):

- in Sicily, 55 criminal organisations, with 1,212 people charged with criminal conspiracy;
- In Campania, 49 mafia-type organisations, with 542 people charged with criminal conspiracy;
- in Calabria, 41 mafia-type organisations, with 901 people charged with criminal conspiracy;
- in Apulia, 26 mafia-type organisations, with 522 people charged with criminal conspiracy.

Turning to analysis of data covering the entire national territory, there was an increase in the number of people reported for criminal conspiracy in the period 1998–2002 (+51.9%); and the number of crimes for which they were charged increased as well (+28.2%) (Ministero dell'Interno, 2003: 109).

Information is also available on the level of violence used by the criminal groups – both indigenous and foreigners – in their activities. This information takes the form of reported trends in organised crime related homicides (see Table 4), which on average represent around 20% of all voluntary homicides committed in the last 6 years.

TABLE 4. ORGANISED CRIME RELATED HOMICIDES IN ITALY IN THE PERIOD JULY 1995–JUNE 2004



SOURCE: MINISTERO DELL'INTERNO (2004).

Table 4 shows a significant decrease in the number of organised crime related homicides, which fell from 643 in the period July 1995–June 1998 to 366 in the period July 2001–June 2004 (–43.1%), thus suggesting the increased ‘invisibility’ of the *modus operandi* of criminal organisations.

As for geographical distribution, Table 5 shows that these homicides were in the vast majority of cases committed in the South, thus confirming that the Southern regions are those most affected by the organised criminal phenomenon.

TABLE 5. GEOGRAPHICAL DISTRIBUTION OF ORGANISED CRIME RELATED HOMICIDES IN ITALY IN THE PERIOD JULY 1995–JUNE 2004

	Northern Italy	%	Central Italy	%	Southern Italy	%	Total	%
July 1995–June 1998	10	1.6	5	0.8	628	97.7	643	100
July 1998–June 2001	8	1.8	6	1.4	429	96.8	443	100
July 2001–June 2004	3	0.8	2	0.5	361	98.6	366	100

SOURCE: MINISTERO DELL'INTERNO (2004).

Also in the case of Spain some limited quantitative information on organised criminal groups is provided by the Ministry of Interior, which in 2003 reported 203 organised criminal groups, with a total of 2,220 members. The report also enables comparison of the 2003 data with those for the two previous years, as in Table 6.

TABLE 6. NUMBER OF ORGANISED CRIMINAL GROUPS AND OF THEIR MEMBERS IN SPAIN IN THE PERIOD JULY 1995–JUNE 2004

	2001	2002	2003
Number of organised criminal groups	176	251	203
Number of organised crime members	2,547	2,527	2,220

SOURCE: MINISTERIO DEL INTERIOR, OFICINA DE RELACIONES INFORMATIVAS Y SOCIALES (2004).

Table 6 suggests a tendency towards the fragmentation of organised criminal groups, with more, but smaller groups. The gender composition of the groups – which in 2003 was 82% male and 18% female – remained overall stable in the period considered, while as regards ethnic composition, there was an increase in mixed groups, which in 2003 accounted for 30% of the total, while in the same year 40% of groups had only Spanish members and the remaining 30% only foreigners (Ministerio del Interior, Oficina de Relaciones Informativas y Sociales, 2004: 16).

5. CONCLUSIONS

Having reviewed the data sources on organised criminal groups at the EU and national level within the EU, some conclusions can be drawn on the reliability and completeness of the quantitative picture of organised crime in the EU currently available.

First to be stressed is the central role of the European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report in persuading Member States of the importance of adequately measuring organised crime. The consequence has been greatly improved homogeneity in the collection of data and considerable refinement of the relative methodology since the first experiments of the early 90's.

Nevertheless, there are still great disparities in the quality and quantity of data contained in the national contributions to the EU OCSR and COE OCSR, which in turn reflect disparities in the quality and quantity of data collected at national level. This can be explained by the different interpretations given to the terms 'organised criminal groups' and 'organised criminal member', and by the different counting rules and data collection systems used. But the intrinsic difficulty still remains of correctly interpreting these quantitative pieces of information, influenced as they are by the geographically and chronologically variable extent of law enforcement efforts against the phenomenon.

Table 7 below sums up the quantitative variables on organised criminal groups collected and disseminated at the EU and MS level within the EU, together with their modalities:

TABLE 7. QUANTITATIVE VARIABLES ON OC GROUPS COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

QUANTITATIVE VARIABLES ON OC GROUPS	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
OC GROUPS	EU OCSR	Annual estimated number of OC groups active in the EU	Italy	Annual number of mafia-type organisations, by Southern Region
			Spain	Number of OC groups
			Other MSs	Variable not collected or not disseminated
PARTICIPANTS IN ORGANISED CRIME GROUPS	EU OCSR	Annual estimated number of participants in organised crime groups active in the EU	Denmark	Annual estimated number of participants, by OC group
	CoE OCSR	Annual estimated number of participants in organised crime groups active in the EU	Spain	Number of OC groups' members
			Other MSs	Variable not collected or not disseminated
SUPPORTERS OF ORGANISED CRIME GROUPS	EU OCSR	Variable not collected or not disseminated	Denmark	Annual estimated number of supporters, by OC group
			Other MSs	Variable not collected or not disseminated
OC SUSPECTS	EU OCSR	Variable not collected or not disseminated	Germany	Number, % of suspects of German/non German nationality, % armed/not armed,
	CoE OCSR	Variable not collected or not disseminated	Italy	Number of people charged with criminal conspiracy
			Other MSs	Variable not collected or not disseminated
OC GROUPS STRUCTURE	EU OCSR	Variable not collected or not disseminated	Germany	% heterogeneous offender structures/homogeneous offender structures
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated

QUANTITATIVE VARIABLES ON OC GROUPS	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
OC GROUPS ESTIMATED PROFITS	EU OCSR	Variable not collected or not disseminated	Germany	Amount (€)
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
OC GROUPS GEOGRAPHICAL SCOPE	EU OCSR	Variable not collected or not disseminated	Germany	% crimes committed at the international level
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
USE OF BUSINESS STRUCTURES BY OC GROUPS	EU OCSR	Variable not collected or not disseminated	Germany	% OC cases with use of commercial or business-like structures
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
USE OF VIOLENCE BY OC GROUPS	EU OCSR	Variable not collected or not disseminated	Germany	% OC cases with use of violence or other means of intimidation
			Italy	Number of OC related homicides, by Region
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
EXERTION OF INFLUENCE ON POLITICS, MEDIA, P.A., JUDICIAL AUTHORITIES OR THE BUSINESS SECTOR	EU OCSR	Variable not collected or not disseminated	Germany	% OC cases with exertion of influence on politics, media, p.a., judicial authorities or the business sector
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated

The previous table suggests the following comments on the quantitative variables on OC groups on which data are collected and disseminated at EU and MS level, and on the related modalities.

With regard to the MS level, great differences can be noted among MSs, both in the variables on which data are collected as well as in the related modalities. In fact:

- in most cases, data on a given variable are collected and disseminated only by one or by a very limited number of MSs. The remaining MSs do not collect or not disseminate any data on the variable. So, for example, information collected in relation to various quantitative variables on OC groups – such as ‘OC groups estimated profits’, ‘OC groups geographical scope’, ‘use of business structures by OC groups’, ‘use of violence by OC groups’ – appears to be collected and disseminated only in Germany;
- however, even in those cases where some MSs collect data on the same variable, they use different modalities. For example, both Germany and Italy collect information on the variable ‘OC suspects’; however, as far as the modalities of the variable are concerned, Germany focuses on the number of OC suspects, on the percentage of suspects of German/non German nationality, as well as on the percentage of armed/non armed suspects, while Italy focuses on the number of people charged with criminal conspiracy.

With regard to the EU level, it seems that information on the vast majority of the variables indicated in the table is either not collected or not disseminated by Europol and by the Council of Europe, the only exceptions being the variable ‘annual estimated number of OC groups active in EU’ (on which data are collected by Europol) and the variable ‘annual estimated number of participants in OC groups active in the EU’ (on which information is collected by both Europol and the Council of Europe).

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ANNEX 3

REVIEW OF EXISTING QUALITATIVE AND QUANTITATIVE DATA ON THE ACTIVITIES CARRIED OUT BY ORGANISED CRIMINAL GROUPS IN THE ILLEGAL MARKETS AND ON THE RELATED *MODI OPERANDI*

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Aretì Antoniou, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

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1. FOREWORD

This paper is the deliverable for WP 3 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 3 aimed at the collection and review of existing qualitative data sources (at national, regional and European levels) on the activities carried out by organised crime groups in the illegal markets and on the related *modi operandi*.

The paper is organised as follows. Section 2 briefly reflects on why it is important to map organised criminal activities within the EU framework. Sections 3 and 4 review data sources available respectively at the EU and MS level and identify the variables they consider. Section 5 sums up the results from the previous two sections in one grid including the variables identified in the previous two sections.

This paper has been produced by the Università Cattolica del Sacro Cuore, leader of WP 3. In particular, it has been directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Executive Project Manager of the Project. It has been written by Areti Antoniou, Ph.D. candidate at the Università Cattolica del Sacro Cuore, who elaborated a first draft, and Barbara Vettori, who revised it. Apart from the authors, on behalf of the Università Cattolica del Sacro Cuore, the following researchers have cooperated in producing this deliverable: Michele Brunelli and Francesca Romana Pandolfi.

Since the data we are interested in here are primarily collected by law enforcement agencies, the sources used to draft this deliverable are law enforcement data sources. Being information collected by law enforcement agencies for operational intelligence purposes, the present analysis may only focus on publicly available data. It is also worth mentioning that the focus here is on the original 15 EU Member States, as per the approved project, and that in order to have up-to-date information, the focus is mainly on data sources produced during the last five years (1999–2004).

2. WHY MAP ORGANISED CRIMINAL ACTIVITIES IN THE ILLEGAL MARKET IN THE EU FRAMEWORK?

A question to be addressed before reviewing qualitative and quantitative data sources on organised criminal activities in the illegal market in the EU is why should these activities be mapped at all (considering some key variables, such as, for drug trafficking for instance, the origin of OC groups involved, their composition, the links/cooperation between OC groups, etc.). The reply is simple: because this mapping contributes to the development of an organised crime risk assessment methodology.

The concept of ‘organised crime risk’ and a tentative methodology with which to measure it have been recently developed by various authors (Queensland Crime Commission, 1999; Black et al., 2000; Savona et al., 2002) and taken up by Europol (Council of the European Union, 2002).

Their starting point is the definition of ‘crime risk’ as a measure of the probability that a crime (as an undesirable event with a negative impact) will occur. ‘Organised crime risk’ could accordingly be assessed by evaluating probability and impact (harm), where probability is the likelihood that an organised criminal event, as a negative event, will occur and impact is the harm caused to society and individuals by it:

$$OC Risk = OC Probability \times OC Harm$$

Considering that a) the likelihood of a given OC activity occurring (OC probability) can be defined, amongst others, to a series of variables related to the offence itself (such as the number of reported crimes for the previous year – ‘the more a crime has been committed in the past, the more likely it is that it will be committed again’), and b) the harm from a given OC activity is linked to a series of variables defining it (such as, for example, the annual estimated income from the activity), it is evident that information on the OC activity itself plays an important role among the variables that define and measure its risk.

Considering the importance of variables on organised criminal activities in any OC risk exercise, the following two sections review those variables currently collected both at the EU level (section 3) and at the national level

within the EU (section 4). This in order to provide Project IKOC with the background knowledge necessary to develop an innovative and feasible OC risk methodology.

3. MAPPING ORGANISED CRIMINAL ACTIVITIES IN THE ILLEGAL MARKET IN THE EU FRAMEWORK: A REVIEW OF EUROPEAN DATA SOURCES

Two are the main data sources at EU level that contain information on the illicit activities carried out by organised criminal groups in the EU:

- the *European Union Organised Crime Situation Report*, annually produced since 1994 and, from 1998, under the primary responsibility of Europol;
- the *Council of Europe Organised Crime Situation Report*, annually produced since 1998 by a group of specialists on criminal law and criminological aspects of organised crime set up by the Committee on Crime Problems of the Council of Europe.

By reviewing these two principal European data sources, a variety of criminal activities appear to be engaged from the organised crime groups during those last five years. Some of these activities, though, appear from the information collected to be the principal activities carried out by OC groups; while others (such as child pornography) appear to be rather marginal. Therefore the following activities were herein selected for analysis:

- trafficking in drugs;
- trafficking in human beings;
- smuggling of immigrants;
- fraud;
- counterfeiting;
- tobacco smuggling;
- trafficking of stolen vehicles and
- trafficking in arms.

3.1 *The European Union Organised Crime Situation Report*

3.1.1 Trafficking in drugs

Drug trafficking continues to be one of the most lucrative trades for OC groups in the EU, and is greatly assisted by the international network structures that OC groups have developed. The main drugs that are being trafficked are heroin, cocaine, cannabis and synthetic drugs.

The OC groups' variables collected on trafficking in drugs by the EU OCSR are:

- origin of the OC groups involved;
- composition of the OC groups involved;
- drug production countries;
- overseas routes;
- links/cooperation between OC groups;
- drug seizures
- *modi operandi*.

Origin of the OC groups involved: the origin of the OC groups active in drug trafficking is considered by distinguishing between indigenous (or OC groups with an indigenous nature) and non-indigenous OC groups. According to the latest EU OCSRs, drug trafficking involves both indigenous and non-indigenous

groups, mainly Turkish, Albanian, Romanian, Bulgarian, Colombian and Moroccan. It is noteworthy that the trafficking by indigenous OC groups is increasingly being challenged by ethnic Albanian, African, Estonian and Polish OC groups. Chinese OC groups are of particular interest as, in the past, they have mainly been involved in the smuggling and distribution of precursor chemicals, while lately they appear also to be increasingly active in synthetic drug production, along with Turkish and Moroccan groups (Europol, 2004; 2003; 2002).

Composition of the OC groups involved: the composition of the organised crime groups active in the EU is another variable considered in the EU OCSRs on drug trafficking. The groups' composition mirrors the international aspect of OC, as nowadays it includes a greater mix of ethnicities and nationalities, although indigenous criminals still tend to dominate (Europol, 2003). Even those groups traditionally associated with ethnic homogeneity can be seen to include more nationalities (Ibidem). In particular, in drug trafficking a large number of groups are heterogeneous in their composition and they frequently cooperate with other OC groups on an international level to organise the transport and distribution of heroin (Europol, 2001).

Drug production countries: another variable collected is the country where drug production takes place for each type of drug. These are the following (Europol, 2003):

- heroin: even if Afghanistan appears to mainly trade heroin, during the war the heroin trade declined and a number of different countries and OC groups began getting involved. However, it appears that Afghanistan is gaining back its momentum. According to the latest EU OCSR, some 90 per cent of heroin on the market originates from South West Asia;
- cocaine: mainly arrives from Colombia and crack cocaine markets are growing in the UK whereas crack cocaine seems to be a limited problem in other Member States;
- cannabis: cannabis resin (hashish) continues to be produced in Morocco and be consumed in the EU. However, other countries, for instance Albania, Pakistan and Afghanistan, are also becoming increasingly important source countries. This type of drug remains the most commonly used drug in the EU. Herbal cannabis (marihuana) is supplied to the Member States from Columbia, Jamaica, South Africa and Nigeria. Albania has developed into an important source country for this type of drug, specifically for the Greek and Italian markets;
- synthetic drugs: synthetic drugs are predominantly produced within the EU, chiefly in the Netherlands but also in Belgium, Germany, Spain and the UK. Some countries in Central and Eastern Europe (Poland, Lithuania) are also important source countries. Investigations in Member States revealed a growing number of synthetic drug production sites in Estonia (especially for the Finnish market), Serbia, Poland and Germany. An increased involvement of Turkish, Moroccan and Chinese OC groups in synthetic drug production was also revealed (Europol, 2004; 2003).

Overseas routes: this variable includes the routes through which drugs are being trafficked, from the beginning (production country) all the way until the final destination (transit and/or destination countries). In particular:

- the Balkan route remains one of the most important transit routes, primarily for heroin into the EU, but other drugs also enter the EU via, mainly, the Netherlands, Belgium, Spain and Portugal. While all EU Member States are destination countries for heroin (Europol, 2002). In addition, German reports show that recently there has been an increase in the trafficking of Dutch ecstasy destined for the USA and Australia (Europol, 2004).

Links/cooperation between OC groups: links/cooperation between indigenous OC groups and other groups and between non-indigenous groups and other groups were reported (Europol, 2003). By analysing more deeply the cooperation between the OC groups it appears that:

- most west European countries mentioned links with Spanish OC groups with respect to cannabis and cocaine trafficking;
- Italian OC groups are collaborating with other OC groups such as ethnic Albanians OC groups with respect to drug trafficking.

Drug seizures: In 2003, 14 tonnes of heroin were seized by law enforcement agencies in the EU but this is the highest quantity ever. Furthermore, approximately 900 tonnes of cannabis resin and 52 tonnes of herbal cannabis were seized (Europol 2004).

Modi operandi: the OC groups for the trafficking in drugs in order to achieve their objectives are using a variety of methods:

- transportation methods: some 85% arrives in the Member States by sea freight. Of note is the use of international mailing systems. Small amounts of heroin are transported by individual couriers and large-scale transportation of heroin is carried out by air transport and shipment and by truck. In the case of synthetic drugs (such as amphetamines and ecstasy) no complex routes and methods are required since the drugs are produced close to the consumer markets. However, it appears that couriers are now aware that flights arriving directly from the Netherlands and Belgium will be subject to closer scrutiny and therefore choose to travel by an indirect route. In apparent confirmation of this, German sources report increased trafficking of Dutch ecstasy destined for the USA and Australia (Europol, 2004);
- use of trafficking bases: there is also, in the case of cannabis, the establishment of trafficking bases by OC groups (ex. Spain) in order to further distribute to other EU countries. It is clear that OC-groups have built up a sophisticated distribution network. They have established group members in border towns where they maintain heroin depots (particularly in the Czech Republic). From here individual couriers are recruited mainly from Germany, Czech Republic, Albania and other Eastern European countries;
- use of drugs as currency: the use of drugs as a form of currency was reported in two instances. In the Netherlands, ecstasy and cocaine were taken to Turkey to be exchanged by Turkish OC groups for heroin. There was also information that Estonian couriers smuggled cannabis to the north and used amphetamines as payment (Europol 2003: 20);
- mono or poly-drug trafficking: the result of the increasing cooperation between those groups was to engage in poly-drug trafficking, a highly noteworthy development, besides the case of cocaine where OC groups tend to restrict themselves to this one drug (Ibidem). Such diversification and increased cooperation are clear trends within the whole drug sector. The overall drug market seems to be growing in most Member States, although the heroin market seems to have stabilised, even if still remains a major problem in the EU;
- production process/use of technology: advanced production methodology, the use of sophisticated equipment and the involvement of skilled specialists have resulted in an ever increasing production efficiency and capacity. The production process, from chemical synthesis to the end of product packaging, now invariably takes place at separately locations, occasionally even in different countries. This division of tasks reduces the risks for OC groups of an inclusive production network being dismantled when one site is being discovered by law enforcement (Europol, 2004: 13).

3.1.2 Trafficking in human beings

Trafficking in human beings is often linked with Illegal immigration. In order to avoid possible misunderstandings it is important here to stress the definition of THB adopted by the Council of the EU (CoE, 2004):

'Traffic in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, as minimum, the exploitation of the prostitution of others or other form of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs'

Trafficking in human beings affects almost all Member States. It is major problem in the EU; it has also grown significantly during the last years in, for instance, Italy (Europol, 2001). Many of the victims are forced into slave-like existences, especially to be exploited as prostitutes.

The variables collected on Trafficking in Human Beings are:

- origin of the OC groups involved;
- links/cooperation between OC groups;
- origin countries of victims;
- overseas routes and
- *modi operandi*.

Origin of the OC groups involved: victims are generally brought in by OC groups of the same nationality. The indigenous OC groups collaborate with other ethnic groups, though, in order to achieve the distribution of the human beings in all Member States. Albanian organised crime groups appear to be active on this field of activity (Europol, 2001).

Links/cooperation between OC groups: a common pattern amongst the rest of the EU is that both indigenous and foreign criminal groups are active in THB at the same time. This sometimes means that indigenous groups form a type of joint venture with ethnic groups. The initial to middle stages of contacting, recruiting and facilitating transport are given to foreign groups and the middle to final phases of the process within the EU country, such as transport, accommodation and the sexual exploitation for profit, are dealt with by indigenous criminal groups (Europol, 2003).

Origin countries of victims: victims usually come from Central and Eastern Europe (Albania, the Baltic States and Russia); Africa (Nigeria), Latin America (Brazil) and Asia (Thailand) (Europol 2001; 2004). As the development of illegal prostitution through the trafficking in human beings involves the movement of prostitutes from the Baltic States to the Nordic countries, it must be emphasised that the origin of the prostitutes is often unclear and they may in fact come from Russia or Belarus (Europol 2003).

Overseas routes: the overseas routes of THB include the transit or destination countries. In particular, the development of illegal prostitution through the trafficking in human beings involves the movement of prostitutes from the Baltic States to the Nordic countries. Once again the Balkan route is often used in THB. Since victims are regularly moved between Member States it is difficult to identify favourite destination countries. However, Germany, the Netherlands, Belgium and France are especially vulnerable (Europol, 2003).

Modi operandi: part of the *modi operandi* is common to other criminal activities. In particular:

- recruitment methods: the phases of recruitment through methods such as false promises, false agencies, conditioning of the victims by violence etc., either before or after transportation and the follow up violence differentiates the phenomenon of THB from illegal immigration. Furthermore, the OC groups involved are also known to threaten the victim's families in the event their victims are not obedient. In order to help break the women's resistance to prostitution they are disoriented by often being sold from one pimp to the other and transferred between working places (Europol, 2004). Another method that has been reported is pseudo marriages for the purpose of obtaining residence permits for foreign women to be sexually exploited;
- transportation: transportation phase in THB is common to illegal immigration;
- links with other organised criminal activities: it is worth mentioning that OC groups are very opportunist in adopting already existing *modi operandi*, facilities and networks used for the smuggling of other commodities. This seems to be confirmed by the fact that several Member States' contributions report the involvement of criminal groups active in THB are also involved in drugs and arms trafficking and illegal immigration (Europol, 2003). In addition a series of crimes are committed to force victims into prostitution in order to exploit the victims in the destination country (rape, assault, torture and even mutilation) (Europol, 2004).

3.1.3 Smuggling of immigrants

Illegal immigration involves the facilitation of a border crossing and smuggling of people. Although trafficking of human beings may also include an illegal border crossing, it involves extensively a form of exploitation of the persons themselves. The variables collected on smuggling of immigrants are:

- overseas routes and

- *modi operandi*.

Overseas routes: migrant route countries are the Czech Republic and Slovakia. This was the result of tightened border controls in Poland that have led to the displacement of migrant routes from Moscow, which now pass through the Czech Republic and Slovakia. Furthermore, the recent boom in illegal immigration into the EU is particularly noteworthy (Europol, 2004; 2003).

Modi operandi: with regard to this variable the following information are reported in the EU OCRS:

- recruitment: illegal immigration organised practices require a lot of steps after the recruitment of the victims/applicants for illegal immigration. Namely, among other kind of activities, it will include the collection of the applicants, the acquisition of the necessary formal documents or the production of the needed forged/counterfeit documents (identity cards, passports, visas), the transportation arrangements (arranging flight tickets, vehicles or boats), the selection of the chosen entry routes, the 'security' of the trip, transfers regarding transit countries, law enforcement counter measures and the distribution of the illegal immigrants into temporary safe-houses or shelters;
- transportation: the inflow of illegal immigrants is accessing the EU countries by land, sea and air. The use of a specific means of transport depends mainly on the distance between the destination and the originating country or the natural geographical obstacles faced during the trip and the chosen way to disguise the illegal immigrants at the arrival country;
- links with other organised criminal activities: there are indications that OC groups involved in illegal immigration are among the most likely to engage in multiple types of crime. The links between illegal immigration and other forms of criminal practices are strengthening with the increased involvement of organised criminal networks. The forgery of all types of documents, corruption and money laundering activities have been reported, as well as close links between illegal immigration and trafficking in human beings. Due to the similarities of smuggling routes and basic ethnic connections, in many cases links were detected with other commodities trafficking, namely drugs (Europol, 2004). Although some of the reported criminal practices remain instrumental to the main criminal purpose of illegal immigration (forgery of documents, illicit possession of firearms, theft of vehicles, fraud), other reported criminal practices are connected, in one way or another, with the difficult living conditions normally associated with the illegal immigrants (namely, robbery, extortion, burglary, product piracy, forgery and smuggling of diverse goods, fraud of all types, violence in general) when at the transit and/or destination countries (Europol, 2003).

3.1.4 Fraud

The variables collected on fraud are:

- origin of OC groups by types of fraud and
- *modi operandi*.

Origin of OC groups by types of fraud: the links that appear to exist between OC groups and different types of fraud are the following (Europol, 2003):

- VAT and carousel fraud are the most common types of fraud perpetrated by indigenous organised crime groups.
- On the other hand, Nigerians are experts in advanced payments fraud.
- The current EU members also face an increase in the number of criminal groups fraudulently obtaining state subsidies for rent, insurance or health reasons.
- There are also an increasing number of OC groups involved in currency counterfeiting, especially Lithuanian and Bulgarian groups.

Modi operandi: the following *modi operandi* were identified in this field of activity:

- use of expert knowledge: more sophisticated printing facilities and the employment of professional counterfeiters have dramatically improved the quality and quantity of the euro counterfeits which appeared in Europe in 2002. It is also closely linked to credit card fraud and identity theft;

- procedure: there is also widespread VAT fraud and tax evasion with goods being bought in Member States and sold at lower prices on the black market. Conversely, products are bought VAT free in countries and then sold to unsuspecting victims at a VAT inclusive price. Identity theft and credit card fraud are increasing.

3.1.5 Counterfeiting

Regarding counterfeiting, since 1 September 2001 Europol provided a platform for the exchange of information between Member States for all Euro-related incidents. During the whole introduction period of the Euro, Member States were provided with a European Union overview of criminal trends in order for them to adjust national security measures when needed. No counterfeits of the Euro were identified and robberies were far less than expected. A series of visits to Member States, as well as expert meetings at Europol, resulted in better co-operation. The monthly EU Counterfeit Currency Situation Report has been provided to the Member States at their request. The Analysis Work File on currency counterfeiting identified several groups and individuals involved in counterfeiting of national currencies and this work have led to hundreds of arrests inside and outside EU.

Europol has contributed in a number of other areas ranging from simple information exchange, instigating checks to establish whether circulating counterfeits are known or unknown, to requests for assistance from Member States. Courses for tactical and technical training on counterfeiting, in particular related to the Euro currency, were designed, organised and delivered by Europol and partially funded by OISIN (the EU programme for the exchange and training of, and co-operation between, law enforcement authorities) (Europol, 2001).

Most of the 22 000 forged banknotes seized since the euro was introduced in January 2002 have been crude fakes of low quality and easy to detect. Fake euros are bound to increase as the single European currency gains worldwide acceptance.

Even if the majority of information collected concerns counterfeiting of documents and money, these are not the only objectives of counterfeiters, but virtually every item, from medicine to aeroplane spare parts, can face the same destiny (Europol, 2002).

The variables collected on counterfeiting are:

- origin of OC groups involved;
- countries producing counterfeited goods;
- seizures and price estimates of counterfeited goods;
- link/cooperation between OC groups and
- *modi operandi*.

Origin of OC groups involved: an increasing number of OC groups are involved in currency counterfeiting, especially Lithuanian and Bulgarian groups. This affects the Member States since it often involves the euro currency (Europol, 2002).

Countries producing counterfeited goods: the vast majority of counterfeit euro banknotes are produced in Bulgaria, Lithuania, Poland, Albania, Turkey and Kosovo (Europol, 2004).

Seizures and price estimates of counterfeited goods: in 2003, a total of more than 570,000 euro notes were seized by law enforcement and banking systems in the EU with an estimated value of around €30,000,000. The price of a counterfeited bank note is estimated at approximately 8 per cent of its face value. The price may increase to up to 35–40 per cent once the bank notes reach their final distributor whose aim is to introduce the forged money into the market place in exchange for real money or goods (Europol, 2004).

Link/cooperation between OC groups: currency counterfeiting is becoming increasingly international in character, at times linking many continents together in criminal enterprises (Europol, 2002).

Modi operandi: with regards to the *modi operandi* used in currency counterfeiting, the use of expert knowledge and the use of technology have been reported. In particular, more sophisticated printing facilities

and the employment of professional counterfeiters have dramatically improved the quality and quantity of the euro counterfeited (Europol, 2004; 2003).

3.1.6 Tobacco smuggling

With regards to illicit trafficking, commodity smuggling, especially the smuggling of highly taxed products such as cigarettes and tobacco, will continue as long as there are major tax differences between the Member States and large price differences between the Member States and source countries outside the EU. It can be expected that this area of crime will increase in the future given its high-profit low-risk nature.

The variables collected on tobacco smuggling are:

- origin of OC groups involved;
- ‘victim’ countries;
- overseas routes and
- *modi operandi*.

Origin of OC groups involved: tobacco smuggling is by and large a more limited Nordic problem, nevertheless drawing the attention of many domestic and foreign organised crime groups (Europol, 2002). The Nordic countries and the United Kingdom are particularly vulnerable to this type of criminal activity due to their higher levels of taxation on such commodities. Criminals from the Baltic States are the main perpetrators of cigarette smuggling, although Vietnamese groups are also known to collaborate with groups from central and eastern Europe, selling cigarettes that these groups have smuggled into Germany (Europol, 2003).

‘Victim’ countries: tobacco smuggling used to be a form of fraud almost exclusively confined to Italy, and to a lesser extent, Spain but this no longer seems to be the case. Since the abolition of intra-community frontiers tobacco smuggling has grown rapidly throughout the EU, particularly in the UK, France, the Netherlands, Germany, Belgium and Germany (where it is involved in 90 per cent of all revenue and customs offences) (Europol, 2004).

Overseas routes: apart from the cigarettes smuggled into Germany they are also taken from Greece to the United Kingdom via Italy (Europol, 2003). Even though there is a growing involvement of other countries (as mentioned above) in tobacco smuggling, Italy remains the crossroads for the illegal tobacco trade because of its geographical position in the heart of the Mediterranean (Europol, 2004).

Modi operandi: commodity smuggling provides a source of income for OC groups to fund their involvement in other types of crime (Europol, 2003).

3.1.7 Trafficking in stolen vehicles

Trafficking in stolen vehicles is one of the activities that appears to engage in organised criminal groups, even if there was a decrease during the last years in the total amount of vehicles being stolen in the EU. In particular the situation in countries with a high amount of stolen vehicles (France, Germany, Italy, Spain and the United Kingdom) improved and may be due to improved security measures, modified regulations in insurance contracts and even the beginning of the saturation of the market.

The yearly costs related to this crime are in the billions of Euros, so even if limited it is still a serious problem. With a view to transnational organised crime it is all the more severe considering the increased importance of organised crime groups in vehicle crime (Europol, 2002).

The variables collected by the EU OCSR on trafficking in stolen vehicles are:

- origin of OC groups involved;
- origin countries of stolen vehicles;
- overseas routes and
- *modi operandi*.

Origin of the OC groups involved: distinguishing between indigenous and non-indigenous OC groups, many of the stolen cars are trafficked within the EU by indigenous groups. However, as a large proportion also goes abroad, primarily to Central and Eastern Europe, Africa and the Middle East, they have also established contacts with organised crime groups outside the EU. The situation appears stable, though concerns exist for a future increase because of the enlargement of EU Member States and the increased cross-border movement (Europol, 2003). With respect to the new forms of vehicle theft (car-jacking and home-jacking, explained below in more detail), especially mentioned are Bulgarian, Russian and Romanian OC groups (Europol, 2004).

Origin countries of stolen vehicles: refers to the countries where the vehicles are being stolen in order to be trafficked. Germany is often cited as a major source of stolen vehicles. However, high amounts of stolen vehicles are reported in France, Italy, Spain and the United Kingdom (Europol, 2003).

Overseas routes: refers to the transit countries from which the stolen vehicles are being trafficked in order to reach in the destination countries. Nordic countries, Baltic States and Poland are seen as important transit countries, while Russia, central Europe, Albania, Norway and Africa are cited among the main destinations (Europol, 2003). According to the latest EU OCSR 2004, Germany and Austria remain important transit countries for stolen vehicles being transported towards Eastern Europe while Greece is the route for stolen vehicles destined for Eastern Europe, the Middle East and Asia.

Modi operandi: addresses the methods used in the trafficking of stolen vehicles and relevant changes that occurred during the last years:

- use of expert knowledge: today it is virtually impossible to steal a car without expert knowledge, which is available, more often than not, only to resourceful and well organised criminal groups (Europol, 2002). International vehicle trafficking needs a professional well-organised network as the logistics of international vehicle trafficking are complex. It needs thieves, couriers, document forgers, professional mechanics and knowledge to step across different borders and re-register 'legalised' stolen vehicles. It requires the different participants to specialise in particular fields (e.g. theft, transforming vehicles, forging documents). It is worthy of note that specialists do not work solely for one organisation but often work for different trafficking organisations. Some groups seem to have the technical expertise to re-programme immobilisers (Europol, 2001);
- theft (including use of violence): a change in the *modi operandi* engaged by the OC groups has taken place, due to the improved security systems now fitted in high value vehicles. Simple theft decreased due to anti-theft security measures taken for all new models and there has been a move from simple theft to other criminal activities such as car jacking and home jacking where the offenders obtain the original keys under the threat or use of violence against persons. It has been reported that almost half of vehicles suspected of having been stolen were obtained in fraudulent manner, such as renting with fraudulent intent, misappropriation of leased vehicles and theft with the complicity of the car-owner (insurance fraud) (Europol, 2004; 2002);
- recycling stolen cars: the alteration of the vehicle identity (i.e. VIN or chassis number, production number, license plate, etc.) is mentioned regularly.

3.1.8 Trafficking in arms

Illicit trafficking of firearms which, while not widespread nor representing the main activity of any one group, can be expected to increase given the tendency of OC groups to resort to violence (Europol 2003).

The variables collected on trafficking in arms are:

- origin of OC groups involved;
- origin countries of arms;
- overseas routes and
- *modi operandi*.

Origin of OC groups involved: cases of illicit firearms trafficking investigated in the EU continue to show the involvement of former Yugoslavian OC groups. The Netherlands also reported the involvement of suspects originating from the UK, the US and Turkey as key players within OC groups (Europol, 2004).

Origin countries of arms: according to the EU OCSR 2003:

- Eastern Europe is one of the main sources for these illicit weapons, which is reflected in the OC groups most often associated with this type of trafficking.
- The Balkan area is mentioned as the current dominant region of origin of weapons smuggled into the EU. The cessation of conflict in this area has left large amounts of armaments some of which now are trafficked and sold to criminals in the Member States.
- The former Soviet Union is also said to be an important area of origin.

Overseas routes: the real nature and scope of the illicit trade in firearms is unknown. However, it can be postulated that all Member States are affected to various degrees. In particular:

- smuggling routes normally go via the EU countries closest to the regions mentioned, such as Austria and Germany, for further transportation westward.
- Italy mentions that large amounts of weapons have been trafficked into Italy from Albania over the Adriatic Sea. In the Belgian contribution it is noticed that several Belgian air and shipping companies and their managers are said to be involved in the illegal trafficking of arms from one country to another.

Modi operandi: different Member States ascertained that firearms are trafficked and reach criminal circles in the following ways:

- smuggling procedures were: a) through smuggling of illicit weapons into a country (Austria reports that criminals have smuggled weapons in busses from Croatia to Germany via Austria. Often the smugglers place one or two pieces of luggage next to the luggage of a bus passenger, but do not enter the bus themselves. The luggage is loaded into the bus and picked up by a different individual upon arrival; b) through diversion from the legal trade by dishonest weapons dealers (who take advantage of the almost non-existent control of the licensing system and sell weapons to criminals). A large part of the weapons entering the criminal market is diverted from the legitimate arms trade; c) through thefts, from military depots, arm factories, even police stations and finally, d) through reactivation of deactivated firearms, as noted in some cases in the UK (Europol, 2004; 2003);
- transportation: air and shipping companies appear to be involved in this. Some information about *modi operandi* is given also in the national contributions. For example, UK states that firearms have been found smuggled using the postal service (Europol 2001);
- links with other organised criminal activities: the trade in firearms is often linked to other types of illegal activities, such as drugs and tobacco smuggling, trafficking in human beings and illegal immigration. Moreover, the demand for weapons from the criminal world is very large and a never-ending process, which makes the potential profit in this sector of criminality somewhat high (Europol, 2003).

3.2 The Council of Europe Organised Crime Situation Report

CoE OCSR is an annual Report on the Organised Crime Situation in Europe complemented by the Council of Europe (COE), based on its Member State's replies to a questionnaire. This report analyses the characteristics, activities, resources, methods, geographical coverage, influence and trends of organised criminal groups operating in the CoE states, which comprise 45 countries, including the 15 old MS and the 10 new ones. Specifically, for each activity carried out by OC groups, it collects a range of qualitative (such as origin of OC groups involved, overseas routes etc.) and quantitative (such as seizures, arrest, estimated losses etc.) variables, a summary of which is presented in the following pages.

3.2.1 Trafficking in drugs

As in the EU OCSR, the CoE OCSR provides mainly information on the trafficking in heroin, cocaine, cannabis and synthetic drugs (such as amphetamines, ecstasy and LSD), which in some variables are considered separately. The list of variables collected by the CoE OCSR on drug trafficking is the following:

- origin of the OC groups involved;
- composition of OC groups involved;
- drug production countries;
- overseas routes;
- links/cooperation between OC groups;
- drug seizures (separately for each drug, as well as for each country) and
- *modi operandi*

Plus an additional variable, in comparison to the EU OCSR, which is:

- arrests for drug trafficking (for each country).

Origin of the OC groups involved: according to the CoE OCSR 2001 the origin of the traffickers of drugs within Europe is the following:

- Turkish (including Kurdish) criminal groups still play a major role in the transport and distribution of heroin. For the national markets of some countries, including the UK and Ireland, groups composed of people of Turkish descent are still the most important heroin suppliers. But Turkish criminal organizations no longer dominate the distribution of heroin in the whole of Europe. In several member States, including the Czech Republic, Greece, the Former Yugoslav Republic of Macedonia, Norway and Switzerland, ethnic Albanian groups have taken over this position. Two thirds of the heroin intercepted in Greece last year was imported from Albania and only one third from Turkey. The Bulgarian national report observes that drug trafficking organizations, which are based in Turkey, still keep an important role in the organization of international heroin distribution. Most ethnic Albanian heroin smuggling groups buy the drugs from Turkish suppliers;
- on the other hand, South American traffickers, in particular Colombian, are responsible for the majority of coke transports to Europe;
- lastly, traditionally synthetic drugs are trafficked mostly by European criminal groups. But as the traffic has become more of a global nature, groups from other continents are also getting involved, including Israeli, Nigerian and American criminal organizations.

Composition of OC groups involved: there are reported cases of heterogeneous organization operating in the trafficking of drugs. In particular, the Hungarian report states that criminal organizations consisting of both Turkish and Albanian individuals transport heroin via Hungary to the Western European markets. A similar kind of cooperation between drug traffickers with different backgrounds is found in Estonia where an organization composed of Azerbaijani, Turkish and Russian criminals has approximately 70% of the heroin business in hand. Russian-speaking organized groups seem to be involved in the heroin trade in the Czech Republic as well (CoE, 2001: 23).

Drug production countries: production countries are specified for each drug as follows:

- heroin: Afghanistan is identified as the world's number one opium production country with 87% of global production in 2004 (CoE, 2004:21), even if the world production of opium in 2001 was about 70% less than in the previous years. This decrease was mainly caused by the ban on poppy cultivation by the former Taliban government in Afghanistan (CoE, 2001:21);
- cocaine: in 2001, Colombia was accountable for the vast majority of the world production of cocaine, even if in Peru many coca bushes were eradicated in the middle of the decade. This is because at the same time a large number of coca bushes were also planted in Colombia. This means that the traditional role of Colombia as a processing and wholesale distribution country has widened itself and includes nowadays

the large-scale cultivation of coca (CoE, 2001:23). In 2004, Bolivia also appears as a drug production country (CoE, 2004:19);

- cannabis: most cannabis resin is of Moroccan origin. The country supplies an estimated 80% of the hash consumers in Council of Europe member States. The rest of the supply comes mainly from Southwest-Asia (Pakistan in particular) and Africa (including Nigeria and South Africa). Within Europe Albania and the Netherlands appear to be the main producers (CoE, 2004:19).
- synthetic drugs: almost all of the amphetamines and amphetamine-type stimulants (ATS, including MDMA, MDEA and MDA) that can be found on European consumer markets are produced in this part of the world. During the first half of the nineties, criminal groups in the Netherlands were accountable for almost all amphetamines and ecstasy (another term for ATS) in Europe. Nowadays, a significant part of the synthetic drugs, especially amphetamines, is manufactured in Eastern European countries, in particular in Poland and the Baltic states. Ecstasy is also produced in some other EU countries, including Belgium and Germany. The number of countries involved in the production of synthetic drugs is rising. However the Netherlands still appears to be the number one ecstasy producer in Europe (CoE, 2004:19). A substantial proportion of the trips of LSD confiscated in other European countries originated from the Netherlands (CoE, 2001:29).

Overseas routes: the traditional Balkan route, which starts in Turkey and continues in several branches through in eastern and central European countries, remains the highway for heroin on its way to consumer markets in Western Europe (CoE, 2001).

Links/cooperation between OC groups: there are established links and cooperation between the OC groups in the trafficking of drugs. In particular, in order to achieve the international distribution of heroin there are contacts and other signs of cooperation between Turkish and Kosovar-Albanian organisations in order to conclude drug deals (CoE, 2001).

Modi operandi: the following *modi operandi* have been reported:

- use of trafficking bases: as along the trafficking route, stocks are kept to ensure stable supplies for the various national markets (CoE, 2001:21).
- transport: as a substantial part of the cocaine transport occurs in large consignments concealed in maritime containers. But air transport by means of couriers who have ingested it or concealed it in their body cavities or their luggage and by hiding the illicit drugs in airfreight has gained popularity, in particular on the air route from the Netherlands Antilles to the Netherlands. The number of coke couriers arrested at the Dutch national airport of Amsterdam has doubled in only two years time (about 1,400 in 2001 versus 700 in 1999). Notwithstanding stricter controls at the airport, the first half of 2002 shows a further increase. Dutch customs authorities estimate the total number of drug couriers travelling to Europe at over 2,000 a month. Many of them have relatively small amounts with them, between 0.5 and 2 kilos, but the sheer number of couriers makes this *modus operandi* one of the most important ways of intercontinental cocaine transport.

Drug seizures and arrests: were reported for each country. Table 1 presents the available statistical data on the number of drug seizures and arrests for drug trafficking in the period 1998–2001.

TABLE 1. NUMBER OF DRUG SEIZURES AND ARRESTS CARRIED OUT BY THE MEMBER STATES IN THE PERIOD 1998–2001

Member State	Number of seizures				Number of arrests			
	1998	1999	2000	2001	1998	1999	2000	2001
Albania	n.a	n.a	n.a	n.a	148	n.a	n.a	n.a
Andorra	159	n.a	n.a	n.a	227	n.a	n.a	n.a
Armenia	n.a	n.a	n.a	n.a	n.a	n.a	522	429
Austria	6003	6265	6336	n.a	17141	17597	18125	n.a
Azerbaijan	n.a	n.a	n.a	n.a	n.a	n.a	n.a	2303
Belgium	17608	12584	20107	n.a	23184	25540	19005	n.a
Bulgaria	156	n.a	n.a	n.a	n.a	59	134	152
Croatia	4849	n.a	5711	n.a	291	n.a	282	529
Cyprus	283	420	289	384	30	318	377	511
Czech Republic	902	510	1153	n.a	1300	3159	n.a	n.a
Denmark	10740	7990	9761	9452	8900	9424	9899	n.a
Estonia	220	535	760	n.a	531	n.a	1104	n.a
Finland	3929	4802	5721	1855	8173	9287	n.a	6523
France	46609	50260	57182	53534	n.a	5506	6531	5438
Georgia	n.a	n.a	n.a	n.a	n.a	1600	n.a	n.a
Germany	45673	51691	54046	51480	68994	73271	76594	79787
Greece	269	134	n.a	n.a	10973	10902	12543	n.a
Hungary	129	125	485	698	n.a	n.a	n.a	n.a
Iceland	n.a	n.a	n.a	928	n.a	n.a	n.a	73
Ireland	7818	7222	7539	9167	5631	6848	8191	n.a
Italy	23415	n.a	n.a	21347	33179	33180	33516	34322
Latvia	n.a	292	n.a	551	82	128	n.a	227
Liechtenstein	n.a	n.a	n.a	n.a		3	9	7
Lithuania	n.a	n.a	n.a	688	414	n.a	n.a	463
Luxembourg	533	752	737	n.a	112	108	117	n.a
Malta	157	n.a	n.a	n.a	686	733	n.a	106
Moldova	473	538	1422	n.a	n.a	1482	n.a	n.a
Netherlands	5430	20006	13877	14353	7700	n.a	n.a	n.a
Norway	16736	19425	21509	26578	13600	6486	8002	9190
Poland	n.a	n.a	n.a	n.a	n.a	3832	3556	9952
Portugal	7268	8517	6996	n.a	11395	13020	14276	n.a
Romania	118	n.a	n.a	n.a	n.a	1014	n.a	1132
Russia	182943	177014	n.a	n.a	161578	41000	n.a	n.a
San Marino	n.a	n.a	n.a	n.a	n.a	6	n.a	n.a
Slovak Republic	1062	n.a	3901	n.a	n.a	167	n.a	n.a
Slovenia	n.a	729	n.a	589	1166	1036	n.a	1581
Spain	81928	91212	104984	n.a	81644	13430	9933	7528
Sweden	15199	15197	15983	n.a	11497	10428	12555	n.a
Switzerland	n.a	30208	n.a	18382	n.a	n.a	9106	n.a
FYRoM	125	n.a	n.a	263	186	355	n.a	400
Turkey	969	3256	2794	2373	6121	6819	6527	n.a
Ukraine	1467	n.a	n.a	7	6632	n.a	32793	n.a
United Kingdom	158572	139657	130196	n.a	127919	n.a	n.a	n.a

Source: Council of Europe (2001).

The replies of the Member States on questions regarding the numbers of drug seizures and arrests are not always clear, as in some countries seizure statistics show variations from one year to another which do not seem to be plausible. This could be caused by:

- changes in registration methods;
- the arrest data in a number of Member States do not refer to drug traffic offences alone, but to possession of illicit drugs as well;
- the definition of an arrest differs from one country to another.

However, looking at the figures presented in the previous Table, one can conclude that:

- major *decreases* are reported in Belgium, Finland, Malta, and Russia;
- whereas in most other member States the trend in the figures is *upwards*.
- As far as arrests for drug offences are concerned, more member States experience an *increase* than a decrease. The largest increases (of more than a quarter) are observed in Croatia, Latvia, Lithuania, Poland, Slovenia and Ukraine.

Furthermore, the latest report published by the Council of Europe, provided as with information on the trends that appeared in the quantity of drugs seized during the period 2002–2003. These were the following (CoE, 2004):

- the UK (3929 kg), Italy (2585 kg), Turkey (2558 kg), the Netherlands (1122 kg), the Russian Federation (842 kg) and Bulgaria show the *highest seizures of heroin* in 2002.
- Spain (17618 kg) made the *largest seizures of cocaine*, followed by far from the Netherlands (7986 kg) and other MS, while seizures of cocaine in 2003 doubled in the Netherlands.
- The UK (1716 kg), followed by Belgium (500 kg), the Netherlands (481 kg), Germany (362 kg) and Sweden (350 kg), *seized most ATS* (including ecstasy) in 2002.

3.2.2 Trafficking in Human Beings

Based always on the definition given on THB by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime and adopted by the Council of Europe, presented in previous section, the variables collected by the CoE on trafficking in human beings are:

- origin of the OC groups involved;
- links/cooperation between OC groups;
- origin countries of victims;
- overseas routes and
- *modi operandi*.

Origin of the OC groups involved: information from different countries and regions within Europe point at strong and violent trafficking organizations. This seems particularly true for Albanian and Kosovar organizations operating in Belgium, France, Italy, the United Kingdom and other countries (CoE, 2001:43). Furthermore, Serbian and Macedonian criminal networks are involved in this activity (CoE, 2004: 24).

Links/cooperation between OC groups: it is important to underline that trafficking is not only an issue of foreign criminals but in most countries of local criminal organizations. For example, in Italy Albanian groups cooperate with Italian mafia-type associations while in Germany 40% of suspected offenders were nationals (CoE, 2001:44, 2004:45).

Origin countries of victims: victims originate from a range of countries. Women from Central and Eastern European member States, including Ukraine, Romania, Moldova, Lithuania and Russia, make up the majority of victims of trafficking in Europe. However, victims from other regions– such as from Asia, Africa and Latin America – are also found to a lesser extent (CoE, 2001:41; CoE, 2004: 24).

Overseas routes: Member States are important countries of origin, transit or destination. Especially in South-eastern Europe this remains a crucial issue because of its geographical position between source countries (such as Moldova, Romania and Ukraine) and first destination countries (in particular Greece and Italy) for trafficking to the European Union (CoE, 2001:41; CoE 2004: 24).

Modi operandi: refers to the methods used in order to achieve the OC groups involved their objectives, the following are reported (CoE, 2004):

- with regard to the recruitment methods, women respond to job advertisements for babysitters, models, hairdressers, or are encouraged or recruited by friends or relatives. Transport and papers are arrangements by the organized crime groups and networks involved;
- use of violence: there are numerous reports of women kept in isolation or beaten or raped in order to 'break' them;
- reselling of victims or exchanged between criminal groups and countries in order to ensure the availability of 'fresh meat' on the market;
- links with other criminal activities: the trafficking of human beings to the European Union is succeeded by the collaboration of the criminal networks and by the corruption among the officials.

3.2.3 Smuggling of immigrants

The CoE OCSR collects with regard to smuggling of persons, as an expression of illegal migration, the following variables:

- origin of the OC groups involved;
- overseas routes and
- *modi operandi*.

Origin of the OC groups involved: in the criminal investigations into migrant smuggling carried out in the Netherlands, most of the main suspects originated from Bulgaria, Turkey, the Russian Federation and Iraq (CoE, 2001).

Overseas routes: an increasing number of European countries appear to be transit and destination countries, therefore involved to the criminal network established on the smuggling of immigrants (CoE, 2001). According to CoE 2001 the following routes are of particular relevance for Europe:

- from Asian countries through the Central Asian Republics to Russia and from there via Ukraine, Slovakia and the Czech Republic to Western Europe;
- from Asian countries via Iran and Turkey along the 'classical' Balkan route to Western Europe;
- from sub-Saharan Africa via northern Africa and the Strait of Gibraltar to Spain or to Italy.

Modi operandi: with regards to the *modi operandi* used in smuggling of immigrants the following information are provided:

- use of facilitators: The relevant organized criminal groups provide victims with a variety of facilitators in order to make possible their illegal immigration. These are namely when visas in large numbers are obtained under false pretences, such as fake invitations or hotel room bookings – against considerable payments by the victims. There are huge amounts at stake, which makes illegal entry into the European Union a lucrative and flourishing business. The smuggling rings take advantage of every possibility, every loophole and possible inadvertence in controls and surveillance to reach their goals. They will thus make use of every thinkable route that implies little risk and costs (CoE, 2001: 40);
- transportation: increasingly vessels are used to smuggle persons to Europe, often at high risk to their lives. Several hundred people die every year between northern Africa and southern Europe on their journey across the Mediterranean Sea (CoE, 2004: 28).

3.2.4 Fraud

Regarding fraud it is noticed that activities which this report on organised crime in 1999 treats as fraud are those allegedly run by organised criminal gangs and targeting private economic operators or prejudicial to the interests of public finances in the countries concerned.

Before moving on, though, it is worth mentioning that in most countries there is no clear measure of how much fraud exists. This is due to various reasons:

- firstly to the fact that the authorities' information depends, even more in the case of fraud than in that of other activities, on indicators which monitoring agencies are unable to interpret. To use a common metaphor, although it is universally recognised that only the tip of the iceberg is visible, no one knows how much of the iceberg is hidden;
- furthermore, since much fraud has an international dimension it is not included in national reports, explaining why fraud, for example, is not the activity most frequently mentioned in the national reports for 1999 on organised crime;
- finally, several countries also stress the difficulty of distinguishing fraudulent activities by legitimate economic operators from those imputed to organised crime. A number thus provide a global figure for instances of fraud. However, the types of fraud described often appear to correlate closely to the country's prevailing economic climate; they vary according to whether the country concerned is in eastern Europe and making the transition to a market economy, in western Europe and intensifying trade as a European Union member state, or an international financial centre (CoE, 1999).

However, the variables collected on fraud are:

- 'victim countries';
- estimates on cost of fraud;
- origin of OC groups involved;
- *Modi operandi*.

'Victim countries' and estimates on cost of fraud: some countries report that cases of fraud are increasing markedly and involve considerable sums of money. In 1999 Spain experienced a 300% rise in fraud affecting banks, private companies and public finance, compared with a 175% increase in document forgery. The 15,000 cases of fraud were worth 7.5 million euros. Greece too reports an increase (40% in 1999). Figures are also up in Poland, where 144 individuals were charged with bank fraud, incurring a total loss estimated at 8.4 million US\$ – of which less than 500,000 US\$ was recovered. Public finance fraud cost the treasury an estimated 152 million US\$. In Denmark, losses are estimated at 33.5 million euros. Cases of fraud are beginning to emerge (in Norway, for example) in connection with the growth of the Internet. Several countries, among them the Netherlands, the Russian Federation, Poland and Italy, report that gangs are still seeking to become more international and to diversify into the legal economy where opportunities appear more profitable. The Netherlands notes that organised crime is mirroring the legal economy in that it is becoming increasingly international in terms of the circulation of goods and flow of capital. Credit card fraud, whether by forgery or by pirating PIN numbers, is especially common in Denmark, Poland, Hungary and Greece. However, as yet no definite link has been made to organised crime. Greece reports that losses resulting from credit card theft total 30 million drachma, but in only one case have investigators been able to place the blame on organised crime (CoE, 1999). The cost of fraud across all areas of the EU budget amounted to more than € 900 million. The OLAF report notes that while it is always difficult to tie the cost of fraud to a particular budgetary year, the figures for 2000 show a fresh increase in both the number of cases detected and the amount of money involved, both indicators having tended to stabilise in the preceding years. As well as the particularly serious cases under investigation by OLAF, the member states report other cases (involving a total of € 1.1 billion) in which the dividing line between fraud and non-compliance with regulations is not clear (CoE, 2000).

Origin of OC groups involved: in 2000 the European Anti-Fraud Office (OLAF), which concentrates on the most serious fraud, investigated 328 new cases, the great majority of which involved criminals. Yet the precise connection of these cases with organised crime, in its accepted definition, cannot be established (CoE, 2001:53). However, it has been reported that (CoE, 2004):

- in Belgium, 124 criminal organizations (that is 24% of the criminal organizations identified in 2003) had financial crime and fraud as their main activity (41 of them in excise and VAT fraud and another 40 in various forms of swindling);
- similarly in Bulgaria (25%), the Netherlands (26%) and Slovakia (26%), compared to 13,5% in Germany and 6% in Lithuania. In Finland 8% of offences involving members of organized crime groups and networks were believed to be related to crimes against economy. In Sweden, fraud ranging from tax fraud to investment fraud—is considered the most important market next to drugs.

Modi operandi: many Member States (including Germany 22, the Netherlands, Belgium, Denmark, and the United Kingdom) report cases of VAT fraud, known as "carousel fraud" (CoE, 2001). This type of fraud appears to be carried out by the following *modi operandi*:

- procedure: entailing the setting up of fast-moving intra-Community trade transactions, sometimes of a fictitious nature, in easily transportable, high-value-added goods such as computers, mobile phones, electronic components, vehicle parts or food products (Sweden);
- use of front companies: these transactions enable the fraudsters, often using front companies, to claim refunds of VAT, which they falsely declare to have paid on purchase at the time of alleged re-sale of the goods. This type of fraud is still on the increase and often relies on front companies. The technique involves use of a rapidly changing group of short-lived companies, sometimes having no real existence, which quickly disappear once the fictitious purchase or sale transactions have been declared, and of counterfeit documents or genuine but falsified documents. Apart from the transitory nature of the companies concerned, investigation is made difficult by the fact that they are established in a number of different countries. Several national reports take the view that this category of fraud, entailing the collaboration of a number of individuals in committing tax evasion offences, comes within the definition of organised crime (CoE, 2001).

3.2.5 Counterfeiting

Regarding counterfeiting it is noticed that several countries report forgery and counterfeiting of money, documents, brand names, commercial products and telephone cards. The United Kingdom reports that organised criminal groups are becoming more and more involved in counterfeiting (CoE, 2000). In addition, the total value of UK counterfeit banknotes appears to have remained more or less constant for the past three years, and is extremely small in relation to genuine notes in circulation. However, the number of different sources has increased (CoE, 2001). The CoE OCSR appears to collect the following variables on counterfeiting:

- 'victim' countries by type of counterfeiting and
- *modi operandi*.

'Victim' countries by type of counterfeiting: according to the CoE OCSR:

- with regard to money counterfeiting, Poland reports that forgery of both the domestic and foreign currencies has increased. A similar problem exists in Ukraine and the Czech Republic;
- the spread of telephone cards has given rise to new forgery and counterfeiting activities. Greece reports one case worth 2 billion drachmas in which a gang fraudulently recharged telephone cards before selling them on;
- the counterfeiting of documents continues to expand in various countries, such as Slovenia, Greece, Czech Republic and Poland;
- forgery also affects brand names and copyright. CD piracy is reported by Greece and Poland; in the latter it is the most common serious offence. The Polish report refers to several cases worth a substantial sum, three exceeding 1.5 million US\$ in value and one involving nearly 200 people. The counterfeiting of brand names has led to seizures worth some 720,000 US\$ (CoE, 1999);
- many countries face problems with product counterfeiting, for example the Belgian report notes that criminal elements are increasingly attracted by the profits to be made from counterfeiting. In Germany, one in three investigations into organised crime concerns counterfeiting. According to customs estimates

more than \$ 1 million worth of counterfeit goods was seized, with Eastern Europe and Turkey the main regions of origin (International Chamber of Commerce). In France, too, great importance is attached to combating counterfeiting: customs officers there seized almost 5 million items in the year 2000 (CoE, 2000).

Modi operandi: serious and organized criminals involved in counterfeiting currency use a range of methods. Regarding counterfeiting of goods, as in previous years, there were a large number of examples of illegal copying and sale of programs, games and music in 2001, together with other multimedia products. Intellectual property crime is taking place on a vast scale globally. Several important roles counterfeiting has in the process include:

- use of technology: advances in technology have facilitated its growth by enabling the speedy reproduction of high quality counterfeit goods, the best of which are difficult differentiate from the genuine articles. The counterfeiting of CDs, DVDs and other digital media, much of it done in the Far East, is well publicised, but the counterfeiting of all types of goods from designer clothes pharmaceuticals is also rife (CoE, 2001);
- links with other organised criminal activities: in certain countries, such as Slovenia and Greece, it is associated with the specific problem of illegal immigration owing to the regional situation. Greece reports a 65% increase in cases of this nature as a result of the situation in the former Yugoslavia and Albania. In other countries forged documents are used in smuggling and trafficking in commercial goods. The Czech Republic reports an increase in document forgery for the import of goods and customs fraud. In Poland false documentation is most widespread in the vehicle market where it is used for the large-scale traffic in luxury cars shipped predominantly to the Russian Federation.

3.2.6 Tobacco smuggling

Cigarette smuggling is still on the increase and most countries (including the United Kingdom, Spain, Estonia, Poland, Bulgaria, Hungary, Denmark, Finland, Norway, Sweden, France, Italy, Greece, the Netherlands, Ireland and Portugal) report this type of activity. Regarding tobacco smuggling, the main variables collected by the CoE OCSR are:

- origin of OC groups involved;
- overseas routes;
- tobacco production countries;
- ‘victim’ countries and
- *modi operandi*.

Origin of OC groups involved: smuggling is reported in many countries, including Spain, Estonia, Latvia, Poland, Denmark, Finland, Greece, Italy, the Netherlands and Sweden. Even Switzerland, where it is not an offence to bring in cigarettes, indicates the existence of transit activities run primarily by the Italian mafia. However the heaviest traffic appears to run between the Balkans and Italy (CoE, 1999).

Overseas routes: cigarette smuggling poses serious problems in many European countries, whether they are destinations (like the United Kingdom and Italy) or transit countries (like the Netherlands and France); it has been a priority for customs authorities for several years and was recently reaffirmed as such (CoE, 2000). The smuggling routes extend to the Middle East, Africa and China. Routes that cross continental Europe, with the United Kingdom as the main destination, originate in:

- the southern Mediterranean, passing through Italy and Greece;
- the Iberian Peninsula (i.e. Portugal and Spain);
- northern Europe, crossing the Baltic;
- central Europe (CoE, 2001:29, 2004:60).

Tobacco production countries: world cigarette production in 2001 was estimated at 5583 billion cigarettes (USDA/FAS 2001). Europe plays a major role in world tobacco markets. Council of Europe Member States

produced more than 1700 billion cigarettes in 2001 – that is, some 30% of world production – with the Russian Federation, Germany, the United Kingdom, the Netherlands and Turkey being the main producers. Out of a total of 850 billion cigarettes estimated to have been exported worldwide in 2001, Council of Europe Member States accounted for more than 500 billion of which the most cigarettes by far (about 400 billion) were exported by EU countries (in particular the United Kingdom, the Netherlands and Germany). In total 634 billion cigarettes were estimated to have been imported worldwide in 2001 (CoE, 2001).

'Victim' countries: the UK, Germany and Ireland are the most recognised 'victims' of contraband smuggling, created because of the combination of motivated offenders and crime opportunities offered by differential excise tax rates within as well as outside the European Union. However the Government Treasuries of all 'high tax' countries (including Sweden) express concern at contraband (CoE, 2001).

Modi operandi: the *modi operandi* mentioned by the CoE OCSR are:

- corruption and transport: there is some dispute as to the negligence or even connivance of some large tobacco companies in ensuring that their cigarettes do not lose out in the illicit as well as the licit market, but consignments of smuggled (and counterfeit) cigarettes are transported by truck or ship to the destination country, usually combined with a load of legitimate products, 'justified' (if necessary) by fake documents (CoE, 2001);
- links with other criminal activities: the Italian report confirms that, among the gangs involved in mafia-type organised crime, the Camorra and Puglia groups have reached various agreements with Balkan mafia gangs, particularly those in Albania and Montenegro, to smuggle drugs, arms and cigarettes (CoE, 1999).

3.2.7 Trafficking in stolen vehicles

With regard to the trafficking in stolen vehicles, the variables collected by the CoE OCSR are:

- overseas routes;
- number of vehicles stolen and non-recovery rate and
- *modi operandi*.

Overseas routes: An analysis done by an Interpol Working Group revealed that the majority of the stolen cars was either recovered or exported to the traditional markets for stolen vehicles in Africa and Asia, or disassembled and sold in parts at local markets in Western European countries. Only a small proportion of the increase in car theft could be attributed to the demand in CEECs (Central and Eastern European countries)² (CoE, 2001).

Number of vehicle thefts and non-recovery rate: According to the CoE OCSR 2001, the non-recovery rate of stolen cars is a possible indicator of organised criminal involvement. Although criminals steal vehicles to use in carrying out other crimes, in general serious and organised criminals are involved in vehicle theft in order to profit from reselling vehicles and parts both in the United Kingdom and to overseas markets. Table 2 shows the number of vehicles reported stolen and the non-recovery rate of those for each Member State during the period 1998–2001:

TABLE 2. NUMBER OF STOLEN VEHICLES AND NON-RECOVERY RATE REPORTED BY MEMBER STATES IN THE PERIOD 1998–2001

Member State	Number of stolen vehicles				Proportion not recovered (%)			
	1998	1999	2000	2001	1998	1999	2000	2001
Albania	n.a	n.a	74	n.a	n.a	n.a	16	n.a
Andorra	n.a	73	54	53	n.a	n.a	28	30
Armenia	n.a	n.a	43	50	n.a	n.a	49	n.a
Austria	10304	n.a	n.a	5623	33	n.a	n.a	56
Azerbaijan	n.a	n.a	n.a	73	n.a	n.a	n.a	n.a
Belgium	n.a	n.a	n.a	27308	n.a	n.a	n.a	n.a

² Includes Bulgaria, Estonia, Republic of Yugoslavia, Latvia, Lithuania, Republic of Moldova, Poland, Romania, Russia, Slovakia, Slovenia, Czech Republic, Ukraine, Hungary, Belarus.

Bulgaria	8039	n.a	10786	10599	55	n.a	51	48
Croatia	1678	n.a	2529	1773	53	n.a	50	n.a
Cyprus	1252	948	210	188	53	38	31	n.a
Czech Republic	28000	29001	20994	22139	82	83	n.a	n.a
Denmark	5000	n.a	n.a	n.a	n.a	n.a	n.a	n.a
Estonia	618	2455	624	770	n.a	60	83	86
Finland	n.a	15379	n.a	15000	n.a	10	n.a	10
France	n.a	n.a	301539	261307	n.a	n.a	n.a	33
Georgia	n.a	n.a	318	n.a	n.a	n.a	n.a	n.a
Germany	168600	119665	93237	108861	49	42	42	42
Greece	18243	17362	7160	n.a	n.a	57	57	n.a
Hungary	16205	12628	1123	2749	64	60	76	89
Iceland	n.a	277	n.a	n.a	n.a	4	n.a	n.a
Ireland	13793	14851	n.a	n.a	11	15	n.a	n.a
Italy	284296	n.a	n.a	n.a	n.a	n.a	n.a	n.a
Latvia	3068	3102	n.a	3166	51	86	n.a	44
Liechtenstein	n.a	17	4	8	n.a	24	100	n.a
Lithuania	6946	3675	5694	5822	80	45	52	n.a
Luxembourg	n.a	n.a	542	n.a	n.a	n.a	31	n.a
Malta	1202	1066	n.a	n.a	50	43	n.a	
Moldova	901	645	n.a	383	45	64	n.a	73
Netherlands	32496	29300	31116	28662	44	38	n.a	38
Norway	17716	17254	23339	20598	10	n.a	10	10
Poland	61151	84855	79943	68387	n.a	53	40	35
Portugal	1048	n.a	26420	n.a	n.a	n.a	n.a	n.a
Romania	n.a	156	n.a	257	n.a	n.a	n.a	n.a
Russia	n.a	55368	n.a	38349	n.a	71	n.a	n.a
San Marino	n.a	14	n.a	n.a	n.a	36	n.a	n.a
Slovak Republic	7682	7123	5856	5344	79	81	82	n.a
Slovenia	1016	1282	n.a	1212	61	57	n.a	n.a
Spain	143544	137857	102419	33626	32	31	30	25
Sweden	48227	48400	n.a	44094	8	8	n.a	8
Switzerland	80386	74319	67301	64241	n.a	n.a	n.a	2
'the F.Y.R of Macedonia'	227	n.a	n.a	1646	76	n.a	n.a	n.a
Turkey	n.a	17912	16084	n.a	n.a	49	39	n.a
Ukraine	n.a	n.a	3000	n.a	n.a	n.a	66	n.a
United Kingdom	n.a	n.a	n.a	377000	n.a	n.a	n.a	n.a

Source: Council of Europe (2001).

According to the figures presented in Table 2 it appears that:

- in comparison to the recent past there was a *decrease* in motor vehicles stolen in 2001 in the majority of Member States for which statistics are available, including Croatia, Cyprus, France, Moldova, Netherlands, Norway, Poland, Russia, Slovakia, Spain, Sweden and Switzerland;
- in some countries, including Andorra, Bulgaria, Latvia and Lithuania, the number of stolen cars remained at the same level, whereas *increases* in motor vehicle theft were observed in about half a dozen countries, including the Czech Republic, Estonia, Germany, Hungary and Romania;
- a non-recovery rate of over 50 percent is observed in a substantial number of CEECs, including Croatia, Czech Republic, Estonia, Hungary, Lithuania, Moldova, Russia, Slovakia and Ukraine. But in Austria and Greece, as well, less than half of the stolen cars are non-recovered;

- the number of unrecovered stolen vehicles has remained relatively *constant*.

Modi operandi: *modi operandi* engaged by OC groups for the accomplishment of trafficking in stolen cars are the following (CoE, 2001):

- theft: one consequence of improved anti-theft technology in new cars has been a rise in offences aimed at stealing keys: primarily house burglary, but also fraud (hiring cars with the intention of stealing them) and robbery by car jacking. Though recent well-publicised instances of car jacking have sparked a concern that this tactic is becoming more common, with an increased threat of attendant violence, robbery accounts for only one to two per cent of all vehicle thefts. Serious and organised criminals – as well as some lower-level criminals – are involved in thefts of lorries (both the tractor and trailer unit) and from lorries. This includes jump up thefts, where the load is identified by slashing curtain-sided vehicles and distributed to waiting vans, and hijacks, where the driver is threatened. Hijacks make up less than two percent of all lorry thefts. Thefts of loads also take place at warehouses. The overall value of such thefts is difficult to estimate but is believed to exceed 100 million Pounds a year and is rising. Some thefts appear to have been carefully targeted, suggesting that loads may be stolen to order;
- use of violence: violence is sometimes used against drivers and there are indicators that levels of violence have increased;
- links with other OC group activities (including use of cars as currency): five organised criminal groups in Greece and fourteen in the Netherlands were involved in car thefts and their illegal trafficking. It is suspected that the cars in some cases were used as payment for narcotics. Otherwise the profits made by the trafficking of stolen cars may be recycled into other forms of crime, such as drug trafficking. In Lithuania there was also found a link with extortion. Organised criminals offer the owners of stolen property to pay a certain amount of money which depends on the value of the stolen car and which has to be paid by the legal owner of the car in order to get it back. Some countries, including the Czech Republic and Denmark, report that there has been an increasing number of insurance frauds. According to the Danish report it is not possible to establish with certainty the number of vehicles stolen in connection with organised crime. It has previously been estimated that around 500 vehicles a year are stolen and then shipped abroad, but an unspecified number of these are involved in non-organised insurance fraud. The corruption of individuals with inside knowledge of loads and routes is also a tactic used.

3.2.8 Trafficking in arms

Links between organized crime and the trafficking in arms were underlined in the Protocol on the Illicit Manufacturing and Traffic in Firearms supplementing the Palermo Convention. The reason why this Protocol is limited to small arms and light weapons is that they are cheap, can be carried around, have a long service life, and are easily available. According to estimates there are approximately 500 million small firearms in circulation. They can be purchased without great difficulty and are more easily deployed than traditional war material. Even a small organized group can heavily arm itself by ransacking government arms depots or by buying on the black market Small and light arms present a great danger worldwide (CoE, 2004: 32).

Arms trafficking as an issue of organized crime appears to be underreported. Bulgaria states that the situation in the field of illicit trafficking in arms, ammunitions and explosives is the same as last year. In contrast the Estonian authorities observed that the weight of the illegal arms trading is practically non-existent in comparison to the mid-nineties. Nowadays the organizations which used to deal with illegal arms trading on a regular basis have disappeared. The improvement of the legal basis as well as successful operations of the law enforcement authorities helped to significantly inhibit the illegal arms trading in Estonia (CoE, 2001:37).

However, the variables collected by the CoE OCSR on trafficking in arms are:

- origin of OC groups involved;
- ‘victim’ countries by type of arm and
- *modi operandi*.

Origin of OC groups involved: these are as follows (CoE, 2004):

- Russian and Italian criminal organisations were operating in the midst of the Yugoslav conflicts. Russian organised crime groups and networks in cooperation with Belgian arms dealers shipped 200 tonnes of weapons to Sierra Leone in 1999 and 2000, in violation of UN embargoes.

'Victim' countries by type of arm: countries where substantial numbers of illicit firearms are discovered are Russia, Albania, Croatia, France, Poland, Slovenia, Spain, the Former Yugoslav Republic of Macedonia, Turkey and Ukraine (result though that comes out from seizures) (CoE, 2001). In particular:

- because of their dangerous nature automatic and semiautomatic weapons are of particular interest. The largest numbers are discovered in member States in Central and Eastern Europe. Slovenia reports the seizure of 4,057 automatic and semiautomatic firearms last year. The Former Yugoslav Republic of Macedonia reports 341 submachine guns, automatic and semiautomatic rifles and 23 machine guns. In the Caucasian member States Armenia and Azerbaijan respectively 26 and 43 automatic and semiautomatic firearms were discovered by law enforcement. Turkey reports the seizure of 46 weapons of this kind (including 10 machine pistols) and Greece 49 automatic and semiautomatic weapons. Croatian authorities succeeded in seizing 230 automatic and semiautomatic firearms, while Austrian law enforcement captured 37 machine pistols and 14 machine guns. In Poland the police seized 21 automatic weapons, whereas in Spain, 50 semiautomatic firearms were found;
- many Member States also report the discovery of large numbers of explosive devices, such as grenades and other military or home-made explosives. Examples are Azerbaijan (196 grenades), Austria (over 1,000 grenades, mortars, armour piercing shells, anti-tank mines, et cetera), Bulgaria (among others 40 grenades and 12 home made explosives), Croatia (206 kg of explosives), France (485 grenades and 1,250 explosives), Greece (139 grenades), Poland (68 explosive devices and 493 kg of explosive material), Russia (8,936 explosive devices), Slovenia (50 grenades and 128 kg explosives) and the Former Yugoslav Republic of Macedonia (274 kg explosives).

Modi operandi: these are as follows (CoE, 2004):

- links with other criminal activities: according to surveys by Transparency International, after construction and public works, the arms and defense sector is the one where corruption is most likely to occur. This includes corruption of senior officials to obtain export permits, forgery of end-user certificates, transport across borders and the laundering of the proceeds. Europe's recent history has seen examples of the links between trafficking in arms and organized crime and to some extent also terrorism. For example, the ETA and the Real IRA as well as other terrorist movements are believed to obtain their weapons from the areas of the former Yugoslavia (CoE, 2004:33).

4. MAPPING ORGANISED CRIMINAL ACTIVITIES IN THE ILLEGAL MARKET IN THE EU FRAMEWORK: A REVIEW OF NATIONAL DATA SOURCES

The analysis of the European data sources on the organised criminal activities conducted in the previous section has made it possible to present the variables collected in relation to activities carried out by the organised criminal groups contained in EU data sources. This section reviews MS data sources on the same activities and accordingly identified the variables collected on them.

Although all Member States collect, to different extents, a variety of data on organised criminal groups for intelligence and operational purposes, only a very limited amount of this information, if any, is made public owing to its confidential character. The following pages will concentrate only on those MSs where information are publicly available, which are Austria (4.1), Belgium (4.2), Denmark (4.3), Germany (4.4), Greece (4.5), Italy (4.6), Spain (4.7), The Netherlands (4.8) and The United Kingdom (4.8).

4.1 Austria

The Criminal Intelligence Service of the Federal Ministry of the Interior annually publishes a report primarily information on **drug trafficking**. The variables collected on this criminal activity are the following:

- origin of OC groups involved;
- link/cooperation between OC groups;
- drug production countries;
- overseas routes;
- number of seizures and quantity of drugs confiscated and
- ‘street’ prices of drugs;
- *modi operandi*.

Origin of OC groups involved: no significant changes have been observed in relation to the origin of OC groups involved in this type of illegal activity. Austrian nationals still do not play a dominant role with regard to smuggling and dealing with narcotic drugs; the market is more or less dominated by foreign criminal groups. Austrian nationals or nationals from Eastern neighboring countries are mainly recruited as couriers and small-scale dealers. In particular:

- heroin: criminal groups of Ethnic Albanians are still responsible for further transport of the heroin to Austria and from Austria onwards to Western Europe. They are major suppliers to these depositories and further distribution is made by Turkish rings. Within Austria, various groups, mainly consisting of Turks and Ex-Yugoslav nationals, are engaged in the further distribution of the heroin;
- cocaine: the illegal import of cocaine into Austria is mainly by couriers hired by South-American organisations or African rings. Apart from couriers from South-American countries, an increasing number of smugglers from African and (future) East-European member states were noted. In some instances, smugglers were found to be Croatian, Yugoslav and Romanian nationals. Black-African rings have already in the past been, and still are, quite active in the field of cocaine smuggling and dealing. They are in fact completely dominating street vending activities – ‘open scene’. Black Africans have not specialized in one type of drug, they smuggle and sell both cocaine and heroin, cannabis products, and in a few cases, have been dealing with synthetic drugs;
- ecstasy: ecstasy supply is to a large extent operated by Austrian rings (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2003:5–7;2002:5–7).

Links/cooperation between OC groups: investigations into criminal associations identified in Austria in 2003 revealed links to numerous other European and Extra-European countries in the cocaine market (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2003: 6).

Drug production countries: cannabis products are imported into Austria several times a month, mainly from the Netherlands, from the so called Balkan states, Schengen countries, and Switzerland (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2003: 6; Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2002: 6).

Overseas routes: owing to its geographic location, Austria serves as a transit country along the main smuggling routes to other European countries. As Austria is not a drug producing country the domestic Austrian market is supplied in the same way. The main activities of the different criminal organizations vary, depending in what type of drug they have been specializing. Further:

- heroin: the Balkan route including its different branches is still the most used smuggling route. Apart from use of the traditional route – Turkey, Bulgaria, Federal Republic of Yugoslavia, Croatia, Slovenia, and Austria – some diversions via Romania, Hungary, Czechia, and Slovakia have been noted;
- ecstasy: most of the pills are smuggled to Austria from the Netherlands (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2002 and 2003).

Number of seizures, quantity of drugs seized and relevant ‘street’ prices: a number of major narcotics investigations in recent years indicate clearly that the quantity seized is comparatively small in relation to the illegal market as a whole (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2003). Table 3 shows the quantity of drugs seized, the number of seizures and the relevant ‘street’ prices in the years 2002 and 2003.

TABLE 3. NUMBER OF SEIZURES, QUANTITY OF DRUGS SEIZED AND RELEVANT 'STREET' PRICES DURING THE PERIOD 2002–2003

DRUG TYPE \ YEAR	QUANTITY OF DRUGS SEIZED (PER DRUG TYPE)				NUMBER OF SEIZURES		STREET PRICE (in €)	
	2000	2001	2002	2003	2002	2003	2002	2003
Heroin (kg)	230	288	59,5	42,9	836	1263	1,487.500	1,501.500
Cocaine (kg)	20	108	36,9	58,3	863	1271	1,660.500	2,015.000
Cannabis (kg)	1,805	420	743	925,8	5294	5422	2,229.000	2,314.525
LSD (units)	865	572	851	298	20	33	12,765	4,470
Ecstasy (tablets)	162,093	256,299	383,451	422,103	308	276	1,342.078	1,477.360

SOURCE: Author's elaboration of the Austria Federal Ministry of the Interior, Criminal Intelligence Service's data (2003,2004).

According to the previous Table the following comments can be made:

- the quantity of cannabis seized in 2003 was *higher* (by 22.87%) than that seized in 2002, but it should be noted that also the number of seizures rose (by 14.15%);
- the quantity of heroin seized in 2003 was much *less* than the previous years, while the number of seizures increased;
- the quantity of cocaine seized in 2003 was *higher* (by 58.03%) than in 2002, but it should be noted that also the number of seizures rose (by 47.28%);
- the quantity of ecstasy seized in 2003 was *higher* than all the previous years, even if also the number of seizures increased slightly;
- the quantity of LSD seized in 2003 was *lower* in comparison to the previous years, even if the number of seizures made increased slightly.

Modi operandi: transportation methods are, for each drug, the following (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2003):

- heroin: the ferry connections between Turkey and Italy and between Albania and Italy are nowadays also often used for drug transports. Albania and Kosovo are gaining in importance as depositories and as operations base for shipments to the European Union. Flights from Turkey to the Netherlands stopping over in Vienna were also noted in 2003. The former Eastern bloc countries are still being used as depositories;
- cocaine: transport by air is only one method among many other means of transport. In 2003 couriers were also traveling by motor-vehicles or train. Furthermore, smuggling transports with links to Austria have been noted to be utilizing sea routes from South-America to Europe. Austrian nationals were also in 2003 involved as couriers. The couriers have links to criminal associations in South-America (Colombia, Brazil, Peru, Chile) and/or to the Caribbean (mainly Curacao). Several seizures of quantities exceeding 500 grams of cocaine were made at the airport, quite often smuggled on behalf of African criminal groups. As East-European airports are still part of smuggling routes widely used by South- American cocaine cartels and therefore only smaller quantities of cocaine arrive at Vienna Airport Schwechat, there has been a significant decrease in smuggling of drugs in luggage in 2003. However there were a higher number of instances of smuggling by body packing, or by mail, which might be a consequence of the tightened security controls since the terror attacks in 2001 in the United States;
- ecstasy: ecstasy pills available in discotheques and meeting places of young people;
- amphetamines: transport is done by motor-vehicles, scheduled bus lines, or by rail.

4.2 Belgium

The main source of information in Belgium is the Financial Intelligence Processing Unit (CTIF-CFI) and is rather different from the other national reports as it provides mainly quantitative data on the principal types of criminal activity evolved during the last years, according to the case files transmitted to Crown prosecutor. More specifically, the variables collected by the CTIF-CFI on the activities carried out by OC groups are:

- the percentage of case files transmitted to the Crown prosecutor in the period 1997–2002 by type of criminal activity (see Table 4);
- the breakdown in percentage of case files by type of illegal trafficking in goods and type of fraud during the period 1994–2002 (see Table 5);
- the amounts in million Euro related to the cases transmitted to the Crown prosecutor by main type of criminal activity during the period 1997–2002 (see Table 6);

TABLE 4. PERCENTAGE OF CASE FILES TRANSMITTED TO THE CROW PROSECUTOR IN THE PERIOD 1997–2002, BY TYPE OF CRIMINAL ACTIVITY

YEAR \ TYPE OF CRIMINALITY	97/98	98/99	99/00	00/01	01/02
Trafficking of drugs	58,9%	46,4%	39,9%	32,2%	24,7%
Illegal trafficking of goods (including cars, tobacco, counterfeiting)	7%	19,9%	21,8%	32,2%	36,2%
Organised crime	13,5%	7,3%	8,5%	6,6%	6,9%
Trafficking of Human Beings	3,1%	9,5%	12,2%	13,5%	12,3%
Financial Fraud	4,1%	2,8%	3,7%	3,9%	3,3%
Serious and organised fiscal fraud	9,6%	9,9%	10,1%	7,5%	8,7%
Others	3,8%	4,2%	3,8%	4,1%	7,9%

Source: Belgian Financial Intelligence Processing Unit (2002).

As it appears from the figures presented in the previous Table:

- drug trafficking remains predominant. The percentage of cases however dropped from 58,9% in the first activity period to 24,7% in the last;
- in the considered period it has been registered an increase in trafficking of human beings (from 3,1% to 12,3%);
- illegal trafficking in goods also strongly increased, passing from 7% in 1997/1998 to 36,2% in 2001/2002.

TABLE 5. BREAKDOWN OF CASE FILES BY TYPE OF ILLEGAL TRAFFICKING IN GOODS AND TYPE OF FRAUD DURING THE PERIOD 1994–2002

GENERAL TYPE OF ACTIVITY	BREAKDOWN BY SPECIFIC TYPE	%
Illegal trafficking of goods	Cars	39,2
	Tobacco, cigarettes and alcohol	10,6
	Cell phones, computers etc	2,5
	Clothing	2,3
	Weapons	2,2
	Food	2,1
	Counterfeiting	1,2
	Gold and precious stones	1,1
	Others (including art and antique)	38,8
Serious and organised fiscal fraud	VAT 'carousel' fraud	87
	Other types of serious and organized fiscal fraud	13

Source: Belgian Financial Intelligence Processing Unit (2002).

This table includes the different forms of illegal trafficking of goods and organized fiscal fraud analyzed by the Unit. It appears that:

- the majority of the case files transmitted for money laundering from illegal trafficking in goods and merchandise relate to cars (39,2%) and to tobacco, cigarettes and alcohol smuggling (10,6%).

TABLE 6. AMOUNTS (IN MILLION EURO) INVOLVED IN THE MAIN TYPES OF CRIMINAL ACTIVITY ACCORDING TO THE CASE FILES TRANSMITTED DURING THE PERIOD 1997–2002

TYPES OF CRIMINALITY \ YEAR	97/98	98/99	99/00	00/01	01/02
Trafficking of drugs	191,00	145,71	91,99	78,09	77,24
Illegal trafficking of goods (including cars, tobacco, counterfeiting)	59,17	144,05	204,51	169,91	387,55
Organised crime	178,68	208,75	121,64	61,03	607,87
Financial Fraud	15,37	27,47	200,99	23,45	23,71
Serious and organised fiscal fraud	492,64	546,80	742,54	463,73	679,51
Others	26,03	17,97	31,63	59,87	93,65

Source: Belgian Financial Intelligence Processing Unit (2002).

As it appears from the case files transmitted to the Crown prosecutor:

- the largest amounts of Euro are involved in serious and organized fiscal fraud;
- in illegal trafficking of goods and organised crime there has been an *significant increase* of the amounts involved; while
- in trafficking of drugs there was a *decrease* during this period in the amount of million of Euro involved.

4.3 Denmark

In Denmark data on organised crime are collected by the National Police in cooperation with the Danish police Districts and the Prosecution Service and presented in an annual report. The variables collected by the Danish National Police on **drug trafficking** are:

- origin of OC groups involved;
- drug production countries;
- overseas routes;
- number of seizures and quantity of drugs confiscated;
- ‘street’ prices of drugs;
- *modi operandi*.

Origin of OC groups involved: the Danish reports on organised crime utilises the ethnic background of OC groups involved in drug trafficking. There is evidence that new groups of individuals, such as Poles and people linked to street gangs, are attempting to establish themselves in the cannabis market in Denmark. The biker groups are assumed to play a central part in the distribution of cannabis in Denmark. Following a Danish initiative a report was prepared in the mid-1990s by the Europol Drugs Unit (the predecessor of Europol), which showed that biker crime meets the EU criteria for organised crime. It has since emerged from the EU annual reports on organised crime that “Outlaw Motorcycle Gangs” (OMCG) are a source of organised crime. In the view of the Danish police, this also applies to the biker community in Denmark (Danish National Police, 2004:13; 2003:11).

Drug production countries: the drug production countries for each drug appear to be the following:

- heroin: the great majority of the quantity of heroin seized in Denmark is still thought to originate from South–West Asia;
- cannabis: Morocco is still thought to be the most important supplier of cannabis smuggled into and distributed in Denmark;

- amphetamines: most of the amphetamines smuggled into Denmark are thought to be produced primarily in the Netherlands or Belgium and—to a lesser extent—Central and Eastern Europe.

Overseas routes: no changes have taken place in relation to the countries of distribution, which continue to be primarily the Netherlands and Spain (Danish National Police, 2003 and 2004).

Number of seizures and quantity of drugs confiscated: a number of major narcotics investigations in recent years indicate clearly that the quantity seized is comparatively small in relation to the illegal market as a whole (Danish National Police, 2004). Table 7 presents data on the amount and number of seizures:

TABLE 7. QUANTITY OF DRUGS CONFISCATED AND NUMBER OF DRUG SEIZURES BY THE DANISH POLICE IN THE PERIOD 2000–2003

YEAR \ DRUG TYPE	QUANTITY OF DRUGS CONFISCATED				NUMBER OF DRUG SEIZURES			
	2000	2001	2002	2003	2000	2001	2002	2003
Heroin	32 kg	25 kg	65 kg	16,3 kg	1,499	1,304	965	894
Cocaine	35,9 kg	25 kg	14 kg	104 kg	780	810	880	1,095
Cannabis	2,914 kg	1,762.7 kg	2,600 kg	3,829 kg	5,682	5,788	5,200	5,942
Amphetamines	57,1 kg	160 kg	35 kg	65,9 kg	1,152	950	1,100	1,264
Ecstasy	21.608 tab	150,000 tab	25,738 tab	62,475 tab	444	330	340	322

SOURCE: Author's elaboration of Danish National Police Report (2004).

The following comments can be made:

- heroin: there was a *sharp fall* in the amount that has been seized, in comparison to the previous year, although it should be noted that maybe this is the result of the fact that some extremely large individual seizures were carried out in 2003. Nevertheless, also the number of seizures fell in 2003;
- cocaine: there was a *sharp rise* in comparison with the total quantity seized in 2002. Moreover, the number of seizures has been rising in recent years (in conjunction with the falling street prices, this suggests increased availability and abuse in cocaine in Denmark);
- amphetamines: there was a *sharp increase* in the amount seized in comparison to 2002, but one reason of the increase is that there were several major seizures in 2003;
- ecstasy: the same appears to be the reason of the increase in seizures of ecstasy where in 2003 a total of 27,500 tablets were accounted for by only three cases.

'Street' prices of drugs: Table 8 shows the 'street' prices of drugs during the period 2000–2003:

TABLE 8. STREET PRICES OF DRUGS (IN DDK PER GRAM/TABLET) IN THE PERIOD 2000–2003

YEAR \ DRUG TYPE		2000	2001	2002	2003
Heroin	white	1000–1500	1200	1200–1400	1200–1400
	brown	600–1000	600	600	600
Cocaine		600–1000	700	700	600
Cannabis		40–50	40–80	10–50	10–50
Amphetamines		250	250	250	250
Ecstasy(per tab)		100–150	50–125	50–125	50–125

SOURCE: Author's elaboration of Danish National Police Report (2004).

Based on the above figures the following comments could be made:

- the street price of heroin, amphetamines and ecstasy appear to be *stable* during the years;
- with reference to cocaine, on the other hand, appears to exist a *slight downward trend* during 2003;

- the street price of cannabis has not changed significantly over many years and is typically about DKK 50 per gram. However, the whole sale price trend seems to be a *downward* one (depending on price and quality) and prices as low as DKK 10,000 per kg have been reported.

Modi operandi: cannabis is typically smuggled into Denmark by car or lorry. No major smuggling into Denmark by sea was detected in Denmark, but it is assumed that such activity does not take place a central part in the distribution of cannabis in Denmark. Regarding cocaine, the great majority of seizures in Denmark were carried out at airports from international flights while amphetamines are typically smuggled across the land frontier (Danish National Police, 2004; 2003).

The variables collected by the Danish National Police on **counterfeiting of banknotes** are:

- types and total number of currencies counterfeited by OC groups;
- *modi operandi*.

Types and total number of currencies counterfeited by OC groups: Table 9 shows the total number of currency counterfeiting cases by OC groups, divided per types of currencies, in the period 1999–2003.

TABLE 9. CURRENCY COUNTERFEITING CASES BY OC GROUPS IN THE PERIOD 1999–2003

Year	1999	2000	2001	2002	2003
Type of currency					
Danish currency	589	561	763	1,106	727
Foreign currency	120	208	237	164	161
Total number of cases	709	845	1,000	1,329	888

SOURCE: Author's elaboration of Danish National Police Report (2004).

As it appears from the previous figures:

- there was a *decrease* in the Danish counterfeited currency, in comparison to 2002, although it appears to be because of the drop in the number of investigations carried out during 2003;
- on the other hand, a *slight decrease* in the number of foreign counterfeited currency appears.

Modi operandi: the use of technology was reported by the Danish National Police. In particular, it was reported that counterfeits are mainly produced by scanning genuine banknote with a computer and then printing it with an inkjet printer (Danish National Police, 2004:16).

The variables collected by Danish national police on **smuggling of human beings** (or in other words, facilitation of illegal migration) are:

- origin of OC groups involved;
- charges against perpetrators and
- *modi operandi*.

Origin of OC groups involved: investigations were predominately directed towards groups from Iraq and China, but people of Turkey, India, Pakistan and Somalia have also been investigated (Danish National Police, 2004: 18; Danish National Police, 2003: 16).

Charges against perpetrators: generally speaking the charges brought for the smuggling of human beings has declined over the years. Thus in 2003 charges were brought against 270 people while in 2002 were 297 and in 2001, 400. The declining incidence of charges should be seen in the context of coincident fall in the number of asylum-seekers in Denmark, which is taken as an indicator of a decrease of persons being trafficked (Danish national Police, 2004: 18).

Modi operandi: The trend from previous years, in which correlation was noted between the smuggling of human beings and narcotics smuggling, was more evident in 2003 (Danish national Police, 2004:18).

The variables collected by Danish national police on **trafficking in human beings** (including exploitation of prostitutes) are:

- origin countries of victims;
- *modi operandi*.

Origin countries of victims: some of the victims come from Central and Eastern Europe (particularly Latvia) and some from Asia (particularly Thailand) (Danish National Police, 2004:18; Danish National Police: 2003: 16; Danish National Police, 2002:19).

Modi operandi: several cases have shown that extortion, assault etc. targeting people linked to massage parlours is a rising problem (Danish National Police, 2002).

The variables collected by Danish national police on **tobacco smuggling** are:

- origin of OC groups involved;
- *modi operandi*.

Origin of OC groups involved: this activity was largely undertaken by Danes, but also by Lithuanians, who to some extent collaborate with other Eastern European criminals (Danish National Police, 2004:18; Danish National Police, 2003: 17; Danish National Police, 2002: 20).

Modi operandi: regarding the transportation methods used, cigarettes are mainly smuggled into Denmark concealed in ordinary cargo on lorries. Only in some cases, the cigarettes were carried by coaster from Klaipeda (in Lithuania) to Denmark (Danish National Police, 2004:19; Danish National Police, 2002: 20).

4.4 Germany

The main source of information in this respect is the *Situation Report on Organized Crime in the Federal Republic of Germany*, which has been produced annually by the Federal Police (*Bundeskriminalamt*) since 1991 to provide qualitative and quantitative information on the criminal organisations active in the country. These reports provide a great deal of quantitative and qualitative information on organised criminal activities carried out in the country. With regards to the quantitative information it provides the figures for each criminal activity carried out in Germany during the period 2000–2001, given in Table 10.

TABLE 10. FIELD OF CRIMINAL ACTIVITIES CARRIED OUT IN GERMANY DURING THE PERIOD 2000–2001

YEAR FIELD OF CRIMINAL ACTIVITIES (% in n. of investigat.)	2000	2001	2002	2003
Drug trafficking	33,4%	35,2%	36,8%	33,3%
Trafficking in stolen vehicles	10,9%	13,6%	13,2%	14,1%
Fraud	12,1%	11,2%	11,6%	13,5%
Trafficking in human beings	10,1%	11,3%	9,4%	9,6%
Tobacco smuggling	8,8%	9,5%	8,7%	8,8%
Smuggling of immigrants	9,4%	7%	8,6%	10%
Violent crime	5,4%	4,4%	5,1%	4,1%
Counterfeiting	4,2%	3,7%	4,2%	3,3%
Trafficking in arms	1,7%	2%	0,4%	1,2%
Other fields of crime	12,5%	0,4%	1,7%	2%
Total number of investigations	854	785	690	613

SOURCE: Author's elaboration of Bundeskriminalamt data (2001,2002,2003,2004).

Furthermore, the Bundeskriminalamt reports provide us with information on the 'OC potential' of OC groups active at one or more area of crime, given in Table 11. According to the Bundeskriminalamt report 2003, the term 'OC potential' is used to express the level of organisation and professionalism of the groups of perpetrators. The OC potential is calculated using a system of weighted OC indicators and is portrayed on a scale from 1(=very low) to 100(=very high). This makes it possible to show the significance of the individual phenomena of organised crime in relation to each other.

TABLE 11. OC POTENTIAL OF GROUPS ACTIVE AT ONE OR MORE AREA OF CRIME DURING THE PERIOD 2001–2003

	2001	2002	2003
OC groups active at more than one field of crime	44 point	45,8 points	47,6 points
OC groups active at one area of crime only	37 points	38,4 points	39,7 points

SOURCE: Author's elaboration of Bundeskriminalamt data (2002, 2003,2004).

Although the above figures should be treated with caution since they reflect more the extent of law enforcement efforts against organised crime than the real size of the phenomenon (Von Lampe, 2002: 14), the following comments can be made. It appears that:

- drug trafficking and smuggling remained the main activity in OC, the proportion of which *went down slightly* from 36,8% in 2002 to 33,3% in 2003;
- arm trafficking and smuggling, compared to the previous year, *increased*, while
- groups active in more than one field of crime continue to display, on average, an always *higher OC potential* than those focusing on one area of crime only.

Moving to the analysis of information collected on single activities, the variables collected by Bundeskriminalamt on **drug trafficking** are:

- origin of the OC groups involved;

- drug production countries;
- *modi operandi*.

Origin of the OC groups involved:

- heroin: as in previous years (Bundeskriminalamt, 2003;2002), Turkish OC groups followed by Lithuanian, Nigerian and Serbia–Montenegrin groups, even if their proportionate numbers decreased, dominate heroin trafficking in Germany;
- cocaine: German nationals play a leading role in cocaine trafficking/smuggling. Overall, a higher number of different ethnic groups than in the previous years were active in this field;
- cannabis: the trafficking in cannabis products was predominately carried out by German OC groups. An additional role was played by Turkish and, in a handful of investigations, Moroccan groups of perpetrators. Overall, this market segment saw investigations drop by 25%;
- amphetamines: German OC groups continue to dominate their home market in this sector, although in the year 2003 the number of investigations focusing on trafficking in and smuggling of amphetamines fell sharply by 30% (Bundeskriminalamt, 2003: 27, Bundeskriminalamt 2002: 20).

Drug production countries:

- cocaine: OC groups from the countries of cultivation in South America continue to play a subordinate role in the distribution of cocaine in Germany. The Netherlands continues to play an important role in supplying the German cocaine market;
- amphetamines: the Netherlands is still the main country of origin for amphetamines and amphetamine derivatives (Bundeskriminalamt, 2003:27, 2002:20).

Modi operandi: the *modi operandi* are classified as involving more than one area of crime if a group of perpetrators intends to make profits in more than one field of crime or individual groups members act in several crime areas in the group's interest. As such, more than two thirds of the groups are characterized by *modus operandi* focusing on a specific area of crime. In the field of drug trafficking, groups acting in more than one field of crime have primarily come to notice in connection with trafficking in vehicles, weapon offences and trafficking in human beings (Bundeskriminalamt, 2003:27, 2002:19).

The variables collected by Bundeskriminalamt on **property crime** (involving mainly motor vehicles theft) are:

- origin of the OC groups involved;
- origin countries of stolen vehicles;
- overseas routes;
- *modi operandi*.

Origin of the OC groups involved: there was a disproportionate high number of Polish and Lithuanian OC groups involved in the field of international vehicle trafficking (Bundeskriminalamt, 2003: 28; Bundeskriminalamt , 2002: 21).

Origin countries of stolen vehicles: the lion's share of the vehicles was stolen in Germany. Some were also stolen from Italy and, Belgium and the Netherlands (Ibidem).

Overseas routes: the vehicles were taken to Poland, Russia, Lithuania, Belarus and Ukraine. The vehicles trafficked into the successor states to the Soviet Union were taken along routes via Poland and also via various Scandinavian states (Denmark, Sweden, Finland). In a few cases, vehicles stolen in Italy, Belgium and the Netherlands were marked in Germany or trafficked to Eastern Europe via Germany (Ibidem).

Modi operandi: groups active in more than one area of crime often also committed fraud or drug trafficking offences (Ibidem).

The most common fraud offences committed by OC groups were financing offences (in particular credit card fraud and obtaining goods by fraud), investment offences and competition related offences (in particular

fraud in connection with tenders) (Bundeskriminalamt, 2003). The variables collected on **crime associated with the business world** (including financing offences, investment fraud and competition-related offences, misappropriation and other fraud) were:

- origin of the OC groups involved;
- composition of OC groups involved;
- *modi operandi*.

Origin of the OC groups involved: as in previous years (Bundeskriminalamt, 2003;2002), the percentage of German groups active in this area rose again and is now over 60 %. While the percentage of Turkish groups remained nearly constant, the proportion made up by Italian groups dropped from 10% in 2002 to 5,8% (Bundeskriminalamt, 2003: 29; Bundeskriminalamt, 2002: 22).

Composition of OC groups involved: in this field of crime, the percentage of groups comprised of only one nationality was twice the average of all OC fields of crime (Ibidem).

Modi operandi: in 2003 criminal activities continued to concentrate on *modi operandi* focusing on a specific area of crime. Activities in more than one field of crime were rarer and included mainly counterfeiting and property crimes (Ibidem).

The variables collected by Bundeskriminalamt on **crime associated with nightlife** (including mainly trafficking of human beings and exploitation of prostitutes) are:

- origin of the OC groups involved;
- origin countries of victims;
- overseas routes.

Origin of the OC groups involved: as ascertained in previous years (Bundeskriminalamt, 2003; 2002), more and more non-German offenders are forcing their way into the field of crime, in particular Turkish, Lithuanian and Bulgarian OC groups. German groups continue to be the most numerous in this field of crime, however their proportion has decreased continually over the last four years (Bundeskriminalamt, 2003: 30; Bundeskriminalamt, 2002: 22).

Origin countries of victims: the majority of women continued to come from Eastern Europe, in particular from the Russian Federation, Ukraine, Lithuania, Rumania and Poland (Ibidem).

Overseas routes: Poland and the Czech Republic played an important role as transit countries (Ibidem).

The variables collected by Bundeskriminalamt on **tax and customs offences** (including mainly (90%) cigarette smuggling and followed by VAT carousel fraud) are:

- origin of the OC groups involved;
- overseas routes;
- *modi operandi*.

Origin of the OC groups involved: most of OC groups involved in this field were dominated by Poles. They were followed, by a wide margin in terms of numbers, by Germans, Lithuanian and Russian dominated OC groups. Vietnamese groups, who had in previous years controlled the illegal distribution of cigarettes mainly in the Berlin area, were dominant in two investigations only in the year 2003 (Bundeskriminalamt, 2003: 31, Bundeskriminalamt, 2002: 23).

Overseas routes: most of the groups, smuggled cigarettes to Germany from Lithuania, Russia and Ukraine, via Poland. Besides these activities, cigarettes from Eastern Europe were smuggled via Germany and Belgium to the UK where profit margins are particularly high as a consequence of the high tobacco duty. Furthermore, the smuggling of cigarettes from Asia, in particular China, was also a significant factor (Bundeskriminalamt, 2003: 30; Bundeskriminalamt, 2002: 23).

Modi operandi: a great extent of these type of offences were committed with specialization in the one specific field of crime while *modi operandi* involving more than one area of crime covered, in addition to the tax offences, smuggling of immigrants and motor vehicle trafficking (Bundeskriminalamt, 2003).

The variables collected by Bundeskriminalamt on **smuggling of immigrants** are:

- origin of the OC groups involved;
- origin countries of immigrants;
- overseas routes.

Origin of the OC groups involved: facilitation of illegal immigrants was committed by suspects from a variety of ethnic groups. The proportion of German groups has, compared to the last year, gone down from 35,6% to 25%. Ukrainian, Turkish, Vietnamese and Moldavian groups of perpetrators were the next most frequently recorded groups (Bundeskriminalamt, 2003: 30).

Origin countries of immigrants: the major countries of origin were the Eastern Europe states (in particular Ukraine), the Middle East and Asian countries (predominantly China) (Bundeskriminalamt, 2003: 29; Bundeskriminalamt, 2002: 23).

Overseas routes: Poland, the Czech Republic, Italy and Austria were the most significant transit countries (Bundeskriminalamt, 2003: 29; Bundeskriminalamt, 2002: 24).

The variables collected by Bundeskriminalamt on **counterfeiting/forgery** (including the production and circulation of counterfeit money, the forgery of non-cash means of payment and the falsification of documents) are:

- number of OC groups involved;
- types of counterfeiting where OC groups are involved;
- origin of the OC groups involved;
- origin countries of counterfeits;
- *modi operandi*.

Number of OC groups involved: compared to the previous year, the number of groups dropped disproportionately, in line with the on-going general trend over the last few years in OC, as opposed to rising figures in the field of counterfeiting crimes not related to OC (29 groups in 2002, 31 groups in 2001, 36 groups in 2000) (Bundeskriminalamt, 2003: 31).

Type of counterfeiting where OC groups are involved: with 12 investigations and seven cases respectively, the production and circulation of counterfeit money (EUR and USD counterfeit) and the forgery of non-cash means payment (almost exclusively payment cards) continued to be the most common areas of illegal activity for OC groups (Bundeskriminalamt, 2003).

Origin of the OC groups involved: Bulgaria and Germany were identified as the countries where the majority of counterfeits were produced (Bundeskriminalamt, 2003: 32; Bundeskriminalamt, 2002: 25).

Origin countries of counterfeits: around one quarter of the investigations were into Bulgarian dominated OC groups. Groups dominated by Turkish, German, Italian, Hungarian and Ukrainian nationals played an additional role (Bundeskriminalamt, 2003).

Modi operandi: the proportion of counterfeiting groups acting in more than one area of crime (42,9%) was far higher than the overall average (23,5%) for all fields of crime. These groups of perpetrators were primarily active in the fields of alien smuggling, trafficking in stolen vehicles and fraud (Bundeskriminalamt, 2003: 32).

4.5 Greece

With regard to Greece, the main source found on drug trafficking was a report on drug trafficking in Greece for the year 2001, published by Σ.Ο.Δ.Ν (Συντονιστικό Όργανο Δίωξης Ναρκωτικών- Υπουργείο Δημόσιας Τάξης, Coordinating Department of Drug Persecution- Ministry of Public Order). The list of variables collected by the Σ.Ο.Δ.Ν on **drug trafficking** is the following:

- origin of the OC groups involved;
- drug production countries;
- overseas routes;
- drug seizures (separately for each drug) and
- *modi operandi*;

Origin of the OC groups involved: the origin of the traffickers arrested during operations that were carried out in 2001 were for each drug the following:

- heroin: the traffickers are by far mainly Albanians (66,26%), while Turkish (11,2%), Czechs (11,34%), Spanish (8,2%) and Greeks (3%) follow;
- cocaine: It appears the Greeks with a total of 74,6% represent the main traffickers of cocaine within Greece, while Albanians follow with a rate of 17,8%.

Drug production countries: while in 2000 the heroin was mainly trafficked into Greece from Turkey (82,4%), in 2001 the 66% of heroin was imported from Albania. Furthermore, the 83,23% of cannabis trafficked into Greece the same year was coming from Albania, leading to the conclusion that Albania had become a centre of production and distribution of heroin and cannabis. On the other hand, there was a significant increase of cocaine seizures in Greece coming mainly from Latin America (83%) (Σ.Ο.Δ.Ν, 2001: 23).

Overseas routes: Greece is a destination and transit country of cocaine trafficked into other EU countries because of its geographical position as it makes part of the traditional Balkan route (Turkey-Bulgaria-FYROM-Albania-Greece and from there to other EU countries) (Σ.Ο.Δ.Ν, 2001).

Drug seizures: Table 12 represents the seizures of drugs that were carried out in Greece in the period 1994-2001:

TABLE 12. QUANTITY OF DRUG SEIZURES IN GREECE DURING THE PERIOD 1994–2001

DRUG TYPE		YEAR	1994	1995	1996	1997	1998	1999	2000	2001
Heroin (kg)			283,4	172,8	189,518	146,305	185,179	97,329	659,5	329,725
Cocaine (kg)			175,5	8,9	155,642	16,734	283,474	45,610	155,414	297,287
Cannabis (kg)	Kg		6.142,4	1.368,59	3.374,12	19.236,78	17.541,411	14.223,34	14.964,99	11.923,98
	Plants		26,631	30,499	15,234	11,010	9,967	46,198	49,985	18,821
Amphetamines	Kg		0,007	0,1	0,082	0,048	0,003	1,38	2,008	0,078
	Tablets		n.a	n.a	n.a	958	5	175.000	30.109	8
LSD(tab)	Drops		323	375	1045	165	44	210	111	577
	Tablets		n.a	51	9	1	n.a	2,5	17	1

SOURCE: Σ.Ο.Δ.Ν (2001).

Even though attention should be paid in the explanation of this data as it refers to OC field of crime that the investigations fall, the following comments could be made:

- there was a significant *increase* in the quantity of heroin confiscated in 2000, that dropped immediately the year after;
- there was a 91% *increase* of the cocaine seized in the year 2001, that according to the Σ.Ο.Δ.Ν due to the large confiscation made during an operation in Preveza;
- there is an *increase* on the seizures of synthetic drugs, especially LSD;
- major *decreases* are reported in Belgium, Finland, Malta, and Russia.

Modi operandi: the 90% of the transportation of cannabis and heroin is done by land (Σ.Ο.Δ.Ν, 2001:23).

4.6 Italy

The main Italian source on the activities carried out by OC groups is in the annual report on the state of security published by the Italian Ministry of the Interior. In particular, the variables collected on **drug trafficking** are:

- origin of OC groups involved;
- drug production countries;
- quantity of drugs confiscated and percentage of drug seizures by type of territory that took place;
- number and characteristics of persons reported to the Judicial Authority;
- overseas routes;
- *modi operandi*.

Origin of OC groups involved: the origin of OC groups involved in drug trafficking were the following (Ministero dell'Interno, 2003):

- Nigerian groups: these groups carry out their activities in many Italian cities above all in Napoli, Caserta and Torino; their importance is great as it is noticed that a large part of heroin and cocaine that flows to Europe is ascribable to these OC groups;
- Colombian groups: they have operative terminals in Italy and can manage free contacts with OC members. They are used to putting parcelled cocaine in Europe;
- Turkish groups: they traffic heroin in the Italian market and used to form strict alliances with Albanian and Kosovan OC groups;
- Albanian groups: they manage heroin importing in Italy coming from Albania and bought from Turkish groups. Because of its favourable geographical location, Albania is a heroin sorting country as the heroin

coming from the Middle East and South-East Asia is sorted in Albanian territory to be delivered in the Mediterranean and central Europe;

- dealers from Marocco, Tunisia, Algeria, Libya and Mauritania are the most involved in crimes linked to drug trafficking in Italy. Heroin is mainly retail pushed by Maghreb dealers linked to OC Italian groups.

Drug production countries: new world drug production countries are Paraguay (it produces cannabis) and Colombia which has diversified cultures producing opium, cannabis and cocaine. The Netherlands continues to be the first producer country of amphetamines (Ministero dell'Interno, 2003).

Quantity of drugs confiscated and percentage of drug seizures by type of territory that took place: Table 13 presents the total quantity of drugs seized, as well as the quantity for each type of drug seized in Italy since 2002 until the first semester of 2004. While, Table 14 below shows the percentage of seizures by the territory that took place within Italian territory or the trading barriers (air, naval or earthy) during the period 2002–2004 for each drug type.

TABLE 13. QUANTITY OF DRUGS CONFISCATED IN ITALY DURING THE PERIOD 2002–2004

DRUG TYPE \ YEAR	2002	2003	2004 (1 st semester)
Heroin (kg)	2.592,778	2.582,569	1.414
Cocaine (kg)	4.038,598	3.520,332	1.682
Cannabis (kg)	45.139,390	40.470,900	8.783
Amphetamines (tab)	400.270	235.351	260.013
LSD(tab)	3.064	2.161	241
TOTAL (kg)	52.218,294	46.867,962	12.071

SOURCE: Author's elaboration of Ministero dell'interno data (2003,2004a).

The following comments can be made:

- In respect to 2002, there is a *general decrease* in the amount of drug seizures, specifically in heroin (–0,39%), cocaine (–12,83%), cannabis (–10,34%), amphetamines (–41,20%) and LSD (–29,47).

TABLE 14. PERCENTAGE OF DRUG SEIZURES THAT TOOK PLACE WITHIN ITALIAN TERRITORY OR TRADING BARRIERS FROM 2002 UNTIL THE 1ST SEMESTER OF 2004

	HEROIN			COCAINE			CANNABIS						AMPHETAMIINES			LSD		
	2002	2003	2004	2002	2003	2004	HASHISH			MARIJUANA			2002	2003	2004	2002	2003	2004
							2002	2003	2004	2002	2003	2004						
ITALIAN TERRITORY	77,2	78,2	66,97	46,26	59,28	42,02	89,75	93,64	82,81	93,79	86,47	83,52	48,12	80,06	99,75	55,84	99,81	97,93
TRADE BARRIERS of which:	22,8	21,8	33,03	53,74	40,72	57,98	10,25	6,36	17,19	6,21	13,53	16,48	51,88	19,94	0,25	44,16	0,19	2,07
–Air	0,50	0,50	0,40	12,07	27,66	20,19	0,08	0,26	0,32	0,01	0,35	0,51	11,09	0,14	0,24	0,52	0,18	0
–Sea	22,04	20,68	28,61	40,11	9,06	35,33	9,96	53,38	4,94	5,54	12,75	12,65	0	0,06	0	0	0	0
–Land	0,22	0,63	4,02	1,53	3,98	2,46	1,97	0,75	11,93	0,64	0,40	3,32	40,78	19,72	0,09	43,63	0,18	2,07

SOURCE: Author's elaboration of Ministero dell'interno data (2003,2004).

The following comments can be made with regards to the previous figures:

- in 2003 there was a *significant increase* in the percentage of LSD and amphetamines seized within the Italian territory, compared with those seizures that took place within the trade barriers. To a lesser degree increased as well the percentage of heroin, cocaine and hashish;

- on the other hand , in 2003 the percentage of marijuana seizures *increased* at the trade borders and slightly decreased within the Italian territory;
- in 2003 the most of heroin and cannabis seizures happened at naval barriers, while cocaine and amphetamines seizures were carried mostly at airily and earthly barriers.

Number and characteristics of persons reported to Judicial Authority: data about people reported to the Judicial Authority were processed according to nationality, age, typology of adopted measures and typology of crime.

TABLE 15. NUMBER AND CHARACTERISTICS OF PERSONS REPORTED TO JUDICIAL AUTHORITY DURING THE PERIOD 2002–2004

NUMBER and CHARACTERISTICS OF REPORTED PERSONS		YEAR		
		2002	2003	2004 (1 st semester)
Nationality	Italians	23.315	21.332	9.681
	Foreigners	9.859	8.061	3.828
Age	Majors	31.793	28.340	13.018
	Minors	1.381	1.053	491
Typology of crime	Illicit trafficking	30.232	26.696	12.420
	Association	2.929	2.681	1.071
	Other	13	16	18
Status	Under arrest	24.056	22.181	n.a
	At liberty	8.822	6.957	n.a
	Untraceableness	296	255	n.a
TOTAL		33.174	29.393	13.509

SOURCE: Author's elaboration of Ministero dell'interno data (2003,2004).

Based on the above figures, the following comments can be made:

- there is a *decrease* of the number of denounced people (-11,40%),
- in 2003 there was a *decrease* in the number of Italians (-8,51%) and foreigners (-18,24%).

Overseas routes: the overseas routes for each drug are the following (Ministero dell'Interno, 2003):

- heroin follows different routes: the Balkan route (from Afghanistan and Pakistan to Europe through Turkey, Balkan Republics); the golden triangle route (from Thailand, Hong Kong, Bangladesh and Vietnam to Europe); and two more new ones, the African route (through the Katchi port in Pakistan to the European markets) and the golden half-moon (through Afghanistan and Central Asia to Ukraine and Russia);
- cocaine follows the Latin-American route (from production countries to Argentina, USA, Europe); the North Pacific route (from production countries through Mexico to West American coast; the Atlantic route (from Venezuela, Colombia, Brazil, Argentina to Europe) and a new one called the Isthmus route (from Colombia to USA, through Isthmus' countries and Mexico);
- with regard to cannabis, *hashish* gets Europe through different routes: the Indian route (from Afghanistan and Nepal); the Syrian one (either towards Jordan and Saudi Arabian or towards Lebanon or Egypt); the Balkan route; the Mediterranean route (from Lebanon to Cyprus, Greece, Italy, France and Spain) and the Latin-American route. While *marijuana* circulates between Albania and Italy and in addition there are more routes: the South-East and South-West Asia and the Indian Ocean route; the African one and the Latin-American route (Ministero dell'Interno, 2003:113–115);
- *modi operandi:* drug dealers make use of new *modi operandi* result of new markets and drug trafficking routes involving Central and South-East Asia. In particular, with regard to the transportation methods used, trafficking is done through earthly, air and naval routes and postal services, though new air routes, above all for heroin, involving the principle international airports were reported; and through naval routes for cocaine trafficking involving many port-cities, such as Lisbon, Malaga, Marseilles, those Italian ports in

the Tyrrhenian sea and those European airport stopovers such as Madrid, Paris, London, Milan and Rome (Ministero dell'Interno, 2003).

Modi operandi: With regard to the transportation methods used for each drug, it appears from the figures presented in Table 14 that for heroin, cocaine and cannabis the most popular method of transport is shipments. On the other hand, for synthetic drugs, transportation appears to be done mostly by land.

The variables collected by the Italian Ministero dell'Interno on **tobacco smuggling** are:

- overseas routes;
- 'victim' countries.

Overseas routes: due to its geographical position Italy is a transit country of international routes of trafficking of illicit goods to markets such as Spain and Great Britain (Ministero dell'Interno, 2004:103; Ministero dell'Interno, 2003: 127).

'Victim' countries: the flow of tobacco smuggling involves above all Greece (71% out of the total amount confiscated comes from Greece) (Ministero dell'Interno, 2003:127).

The variables collected on **facilitation of illegal immigration** are (Ministero dell'Interno, 2004):

- origin countries and number of immigrants;
- overseas routes by *modus operandi*.

Origin countries and number of immigrants: there is a significant presence of illegal immigrants coming from East Europe: the Romanians are 141.674, the Ukrainians 105.669, the Albanians 54.683, the Polish 32.988 and the Moldavians 30.658. During the period 2001–30 June 2004 there was a decrease of illegal immigrants and the number of immigrants refused at the border is down by 5,1%. The illegal disembarkation phenomenon was down by half (Ministero dell'Interno, 2004:115).

Overseas routes by modus operandi: it appears that the overseas routes in relation to each different method of transportation were the following (Ministero dell'Interno, 2004):

- by land: through earthly borders the illegal immigrants come crossing "green borders" and/or by commercial motor vehicles. The illegal immigrants coming to Italy by land come above all from Balkan countries such as Slovenia and Kurdish from Turkey and Iraq. The illegal immigrants from Balkan route were 18.044 in 2000, 8.126 in 2001, 1.465 in 2002, 843 in 2003 and 310 during the first six months of 2004. The decrease of the number of illegal immigrants coming from Slovenian border depends on trans-border cooperation understanding between Italian and Slovenian Authorities. Also France, Switzerland and Austria are transition countries: the number of illegal immigrants traced at the frontier between Italy with France and at Italy's border with Switzerland decreased during the period 2001–2003; on the contrary it increased at the frontier between Italy and Austria;
- by air: through air borders they reach Italy by false documentation. In 2003 this *modus operandi* was used above all by the Albanians, Nigerians, Chinese and Montenegrins;
- by sea: the most part of illegal immigrants reaching Italy by sea come from Libya and Tunisia. They come crossing the Sicily Canal, involving above all citizens from Algeria and Morocco and in a smaller measure they are citizens from South-Saharan Africa. They land at Lampedusa island in Sicily. In 2002 9.699 illegal aliens landed there, in 2003 8.819 and in 2004 they were 2.743. Libya is a transition country for immigrants coming from Egypt and West Africa and Sahel. In the last years it was registered a significant flow of illegal aliens, above all Kurdish, coming from Greek ports to Ancona, Bari and Brindisi ports. During the last year (2003–2004) a lot of illegal immigrants were sent back to Greece.

The variables collected on **extortion** are:

- type of extortion by region and type of perpetrator;

- number of reports to the Judicial Authority and total amounts paid.

Type of extortion by region and type of perpetrator: specifically (Ministero dell'Interno, 2003):

- in Sicily the extortion phenomenon develops in a different manners in the East Sicily and West Sicily. In the Trapani, Agrigento and Caltanissetta and Palermo provinces the extortion is widespread and it is carried out by public contracts;
- in Apulia extortion takes place in Bari, Foggia and Lecce. It is involved in the black market system;
- In Calabria this phenomenon takes place in Reggio Calabria, Vibo Valentia and Crotona provinces and it is carried out in the entrepreneurial activities;
- in Lazio the extortion, usury and drug dealing are the main activities carried out by local organized crime groups in the sea shore. In Frosinone and Latina provinces the OC groups are involved in the waste disposal. There is also a rooting of Ukraine organized crime linked to other Italian provinces, such as Rimini, Macerata, Napoli, involved in the extortion phenomenon;
- in Toscana Chinese organized crime groups carry out extortions to their countrymen, above all in Prato and Firenze provinces where the social integration limits of this ethnic minority increases the conspiracy of silence.

Number of reports for extortion to the Judicial Authority and total amounts paid: Table 16 shows the number of cases extortion denounced to the Judicial Authority and total amounts paid (Ministero dell'Interno, 2003):

TABLE 16. NUMBER OF REPORTS FOR EXTORTION TO THE JUDICIAL AUTHORITY AND AMOUNTS PAID

	2000	2001	2002 (provisional)
Total number of reports	6.503	7.460	8.376
Total amounts paid	n.a	4.305.944,63	11.322.672,73

SOURCE: Author's elaboration of Ministero dell'interno data (2003).

The following comments can be made:

- there is an *increase* in the total number of reports for extortion in the last years, determined by the increasing social interest in the fight against extortion which causes a tendency to denounce this phenomenon. It is noticed that from 2000 to 2001 there was an increase of 12,2% in the total number of reports for extortion;
- in the last three years the total paid amounts *increased significantly*: in 2002 they increased by 153,1% in comparison with the previous year and by 46,5% in comparison with the period 1999–2000. The same trend was registered in the first semester of 2002.

4.7 Spain

In Spain, the report published by the Ministerio del Interior, called Balance, provided us with the following data in relation to the trafficking in drugs:

- overseas routes;
- drug seizures (separately for each drug);
- number of people reported;
- number of people arrested and
- *modi operandi*.

Overseas routes: According to the report Balance 2003, Spain is a transit and/or destination country of cocaine and cannabis to other EU countries.

Drug seizures: Table 17 shows the quantity of drug seizures that took place in Spain in the period 2003–2003:

TABLE 17. QUANTITY OF DRUG SEIZED IN SPAIN IN THE PERIOD 2002–2003

DRUG TYPE \ YEAR	2002	2003
Heroin (kg)	148,029	35
Cocaine (kg)	6.224,014	13.254
Cannabis (kg)	423.188	535.560
Ecstasy (units)	732.898	206.078
LSD (doses)	9,746	16,75

Source: Ministerio del Interior, Oficina de Relaciones Informativas y Sociales (2004).

Based on the previous figures the following comments could be made:

- their quantity of LSD confiscated in 2003 *significantly increased* (+3800%);
- also cocaine seizure *increased significantly* (+113%);
- there has been an *increase* in seizures of synthetic drugs, especially LSD;
- lastly, there was a decrease in the quantity of heroin confiscated (–75%).

Number of people reported and arrested: there is a tendency to report more people involved in drug trafficking while, on the other hand, there is a decrease (17%) of people arrested by the Police. In particular, in 2003 90.000 people were reported to the Police, while in 2002 were 88.128 persons. Accordingly, in 2003 there were arrested only 6.609, in comparison to 8.030 arrested in 2002 (Ministerio del Interior, Oficina de Relaciones Informativas y Sociales (2004).

Modi operandi: transportation methods for cocaine is by ship or by aeroplane with a recent case uncovered in the international airport of Madrid where cocaine was coming from South America (Ministerio del Interior, Oficina de Relaciones Informativas y Sociales (2004).

4.8 The Netherlands

According to a report published by the Research and Documentation Centre of the Dutch Ministry of Justice (WODC) (Kleemans et al., 2002), the variables collected on **drug trafficking** are the following:

- origin of OC groups involved;
- drug production countries and
- overseas routes.

Origin of OC groups involved: it is remarkable that the international trade in ecstasy is partly in hands of foreign criminal organisations (for example Israeli). Exchange relations and cooperation are developed in the illegal drug market, especially between Colombians (cocaine) and Dutch (ecstasy), and between Turks (heroin) and Dutch ecstasy-producers/wholesalers.

Drug production countries: the most important part of criminal organizations aims on the production, trade and transport of illegal drugs. Netherlands is for years a production country of ecstasy.

Overseas routes: In these cases ecstasy is shipped to Colombia or Turkey. Much of the imported to the Netherlands drugs are in transit especially to the UK. Dutch role on the illegal drug market is mainly forwarding imported drugs abroad.

Another activity that appears to be important in the Netherlands is **trafficking in human beings**, were the following variable is collected:

- origin of OC groups involved.

Origin of OC groups involved: despite of the legal regulations of brothels, Netherlands is a market for criminal organizations from Central Europe and the Balkans.

4.9 The United Kingdom

The main source on the activities carried out in the UK is a report produced by the National Criminal Intelligence Service (NCIS), called United Kingdom Threat Assessment of Serious and Organised Crime (UKTA). The variables collected on **drug trafficking** are the following:

- origin of the OC groups involved;
- drug production countries and relevant estimates of production;
- overseas routes and
- *modi operandi*.

Origin of the OC groups involved: the origin of the groups involved in the trafficking of each type of drug are the following (NCIS, 2003 and 2002):

- heroin: Turkish organized criminal groups continue to dominate the European heroin trade and many of the UK-based ethnic-Turkish groups work in collaboration with Turkish criminal groups based overseas. Meanwhile, the significance of other groups has been increasingly noted over recent years, including British Caucasian criminals, South Asians, and West Africans;
- cocaine: criminal groups of West Indian origin, mostly Jamaican, were seen to be most prominent in distributing crack cocaine within the UK. These groups exploit their well-developed criminal structures and networks in the Caribbean and the UK to control the courier-based 'little but often' flow of cocaine powder into the UK that feeds the crack market. However as the latter has grown and spread there have been opportunities for others to become involved. Recent intelligence indicates that the crack cocaine trade within the UK is becoming complex and dynamic and now involves British Caucasian, West African, and South Asian criminals and groups, working both independently and collaboratively, and crack being frequently sold with heroin;
- ecstasy: Israeli organized crime groups, some composed of Russian emigrants, have entered the ecstasy trade in Europe, forged links with Dutch criminals, and are smuggling ecstasy into the USA. The extent of their collaboration with British criminals and involvement in trafficking to and through the UK is not known.

Drug production countries and related estimates of production: the following appear to be the drug production countries and the estimates of their relevant production (NCIS, 2003, 2002 and 2001):

- cocaine: almost all of the world's cocaine is produced in Colombia, Peru and Bolivia, In 2002 it was reported that Colombia accounted for the vast majority, although open source reporting indicated that production in Peru was increasing, having been reducing from the mid-1990s because of crop eradication programmes. Colombian production appears to have decreased slightly. The UN estimates that Colombian coca crops had the potential to produce 617 tonnes of cocaine in 2001 and 580 tonnes in 2002. Production in Peru and Bolivia is believed to be relatively stable, with the UN estimating a potential 150 tonnes for Peru in 2001 and 160 tonnes in 2002, and 60 tonnes for Bolivia for both years. These estimates may be a pointer to the success or otherwise of the eradication programmes underway in Colombia and the Andean region;
- heroin: Afghanistan is the mainly the producer country, even if disrupted for one reason or another since 2000. Afghan production has been disrupted for one reason or another since 2000. In the few years up to 1999, production had been fairly consistent at around 2,500 to 3,000 tonnes a year. 1999 then saw a bumper harvest of 4,600 tonnes. This was significantly reduced in 2000, and then further in 2001, due to a Taliban-imposed prohibition on poppy cultivation. Opium poppy planting recommenced in October 2001 for harvesting in the spring and summer of 2002. Then in January 2002 a new ban on cultivation was imposed by the Afghan Interim Administration, followed by a continuing eradication campaign through 2002 and into 2003. Despite all these efforts, the United Nations Office for Drug Control and Crime Prevention (UNDCP) assesses the opium crop for 2002 to be in the region of 3,400 tonnes. There have been no firm projections for 2003's expected harvest, but based on planting and cultivation surveys it is expected to be similar to but slightly higher than 2002;

- synthetic drugs: It is estimated that up to 80 percent of the MDMA consumed worldwide emanates from illicit laboratories in the Netherlands and Belgium, which are the primary sources of ecstasy found in the UK. There is evidence and intelligence indicating some level of synthetic drug production in the UK, including ecstasy. This laboratory is likely to have been active for a number of years. The potential yield of 200 kg of high purity amphetamine. In 2000 the quantity of controlled chemicals seized in the Netherlands could have produced over 300 million ecstasy tablets.

These data are summarized in Table 18 below:

TABLE 18. DRUG PRODUCTION ESTIMATES DURING THE PERIOD 1999–2002

YEAR		2002	2001	2000	1999
TYPE OF DRUG BY PRODUCTION COUNTRY					
Cocaine	Colombia	580 t.	617 t.	n.a	n.a
	Peru	160 t.	150 t.	n.a	n.a
	Bolivia	60 t.	60 t.	n.a	n.a
Heroin (opium)	Afghanistan	3400 t.	2,500–3,000 t.	2,500–3,000 t.	4600 t.
Ecstasy (PMK)	The Netherlands	300	n.a	300	n.a
Amphetamines	UK	200 kg	n.a	n.a	n.a

SOURCE: Author's elaboration of NCIS data (2002,2003,2001).

Overseas Routes: transition and/or destination countries of the drugs are the following (NCIS, 2003):

- heroin: knowledge of heroin trafficking routes from source countries into Europe and the UK continues to improve due in part to increasingly effective international law enforcement cooperation. Although traffickers are flexible in their choice of routings, certain transit countries and routes are commonly used, including westwards through Iran, south via Pakistan, and, increasingly, northwards through the Central Asian Republics. The routes mostly include Turkey which, despite Turkish law enforcement efforts, remains a principal nexus point for the trade in opiates from Afghanistan and processing centre for the conversion of morphine into heroin. In practice, consignments very rarely travel the whole way from Afghanistan to Europe in a single unbroken journey. Normally, they will be bought and sold by different groups along the route, the mode of transport will change, and loads will be split and merged as they are moved westward. The detailed route will therefore vary according to the capabilities and preferences of whoever has control over the movement of the drugs at any point;
- cocaine: the majority of cocaine destined for European markets crosses the Atlantic in large, often multi-tonne, shipments bound for the Iberian Peninsula. Transatlantic ships are often met offshore by smaller boats to which the drugs are transferred. These smaller boats are used to land the drugs in Spain or Portugal, the latter possibly being more significant as an entry point than previously thought. However continuing law enforcement activity in the region, frequently supported by UK agencies, appears to have had some disruptive effect. There is intelligence indicating that some groups are moving away from this method of importation and quantities in excess of 100 kg have been smuggled from South America in transatlantic containers. Colombian trafficking organisations are also becoming increasingly interested in other European entry points. Eastern and Central Europe are attractive to traffickers, in part due to less sophisticated law enforcement capabilities;
- ecstasy: intelligence indicates that ecstasy is trafficked through the UK en route to the United States where the market is growing. UK criminals are involved in trafficking ecstasy from the UK to the near continent and further, including destinations popular with British 'clubbers', such as Ibiza and Tenerife. Ecstasy is also trafficked to Australia, Malaysia and South Africa by criminal groups based in the UK. One of those arrested was involved in trafficking 36,000 MDMA tablets from South Africa to New Zealand, while another was caught trafficking 41,000 ecstasy MDMA tablets and 1 kg of cocaine to Japan from the Netherlands;

- amphetamines: trends in amphetamine and methyl amphetamine precursor diversion appear to be greatly affected by successful law enforcement activity. Illicit manufacturers are being forced to go to great lengths in order to acquire even small quantities of precursors, whether through new methods of production or previously unused diversion routes. Illicit drug manufacturers are constantly looking for new sources of precursor chemicals in order to avoid detection. For example, 2002 saw the first known cases (4 cases totalling 1.3 tonnes) of traffickers targeting the UK as a source of ephedrine. This chemical, which is used in the manufacture of methyl amphetamine, was destined for Canada, India and Nigeria.

Modi operandi. NCIS reports provide us with information on the transportation and distribution methods used for each drug, as well as the mono or poly-drug trafficking technique engaged in some drug markets. In particular:

- transport and distribution: with regards to the *transportation methods of heroin*, it appears that most heroin enters the UK through ports in the South East of England, particularly Dover, Felixstowe and Harwich. The bulk arrives in freight vehicles although some is transported by couriers in passenger vehicles or as baggage. The Channel Tunnel continues to be used as a means of moving heroin into the UK. Seizures from containers continue to be rare. Some heroin also enters through major UK airports, particularly those with connections to Turkey or Pakistan. However air couriers are increasingly seeking to evade detection by travelling to the UK via Europe. As for the *distribution method of heroin*, most significant heroin importations into the UK are of tens of kilograms rather than larger amounts, possibly because this helps to spread the risk for the suppliers. Once imported, heroin is distributed around the UK to wholesale (multi-kilo) buyers. Distribution at a national level continues to be dominated by groups based in London, but Birmingham, Merseyside, Glasgow and Bristol are all significant regional hubs, supplying their immediate regions and, in some cases, much further fields (ex. Merseyside). At the point at which the heroin is purchased by ‘middle-market’ dealers, typically in quantities of one to five kilograms, the drug will normally be ‘cut’ (combined with another substance to increase its bulk and therefore the profits), before being sold on to street-level dealers in smaller quantities. A wide range of substances may be used as cutting agents, including powder-form analgesics, such as paracetamol, or powdered glucose. Now with regards to the *transportation methods used for cocaine*, the Netherlands plays a significant role both as a point of entry into the EU for South American cocaine, arriving by sea and air. Cocaine is imported into the UK on cruise ships and the postal service and express mail companies are used to import smaller amounts direct from South America and the Caribbean to the UK. Cocaine is also smuggled into Europe and the UK by couriers arriving on flights from South and Central America and from the Caribbean. Most of the detected movements of cocaine trafficked from the Caribbean to the UK are believed to be smuggled in this way, although large quantities are also smuggled from the Caribbean in sea borne vessels. Couriers are ‘hired’ by organised criminal gangs based in the Caribbean or the UK. Lastly, the *distribution methods used for cocaine*, within the UK there are a number of hubs for the distribution of cocaine powder. London is an important hub and is the base for a number of major cocaine traffickers. Distribution patterns do not necessarily follow any geographic logic. Criminal networking appears to be the determining factor with groups preferring to work with those they know and trust;
- mono or poly-drug trafficking: Although most of the largest importers of heroin and cocaine tend to concentrate on one or other drug, many drugs traffickers appear largely unconcerned about the different types of drugs they handle and, by inference, the different penalties they face should they be caught. The pattern of poly-drug use provides an obvious incentive for traffickers to engage in multi-drug trafficking rather than limiting themselves to one commodity. The key concerns are opportunity, capability, and profit. Therefore, if they have access to them, they can handle the logistics of importation and can buy and sell at a profit. Some smugglers of Class A drugs will readily smuggle cannabis (which remains the most widely used drug in the UK), amphetamines (the market for which appears to be in decline) or pharmaceuticals (such as Viagra and its various copies, the market for which is strong), importing the drugs in ‘cocktail’ loads or consecutively. Although the exact relationship between supply and demand remains unclear at the macro level, widespread poly-drug consumption in the UK suggests that traffickers importing more than one drug, whether in cocktail loads or consecutively, are unlikely to find difficulty in securing buyers at the UK end. Indeed, crack cocaine dealers have been targeting heroin users as customers for both crack and heroin and have aggressively promoted dual use by selling the two drugs together. As well as deepening addiction of individual users this means that a market consisting of heroin

users is now open to the sale of crack cocaine. Multi-drug trafficking also occurs further upstream with shipments consisting of more than one drug are often found where specialist transporters are moving drugs for a number of customers. As well as lining the pockets of UK-based traffickers, substantial amounts of drugs money are sent out of the UK either in cash with couriers, disguised and paid in through banks and other financial institutions, transmitted by alternative remittance ('hawala') bankers, or electronically by various money transmission agents. Clearly some of this money goes directly or indirectly towards financing further drugs shipments.

The variables collected on **smuggling of immigrants** are:

- origin countries of immigrants;
- overseas routes and
- *modi operandi*.

Origin countries of immigrants: the number of illegal migrants who arrive in the UK varies from month to month. Accurate identification of the nationalities involved is complicated by the fact that some migrants arrive without documents and then falsely claim a nationality which they think will enhance their claim for asylum. However nationalities that regularly arrive in the UK and claim asylum in significant numbers include Afghans, Chinese, Former Republic of Yugoslavia nationals, Indians, Iranians, Iraqis, Jamaicans, Pakistanis, Somalis, Sri Lankans, Turks and Zimbabweans. There are also indications that citizens of EU accession states in Eastern Europe, notably Poland and the Baltic States, are abusing their right to enter the UK by working illegally after they arrive. 4.8 In 2002, the largest number of asylum requests was received from Iraqis. The first Gulf War in 1991 resulted in a substantial displacement of migrants from Iraq. However to date there are no indications that the recent conflict in Iraq has led to a significant increase in the number of Iraqis arriving in the UK and as Iraq stabilises the numbers may, in fact, begin to fall (NCIS, 2003; NCIS, 2002).

Overseas routes: although the options for precise routes, methods and timings are almost unlimited, much as they are for transporting drugs, there are five broad patterns of movement into the EU. These are:

- from Moscow through the Baltic States, Poland, the Czech Republic, to Austria or Germany;
- from the Ukraine through either Poland, Slovakia, Hungary or the Czech Republic to Austria or Germany;
- from the Middle East or Turkey to Greece or Italy;
- from North Africa to Spain or Italy; and
- from Turkey through the Balkans to Italy or Austria (NCIS, 2003; NCIS, 2002).

Modi operandi: the *modi operandi* reported by the NCIS concern the transportation and facilitation methods and the links with other criminal activities. These are in detail the following:

- transportation: some illegal immigrants arrive in the EU by air, either directly from their country of origin or, more likely, from a third country. However many make the final leg of the journey overland or by a short sea crossing from countries bordering the EU;
- facilitation methods: the most common method of moving illegal migrants across borders is simply to hide them in a vehicle and drive across. This type of facilitation ranges from a single migrant in the boot of a car to large numbers concealed in hidden compartments in lorries. However serious and organised criminals exploit weak border controls through a range of other methods, including the use of false travel documents, the abuse of genuine documents by 'look-alike' migrants, and bribery of officials at air and sea ports in order to allow migrants to pass. Facilitators also abuse legal means of immigration obtaining genuine documents by deception for migrants to use for entry. Visas and work permits may be supplied, and some facilitators set up apparently legitimate businesses, such as language schools, to provide fraudulent support for visa applications. Another method, used predominantly in the Mediterranean, is to fill boats or ships (many old and barely seaworthy) with migrants and head for the coastline of the EU, notably Italy and Spain, where the migrants can claim asylum on arrival;
- links with other criminal activities: Serious and organized criminals involved in both smuggling and trafficking make extensive use of bribery and corruption to support their activities. They exploit border

guards, police and customs officers, and a range of political and official contacts in order to operate unhindered. They also collude with professionals who can assist them, including those in the legal profession (NCIS, 2003; 2002).

On **trafficking in human beings** the variable collected by the NCIS is:

– *modi operandi*.

Modi operandi: in this field of activity, information are collected on victims recruitment methods, facilitator methods and links with other criminal activities:

- victims recruitment methods: as for the methods of recruitment are the same as mentioned earlier (job and marriage advertisements, front agencies etc.);
- facilitator methods: in practice, traffickers use the same methods as facilitators of illegal migration in order to move their victims across borders;
- links with other criminal activities: many serious and organized criminals involved in immigration crime are also involved in other serious and organized criminal activities, for example Class A drugs trafficking, and excise and VAT fraud. This is to be expected as the capabilities needed to facilitate illegal immigration into the UK are similar to those required to import any illicit commodity. However it appears that illegal migrants and other commodities are not regularly smuggled together, although this has occurred in some cases. The need to acquire fraudulent or false documentation in order to facilitate immigration crime has obvious links to more general counterfeiting. Meanwhile, it also opens up opportunities for other crimes, such as benefit and revenue fraud. There is evidence of illegal immigrants being used by serious and organized criminals to facilitate other serious and organized crimes, for example, as drugs couriers, particularly for cocaine from West Africa and the Caribbean. Some are used in the organized theft of vehicles. Serious and organized criminals also make use of illegal immigrants to commit various types of organised low level crime, including aggressive begging and pick pocketing, particularly in large cities such as London. Financial instruments, such as chequebooks and credit cards, are stolen in this way are then recycled and used for further criminal activity. Meanwhile, there has been some reporting suggesting that minors may be brought into the UK in order to facilitate benefit fraud, although there is little evidence of this (NCIS, 2003; NCIS, 2002).

According to NCIS reports, the smuggling of cigarettes and hand-rolled tobacco is a worldwide problem. Meanwhile, it is assessed that more than one in five cigarettes smoked in the UK has been smuggled. Most (perhaps 70 to 80 percent) illicit cigarettes are smuggled in freight by serious and organised criminals. The variables collected by the NCIS on **tobacco smuggling** are:

- origin countries of tobacco;
- estimated amount of losses;
- seizures and
- *modi operandi*.

Origin countries of tobacco: tobacco smuggled into the UK comes from diverse sources, including cigarettes in large volumes from China and other countries in the Far East, the Balkans, the Baltic States, the Middle East, and Africa. Belgium remains the primary source of hand-rolled tobacco. Counterfeit illicit cigarettes have historically originated primarily from China, Malaysia, Singapore, and Vietnam, but more recently an Eastern European cigarette counterfeiting operation was uncovered in Belgium. There is also evidence of cigarette counterfeiting within the UK (NCIS, 2003; NCIS, 2002).

Estimated amount of losses: responsibility for tackling tobacco smuggling in the UK is assigned to HM Customs and Excise, which assesses that cigarette smuggling in 2001–2002 was responsible for £2.7 billion in lost revenue from tax and duty, while a further £580 million was lost as a result of smuggled hand-rolled tobacco (NCIS, 2003; NCIS, 2002).

Seizures: since launching its Tackling Tobacco strategy in March 2000, HM Customs and Excise has disrupted over 100 serious and organised criminal groups involved in tobacco smuggling and in 2001–2002 seized 2.6 billion cigarettes. Of these, 1.6 billion were seized in the UK. The remainder was seized en route in joint operations with overseas agencies (NCIS, 2003; NCIS, 2002).

Modi operandi: in NCIS reports can be found information on the smuggling and transportation methods used as well as the links with other criminal activities. In detail, tobacco smugglers range from casual day-trippers buying quantities of cigarettes in continental Europe and selling them to friends once back in the UK (cross channel smuggling) to serious and organised criminals smuggling upwards of eight million cigarettes at a time. Regional airports continue to be used for smuggling by opportunist tourists and by serious and organised criminals, attracted by the availability of cheap flights and a perception of a lack of controls. Meanwhile, diversion fraud involves the movement of duty-suspended products between bonded warehouses in the UK and other European Union member states. The goods never arrive at the stated destination. Instead the load is diverted onto the illicit UK market without payment of duty. Forged or substituted documents are used to cover the tracks. Unlike smuggling, concealment is unnecessary and, if challenged by HM Customs and Excise prior to the diversion, the criminals can show the supporting paperwork that indicates the load is legitimate. It is also suspected that some duty-suspended products that are purported to move between bonded warehouses within the EU are, in fact, diverted to the UK (NCIS, 2003; NCIS, 2002).

With regard to **trafficking in firearms** into the UK, the NCIS collected the following variables:

- origin of OC groups involved;
- *modi operandi*.

Origin of OC groups involved: Turkish organised criminals involved in trafficking heroin have the means to smuggle firearms into the UK should they wish. In the UK and elsewhere in Europe, possession and use of firearms by Turkish groups had deliberately been limited to senior members of the group in order to reduce the threat to their leadership and also to avoid attracting greater attention from law enforcement. However some Turkish organized criminals now seem to be less concerned about the latter and more prepared to use firearms to deal with threats from rivals, to avoid detection or apprehension and thereby protect themselves against long prison sentences for drug trafficking (NCIS, 2003; NCIS, 2002).

Modi operandi: the *modi operandi* mentioned in the NCIS reports regard the sources of arms and links with other criminal activities. In particular criminals obtain firearms from a variety of sources. Registered firearms dealers, including repairers, retailers and those who provide storage and warehousing, may be corrupted, coerced or duped into providing criminals with weapons and ammunition. Police and HM Customs and Excise investigators have uncovered a number of instances where prohibited firearms and ammunition that have been legally purchased and imported by registered firearms dealers have found their way into criminal hands. Where the registered dealer has acted corruptly this has involved manipulating records to hide the diversion of firearms or ammunition, producing duplicate paperwork to allow the cloning of weapons, receiving shipments from suppliers that contain additional firearms not shown on the manifest, and ‘losing’ firearms between import and export. In the year to 31 March 2003, HM Customs and Excise seized 264 illegally imported firearms of which 126 were handguns. Although firearms have been smuggled into the UK with drugs, sometimes having been added as a bonus by overseas suppliers, there is little evidence that this is happening on a large scale and it seems most likely that firearms imported in this way are intended for use by those smuggling them rather than for resale to other criminals (NCIS, 2003; NCIS, 2002).

5. CONCLUSIONS

The two previous sections reviewed European and MS data sources on the activities carried out by organised crime in the illegal market and identified, for each activity, the variables collected and disseminated by these data sources. The identified variables and the related modalities, if any, are now summed up in the tables below.

TABLE 19. VARIABLES ON TRAFFICKING IN DRUGS BY ORGANISED CRIME COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

VARIABLES ON TRAFFICKING IN DRUGS BY ORGANISED CRIME	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
ORIGIN OF OC GROUPS INVOLVED	EU OCSR	Indigenous/Non-indigenous	Austria	Domestic/Foreign origin
			Denmark	Ethnic/Non Ethnic background
			Germany	Nationality
			Italy	Domestic/Foreign origin
			UK	Domestic/Foreign origin
	CoE OCSR	Domestic/Foreign origin	Greece	Domestic/Foreign origin
			NL	Domestic/Foreign origin
Other MSs	Variable not collected or not disseminated			
COMPOSITION OF OC GROUPS INVOLVED	EU OCSR	One Nationality/Mix of Nationalities–Ethnicities	MSs	Variable not collected or not disseminated
	CoE OCSR	One Nationality/Mix of Nationalities–Ethnicities		
DRUG PRODUCTION COUNTRIES	EU OCSR	EU/Non–EU Member States	Austria	EU/Non–EU Member States
			Denmark	EU/Non–EU Member States
			Germany	EU/Non–EU Member States
			Italy	EU/Non–EU Member States
	CoE OCSR	EU/Non–EU Member States	UK	EU/Non–EU Member States
			Greece	EU/Non–EU Member States
			NL	EU/Non–EU Member States
Other MSs	Variable not collected or not disseminated			
LINKS/COOPERATION BETWEEN OC GROUPS	EU OCSR	No modalities indicated	Austria	No modalities indicated
	CoE OCSR	No modalities indicated	Other MSs	Variable not collected or not disseminated
OVERSEAS ROUTES	EU OCSR	EU/Non–EU Transit and/or Destination countries	Austria	Total number of charges
			Denmark	EU/Non–EU Transit and/or Destination countries
			Italy	EU/Non–EU Transit and/or Destination countries
			UK	EU/Non–EU Transit and/or Destination countries
			Greece	EU Transit and/or Destination countries
	NL	EU Transit and/or Destination countries		
	CoE OCSR	EU/Non–EU Transit and/or Destination countries	Spain	EU Transit and/or Destination countries
Other MSs	Variable not collected or not disseminated			
SEIZURES	EU OCSR	Quantity seized in tonnes	Austria	Number of seizures and quantity seized in kilos/tablets
			Denmark	Number of seizures and quantity seized in kilos/tablets
			Italy	Quantity seized in kilos/tablets and percentage of seizures by territory that took place

	CoE OCSR	Number of seizures and quantity seized in kgs by Member State	Greece	Quantity seized in kilos, drops, tablets
			Spain	Quantity seized in kilos, units, doses
			Other MSs	Variable not collected or not disseminated
DRUG PRICES	EU OCSR	Variable not collected or not disseminated	Austria	'Street' prices in Euro
			Denmark	'Street' prices in DDK per gram
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
PERSONS REPORTED	EU OCSR	Variable not collected or not disseminated	Italy	Number, nationality, age, crime typology and status of process
			Spain	Number
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
PERSONS ARRESTED	EU OCSR	Variable not collected or not disseminated	Spain	Number
	CoE OCSR	Number of arrests by each MS	Other MSs	Variable not collected or not disseminated
MODI OPERANDI	EU OCSR	Mono/poly-drug trafficking, transport modalities (by sea, air or land), use of trafficking bases, use of drugs as currency, production process/use of technology	Austria	Transport modalities (by sea, air or land)
			Denmark	Transport modalities (by sea, air or land)
			Germany	Links with other criminal activities
			Greece	Transport modalities (by sea, air or land)
			Spain	Transport modalities (by sea, air or land)
	CoE OCSR	Use of trafficking bases, transport modalities (by sea, air, land and by use of couriers)	Italy	Transport between territory or trade barriers (air, naval, earthly)
			UK	Transport and distribution methods
	Other MSs		Variable not collected or not disseminated	

TABLE 20. VARIABLES ON TRAFFICKING IN HUMAN BEINGS BY ORGANISED CRIME COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

VARIABLES ON TRAFFICKING IN HUMAN BEINGS BY ORGANISED CRIME	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
ORIGIN OF OC GROUPS INVOLVED	EU OCSR	Indigenous/Non-indigenous	Denmark	Groups' nationality
			Germany	Groups' nationality
	CoE OCSR	Domestic/Foreign origin	NL	Groups' nationality
			Other MSs	Variable not collected or not disseminated
ORIGIN COUNTRIES OF VICTIMS	EU OCSR	EU/non-EU Regions	Denmark	EU/non-EU Regions
			Germany	EU/non-EU Member States
	CoE OCSR	EU/non-EU Regions	Other MSs	Variable not collected or not disseminated
OVERSEAS ROUTES	EU OCSR	Transit MS countries	Germany	Transit MS countries
	CoE OCSR	Origin, Transit and/or Destination MS countries	Other MSs	Variable not collected or not disseminated
LINKS/COOPERATION BETWEEN OC GROUPS	EU OCSR	Stages of trafficking process	MSs	Variable not collected or not disseminated
	CoE OCSR	No modalities indicated		
CHARGES AGAINST PERPETRATORS	EU OCSR	Variable not collected or not disseminated	Denmark	Number of charges
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
MODI OPERANDI	EU OCSR	Recruitment, transport modalities (by sea, air or land)	UK	Links with other criminal activities
			Denmark	Links with other criminal activities
	CoE OCSR	Recruitment, use of violence, victims reselling, links with other criminal activities	Other MSs	Variable not collected or not disseminated

TABLE 21. VARIABLES ON SMUGGLING OF IMMIGRANTS BY ORGANISED CRIME COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

VARIABLES ON SMUGGLING OF IMMIGRANTS BY ORGANISED CRIME	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
ORIGIN OF OC GROUPS INVOLVED	EU OCSR	Variable not collected or not disseminated	Germany	Groups' nationality
	CoE OCSR	Ethnic/non ethnic background	Other MSs	Variable not collected or not disseminated
ORIGIN COUNTRIES OF IMMIGRANTS	EU OCSR	Variable not collected or not disseminated	UK	Ethnic background
			Germany	Ethnic background
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
OVERSEAS ROUTES	EU OCSR	EU/Non-EU origin, transit and/or destination countries	Germany	Transit MS countries
			UK	EU/Non-EU origin, transit and/or destination countries
	CoE OCSR	EU/Non-EU origin, transit and/or destination countries	Italy	EU/Non-EU origin, transit and/or destination countries
			Other MSs	Variable not collected or not disseminated
MODI OPERANDI	EU OCSR	Recruitment, transport modalities (by sea, air or land) and links with other criminal activities	UK	Links with other criminal activities, use of facilitators and transport modalities
			Italy	Transport modalities
	CoE OCSR	Use of facilitators, transport modalities	Other MSs	Variable not collected or not disseminated

TABLE 22. VARIABLES ON SMUGGLING OF FRAUD BY ORGANISED CRIME COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

VARIABLES ON FRAUD BY ORGANISED CRIME	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
ORIGIN OF OC GROUPS INVOLVED	EU OCSR	Nationality by type of fraud	Germany	Nationality of members who dominate the criminal activity
	CoE OCSR	Nationality by type of fraud	Other MSs	Variable not collected or not disseminated
COMPOSITION OF OC GROUPS INVOLVED	EU OCSR	Variable not collected or not disseminated	Germany	One Nationality/Mix of Nationalities–Ethnicities
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
‘VICTIM’ COUNTRIES	EU OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
	CoE OCSR	EU Member States		
ESTIMATED COST OF FRAUD	EU OCSR	Variable not collected or not disseminated	MSs	Variable not collected or not disseminated
	CoE OCSR	In Euro, US \$ and draxmas		
MODI OPERANDI	EU OCSR	Procedure modalities, use of expert knowledge	Germany	Links with other criminal activities
	CoE OCSR	Use of front companies	Other MSs	Variable not collected or not disseminated

TABLE 23. VARIABLES ON COUNTERFEITING BY ORGANISED CRIME COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

VARIABLES ON COUNTERFEITING ORGANISED CRIME	ON BY	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
ORIGIN OF OC GROUPS INVOLVED		EU OCSR	Nationality of members who dominate the criminal activity	MSs	Variable not collected or not disseminated
		CoE OCSR	Domestic/Foreign origin		
LINKS/COOPERATION BETWEEN OC GROUPS		EU OCSR	No modalities indicated	MSs	Variable not collected or not disseminated
		CoE OCSR	Variable not collected or not disseminated		
'VICTIM' COUNTRIES		EU OCSR	Variable not collected or not disseminated	Germany	EU/Non-EU Member States
				Denmark	EU/Non-EU Member States
		CoE OCSR	MS by type of counterfeiting	Other MSs	Variable not collected or not disseminated
COUNTRIES PRODUCING COUNTERFEITED GOODS		EU OCSR	MS by type of counterfeiting	MSs	Variable not collected or not disseminated
		CoE OCSR	Variable not collected or not disseminated		
TYPES AND NUMBER OF COUNTERFEITED GOODS		EU OCSR	No modalities indicated	Denmark	Currency/banknotes
				Germany	Currency, payment cards
		CoE OCSR	No modalities indicated	Other MSs	Variable not collected or not disseminated
SEIZURES OF COUNTERFEITED GOODS		EU OCSR	Number of euro notes seized and estimated value in €	MSs	Variable not collected or not disseminated
		CoE OCSR	Variable not collected or not disseminated		
MODI OPERANDI		EU OCSR	Use of expert knowledge, use of technology	Denmark	Use of technology
				Germany	Links with other criminal activities
		CoE OCSR	Links with other criminal activities, use of technology	Other MSs	Variable not collected or not disseminated

TABLE 24. VARIABLES ON TOBACCO SMUGGLING BY ORGANISED CRIME COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

VARIABLES ON TOBACCO SMUGGLING BY ORGANISED CRIME	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
ORIGIN OF OC GROUPS INVOLVED	EU OCSR	Domestic/Foreign origin	Denmark	Nationality of members who dominate the criminal activity
			Germany	Nationality of members who dominate the criminal activity
	CoE OCSR	Indigenous/Non-indigenous	Other MSs	Variable not collected or not disseminated
OVERSEAS ROUTES	EU OCSR	Origin, Transit and/or Destination MS countries	Germany	Origin, Transit and/or Destination EU/Non-EU countries
	CoE OCSR	Origin, Transit and/or Destination MS countries	Other MSs	Variable not collected or not disseminated
TOBACCO PRODUCTION COUNTRIES	EU OCSR	Variable not collected or not disseminated	MSs	Variable not collected or not disseminated
	CoE OCSR	MS countries		
'VICTIM' COUNTRIES	EU OCSR	MS countries	MSs	Variable not collected or not disseminated
	CoE OCSR	MS countries		
MODI OPERANDI	EU OCSR	Links with other criminal activities	Denmark	Transport modalities
			Germany	Links with other criminal activities
	CoE OCSR	Use of corruption, transport modalities	Other MSs	Variable not collected or not disseminated

TABLE 25. VARIABLES ON TRAFFICKING IN STOLEN VEHICLES BY ORGANISED CRIME COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

VARIABLES ON TRAFFICKING IN STOLEN VEHICLES BY ORGANISED CRIME	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
ORIGIN OF OC GROUPS INVOLVED	EU OCSR	Indigenous/Non-indigenous	Germany	Nationality of members who dominate the criminal activity
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
ORIGIN COUNTRIES OF STOLEN CARS	EU OCSR	Ms countries	Germany	MS countries
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
OVERSEAS ROUTES	EU OCSR	EU/Non-EU Origin, Transit and/or Destination countries	Germany	Origin, Transit and/or Destination MS countries
	CoE OCSR	EU/Non-EU Origin, Transit and/or Destination countries	Other MSs	Variable not collected or not disseminated
VEHICLES STOLEN	EU OCSR	Variable not collected or not disseminated	MSs	Variable not collected or not disseminated
	CoE OCSR	Number of vehicles stolen per Member State, non-recovery rate of stolen vehicles		
MODI OPERANDI	EU OCSR	Use of expert knowledge, theft procedure, use of violence, recycling of stolen cars modalities	MSs	Variable not collected or not disseminated
	CoE OCSR	Links with other criminal activities, theft procedure, use of violence		

TABLE 26. VARIABLES ON TRAFFICKING IN ARMS BY ORGANISED CRIME COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

VARIABLES ON TRAFFICKING IN ARMS BY ORGANISED CRIME	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
ORIGIN OF OC GROUPS INVOLVED	EU OCSR	Nationality of groups	UK	Nationality of members who dominate the criminal activity
	CoE OCSR	Nationality of groups	Other MSs	Variable not collected or not disseminated
'VICTIM' COUNTRIES	EU OCSR	Variable not collected or not disseminated	MSs	Variable not collected or not disseminated
	CoE OCSR	EU/Non-EU countries by type of arm		
ORIGIN COUNTRIES OF ARMS	EU OCSR	MS countries	MSs	Variable not collected or not disseminated
	CoE OCSR	Variable not collected or not disseminated		
OVERSEAS ROUTES	EU OCSR	Origin, Transit and/or Destination MS countries	MSs	Variable not collected or not disseminated
	CoE OCSR	Variable not collected or not disseminated		
MODI OPERANDI	EU OCSR	4 smuggling procedures, transport modalities	UK	Links with other criminal activities
	CoE OCSR	Links with other criminal activities	Other MSs	Variable not collected or not disseminated

The previous tables suggest the following comments on the variables on OC activities carried out in the illegal market on which data are collected and disseminated at EU and MS level, and on the related modalities.

With regard to the MS level, great differences can be noted among MSs, both in the variables and in the modalities. In fact:

- in most cases, data on a given variable are collected and disseminated only by one or by a very limited number of MSs. The remaining MSs do not collect or not disseminate any data on the variable. So, for example, in relation to trafficking in human beings, information related to the variable ‘charges against perpetrators’ appears to be collected and disseminated only by Denmark, while data on the variable ‘overseas routes’ are only collected by Germany. Germany also appears to be the only MS collecting data on variables related to fraud (e.g. origin and composition of the OC groups involved) and trafficking in stolen vehicles (e.g. origin of OC groups involved, origin countries of stolen cars and overseas routes), while only the UK collects data on the trafficking in arms (e.g. origin of OC groups and links with other criminal activities). The result is a very fragmented knowledge on OC in the EU;
- even in those cases when some MSs collect data on the same variable, they use different modalities. Specifically, in relation to drug trafficking, both Austria and Denmark collect information on the variable ‘origin of OC groups involved’. However, as far as the modalities of the variable is concerned, Austria focuses on whether or not the groups involved are of domestic or foreign origin, while Denmark focuses on the ethnic background of the criminals involved in carrying out the activity.

With regard to the EU level, a certain uniformity can be noted. So, for example, in relation to drug trafficking both Europol and the Council of Europe collect information on the vast majority of the variables indicated in the tables, the only exception being the variable ‘persons arrested’, in relation to which data are collected only from the CoE. This is confirmed by looking at the variables collected for the other OC activities selected for analysis in the present study.

However, different modalities are sometimes used to collect data on the same variable. So for example, in relation to trafficking in human beings, different modalities are used to collect data on the variable ‘modi operandi’ (specifically Europol collects data on recruitment and transport modalities, while the Council of Europe on recruitment, use of violence, victims reselling, links with other criminal activities).

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ANNEX 4

REVIEW OF EXISTING QUALITATIVE AND QUANTITATIVE DATA ON THE ACTIVITIES CARRIED OUT BY ORGANISED CRIMINAL GROUPS IN THE LEGAL MARKETS AND ON THE RELATED *MODI OPERANDI*

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Francesca Romana Pandolfi, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

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1. FOREWORD

This paper is the deliverable for WP 4 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 4 aimed at the collection and review of existing qualitative and quantitative data sources (at national, regional and European levels) on the activities carried out by organised crime groups in the legal markets and on the related *modi operandi*.

The paper is organised as follows. Section 2 briefly reflects on why it is important to map organised criminal activities in the legal market within the EU framework. Section 3 specifies the concept ‘organised criminal groups activities in the legal market’ by describing the typologies of organised crime’s infiltration into the legal world. Sections 4 and 5 review data sources available respectively at the EU and MS level and identify the variables they consider. Section 6 sums up the results from the previous two sections in one grid including the variables identified in the previous two sections.

This paper has been produced by the Università Cattolica del Sacro Cuore, leader of WP 4. In particular, it has been directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Executive Project Manager of the Project. It has been written by Francesca Romana Pandolfi of the Università Cattolica del Sacro Cuore, who elaborated a first draft, and Barbara Vettori, who revised it. Apart from the authors, on behalf of the Università Cattolica del Sacro Cuore, the following researchers have cooperated in producing this deliverable: Michele Brunelli and Paola Zoffi.

The sources used to draft this deliverable consist mainly of information collected by law enforcement agencies for operational intelligence purposes, and it contains qualitative and quantitative data according to free access to information. It is also worth mentioning that the focus here is on the original 15 EU Member States, as per the approved project, and that in order to have up-to-date information, the focus is mainly on data sources produced during the last five years (1999–2004).

2. WHY MAP ORGANISED CRIME ACTIVITIES IN THE LEGAL MARKET WITHIN THE EU FRAMEWORK?

A question to be addressed before reviewing qualitative and quantitative data sources on organised criminal activities in the legal market in the EU is why should these activities be mapped at all (considering some key variables, such as, for environmental crimes for instance, origin of OC groups involved, their composition, the links/cooperation between OC groups, etc.). The reply is simple: because this mapping contributes to the development of an organised crime risk assessment methodology.

The concept of ‘organised crime risk’ and a tentative methodology with which to measure it have been recently developed by various authors (Queensland Crime Commission, 1999; Black et al., 2000; Savona et al., 2002) and taken up by Europol (Council of the European Union, 2002).

Their starting point is the definition of ‘crime risk’ as a measure of the probability that a crime (as an undesirable event with a negative impact) will occur. ‘Organised crime risk’ could accordingly be assessed by evaluating probability and impact (harm), where probability is the likelihood that an organised criminal event, as a negative event, will occur and impact is the harm caused to society and individuals by it:

$$OC Risk = OC Probability \times OC Harm$$

Considering that a) the likelihood of a given OC activity – conducted either in the illegal market or in the legal one – occurring (OC probability) can be defined, amongst other, by a series of variables related to the offence itself (such as the number of reported crimes for the previous year – ‘the more a crime has been committed in the past, the more likely it is that it will be committed again’), and b) the harm from a given OC activity is linked to a series of variables defining it (such as, for example, the annual estimated income from the activity), it is evident that information on the OC activity itself play an important role among the variables that define and measure its risk.

Considering the importance of variables on organised criminal activities in any OC risk exercise, after identifying the forms of OC infiltration into the legal market (section 3), variables on the organised criminal

activities in the legal market currently collected both at the EU level (section 4) and at the national level within the EU (section 5). This in order to provide Project IKOC with the background knowledge necessary to develop an innovative and feasible OC risk methodology.

3. WHY AND HOW DOES ORGANISED CRIME INFILTRATE THE LEGAL MARKET?

Before reviewing qualitative and quantitative data sources on organised criminal group activities in the legal market it is important to understand why organised crime infiltrates the legal market and how this is performed.

Organised crime is a criminal enterprise that rationally works to profit from illicit activities getting the best from those activities (Albanese, 2002). However in order to enjoy the ill-gotten gains in the licit world and to make them grow, these groups need to insert themselves into the legal system. Criminal enterprises seek to penetrate legitimate business to protect their funds, to provide apparent legitimacy for wealth, and in a few cases to provide an option for a transition to licit business or retirement from criminal activities. Licit business enterprises also can be excellent covers for various kinds of trafficking activities. In order to diversify and protect their profits, criminal enterprises will move into the licit business world, exploiting vulnerable points of entry into particular firms or industries (Williams and Godson, 2002).

Two are the forms of organised crime's infiltration into legitimate businesses (CoE, 2003: 7):

1. *the infiltration of legitimate business for criminal purposes.* Regarding the infiltration into legitimate business aimed to perpetrate illicit activities, two examples are labour racketeering and the takeover of waste disposal companies. Labour racketeering involves the use of force or threats to obtain money for insuring jobs or labour peace. This often entails the threat to employers or employees that if money is not paid there will be no job, or that violence, strikes, and/or vandalism will occur at the company. In a similar way, waste disposal companies in some areas have been taken over through the use of coercion to intimidate legitimate owners to sell the business or to have it operated by an outsider (Albanese, 2002). In New York organised crime groups had created a 'business empire' based on a monopoly of the waste industry; the same criminal phenomenon developed in recent years in Italy, where the waste disposal business in recent years has become one of the most lucrative for Mafia type organisations (Legambiente, 2003).
2. *the infiltration of legitimate business for legitimation and investment.* In order to enjoy the ill-gotten gains in the licit world and to make them grow, organised criminal groups need to launder dirty money and to insert it into the legal world. This may additionally be of benefit to illegal activities. These often produce outputs or use inputs that are also needed in the legal ones (transportation, communications, warehousing) so that it is profitable to integrate the two types (Fiorentini and Peltzman, 1995).

The legitimisation and investment of the dirty money in the legal world takes infinite forms. Organised criminal groups invest their profits from illegal activities mainly in industries with relatively mature technologies and those that are protected from international competition. Examples of OC activities in the legal market include the financial system, real estate and commercial activities. Also proven is the infiltration of organised criminal groups in the construction industry, the real state sector and the food market. So, for example, in New York and especially in Manhattan criminal organisations keep positions of power in several branches of industry, e.g. the construction industry and food markets such as the Fulton Fish Market (Huisman and Klerks, 2003).

4. MAPPING ORGANISED CRIME ACTIVITIES IN THE LEGAL MARKET IN THE EU FRAMEWORK: A REVIEW OF EUROPEAN DATA SOURCES

Two are the main data sources on organised crime at EU level:

- the *European Union Organised Crime Situation Report*, annually produced since 1994 and, from 1998, under the primary responsibility of Europol;
- the *Council of Europe Organised Crime Situation Report* annually produced since 1998 by a group of specialists on criminal law and criminological aspects of organised crime set up by the Committee on Crime Problems of the Council of Europe.

It has to be preliminarily remarked that the information on the organised crime activities in the legal market included in these data sources is extremely scarce. It will therefore be supplemented by information of two crimes that can be regarded as relatives of the infiltration of organised crime in the legal market, i.e. money laundering and corruption. While corruption expresses the contact point between organised criminal and the state, money laundering, as already mentioned below, is the necessary step for the criminal infiltration in the legal world.

4.1 The European Union Organised Crime Situation Report

The only pieces of information contained in the European Union Organised Crime Situation Reports (henceforth EU OCSRs) on the organised criminal activities in the legal world refer to money laundering and corruption.

The variables collected by the EU OCSR on **money laundering** are:

- Predicate offence;
- suspicious transaction reports;
- *modi operandi*.

Predicate offence: drug trafficking is the most important predicate offence in the majority of EU Member States, even if in Sweden it is fraud (Europol, 2000).

Suspicious transactions: in 2000 it was registered an increase of the number of suspicious transaction reports in most Member States (Europol, 2000).

Modi operandi: The principal *modi operandi* used by the OC groups to carry out their money laundering activities are: money transfers, through the Cash Deposit Systems (CDS), where the accountholders are often straw men and forged cards are used to withdraw the money; bureaux de change; land and estate purchases (Europol, 2000, 2004: 13).

The variables collected by the EU OCSR on **corruption** are:

- use of corruption.

Use of corruption: Europol's OCSRs considers corruption as a key instrument of OC groups to achieve criminal successes, in order to efficiently acquire, hinder access to or prevent the use of information (Europol, 2000; Europol, 2002, 2004: 8). Corrupt behaviours are carried out by organised criminal groups in countries outside the EU characterized by political and economic instabilities. Their aim is to facilitate crime, particularly in source and transit countries, but politically few OC groups pose a direct threat to the EU Member States (Europol, 2003).

4.2 The Council of Europe Organised Crime Situation Report

The EU OCSR is complemented by the Council of Europe (CoE) whose European Committee on Crime Problems (CDPC) has created a Committee of Experts on Criminal Law and criminological aspects of organised crime (PC-CO), which was replaced in 2000 by the group of specialists on criminal law and criminological aspects of organised crime (PC-S-CO). Since 1998 this body has produced, on the basis of the Member States' replies to a questionnaire, an annual Report on the Organised Crime Situation in Council of Europe Member States (henceforth CoE OCSR).

Little information on OC group activities carried out to infiltrate the legal market is available in the CoE OCSRs. This information refers to **environmental crimes**.

Environmental crimes: Italian Mafia organisations are involved with hazardous waste and nuclear material in the Mediterranean Sea and organised criminal groups cause similar harm to the Danube in Europe by dumping of toxins into this river. Other activities carried out and concerning environmental crime are the trafficking of endangered species, the dumping of toxic or hazardous waste, use of, or trafficking in ozone depleting substances (CoE, 1999).

Considering proxy crimes for the criminal infiltration in the legal markets, such as money laundering and corruption, these are the variables collected in relation to these two criminal activities.

The variables collected on **money laundering** are:

- predicate offence for money laundering;
- suspicious transaction reports;
- country of origin of the suspects;
- *modi operandi*;
- money laundering level;

Predicate offence for money laundering:

- in Luxembourg it tends to be fraud than drugs (CoE, 1999), while in the Netherlands it is drug trafficking and fraud (CoE, 2001).

Suspicious transaction reports: the number of suspicious transaction reports per Member State is shown by Table 1 below:

TABLE 1 . NUMBER OF SUSPICIOUS TRANSACTION REPORTS (1999–2001)

Member State	1999	2000	2001
Austria	n.a.	184	248
Bulgaria	n.a.	49	n.a.
Croatia	n.a.	12	n.a.
Cyprus	n.a.	115	n.a.
Czech Republic ³	1699	n.a.	n.a.
Denmark	337	249	319
Estonia	56	394	n.a.
Finland	348	1109	n.a.
France	n.a.	1655	n.a.
Germany	4137	4818	8214
Hungary ⁴	930	29	15
Ireland	1421	n.a.	n.a.
Liechtenstein	20	n.a.	158
Lithuania	66	n.a.	n.a.
Netherlands	10803	11023	20233
Norway	788	890	n.a.
Poland	n.a.	113	92
Slovakia	n.a.	n.a.	452
Slovenia	81	n.a.	n.a.
Spain	n.a.	1354	n.a.
Sweden	1512	n.a.	n.a.
Switzerland	370	311	n.a.
Turkey	n.a.	564	n.a.
United Kingdom	14000	18500	31251

LEGENDA: n.a. = data not available.

³ The figures refer to unusual rather than suspicious transaction reports.

⁴ In contrast to figures for previous years, the 2000 figure refers to persons connected to organised crime.

SOURCE: CoE data (CoE, 2001).

Table 1 shows that in most member States the trend over the last years is clearly increasing. The countries where it has been registered the most relevant increase in the number of suspicious transaction reports are the United Kingdom, the Netherlands, Germany and Denmark. The lack of available data on suspicious transaction reports in many countries doesn't mean that this phenomenon doesn't exist. It represents a different way of gathering information caused by confidentiality and secrecy provisions and resources (CoE, 1999).

The number of suspicious transaction reports has to be taken with caution, however, since it reflects more the behaviour of reporting authorities than the real extent of the money laundering phenomenon. So, for example, in the United Kingdom in 2001 the National Criminal Intelligence Unit (NCIS) – the national reporting agency for suspicious transaction reports – received 31251 disclosures, an increase of nearly 70 per cent on 2000. The rise is explained in part by the implementation of the Financial Services and Markets Act 2000 and in part by the events of 11 September 2001. Both drew even more attention to the need for financial institutions to be aware of all suspicious transactions and report to NCIS accordingly. The number of disclosing institutions in the UK increased from 708 in 2000 to over 800 in 2001, probably reflecting increased awareness of the money laundering reporting regime rather than more widespread laundering (CoE, 2001).

Country of origin of the suspects:

- in Finland a third of the people subject to suspicious transaction reports were foreigners (CoE, 1999);
- in the Netherlands the principal suspects are of Dutch (50%), Turkish (11%) and, to a lesser extent, other nationalities outside the EU (though in 2000, German nationals were placed third). Among the suspects of extra-EU nationalities the Dutch Report 2000 shows a predominance of people from Colombia, Surinam, the Netherlands Antilles and Pakistan (CoE, 2001).

Modi operandi:

- in Finland and Ireland almost half the groups were known to launder money and to use cover companies that are often for transportation, motor trading, catering and export/import business;
- in Greece efforts were made to launder money through banks and through the purchase of real estate domestically (CoE, 1999);
- Italian organised crime groups show an interesting example of the use of companies for money laundering purposes. These groups make use of all three forms of corporate abuse: the pre-existing legal firms, in which several employees co-operate with organised criminals; mixing of legal and illegal activity within the company; and use of front companies, including those offshore, almost devoid of any real commercial activity (CoE, 1999). Italy has experienced the use of shell companies, both offshore and onshore (CoE, 2000);
- in Spain organised crime groups above all use real estate (CoE, 2000);
- in the United Kingdom money is recycled through the legitimate banking system or the purchase of property or other assets overseas (CoE, 2000);
- in the Netherlands the main economic sectors exploited for money laundering purposes are shown in Table 2:

TABLE 2. NUMBER OF ORGANISED CRIMINAL INVESTIGATIONS FOR MONEY LAUNDERING IN THE NETHERLANDS, DIVIDED PER SECTOR (YEAR 2001)

Sectors	No. of organised crime investigations
Exchange of money for foreign currency	29
Smurfing	8
Quick transfer of funds	11
Fictitious investment earnings/double invoicing	5
Interruption of 'paper trail'	4
Fictitious gaming proceeds	1
Loan-back arrangement	8
Underground banking	3
Money transfers	11
Real estate carousel	4
Other	14
Unknown	11
Total (one or more indications)	109

SOURCE: CoE data (CoE, 2001).

The most infiltrated sectors used to invest dirty money in 2001 have therefore been the exchange of money for foreign currency (it highlights the external destination of illicit money), the sector of quick transfer of funds and money transfers;

- in the United Kingdom the percentage breakdown by sector of disclosures received by NCIS in the period 1998–2001 is shown in the Table 3:

TABLE 3. PERCENTAGE OF DISCLOSURES RECEIVED BY NCIS IN THE PERIOD 1998–2001, DIVIDED BY SECTOR

Sector	1998	1999	2000	2001
Banks	44.1%	49.9%	62.7%	61.9%
Bureaux money laundering	19.1%	20.8%	15.2%	15.3%
Building societies	20.5%	12.6%	9.5%	1.3%
Insurance	4.5%	4.1%	3.3%	2.9%
Finance companies	n.a.	n.a.	n.a.	1.1%
Asset management	n.a.	0.2%	0.2%	1.0%
Gaming/betting	1.5%	2.4%	1.1%	1.1%
Solicitors	1.9%	1.8%	1.4%	1.0%
IFA	3.3%	2.0%	0.6%	0.4%
Other	4.7%	6.2%	6.0%	14.0%
Total number of disclosures	14129	14500	18408	31251

LEGENDA: n.a. = data not available.

SOURCE: CoE data (CoE, 2001).

The sectors with the highest percentage of disclosures registered are: banks, bureaux money laundering and building societies (CoE, 2001).

The variables collected on **corruption** are:

- use of corruption;
- corrupt sectors.

Use of corruption: in most of the OCSRs, the difficulties and limits in reporting and analysing this variable, especially with reference to organised crime, are highlighted (CoE, 2002):

- in Finland it was suspected that bribes took place in Estonia or Russia (CoE, 2001; CoE, 2002);
- in Germany and the Netherlands it is noticed that the corrupt contacts take place both at the national and international level (Ibidem).
- links between corruption and organised crime cannot be excluded but the latter is a relatively marginal phenomenon in France (GRECO, 2001), while in Ireland there is no evidence of any connection between corruption and organised crime (GRECO, 2001a).

Corrupt sectors: this variable was described and analysed as follows (CoE 2001 and 2002):

- France reported that it did not have any available information and that many well-published scandals in the media tended to be connected to the high politics of government rather than to organised crime as it is conventionally defined. In 2001 France did not exclude links between organised crime groups and corruption, but described those links to be marginal;
- Italy reported that the country experienced OC influence in public administration and political areas while in 2001 the country reported some intentional activities of OC groups directed towards politicians;
- Germany reported that the exertion of certain types of influence from their OC groups was noticed at the national and international level, as shown in Table 4:

TABLE 4. NUMBER OF DOMESTIC AND INTERNATIONAL CASES OF CORRUPTION INVOLVING ORGANISED CRIME IN GERMANY IN THE YEARS 2000 AND 2001, DIVIDED PER SECTOR

Sector	In Germany		Abroad	
	2000	2001	2000	2001
Public administration	34	35	40	33
Justice system	5	6	11	12
Business community/enterprises	3	11	5	4
Media	13	8	2	3
Politicians/political world	5	3	7	15

SOURCE: CoE data (CoE, 2001 and 2002).

- Spain reported a slight increase in corruption attempts and successes, with no gangs bribing the judiciary and with only one (domestic) gang involved in corrupting the public administration. The most corruption-prone sector was law enforcement, which had six domestic and three foreign organised crime groups gaining some corrupt advantage or improper influence. In 2001 Spain noticed some minor links between organised crime and certain elected local representatives (CoE, 2001 and 2002);
- The Netherlands reported the number of Dutch investigations in which reference was made to corrupt contacts (national/international) in eight categories (Police, Customs & Royal Gendarmerie, Law enforcement agencies, Judiciary, Business community, Politics, Public administration, Legal profession). Data described in 2000 also referred to four more categories: accountancy profession/tax experts; notaries; media and other (CoE, 2001: 80). Table 5 below shows the number of Dutch investigations in which references were made to corrupt contacts in the years 2000 and 2001:

TABLE 5. NUMBER OF DUTCH INVESTIGATIONS IN WHICH REFERENCES WAS MADE TO CORRUPT CONTACTS, DIVIDED PER INFILTRATED SECTOR (YEARS 2000 AND 2001)

Corrupt contacts	In The Netherlands		At the international level	
	2000	2001	2000	2001
Police	5	9	6	8
Customs and Royal Gendarmerie	2	3	8	5
Law enforcement agencies	1	1	2	n.a.
Judiciary	1	1	1	n.a.
Business community	16	12	11	5
Politics	3	n.a.	2	1
Public administration	5	1	6	4
Legal profession	5	7	5	2

LEGENDA: n.a. = data not available.

SOURCE: CoE data (CoE, 2001 and 2002).

5. MAPPING ORGANISED CRIME ACTIVITIES IN THE LEGAL MARKET IN THE EU FRAMEWORK: A REVIEW OF NATIONAL DATA SOURCES

The analysis of the European data sources on the infiltration of organised crime in the legal market conducted in the previous section has made it possible to present the OC activities' variables collected and analysed in the EU OCSR and in the CoE OCSR. We may now move to analysis of national data sources and determine whether they give information needed to carry out the analysis in greater depth. This section accordingly reviews existing sources of qualitative and quantitative information on the infiltration of organised crime in the legal market within the original 15 EU Member States.

As already noted with reference to EU data sources, the information on the activities of organised crime in the legal market from national data sources is extremely scarce. Therefore in this section the information will again be supplemented by information of two crimes that can be regarded as relatives of the infiltration of organised crime in the legal market, i.e. money laundering and corruption.

5.1 Austria

Scarce information is published in Austria about the infiltration of organised crime into the legal market. Also, this information is collected on a one off basis. So the chapter 'Organised Crime' contained in the annual report on crime in Austria, jointly produced by the Austrian Federal Ministry of the Interior and the Federal Ministry of Justice, shows that over the past few years it has registered an alarming interest by the Russian Mafia towards the **real estate sector** as a means of laundering and investing their ill-gotten gains. Real estate is bought by criminals using straw men and shell companies, which make it possible to circumvent the laws disciplining the purchase of real estate by foreigners (Austrian Federal Ministry of the Interior and Federal Ministry of Justice, 2003).

The variables collected in this case have been:

- n. and value of real estate properties purchased by organised criminal members;
- *modi operandi*.

Considering the paucity of this information it is interesting to look at the information collected on money laundering.⁵

The variables collected on **money laundering** in Austria include:

- suspicious transactions reports;

⁵ No information on corruption is publicly available.

- arrests;
- house searches;
- seizures;
- *modi operandi*.

Suspicious transaction reports: in 2002 there were 215 suspicious transaction reports registered from financial institutions and banks; these totaled 248 in 2001.

Modi operandi: the techniques more frequently being used are money transmittal and Hawala-bankings systems, as well as Electronic Banking, Internet Banking, Paybox.

5.2 Belgium

The variable collected in Belgium on the **infiltration of organised crime in the legal market** is:

- Infiltrated economic sectors.

In Belgium there are many economic sectors infiltrated by organised criminal groups as the Ministry of Justice's report on organised crime suggests. The choice of the economic sector to infiltrate depends on the economic impact it has in the legal market: the most infiltrated sectors are those with the most economic importance. Table 6 compares the number of organised crime investigations per economic sector infiltrated in 1998.

TABLE 6. NUMBER OF ORGANISED CRIME INVESTIGATIONS PER ECONOMIC SECTOR INFILTRATED IN BELGIUM IN 1998

Economic sector	Number	%
Import-export	102	18,1
Hotels, restaurants, catering	66	11,7
Transport	49	8,7
Retail commercial activity	31	5,5
Banking	29	5,2
Other financial institutions	27	4,8
Real estate	25	4,4
Construction	24	4,2
Food market	19	3,3
Electronic goods	18	3,2
Textile market	18	3,2
Petroleum	8	1,4
Antique commercial activity	8	1,4
Other**	138	24,5
Total	562*	100

Note: The groups which infiltrated the economic sectors in the cases considered by the Table were 206. Considering that some groups infiltrated more than one economic sector, the total of 562 is explained. "Other" category includes amusement sector, marketing, casinos, metal construction, chemical and pharmaceutical industries.

SOURCE: Ministere de Justice (1999).

The above Table shows that "Import-export" sector is the most infiltrated sector, followed by the "hotel, restaurant and catering" sector and by the "transport" category. In addition to the former categories, the "retail commercial activity" and "banking" sectors accounted for roughly 50% of the economic sectors' total (Ministere de Justice, 1999).

It is now interesting to look at the information on money laundering collected and published annually by the Financial Intelligence Processing Unit (CTIF-CFI) in its annual report.

The variables collected on **money laundering** are:

- predicate offence for money laundering;
- *modi operandi*;
- suspicious transaction reports.

Predicate offence for money laundering: very little information on the link between money laundering and organised crime is given in the Belgian Annual Reports. The latest reports highlight that money laundering is principally linked to trafficking in people and prostitution. A large number of files are connected with organised financial fraud. (Financial Intelligence Processing Unit Annual Report, 2001).

Modi operandi: the method used most by money launderers is the banking system in order to transfer money from criminal sources across national borders (Financial Intelligence Processing Unit Annual report, 2001), but it is not the only one: money launderers use a range of techniques to inject the proceeds of crime into the economic system to give their dirty money a legitimised origin. Money launderers perform their illicit activities by using banking transactions aimed at carrying out organised crime and terrorist activities and, to a lesser extent, fraudulent bankruptcy, financial fraud and illegal public appeals for savings. The banking transactions detected took the form of deposits and withdrawals in cash and (inter)national payments, as well as the cashing and issuing of cheques drawn on accounts in Belgium or abroad. These files are characterised by the rapid succession of such transactions as well as by the amounts per transaction (Financial Intelligence Processing Unit Annual Report, 2001). As stated by (CTIF-CFI), “The use of commercial structures serves to facilitate criminal activities or to assist in the establishment of (inter)national money laundering networks. By mixing legal and illegal activities, the most visible part of the fund flows are concealed and, in this way, organised crime can be offered effective protection” (Financial Intelligence Processing Unit Annual Report, 2001).

Suspicious transaction reports: as Table 7 shows, the number of suspicious transaction reports increased during the period 1999–2002; a relevant decrease however has been registered in 2003 (–24,1%). This can be explained by the number of disclosures from foreign exchange offices decreasing by 41 % as a result of the introduction of the euro. This decrease is partly balanced by a considerable increase in 2002 (53,2 %) and in 2003 (13,9 %) of the disclosures from credit institutions (Financial Intelligence Processing Unit Annual Report, 2003).

TABLE 7. INFORMATION ON SUSPICIOUS TRANSACTION REPORTS IN BELGIUM IN THE PERIOD 1999–2003

	1999	2000	2001	2002	2003
Number of disclosures	8869	10107	12723	13120	9953
Number of new case files	1678	1918	2332	2489	2036
Number of case files transmitted to the Crown Prosecutor	492	798	985	1034	783
Amounts involved in the case files transmitted to the Crown Prosecutor⁶	1322.7	1121.02	806.93	2678.5	1149.86
Number of oppositions	14	6	23	34	29

SOURCE: Financial Intelligence Processing Unit CTIF-CIF (1999, 2000, 2001, 2002 and 2003).

⁶ Amounts in million EUR.

Diamond trade case study. An interesting sector where money laundering is carried out in Belgium is the diamond trade. During the last years the Unit transmitted a larger number of files on diamond trade in comparison to the previous years. Various characteristics typical of diamonds make this trade sensitive to very lucrative illegal trafficking. The FATF also refers to “the ease with which diamonds can be hidden and transported and the very high value per gram of some stones, which make diamonds particularly vulnerable to illegal diversion from the legitimate channels for the exploitation and profit of criminals ” (FATF, 2003). The files transmitted regarding diamond trade show some characteristics that were also observed by FATF experts. The majority of the files involve individuals and legal entities active in the diamond business with Belgian bank accounts. The transactions are mainly cash deposits and international money transfers through these accounts ordered by individuals and/or foreign companies in the diamond trade. The funds are generally transferred to foreign currency accounts and involve very large sums. In general these transfers are immediately followed by cash withdrawals or by transfers to other individuals and/or companies in the same business. There is no economic justification whatsoever for these transactions. They do not correspond to the activities officially reported to customs or the VAT administration. The technique consists of mixing funds of illegal origin with funds from legal commercial activities, which is typical of money laundering. The Unit has repeatedly found that the money was transferred to the personal account of the individuals concerned. This technique is aimed at disguising the financial transactions related to commercial activities outside the legal framework. In some files forged documents and fictitious invoices were also used (Financial Intelligence Processing Unit Annual Report, 2003).

The variables collected in this **case of infiltration in the diamond sector** to launder the proceeds from crime are:

- criminal actors involved (individuals/ legal entities);
- *modi operandi* (cash deposits and international money transfers).

5.3 Denmark

Also in Denmark, little is collected on how organised crime penetrates the legal economy. The Danish Report on Organised Crime, published by the National Police in cooperation with Danish police districts and Prosecution Service, just reports a relevant increase in the number of reports of contraventions of the Environmental Protection Act, after a period of decline in 1997–2000 (The National Commissioner of Police, 2003: 17).

With reference to **money laundering**, the same report shows that information is collected on one variable, i.e.:

- suspicious transaction reports.

Suspicious transaction reports: there has been an increasing trend in the number of suspicious transactions reports in the period 2000–2003.

With reference to **corruption**, information is collected on one variable, i.e.:

- the use of corruption.

Use of corruption: all the latest four Danish reports on OC highlight that in Denmark there are no sign that organised crime is connected with undue influence on public administration, the law enforcement authorities or political circles (The National Commissioner of Police, 2001: 34; 2002: 21, 2003: 18; 2004: 19).

5.4 Germany

In Germany the variable on the OC infiltration in the legal market collected by Bundeskriminalamt in its annual Organised Crime Situation Reports is:

- use of business structures.

Use of business structures: Table 8 below shows the percentage of investigated OC cases where the use of commercial or business-like structures has been reported in the period 2000–2003. The term ‘commercial structures’ is used to describe enterprises that are officially registered, e.g. legal companies or companies especially founded for criminal purposes. The term ‘business-liked structures’ refers to structures existing if the perpetrators proceed in a particularly professional manner.

TABLE 8. PERCENTAGE OF INVESTIGATED OC CASES INVOLVING THE USE OF COMMERCIAL OR BUSINESS-LIKE STRUCTURES IN GERMANY, IN THE PERIOD 2000–2003

	2000	2001	2002	2003
Use of commercial or business-like structures	90.2%	86.3%	87.2%	94.0%

SOURCE: Author's elaboration of Bundeskriminalamt data (2001; 2002; 2003).

In the last three years the percentage of OC investigations increased significantly, reaching the 94.0% of the investigated OC cases.

With reference to a specific form of infiltration in the legal economy which is environmental crime, this is very limited in Germany.

With reference to **environmental crimes**, information is collected on following variable:

– *modi operandi*.

Modi operandi: these crimes show supraregional and international links, business-like procedures marked by the establishment of permanent company structures and, in some cases, serious damage caused to the environment and/or great environmental risks (Bundeskriminalamt, 2002: 24; 2003: 21–22; 2004: 29).

The variables on **money laundering** are those listed below:

- origin of the OC groups involved;
- predicate offence for money laundering;
- *modi operandi*;
- suspicious transaction reports;

Origin of the OC groups involved: German and Turkish dominated OC groups play a prominent role in cases of money laundering. A multitude of various other nationalities are responsible for the other money laundering activities.

Predicate offence for money laundering: the main predicate offences for money laundering are drug trafficking and smuggling.

Modi operandi: the information collected by Bundeskriminalamt concerns different methods used by money launders to carry out their activities. These are:

- frequent deposits and withdrawals of cash;
- use of payment cards that are not linked to a bank account;
- frequent, in particular international, money transfers;
- cross-border transports of cash;
- investment in the form of securities and life insurance policies;
- use of cash transfer systems that are not connected to a bank account;
- currency exchange transactions at banks and bureaux de change;
- issuing of fictitious invoices;
- use of crossed cheques;
- declaration of illegal revenue as donations;
- running (loss-making) businesses to provide a cover story for revenue;
- conclusion of loan and leasing contracts;
- use of bank safes;

- investment in material assets, legal companies and real estate: OC groups invested more frequently than average in hotel and restaurant businesses, the entertainment industry (discotheques, amusement arcades), vehicle workshops, vehicle trade and rental, construction businesses, real estate and financing companies and security services. Non-German groups often invested in real estate and businesses in particular in their countries of origin (Bundeskriminalamt, 2002).

Simple but efficient money laundering techniques predominate (for example returning revenue from drug trafficking to the legal business cycle via the hotel and restaurant business). Nevertheless, some investigations revealed very professional *modi operandi*, some of which have come to run very smoothly over the years (Ibidem).

Suspicious transaction reports: Table 9 shows the number of suspicious transaction reports in the period 1999–2002. The significant increase in 2001, amongst other factors, can be attributed to the terrorist attacks on 11 September 2001 and a heightened awareness on the part of banks and financial services institutions. Improved monitoring and research systems in bank and run-up to the introduction of the Euro also played a role (Bundeskriminalamt, 2002).

TABLE 9. NUMBER OF SUSPICIOUS TRANSACTION REPORTS IN GERMANY IN THE PERIOD 1999–2002

	1999	2000	2001	2002
Suspicious transactions	3765	4401	7284	8261

SOURCE: Bundeskriminalamt (2000; 2001; 2002).

The variables collected on **corruption** are:

- use of corruption;
- origin of the OC groups involved;
- *modi operandi*.

Use of corruption: a distinction is made between corruption used inside Germany and outside Germany (Bundeskriminalamt, 2003). The corruption cases carried out abroad often affected important decision-making processes and showed a connection between criminal groups and the higher levels of the political system, the judicial authorities, the economy and public administration (Bundeskriminalamt, 2003: 35).

Organised crime investigations analysed during the year 2002 relating to internal corruption cases highlighted the almost absence of corruption episodes linking OC groups and persons in key positions in the political system, the judicial establishment, the public administration, the media and/or the economy in Germany; few isolated cases in which a certain influencing of decision-makers at local/regional level took place (Bundeskriminalamt, 2003: 35).

Origin of the OC groups involved: German OC groups are disproportionately represented, since they are advantaged in respect to other ethnic groups in the commission of corruption offences as a consequence of being better 'socially integrated' in their own country (Bundeskriminalamt, 2003: 33).

Modi operandi: German OC groups exploit, in particular regionally, existing contacts (e.g. acquaintances, friends, etc.) in the corresponding positions of public life or use them to contact decision-makers (Bundeskriminalamt, 2003: 34). Groups dominated by non-Germans committed acts of influencing predominantly in their countries of origin where they can rely on existing contacts to persons in the respective areas of influence (Bundeskriminalamt, 2003: 34).

5.5 Finland

In Finland, nothing is disseminated on how organised crime penetrates the legal economy.

The main data source on money laundering is the Finnish report on money laundering prepared every year by the Money Laundering Clearing House of the National Bureau of Investigation. The variables collected on **money laundering** by these reports are:

- predicate offence for money laundering;
- *modi operandi*;
- suspicious transaction reports.

Predicate offence for money laundering: drug offences are predicate offences in approximately 10% of cases. The majority of proceeds from crime originate from fraud offences, embezzlement, tax fraud, debt offences drug crime, and the avoidance of value added taxes by illegal means such as the importation of gold and GSM–mobile phones to Finland (Money Laundering Clearing House Annual Report, 2003).

Modi operandi: the most frequently used methods of money launderers are currency exchange, cash deposits, money transfers (Money Laundering Clearing House Annual Report, 2003).

Suspicious transaction reports: during the period 2001–2003 there was a decrease in the number of suspicious transaction reports, there were 2399 in 2001 and 2204 in 2003.

5.6 Ireland

In Ireland nothing is disseminated on how organised crime penetrates the legal economy.

The most relevant publication on money laundering is the annual report of Garda Siochana, the Irish National Police. In 1995 it was established the Money Laundering Investigation Unit (MLIU) such as part of the Garda Bureau of Fraud Investigation. The main function of the Unit is to act as a national centre for the receipt, analysis and investigation of all disclosures relating to “suspicious transaction reports” from financial institutions and bodies designated under the 1994 Act on the Criminal Justice.

The variables collected on money laundering are:

- predicate offence for money laundering;
- *modi operandi*;
- suspicious transaction reports.

Predicate offence for money laundering: these are above all drug trafficking, robbery and murder (An Garda Siochana, 2001).

Modi operandi: traditionally, criminals have sought to use the border to cover their money trail by transferring funds between accounts into different jurisdictions. They also utilise bureaux de change to exchange their money between Euros and Sterling to disguise its origins. Criminals also make use of ‘shell’ companies. In addition, the purchase of significant assets, notably properties, in another jurisdiction is perceived as a means of concealing criminal wealth (An Garda Siochana, 2003).

Suspicious transaction reports: Garda Siochana’s data on the number of suspicious transaction reports are in Table 10.

Table 10. Number of suspicious transaction reports in Ireland in the period 1999–2003

	1999	2000	2001	2002	2003
Suspicious transaction reports	1421	1803	3040	4398	4254

SOURCE: An Garda Síochána (2002 and 2003).

These reports increased in the last years. The 69% increase in 2001 can be attributed to a number of factors including changes in legislation and an increased awareness of the issue of money laundering. 2003 is the only year in which the number of suspicious transaction reports decreased, which could be caused by the introduction of the Euro (An Garda Síochána, 2003).

5.7 Italy

In Italy information about the infiltration of organised crime into the legal market is published by the Ministry of the Interior in its annual report on the state of security. The report underlines a diversification of the activities carried out to infiltrate the legal market by the various organised criminal groups. So:

- *Cosa Nostra* usually infiltrates construction industries and public procurement;
- *Camorra* prefers the real estate sector, the construction sector as well as commercial activities (auto-vehicle market, food market and clothing trade) and investments in the tourist and hotel business;
- *'ndrangheta* penetrates the legal market through public procurement and mainly chooses the real estate sector and commercial investments;

Considering the paucity of this information it is interesting to look at the information collected on money laundering by the same Ministry (Ministero dell'Interno, 2004).

The variables collected on **money laundering** in Italy include:

- suspicious transaction reports;
- arrests;
- seizures.

Suspicious transaction reports: during the period July 2001–June 2004 the suspicious transaction reports were 2235, registering an increase of 17.4% compared to the period July 1998–June 2001 (Ministero dell'Interno, 2004: 103).

Arrests: during the period July 2001– June 2004 the number of arrests was 292, registering an increase of 12.7% compared to the previous years.

Seizures: during the period July 2001– June 2004 seizures for money laundering amounts to 332064300 euros, registering an increase of 64.1% compared to the previous years.

5.8 Luxembourg

In Luxembourg nothing is disseminated on how organised crime penetrates the legal economy.

The following variables are collected on money laundering:

- predicate offence for money laundering;
- suspicious transaction reports;
- *modi operandi*.

Predicate offence for money laundering: this is trafficking in narcotics and psychotropic substances (Cellule de Renseignement Financier, 2003).

Suspicious transaction reports: during the period 1999–2002 there was an increase of the number of suspicious transaction reports (Cellule de Renseignement Financier, 2003).

Modi operandi: the financial sector offers some methods used to launder money, especially insurance companies and exchange bureaux (Cellule de Renseignement Financier, 2003).

5.9 Portugal

In Portugal nothing is disseminated on how organised crime penetrates the legal economy.

The following variables are collected on money laundering:

- predicate offence for money laundering;
- *modi operandi*.

Predicate offence for money laundering: this is trafficking in narcotics and psychotropic substances (Ministério da Administracao Interna, 2000).

Modi operandi: the financial sector offers some methods used to launder money, especially insurance companies and exchange bureaux (Ministério da Administracao Interna, 2000).

5.10 Spain

In Spain nothing is disseminated on how organised crime penetrates the legal economy.

The most relevant publication regarding money laundering activity are the statistics published by the Executive Service of the Commission for the Prevention of Money Laundering (SEPBLAC). SEPBLAC combines the roles of: the authority that enforces compliance with the Prevention Act 1993 by the bodies and persons subject to mandatory reporting, the authority that gathers and analyses reported information on suspicious transactions, and an investigative police unit.

The following variables on money laundering activity are collected by SEPBLAC and FATF:

- predicate offence for money laundering;
- *modi operandi*;
- money laundering cases;
- suspicious transaction reports.

Predicate offence for money laundering: according to FATF illicit drug trafficking, forgery, and swindling are the predominant sources of money which is laundered in Spain (FATF, 1999).

Modi operandi: according to FATF these include money-changing at banks or bureaux de change, commingling of illicit funds with money generated by lawful activities, and international transfers with incomplete or fictitious data. In addition, the cross-border conveyance of cash as well as investments in the real estate sector through front companies, especially in tourist areas are used (FATF, 1999).

Money laundering cases: SEPBLAC collects information on money laundering cases initiated, concluded and under way 2000–2003. The following table shows the number of money laundering cases per processing step and year:

TABLE 11. NUMBER OF MONEY LAUNDERING CASES INITIATED, CLOSED AND UNDER WAY IN SPAIN IN THE PERIOD 2000–2003

	2000	2001	2002	2003
Initiated	1109	1245	1799	2228
Closed	1113	1183	1719	2106
In process	792	854	934	1056

SOURCE: SEPBLAC (2002 and 2003).

Suspicious transaction reports: according to SEPBLAC, the number of suspicious transaction reports increased in the last years. There were 989 in 2001, 1259 in 2002, and 1521 in 2003. This could be explained by the improved measures adopted to face the money laundering phenomenon (SEPBLAC, 2003).

5.11 The Netherlands

In the Netherlands very little information is disseminated on how organised crime penetrates the legal economy. This shows that there is no evidence of attempts made by criminal organizations to establish power position in economic sector, for example in hotel and catering industry or processing of waste industry. These organizations use the existing legal flows of goods and money for their logistic activities. Also there are fixed symbiotic relations between criminal organisations on the one hand and legal businesses on the other, such as transport firms, buyers of smuggled cigarettes, false designer clothing and illegal CDs. Individual legal firms are involved in transactions with criminal organisations, but there is no evidence of their strong position or disruption of specific legal markets (Kleemans et al., 2002).

The most relevant publication on **money laundering** is the MOT (Unusual Transaction Reporting Office) Annual Report, which collects the following variables:

- predicate offence for money laundering;
- *modi operandi*;
- suspicious transaction reports.

Predicate offence for money laundering: the major sources of illegal proceeds in the Netherlands are fraud and drug trafficking (MOT, 2004).

Modi operandi: the carriage of cash across borders with neighbouring countries has increased, as has the use of money transfer businesses. Whilst the number of bureaux de change has decreased significantly, other areas of money laundering concern remain. One issue is the inflow of money from countries of the former Soviet Union and Eastern Europe, whilst another is the use by representative offices of certain foreign banks of "collection accounts" to send money on behalf of their nationals back to the country of origin (MOT, 2004).

Suspicious transaction reports: this is in Table 12:

TABLE 12. NUMBER OF SUSPICIOUS TRANSACTIONS IN THE NETHERLANDS IN THE PERIOD 1999–2003

	1999	2000	2001	2002	2003
Suspicious transactions	10803	11023	20233	24741	37748

SOURCE: MOT (2004).

Overall in 10 years' time the number of suspicious transactions has increased more than eighteenfold.

5.12 The United Kingdom

In the United Kingdom nothing is disseminated on how organised crime penetrates the legal economy.

The most relevant publication on **money laundering** is the NCIS Annual Threat Assessment, which collects the following variables:

- predicate offence for money laundering;
- *modi operandi*;
- suspicious transaction reports.

Predicate offence for money laundering: although drugs is still the major source of illegal proceeds for laundering, proceeds of other offences such as financial fraud and the smuggling of excise goods appear to have become increasingly important (NCIS, 2003).

Modi operandi: it appears that criminals make use of more than one method of laundering at once. In 2002 purchasing property in the country was the most popular method. Investment in front companies or high cash businesses came next, followed by spending the proceeds to fund a lifestyle, and by transferring cash overseas using bureaux de change and money transmission agencies. Roughly one in 10 groups was known to use bank accounts in the UK and similar proportions used accounts overseas or transmitted cash through

couriers. Fewer groups invested in property overseas or in financial products and a small percentage used gambling or alternative remittance systems (for example, 'hawala') (NCIS, 2003).

Suspicious transaction reports: between 2000 and 2002 the numbers of reports more than doubled year on year to over 60000. The numbers have continued to grow throughout 2003.

With reference to **corruption**, the variable collected is:

- use of corruption.

Use of corruption: organised criminals use corruption to secure help from people with access to information, influence or access they want or need. Around a quarter of identified serious and organised crime groups are reported to see the involvement of corrupt behaviours it (NCIS, 2003). NCIS reported that organised criminals involved in both smuggling and trafficking make extensive use of bribery and corruption to support their activities. They exploit border guards, police and customs officers, and a range of political and official contacts in order to operate unhindered (NCIS, 2003: 39).

6. CONCLUSIONS

The two previous sections reviewed European and MS data sources on the activities carried out by organised crime in the legal market and identified, for each activity, the variables collected and disseminated by these data sources. The identified variables and the related modalities, if any, are now summed up in the table below.

TABLE 13 VARIABLES ON OC ACTIVITIES IN THE LEGAL MARKET COLLECTED AND DISSEMINATED AT EU AND MS LEVEL

OC ACTIVITIES IN THE LEGAL MARKET	QUALITATIVE AND QUANTITATIVE VARIABLES ON OC ACTIVITIES IN THE LEGAL MARKET	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
OC INFILTRATION IN THE LEGAL MARKET IN GENERAL	INFILTRATED ECONOMIC SECTORS	EU OCSR	Variable not collected or not disseminated	Belgium	Number of OC investigations per economic sector infiltrated (e.g. import-export; transport; hotels, restaurant and catering)
		CoE OCSR	Variable not collected or not disseminated	Italy	Infiltrated economic sectors per OC group
				Other MSs	Variable not collected or not disseminated
	USE OF BUSINESS STRUCTURES	EU OCSR	Variable not collected or not disseminated	Germany	Percentage of investigated cases involving the use of commercial or business-like structures
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
	OC INFILTRATION IN THE REAL ESTATE SECTOR	MODI OPERANDI	EU OCSR	Variable not collected or not disseminated	Austria
CoE OCSR			Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
REAL ESTATE PROPERTIES PURCHASED BY OC MEMBERS		EU OCSR	Variable not collected or not disseminated	Austria	Number and value of real estate properties
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
OC INFILTRATION IN THE DIAMOND SECTOR	CRIMINAL ACTORS	EU OCSR	Variable not collected or not disseminated	Belgium	Individuals/legal entities active in the diamond business with Belgian bank accounts
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
	MODI OPERANDI	EU OCSR	Variable not collected or not disseminated	Belgium	Various (e.g. cash deposits, international money transfers; forgery of documents, etc.)
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
ENVIRONMENTAL CRIMES	MODI OPERANDI	EU OCSR	Variable not collected or not disseminated	Germany	Supraregional/international links; use of business-like procedures, etc.
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated

OC ACTIVITIES IN THE LEGAL MARKET	QUALITATIVE AND QUANTITATIVE VARIABLES ON OC ACTIVITIES IN THE LEGAL MARKET	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
MONEY LAUNDERING	PREDICATE OFFENCE	EU OCSR	Various (e.g. drug trafficking, fraud)	Belgium Finland Germany Ireland	Various (e.g. trafficking in people, prostitution) Various (e.g. fraud) Various (e.g. drug trafficking, smuggling) Various (e.g. drug trafficking, robbery)
		CoE OCSR	Various (e.g. drug trafficking, fraud, etc.)	LUX Portugal Spain NL UK Other MSs	Various (e.g. drug trafficking) Various (e.g. drug trafficking) Various (e.g. drug trafficking, forgery) Various (e.g. fraud, drug trafficking) Various (e.g. drug trafficking, fraud, smuggling) Variable not collected or not disseminated
	MODI OPERANDI	EU OCSR	Various (e.g. cash payments, money transfers)	Austria Belgium	Various (e.g. Hawala-bankings systems) Various (e.g. banking transactions)
		CoE OCSR	Various (e.g. exchange of money for foreign currency, fictitious investment earnings, money transfers)	Finland Germany Ireland LUX Portugal Spain NL UK Other MSs	Various (e.g. currency exchange, money transfers) Various (e.g. money transfers, investment in material assets and real estate) Various (e.g. bureaux de change, shell companies) Various (e.g. insurance companies, exchange bureaux) Various (e.g. insurance companies, exchange bureaux) Various (e.g. bureaux de change, international transfers) Various (e.g. bureaux de change and money transfers) Various (e.g. investments in front companies, bureaux de change) Variable not collected or not disseminated

OC ACTIVITIES IN THE LEGAL MARKET	QUALITATIVE AND QUANTITATIVE VARIABLES ON OC ACTIVITIES IN THE LEGAL MARKET	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
MONEY LAUNDERING	COUNTRY OF ORIGIN OF THE SUSPECTS	EU OCSR	Variable not collected or not disseminated	Germany	Groups' nationality (e.g. German, Turkish)
		CoE OCSR	EU/non-EU Member States	Other MSs	Variable not collected or not disseminated
	MONEY LAUNDERING CASES	EU OCSR	Variable not collected or not disseminated	Spain	Number of ML cases initiated/closed/under way
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
	SUSPICIOUS TRANSACTION REPORTS	EU OCSR	Number of suspicious transaction reports	Austria	Number of suspicious transaction reports
				Belgium	Number of suspicious transaction reports; etc.
				Denmark	Number of suspicious transaction reports
				Finland	Number of suspicious transaction reports
				Germany	Number of suspicious transaction reports
		CoE OCSR	Number of suspicious transaction reports	Ireland	Number of suspicious transaction reports
				Italy	Number of suspicious transaction reports
				LUX	Number of suspicious transaction reports
				Spain	Number of suspicious transaction reports
				NL	Number of suspicious transaction reports
	ARRESTS	EU OCSR	Variable not collected or not disseminated	Austria	Number of arrests
				Italy	Number of arrests
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
	SEIZURES	EU OCSR	Variable not collected or not disseminated	Austria	Number of seizures
		CoE OCSR	Variable not collected or not disseminated	Italy	Amount seized (€)
				Other MSs	Variable not collected or not disseminated
HOUSE SEARCHES	EU OCSR	Variable not collected or not disseminated	Austria	Number of house searches	
	CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated	

OC ACTIVITIES IN THE LEGAL MARKET	QUALITATIVE AND QUANTITATIVE VARIABLES ON OC ACTIVITIES IN THE LEGAL MARKET	EU DATA SOURCES	MODALITIES OF THE VARIABLES	MS DATA SOURCES	MODALITIES OF THE VARIABLES
CORRUPTION	USE OF CORRUPTION	EU OCSR	Yes/No	Denmark	No modalities indicated
				Germany	Inside/Outside Germany
		CoE OCSR	At national/international level, per MS	UK	Percentage of identified OC using corruption
				Other MSs	Variable not collected or not disseminated
	CORRUPT SECTORS	EU OCSR	No modalities indicated	MSs	No modalities indicated
		CoE OCSR	Various categories of infiltrated sectors (e.g. public administration, justice system, political world, etc.)		
	ORIGIN OF THE OC GROUPS INVOLVED	EU OCSR	Variable not collected or not disseminated	Germany	Domestic/Foreign groups
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated
	MODI OPERANDI	EU OCSR	Variable not collected or not disseminated	Germany	Use of existing contacts (e.g. acquaintances, friends, etc.)
		CoE OCSR	Variable not collected or not disseminated	Other MSs	Variable not collected or not disseminated

The table in the previous pages suggests the following comments.

First, *direct information on the organised crime activities in the legal market* included in the MS data sources herein reviewed is extremely scarce (see above, page 21). When data are collected and disseminated on variables directly related to the infiltration of organised crime into the legal market, this is done only by one or by a very limited number of MSs. So, for example, the only data on the OC infiltration in the real estate sector are collected and disseminated in Austria, in relation to the variables ‘real estate properties purchased by OC members’ and ‘modi operandi’. Equally, data on the OC infiltration in the diamond sector are only collected and disseminated in Belgium, in relation to the variables ‘criminal actors’ and ‘modi operandi’. No information of this type can be found in the two EU data sources here analysed.

With reference to *indirect information on the organised crime activities in the legal market*, which consisted, in the framework of this paper, in information on two proxy crimes for the criminal infiltration in the legal markets, i.e. money laundering and corruption, the following conclusions can be drawn.

With regard to the MS level, great differences can be noted among MSs, both in the variables and in the related modalities. In fact:

- with the only exception of data collected on some variables related to money laundering (i.e. ‘suspicious transaction reports’, ‘predicate offences’ and ‘modi operandi’), which are collected by almost all MSs, in most cases information on a given variable is collected and disseminated only by one or by a very limited number of MSs. The remaining MSs either do not collect or do not disseminate any data on the related variable. So, for example, in relation to money laundering, information related the variable ‘country of origin of the suspects’ is collected and disseminated only by Germany, while data on the variable ‘money laundering cases’ are only collected by Spain. In relation to corruption, information related to the variable ‘origin of the OC groups involved’ is again collected only by Germany. The result is a very fragmented knowledge on OC in the EU;

- in those cases where some MSs collect data on the same variable, different modalities are used. For example, in relation to money laundering, both Austria and Italy collect data on the variable ‘seizures’ but, as far as the modalities of the variable are concerned, Austria focuses on the number of seizures, while Italy focuses on the amount seized (in euro). In many cases, also, the modalities are labelled as ‘various’, which may imply differences among MSs.

With regard to the EU level, a certain uniformity can be noted on the variables on which data are collected. Differences arise however as far as the modalities of the variables are concerned. So, for example, in relation to money laundering, both the reports by Europol and by the Council of Europe collect information on the vast majority of the variables indicated in the tables, the only exception being the variable ‘country of origin of suspects’, in relation to which data are collected only from the CoE.

However, different modalities are sometimes used to collect data on the same variable. So for example, in corruption, different modalities are used to collect information on the variable ‘use of corruption’, where Europol focuses on whether or not use of corruption occurs, while the Council of Europe focuses on the use of corruption at national/international level per MS.

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ANNEX 5

REVIEW AND ANALYSIS OF CASE-STUDIES HIGHLIGHTING THE INFILTRATION OF ORGANISED CRIMINAL GROUPS INTO THE LEGAL MARKETS, WITH SPECIAL REGARD TO THE MANUFACTURING INDUSTRIES

By:

- Pierre Kopp, Centre National de la Recherche Scientifique (*coordinated by*)
- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Aretì Antoniou, Università Cattolica del Sacro Cuore
- Fabien Besson, Centre National de la Recherche Scientifique
- Michele Brunelli, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

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1. GENERAL FOREWORD

This document is devoted to the study of organized crime's infiltration of the music industry. This infiltration is multi-faceted. It has been established that organised crime uses the music world as much for laundering drug traffic revenue as to obtain revenue from counterfeit concert tickets. However, the main form of interaction between organised crime and the music and DVD industry is the production of counterfeit CD and DVDs. , This pirating has reached a scale which justifies our study as much for the size of the phenomena, as for the amount of revenue generated.

In order to deal thoroughly with the phenomena of links between organised crime and the music and DVD industries, we have reviewed theoretical literature on the subject and consider two case studies. This is why our plan reviews internet literature (2) and academic literature (3) on the subject. It then explores the two case studies in depth. The first (4) takes place in Italy and draws some conclusions on the activities of a large scale criminal group, the second (5) takes place in Northern Ireland and is devoted to the study of small scale criminal organisation.

2. INTERNET LITERATURE SURVEY⁷

2.1 Foreword

This section is a part of the deliverable for WP 5 of Project IKOC – Improving Knowledge on Organised Crime. This part of WP 5 is aimed at the review and analysis of the online literature on the infiltration of organised criminal groups into the legal markets, particularly the music sector. This in order to understand how organised crime targets the sector and the modus operandi used.

In order to do this, this paper is organised as follows. Beginning from the hypothesis that the main illicit activity conducted by organised crime in the music sector is music piracy, Section 2 gives a general overview on how organised crime infiltrates the music sector and distinguishes two different forms of the involvement of organised criminal groups in this activity. On the basis of this classification, the section goes on to analyse the criminal groups involved in detail. These include both EU (15 original Member States, as the approved project) and other EU and non-EU groups for their links with the former and support in the production and distribution of counterfeit products. Section 3 presents some estimates of the overall economic impact of the infiltration of organised crime in the music sector. Some conclusions are drawn in Section 4.

2.2 The infiltration of organised crime in the music sector: different groups, different modi operandi

The infiltration of organised crime in the music sector is becoming more and more evident these days and mainly in the form of music piracy, defined as any form of unauthorized duplication and/or distribution of music.

Evidence of the link between music piracy and organised crime became apparent in the late 1990s as the CD format offered criminal groups a simple, cheap and highly lucrative entry into mass-scale illegal trade (IFPI, 2000). From 1999 until today a number of cases have been uncovered showing the convergence between CD piracy and other forms of serious and organised crime. By going through all these cases information becomes more evident about how organised crime infiltrates the music sector (Alliance, 2004). In particular, it becomes evident that the involvement of organised crime in such criminal activity takes two main forms, each marked by a different modus operandi. These are as follows:

⁷ This paper was produced by the Università Cattolica del Sacro Cuore as partner of CNRS, leader of the WP. It has been directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Scientific Manager of the Project. It was written by Areti Antoniou, Ph.D. candidate at the Università Cattolica del Sacro Cuore, who elaborated a first draft, and Barbara Vettori, who revised it. Apart from the authors, on behalf of the Università Cattolica del Sacro Cuore, the following researcher cooperated in its production: Francesca Romana Pandolfi.

- 1) Traditional music piracy: this is the profit-making non-authorized duplication of sounds of legitimate recordings, without having obtained the consensus of the copyright holder. These are usually the labels or the author of the text/music or the singer. The recording quality of the CDs belonging to this category is usually quite bad, packaging is very different from the original. Covers are usually in black and white or low quality coloured home-made prints or photocopies. No bar code is shown on the package, except if it is a photocopy of the original cover/back. The printing on the inserts tends to be blurry and the colour is poor and faded . Often recorded on CD-Rs (Recordable Compact Discs characterized by a greenish or bluish tint on the underside of the disc. Shrink-wrap is not factory quality (loose and poorly applied; sometimes enclosed in a cellophane envelope). Insert cards are often improperly trimmed and printed on thin, poor quality paper, and are often one-sided. True name and address of the manufacturer (recording label) is not shown, is fictitious, or is incorrect. Normally sold on the street by non-EU immigrants at a cost of 5 Euros each. The main features of traditional music piracy are: local production of CDs and widespread distribution, through street vendors.
- 2) CD Counterfeiting: this is not only the unauthorized duplication of original sounds but also the original artwork, label, trademark, and packaging of a legitimate recording. This is the case of the so-called 'pressed CD's', which refers to the use of those presses used in the common music industries. The counterfeit product is often recorded on CD-Rs, which are characterized by a greenish or bluish tint on the underside. There is a silver backed CD-R, which is rarely used in music piracy because of the cost. The packaging is very similar to the original one and is difficult - and sometimes even impossible - to distinguish the counterfeit CD from the original.

Two main *modi operandi* can be distinguished in this category,:

- (i) *counterfeiting of CDs from illegal outlets*, where counterfeiting is entirely managed and carried out by organised criminal groups, with no connection with the legal market;
- (ii) *counterfeiting of CDs from legal outlets*, where the legal industries producing CDs manage a parallel illegal production of CDs, these are sold to local criminal organisations and distributed by them.

It is worth mentioning that online literature also suggests the existence of criminal activities supporting music piracy, namely the *illegal production and distribution of CD-Recordables*. This involves the illegal production and distribution of CD-Rs (Recordables Compact Discs) to those organised criminal groups who use them as cheap raw material for conducting either traditional music piracy or counterfeiting of CDs.

In accordance with the above classifications, the organised criminal groups in each of the two forms of involvement in music piracy will be presented in the following subsections. Subsection 2.1 will present organised criminal groups involved in traditional music piracy and subsection 2.2 those involved in counterfeiting.

Subsection 2.3 will deal with support activity to music piracy consisting of illegal production and distribution of CD-Recordables.

2.2.1 Organised criminal groups involved in traditional music piracy

Much of the traditional music piracy business seems to be an important link in the chain of criminal activities, since it often exploits the same routes and is a major source of funding both for terrorism and traditional organised crime's activities (e.g. drug trafficking, money laundering) (IFPI, 2001).

The main organised criminal groups taking part in such activity are as follows:

- Italian organised criminal groups;
- Spanish organised criminal groups;
- Greek organised criminal groups;
- Northern Irish organised criminal groups.

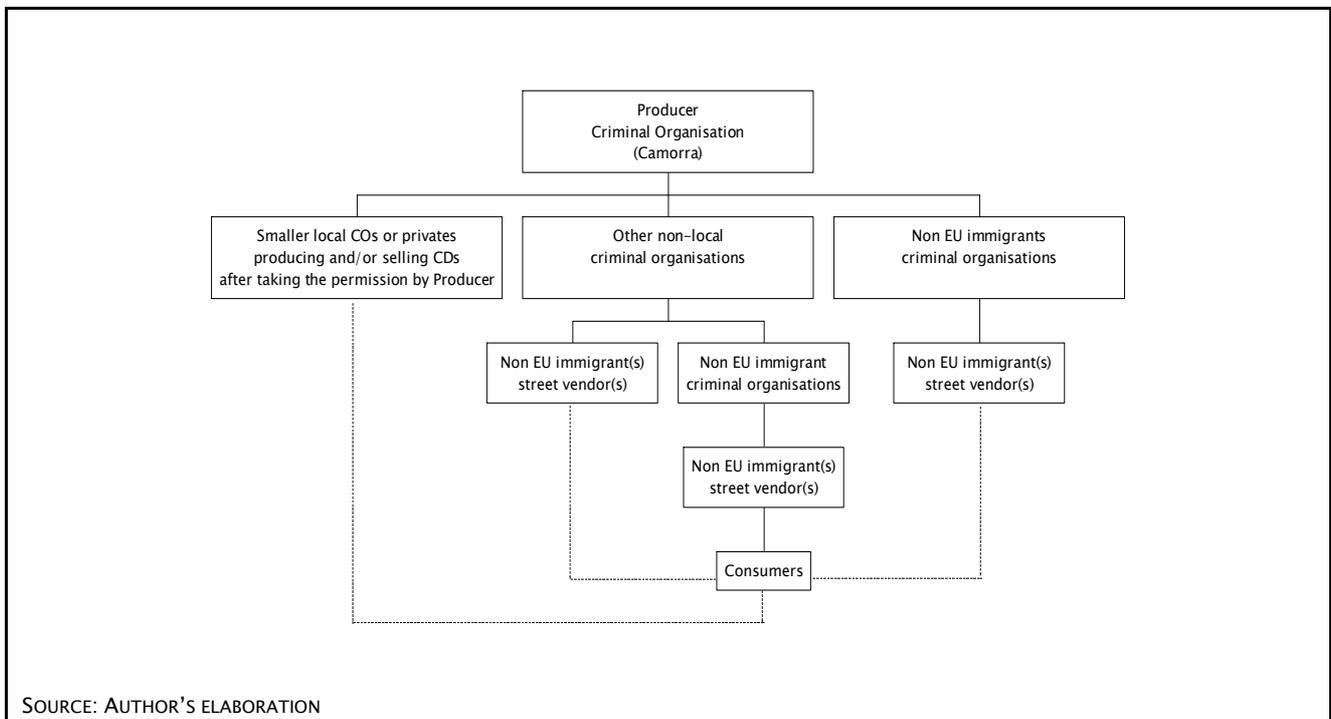
The involvement of these groups in traditional music piracy will be analysed in the following paragraphs.

Italian organised criminal groups

In Italy illegal production of CDs is concentrated in the southern part of the country, where 90 percent of the music market is managed by criminal organisations. According to IFPI, one hundred Camorra gangs are active in this area (IFPI, 2000). An FBI report on organised crime confirms Camorra involvement in traditional piracy activity. The involvement of organised crime in music piracy was corroborated by the court testimony of a Mafia boss, who exposed the role of Italian organised crime in music piracy, telling the court that the Camorra earned Euros100,000 per week from drug trafficking, extortion and pirating musical recordings (IFPI, 2002). The production of copied CDs requires a low level of technology. CD-burners are useful for carrying out this kind of business, even mass duplication (IFPI, 2001).

The production chain is very fragmented. Production process of compact disks normally takes place in small laboratories, cellars or even in private homes. In the Italian case, small private producers - linked to criminal organizations (CO) - or small local criminal organizations must obtain permission from the main CO ruling their area to produce and commercialise copied CDs. The permission is often subject to payment of a one-off payment or on a percentage of the gains. Figure 1 presents the traditional Camorra piracy distribution structure .

FIGURE 1. TRADITIONAL MUSIC PIRACY BY CAMORRA: DISTRIBUTION CHAIN



However it should be pointed out that Camorra gangs also collaborate in the importation and local distribution of counterfeit CDs. In particular, various clans invest the proceeds of drug distribution and contraband in counterfeit CDs and use their connections with gangs in Eastern Europe to import large quantities of counterfeit CDs from countries such as Bulgaria and Ukraine (FBI, 2002).

Spanish organised criminal groups

Spain stands out as one of the countries most affected by piracy. A number of uncovered cases confirm that a sophisticated music piracy network exists in Spain, operating within hierarchical structures. In most cases, these groups rent apartments where their workers churn out pirate discs on stacks of replication machines called CD-R towers. While Madrid is a major focus point for pirate activity, the syndicates distribute copied discs all over Spain, often aimed at the tourist trade. The so-called 'manteros' (blanket men) can be found

selling discs in most city centres, at street markets and beach resorts. The discs generally have low quality photocopied inlay cards and often no printing on the actual discs.

In the course of one investigation that culminated in a series of raids in apartments in Madrid on June 4, 2003, 13 people were arrested. Over 46,000 music and video CD-Rs were seized as well as duplicating machines and 200,000 blank CD-Rs (IFPI, 2004).

As international organised crime networks are involved in the copying and distribution of counterfeit CDs, Spanish organised groups appear to be part of them (IFPI, 2003).

Furthermore, traditional music piracy activities in Spain seem to be linked to the funding of terrorist activities. Specifically, a sophisticated music piracy network was dismantled in Spain with the arrest of 68 people in May 2001. The syndicate used illegal Bengali immigrants as cheap labour, burning CD-Rs for distribution in Spanish Connections between organised American pirates and Middle Eastern terrorist groups (IFPI, 2002).

Greek organised criminal groups

Illegal production of sound recordings in the CD-R and DVD-R formats is very serious in Greece. There appear to exist organised manufacturing and distribution of pirate CDs by criminal groups, operating within hierarchical structures. The CD trafficking is held by Nigerians. (Pierre check this sentence-

Greek groups appear to use music piracy to fund more serious crimes. For example, Greek police arrested two men in August 2000 over a string of bomb attacks. They were members of a protection racket using CD piracy to fund serious crime. In searches ammunition and explosives were found alongside 500 CD-Rs and duplicating equipment (IFPI, 2002).

Northern Irish organised criminal groups

It has been estimated that 34% of criminal organisations in Northern Ireland are involved in producing copied CDs, along with other pirated products. Moreover, extremist or terrorist groups, for example in Northern Ireland, are partly funded by music piracy.

In particular, The Irish Republican Army (IRA) is involved in music piracy activities. At Interpol's first international conference on intellectual property, held in Lyons on 15th and 16th November 2001, the Irish police said that terrorists in Northern Ireland were selling pirated products such as CDs, games consoles, video cassettes and designer clothing in order to finance weapons purchases. In January 2003, the Belfast press reported that a Republican activist group was planning a bomb attack on a market well known for pirated products, the target being a police surveillance unit dealing with counterfeit and pirate activities (Alliance, 2004). The Irish press has also reported that paramilitary groups readily resort to fraud, extortion, contraband, drug trafficking, armed robbery, production of pirated CDs, as well as distribution of counterfeit CDs, to fill their coffers with hundreds of millions of pounds per year (IFPI, 2002a). More specifically, they were involved in "forging banknotes and credit cards and pirated CDs, electronic goods and designer clothing" (Union des Fabricants, 2004).

2.2.2 Organised criminal groups involved in counterfeiting of CDs

This is a typical phenomenon affecting Northern and Central Europe where we usually find counterfeit products instead of copied CDs. The technology levels required for counterfeiting a CD are higher than those used by simple piracy, that's why the major part of these CD's are produced in plants. There are more than 700 known CD plants worldwide. Some of them act in collusion with local criminal organizations, some others belong or directly depend upon them (IFPI, 2004).

Based on the classification of two *modi operandi* of counterfeiting CDs indicated in the beginning of this section, we have: a) the counterfeiting of CDs from illegal plants, where the biggest producer of industrially made counterfeited CDs nowadays appears to be Russia, pressing and smuggling them into the legal European market, while in second place, follows Ukraine and b) counterfeiting of CDs from legal plants, this is the case of Asian organised criminal groups, such as Pakistan and India.

Before going into detailed description of these groups in the following subsections, it should be clarified that Russian Federation/CIS's organizations don't represent the only threats to EU legal market. Many other former Iron Curtain countries , such as Bulgaria, Estonia, Poland, Hungary and Romania have contributed to continued growth in overall production capacity for optical discs in Eastern Europe via their new replication facilities (IFPI, 2001b). The natural outlet for their production, in addition to the internal market, is the Western European market.

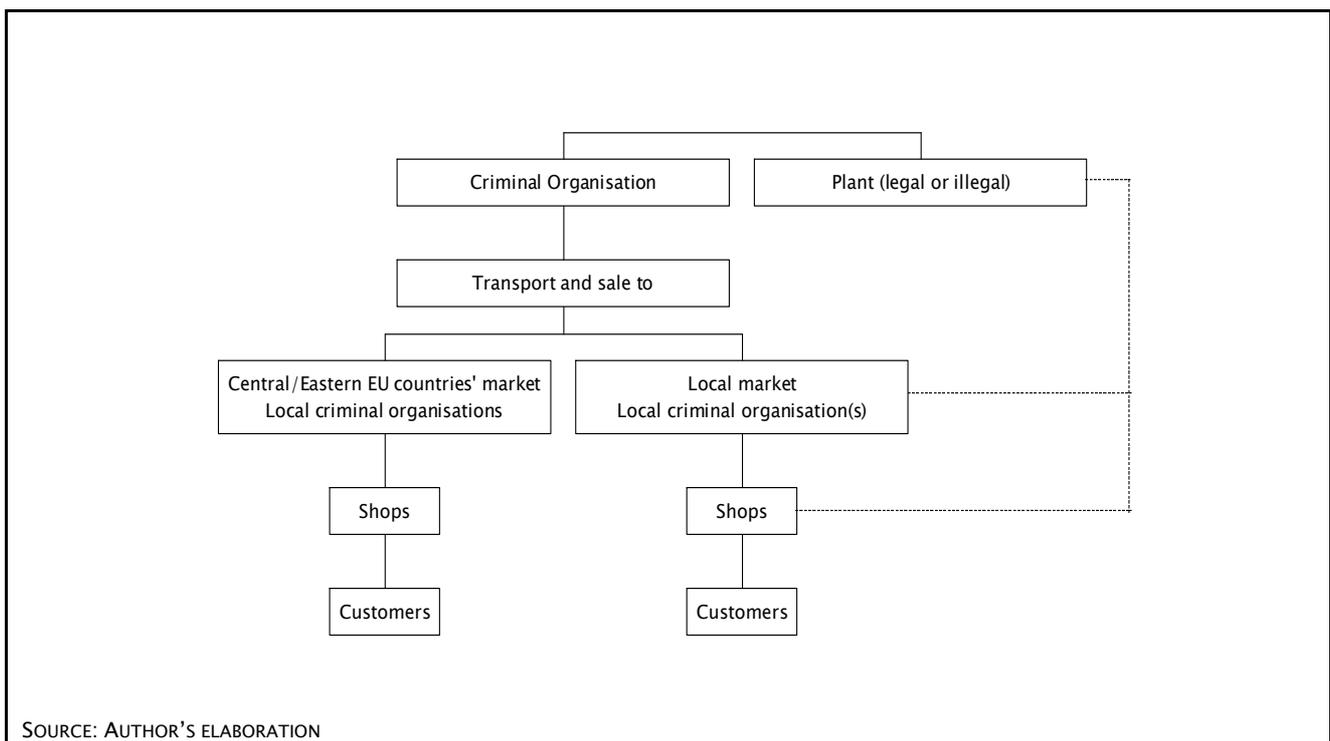
Russian and Ukrainian organised criminal groups

Russian organised criminal groups appear to be one of the world's largest producers and exporters of pirated CDs. As reported by IFPI (2004), a 64% piracy rate in 2003 has devastated the domestic Russian market, and exports of pirated Russian discs are causing serious damage to the legitimate music markets throughout Europe and the Middle East. Russian pirated discs have been traced to more than 26 countries.

In 1996 there were two known CD plants in Russia. Today there are 33 plants with others ready to come on line. Production capacity has nearly tripled over the past three years. Russia's annual manufacturing capacity now stands at 342 million CDs and 28 million DVDs, despite the fact that only 30 million legitimate music CDs were sold in Russia in 2003 (IFPI, 2004).

CDs transportation routes are the traditional routes normally used to illegally import tobacco, drugs, forged banknotes and arms. The collaboration of local criminal organisations, which are linked to Russian Mafia, facilitate the distribution of the counterfeit CDs to the legal market (IFPI, 2001a) (see Figure 2).

FIGURE 2. COUNTERFEITING OF MUSIC PRODUCTS BY RUSSIAN OC GROUPS: DISTRIBUTION CHAIN



Ukrainian groups appeared to be more active in the past in the manufacturing and exportation of pirated CDs, before Russia took over as Europe's most serious problem territory. Before that Ukraine appeared to be making massive exportation of pirated CDs to more than 20 European countries continuing throughout the year, particularly affecting markets in the CIS, Poland, the Baltics and Bulgaria, where piracy levels were excessively high (IFPI, 2001).

Asian organised criminal groups

The Asian case appears to be rather particular in as much as the counterfeit CDs are produced in the same plants that produce the legal CDs. As there are too many plants worldwide (about 700, as stated before) producing CDs and the demand is not able to absorb all their production capacity, this overcapacity production problem causes a need for money and obliges the legal plants to counterfeit their products if they want to survive. That doesn't change the fact, however, that it is an illegal activity. This is the case in Pakistan and India, where legal plants produce and sell CDs, not only to the legal market, but also to local criminal organisations (IFPI, 2002).

In particular, Pakistan appears to be another production leader. The total production output of its eight known optical disc plants in Pakistan in 2003 has been estimated at 180 million discs (+50 percent increase compared to the previous year) (IFPI, 2004). IFPI states that "with an estimated total annual domestic demand of only 20 million discs, there is evidence that the remaining plant production is being exported to overseas markets".

Furthermore, the Canadian intelligence services confirm that, "gangs of Asian origin are extremely active in large-scale manufacturing and distribution of counterfeit credit cards, software and electronic entertainment media such as compact discs (CDs) and digital versatile discs (DVDs)". In Spain, a crackdown involving thirteen raids in the Madrid region led to the seizure of 230,000 blank and recorded CDs, 346 CD-R burners, 515,000 jewellery boxes, 210,000 parquet items and €48,000 in cash. The operation led to the arrest of forty people, including the leaders of the organisation, who were Chinese (Union des Fabricants, 2004).

2.2.3 Organised criminal groups involved in illegal production and distribution of CD-Recordables

Another activity that is worth mentioning is the illegal production and distribution of CD-Recordables, because it appears to be supportive for music piracy.

As the purpose of the criminal organisations involved in music piracy, either traditional or counterfeiting, is to maximize the profit gained from their duplications of pirate CDs, instead of buying legally produced CD-Recordables, they prefer to acquire illegal CD-Recordables (CD-Rs), at a low cost, in order to reduce the already very low production costs and proceed with their duplication of pirate CDs (IFPI, 2003a). In a few words, they have their own illegal supply chain of CD-Rs.

In Asia, and specifically in the South East Asian countries, such as in the Philippines, exist, apart from the legal plants, also illegal ones producing CD-Rs, that are transported and sold to Russia or local criminal organizations, in order to proceed with the production of pirated CDs (IFPI, 2004b), as seen previously.

2.3 The economic impact of the infiltration of organised crime in the music sector

Various estimations have been made of the economic turnover of music piracy, giving a rather good idea of the economic impact that organised criminal activity has on the legal music market. Here we present some of the most recent estimations.

In 2003 the value of the pirate market has been estimated at 3,7 billion Euro (IFPI, 2004a). In particular, an estimated 35 percent of music CDs sold in 2003 were pirate products. When cassettes are included, piracy amounts to 40 percent of all music products sold worldwide. With declining cassette sales, over two-thirds of pirate products sold is now on disc - either an illegal factory pressed disc or a CD-R copied from an original for commercial sale (IFPI, 2004).

Also, Interpol estimates that counterfeiting yields more than 500 billion Euro a year for criminal organisations (Union des Fabricants, 2004).

Another example of the high profitability of the activities carried out by organised criminal groups in the music sector, is an assessment made recently by the Italian Federation of Music Piracy (FPM), of the economic turnover of music piracy for criminal organisations. According to this assessment for every 2,000 CDs produced criminal organisations have a net profit of 2,000 Euro, which is gained in just 12 hours.

2.4 Conclusions

In Europe traditional music piracy is permeated by an important feature: the geographical partition. Analysing the different kinds of piracy, a geographical partition of Europe can be drawn: in southern Europe – especially in the Mediterranean countries – piracy of sound recordings in the CD-R and DVD-R formats is most serious in Southern Europe, namely in Greece, Italy and Spain. These countries are victims of organised manufacturing and distribution of pirated CDs by criminal groups, operating within hierarchical structures. Furthermore, piracy is ruled by organised crime utilising CD-burners to copy and mass-produce CDs. Production chain is very fragmented. Production process of compact discs is normally done in small laboratories, cellars or even in private homes. The final product is put onto the market through the typical illegal routes commonly used for drug, firearms trafficking, or human smuggling, and commercialised by a controlled or independent network of small sellers. These are usually non-EU immigrants, as for example in Greece. CD trafficking is held by Nigerians, in Spain it is managed by Chinese and in Italy by Senegalese ethnic groups. It should be mentioned that some of these organised criminal groups appear to include music piracy activities—as described above; in order to fund other serious forms of crime, such as terrorism.

On the other hand, counterfeiting is a reality which belongs mainly to non-EU countries, such as Russia and Asia, even if there are a few examples from the new EU Member states. It appears, however, that transportation and distribution of the counterfeit CDs onto the legal EU market, is done with the collaboration of local organised criminal groups. So, this geographical partition is essentially due to the different levels of technology released among the countries and used by pirates, as well as the different influence or domination of the market by criminal organizations.

In the music sector criminal organizations are almost external factors. In fact criminal organisations usually act as ‘independent’ producers. As described above, counterfeiting production is realized in some plants. This underlines two main different realities: the first one is that criminal organisations have their own plants and they produce pirate CDs regularly. According to IFPI Senior officers, this is a dramatic reality, but there is no data on this phenomenon. The second reality belongs to the market and economic laws, where the overcapacity production problem causes a need for money and obliges the legal plants to counterfeit their products if they want to survive (Asian case).

Furthermore, the local criminal organisations appear to have their own supplychain of CD-Rs at low cost, produced by illegal plants based mainly in South East Asian countries, maximizing their economic turnover from music piracy.

Finally, it appears from various recently made estimations on the economic impact of such activities, that music piracy engenders a tremendous turnover for organised criminals and a massive economic impact on the legal market.

3. ACADEMIC LITERATURE SURVEY

3.1 Foreword

IFPI⁸ Chairman and chief executive Jay Berman said « Commercial music piracy dominates large swathes of the world's music markets. This illegal trade is funding organised crime, fuelling widespread corruption and costing governments hundred of millions of dollars in lost taxes.” (Glover, 2004).

This declaration well illustrates current concerns about problems of piracy and counterfeiting which touches the music industry at this time.

⁸ International Federation of the Phonographic Industry. This federation represents the majority of all record producers worldwide. It campaigns for adequate enforcement of copyright protected works and co-ordinates the anti-piracy activities of the recording industry worldwide. It lobbies governments to introduce adequate legislation and enforcement, collects information on music piracy and advises members on technical solutions for combating piracy. IFPI has also been involved in a number of investigations into the trade of infringing CDs and tapes and assists its members in preparing prosecutions.

Indeed, organized criminality quickly understood all the benefit it could draw from illegal activities which do not return in its traditional field of intervention (narcotics, prostitution...). This is why it seized opportunities for profits which were offered in counterfeiting activities. Thus, for approximately a score of years, its catalogue of activities includes more and more counterfeits and in past years the music industry did not avoid this phenomenon.

A counterfeit, by strict definition, is something that is forged, copied or imitated without the perpetrator having the right to do so, and with the purpose of deceiving or defrauding. Such rights are legally enshrined in patents (linked to inventions), copyright (which covers literary, musical and artistic work, and software), trademarks (which include words, pictures and symbols), industrial designs and other forms of intellectual-property protection.

Moreover, new technologies have broadened the range of goods that are vulnerable to copying, especially in the music sector. It has improved their quality, as well as lowering their cost of production. Where once counterfeits were cheap and correct imitations of the real thing, today their packaging and content (especially for digital products such as software, music CDs and film DVDs) often render them almost indistinguishable from the genuine article.

Consequently, compact disc piracy is much more damaging to today's industry than cassette piracy for a number of reasons (Ender Analysis, 2003):

- No loss of quality (it is now more difficult to label it as an inferior product);
- High margin CD product;
- Creates strong downward pricing pressure on retail CDs.

Substantial overcapacity in manufacturing plants and the availability of cheap second-hand equipment continue to drive growth in industrial, factory-based piracy. By definition, however, it involves a longer, more rigid supply chain and is more difficult to conceal.

CD-R piracy, moreover, has been driven by changes in technology and the widespread availability of cheap, fast CD-Rom burners and has a number of additional characteristics that set it apart from industrial piracy:

- Wider range of artists pirated, particularly local repertoire;
- Cheaper and more responsive to market demand;
- Increasingly important in more developed markets;
- Less sophisticated business, with much lower entry costs;
- Many, dispersed mobile operations - so more difficult to find and stop.

Digital media, in the form of computer CD-ROMS and entertainment CDs and DVDs are likely to grow extremely rapidly in the future, particularly as consumers eventually quit the technically inferior analogue replay equipment for entertainment titles. Piracy and counterfeiting have been limited in the past by the loss of sound quality and gain in noise from analogue copying. This gap, of implicit protection to copyright owners, has largely been closed by the arrival of cheap mass-market digital music copying and the gap for DVDs is about to be closed as the prices of media and copying drives are falling rapidly⁹. Moreover, growth is further facilitated by the expansion of the Internet which lowers the costs of information, facilitates file and knowledge sharing and is generally hard to police if illegal traders are sufficiently careful about their dealings.

Because of the speed of dissemination of copies of equal quality to the original, the audio-visual and data-processing supports are particularly plundered (13% of the interceptions). The rate of counterfeit of audio-visual industry is approximately 25%, in which the music sector occupies a large place (close to one disc in three sold in the world is pirated). If these world figures are refined, one could note a great disparity between

⁹ Moreover, factory-style bulk duplicators are now extremely cheap. In the UK they can be readily obtained for under 2,000 pounds and are around half the price they were five years ago in nominal terms.

continents¹⁰ (Boullanger, 2002, p. 207). Music is by nature a cultural mass-product, used on a universal mode. The international popular variety of great notoriety accounts for 95% of the market of musical piracy (Guillotreau, 1999, p.122). The statistics drawn up periodically by the IFPI reveal the extent of the phenomenon and the injury to the authors, artists interpreters and producers.

To achieve this introduction, from a more economic standpoint, according to Cameron (2002), unauthorised copying or usage of digital media products can be considered as “digi-crime”. The essential economic problem of digi-crime is the impact of technological progress making transaction costs of enforcement potentially too high, partly because of the low cost of infringement due to technological advance, for there to be a substantial amount of deterrence from punishment.

This survey focuses mainly on the infiltration of organized crime in the music industry. Thus, we do not specifically address software for-profit piracy. Recent contribution on this topic includes Slive and Berhardt (1998), Banerjee (2003), and Poddar (2003).

3.2 Types of criminal group activity

Music counterfeiting is almost as old as the music industry itself but the advent of the compact disc radically altered the nature of music piracy, providing the pirate producer with the opportunity to produce almost perfect copies of any recording. There is massive manufacture and international traffic of illegal CDs and DVDs and the recent proliferation of cheap recordable optical discs has served to create an easy and hard to detect means of mass duplication.

Annual world-wide pirate sales approach 2 billion units; worth an estimated \$4 – \$5 billion. Globally, 2 out of 5 recordings are pirate copies. Total optical disc manufacturing capacity (video / audio CDs, CD-ROMs and DVD) --stands at well over 20 billion units, having quadrupled in the past five years (IFPI, 2004).

Manufacturing capacity massively exceeds legitimate demand. This creates a business environment ripe for exploitation by criminal syndicates. Production costs may be as little as 35 cent. Given that the pirate producer has few or none of the overheads associated with genuine production, the profit margin is substantial.

The evidence of organized crime involvement in the music industry seems to be incontrovertible. Music piracy flourishes in those jurisdictions in which corruption is endemic. Major evasion of tax is inherent to these offences, causing huge losses in Government revenues. Illegal firearms have often been encountered during raids and in a number of investigations there is evidence that groups are also engaging in the trafficking of drugs. In some developing areas whole economies are being distorted internally leading to loss of revenue and the inability of legitimate domestic enterprise to flourish.

Buckles (2004) quotes the General Secretary of Interpol, Ron Noble, at their General Assembly in Budapest in September 2001, “Interpol recognizes the extensive involvement of organized crime and terrorist groups in intellectual property crimes. There is a real need for facilitation and coordination of international police efforts in combating this criminality, which operates across international borders and has very serious consequences for the public. Working in partnership with customs authorities, international agencies and the private sector, Interpol will provide an effective response to this growing threat.”

There is no doubt that in many jurisdictions the 'low risk --high reward' environment that characterizes the usual response to music piracy of government and law enforcement agencies encourages exploitation by organized crime groups. The greater probability is that the difficulty in penetrating and investigating their activities, coupled with the fact that piracy thrives in corrupt regimes, allows such groups to engage in piracy unhindered by any authority.

The music industry is absolutely committed to confronting the organized crime groups that now threaten the very survival of the music business. This industry now invests much energy and capital in this¹¹; it has a team of professionals comparable to the necessary investigative resource. However, this anti-piracy resource is tiny

¹⁰ Worldwide piracy rate : North America (26%), South America (59%), Eastern Europe and Russia (70%), Africa (60%), European Union (34%) and Asia (47%).

¹¹ See IFPI website : <http://www.ifpi.org/>

relative to the forces ranged against it. Music industry investigators have no enforcement powers to assist them in the investigation of the ruthless sophisticated groups that are realizing huge profits and which readily resort to extreme violence. According to the professionals of the music industry; it is submitted that there are currently few, if any, governments that realise the threat posed by intellectual property crime and that assign commensurate levels of enforcement resources to it.

The music industry resource is capable of disturbing criminal organizations but the substantial activities beneath continue undisturbed. The crime gangs, and any terrorist groups, engaging in intellectual property crime are fully aware of the relative absence of any effective law enforcement in this arena.

3.3 The geographical distribution of organized crime and links with other groups existing at an EU level and at an international level

3.3.1. An illegal, lucrative, globalized trade for approximately ten years

For Guillotreau (1999, p.122), concerning the music industry, in 1993, the most important markets in term of sales' turnover were Asia (552 million dollars), Europe (481 million dollars), North America (433 million dollars), South America, the Middle East and Australia (440 million dollars). China is the first country in the world for the manufacture of counterfeit compact disks with a production which can rise to 80 million CDs for a local request not exceeding 3.5 million units per annum. In 1995, 29 Chinese factories of counterfeit of discs CD were "identified".

For pirate CD sale (and not only manufacture), in the mid-nineties, the countries most concerned were China and Russia, but also India and Mexico. In 1996, one sound support in five in the world, constituted a copy or a clandestine recording, that is to say an annual volume of approximately 955 million units, including 866 million cassettes, 85 million compact disks and 4 million vinyl discs¹².

The political events in Central and Eastern Europe led to a considerable development of the phenomenon in this zone. Thus, in 1993, particularly important hearths of piracy were detected in Poland and Hungary. In Russia, the share of all pirate products is largely higher than the share of licit products with a sales turnover of at least 363 million dollars. The same applies on a lessor scale to Bulgaria and Romania. After the fall of Communism, the Czechs passed from prohibition to reproduce dissident's works to the industrial "pirate" edition of musical cassettes. Prague, with its consequent tourism, very quickly constituted, because of its potential of customers, a target of choice and a place of export privileged for Polish organized criminality. In 1992, according to the local IFPI representative, the cassettes copied in Poland represented 90 to 100% of the market in Bulgaria and Romania. The Polish "pirates" send these cassettes to Berlin and a mixed Polish / German company re-exports them to the Czech Republic. The Czech importers are sometimes known companies such as Skoda Export.

Within the European Union, the level of sound piracy is also significant. In 1995, the sales of pirate compact disks were estimated at approximately 16% of the national market in Italy. In France, the damage caused to cinematographic and audio-visual industries is estimated at more than 600 million French francs per annum. During the period 1992-1995, for France, bootlegs constituted the dominating share of the sold pirate products, partial copies appearing more limited in quantity. Total copies very recently appeared on the French market. The manufacturing geographic distribution of illicit products is mainly abroad, because of the existence of a more repressive French device. The new sources of provisioning bootlegs and total copies are indeed the ex-countries of the East, in particular Russia and Bulgaria.

The preferred format for music pirates also varies from country to country and clear regional differences can be seen. Partly in response to successful enforcement action and partly due to the availability of cheap recordable discs, the preferred choice in the Americas and most of southern Europe is the CD-R. It is interesting to note that in countries such as Hong Kong, which introduced stringent legislation and active enforcement, the pirates have switched from producing CDs to CD-Rs. The advantages are obvious; a heavy investment in machinery and skilled manpower to operate it is avoided. Production can be divided amongst

¹² Obviously, the proportion of CDs considerably increased since.

many sites thus avoiding the risk of detection. Unskilled and illiterate workers can be used and production can be undertaken close to the point of sale thus again minimizing the risks.

Underlying the continuing spread of music piracy is global overcapacity in the manufacture of all optical discs, i.e. discs carrying all media including music, film and computer software. IFPI estimates that the number of optical disc plants worldwide has increased to 1,000. 2002 saw a geographical shift in capacity within Asia and significant increases in Russia and Eastern Europe. This is a recipe for increasing illegal sales, because the supply of discs is far outstripping legitimate demand.

Asia, China and Malaysia have seen sharp increases in manufacturing capacity. The movement of plant production facilities from Ukraine contributed to an increase in Russia's production capacity, which rose above 300 million. Poland's excess capacity more than doubled. In all these countries such increases underline the lack of adequate regulation of optical disc manufacturing.

However, nowadays, the international capital of counterfeiting is undoubtedly China. At least \$16 billion-worth of goods sold each year inside the country are counterfeit. The International Intellectual Property Alliance claims that 90% of musical recordings sold in the country are pirated.

Most of China's counterfeit bounty stays inside the country, but increasing quantities are now destined for foreign markets. This international trade depends on sophisticated distribution networks. Increasingly run by organised-crime syndicates, they use many of the same routes established for trade in narcotics.

3.3.2 Some recent cases illustrating the links between organized crime and piracy¹³.

January 2003 – Spain:

A series of 13 raids by the National Police in Madrid led to the arrest of 40 persons involved in the mass duplication of CD-Rs. The suspects many of whom were illegal immigrants from China and who had been brought to Spain by the other members of the gang were found in possession of 346 high speed burners, 168,400 blank CD-Rs, 24,450 recorded CDs, 39,000 DVDs, 10,500 VCDs with films, 515,000 jewel cases, 210,000 inserts and 48,000 Euros in cash. The gang used a number of computer shops and restaurants to launder the money generated by the pirate product.

February 2003 – Italy:

Mafia boss, Luigi Giuliano, described in a trial the role of organized crime in music and video piracy. On the 5th of February, Giuliano stated that the Camorra clans earn some "100,000 Euros each week dealing with drugs, extortion and video and music piracy". He described in detail how organized crime manages all the illegal operations in Naples, with different gangs controlling the calls for tenders, the drugs sales, the illegal betting, and the production of counterfeit CDs in different city areas. Giuliano confirmed that the Camorra gang was directly involved in the production and distribution of pirate CDs, not just controlling the area used by organized crime to run illegal activities. Giuliano told the judges that in the early 80's, during a major war between the various gangs in which dozens were killed, the "Cupola", the illegal main board of the criminal alliance, agreed on the distribution of the illegal activities to various gangs. The "pax mafiosa" which followed the agreement allowed the criminal network to increase the business in many areas including the emerging piracy business¹⁴.

April 2000 –London:

Following an IFPI investigation into the supply of high quality counterfeit CDs linked forensically to Russian plants, a series of raids were carried out in London. During the search a sophisticated credit card

¹³ See Buckles (2004).

¹⁴ Moreover, concerning Italy, police confiscated 771 machines for production of forged music CDs from illegal laboratories, owned by organized crime groups, in the first six months of 2004 as it was reported in August 2004. About 90% of the seized machines were found in the southern Italian region of Campania. The police also confiscated 900,000 fake CDs and arrested 227 persons related to the music piracy business, concentrated mainly in the area of Naples and controlled by the mafia. Fake music CDs in Italy account for 25% of the total music CDs sold on the domestic market and causes damages for 250 mio euros excluding tax evasion and illegal workers. Some 50% of the fake CDs are of Italian artists, the main victims of the illegal business in Italy. (See a short note in ANSA English Corporate Service, Rome, 17th August, 2004).

counterfeiting operation was uncovered. The suspects, Russian nationals who had been granted political asylum in Britain, employed members of the Russian community in London, to secretly record details of credit cards when these were tendered for payment in restaurants and hotels. The data obtained was then downloaded onto computers and subsequently written to blank cards, which were then used to purchase high value items from London stores. Forensic examination of the computers revealed that over 30,000 credit card details were recorded. At the suspects' addresses 10,000 blank credit cards were found together with stamps for attaching holograms and machinery for printing and embossing the cards. The sale of CDs financed the Credit card operation with a network of couriers smuggling the discs into the UK.

3.3.3 Music Piracy and links to terrorism

The most extreme form of organized crime affecting society today is that of terrorism. The clandestine nature of terrorist organizations requires large sums of money to maintain operatives in the field and for the purchase of arms and explosives. Some intelligence has been obtained to indicate that these groups are involved in the fabrication, distribution and sale of counterfeit music and other intellectual property infringing material to raise funds for their operations.

IFPI anti-piracy personnel do not investigate information giving rise to suspicion of terrorist involvement in music piracy. Information encountered has been, and will be, referred to an appropriate government agency.

In the United Kingdom and the Republic of Ireland the investigation of terrorist crimes committed by both sides of the sectarian divide has provided a great deal of intelligence about the operations of those groups. There is no doubt that a significant proportion of their funding stems from the sale of counterfeit products: 93% of persons involved with intellectual property crimes, including music piracy offences, were linked to para-military groups¹⁵ (Buckles, 2004).

Finally, whilst a certain amount of copying goes on in developed economies, its estimated volume is massively dwarfed by the concentration of copying in certain areas of Latin America¹⁶ (Cameron, 2002). Allegedly, Paraguay has more economic activity in piracy than its legitimate gross domestic product, this being in part due to operating as a warehouse for Latin America as well as producing copies for domestic consumption. Raids in Mexico, uncovered highly organized, and heavily armed criminals with a million blank CDs and facilities for the production of in excess of 14 million CDs per annum. In economic terms, it makes sense for copying to be localised in one place for distribution through other countries so long as law enforcement does not generate sufficient risks for dispersal to be required. In this regard, the organized crime dimension resembles the situation of recreational drugs. In Europe, Italy has served the function of being the major centre for sale and production of pirated copies.

¹⁵ In December 2000 Garda Officers (Republic of Ireland Police) and Irish Customs officers, investigating the smuggling of diesel fuel between the Republic and Ulster searched a remote farmhouse, where they discovered over 20,000 optical discs suspected to contain infringing material. Whilst still on the premises they were attacked by men dressed in combat clothing and carrying handguns and rifles who stole the discs from them. A subsequent investigation led to the arrests of the gang and the seizure of a huge number of counterfeit music CDs, burning equipment and associated artwork. One of those arrested was a person suspected of being a senior figure in the Provisional IRA during the 1970s and 1980s. Another example of the link between music piracy and terrorism: on 20 September 2000, in Russia, the public relations department of the Federal Security Service announced the elimination of a criminal organization headed by one, Ziyaudi Terloyev. This organization was reported to have been financing illegal rebel formations in Chechnya. Integral to Terloyev's activities was the manufacture of pirate compact discs at a plant in Noginsk, outside Moscow. During the raids this plant was closed and 5,000 pirate discs seized. Explosives, grenades, detonators and ammunition were reportedly seized at the suspects' residences. It was estimated that this group's average monthly earnings amounted to over \$500,000.

¹⁶ However, we have to note that even if districts and villages entirely live from it, the fraudulent exploitation of the creative production of the rich countries only marginally benefits developing countries. Indeed, all the benefits of the traffic are generally diverted by organized criminality which escapes from any form from tax and exploits the labor of an underpaid workforce.

3.4 The main activities and modi operandi of organized criminality: a globalized and efficient counterfeit

3.4.1. General problems of counterfeit and piracy

The notion of piracy¹⁷

Today, the term “piracy” has a much broader significance than before and is used to indicate several kinds of infringements in the field of copyright law in which criminal organizations can engage to finance their activities. In the music field, one distinguishes:

“The piracy in a strict sense” which indicates non-authorized duplication of sounds contained in one or more legitimate recordings. In the majority of the cases, the small pouch and graphics do not resemble the legally marketed version.

“The counterfeit” which is unauthorized duplication not only of sound, but also of the trade mark, small pouch of the originals recordings. The counterfeit contains the same elements as the legitimate product.

The bootlegging or clandestine recording of a live performance (a concert, a recording studio), also called underground recording. In general, the bootlegs contain neither the name, nor the trade mark of the company with which the artist works

The overpressing: mechanical reproduction of a recording carried out in a larger number than that which was agreed upon with the entitled beneficiaries.

However, to sum-up, as regards musical piracy, there are two kinds of basically different counterfeits (illicit copies):

The copy of preexistent recordings without the agreement of the legitimate producer;

The clandestine recording (bootleg) of the live performance of an artist (at the time of a concert or a broadcasted emission).

From a general standpoint, reproduction without authorization, of sound records or video-clips directly damages the producers’ exclusive rights who perceive, then, no remuneration from the exploitation of their recordings; their initial investment is often however very large. The artist interpreters do not receive, either the remuneration which is due to them.

To be differentiated the total and partial copy:

The total copy thus consists of the identical reproduction of an original product without the agreement of the legitimate producer. The presentation of the total copy (jacket, name of the producer, mark, and logo) completely reproduces those of the corresponding licit product. The material indices are sometimes difficult to identify (grain of the image, thickness of paper, quality of the impression, different bill of character...), even if their logically lower selling price than that of the corresponding licit product constitutes a first significant indication. The “pirates” incur more important sanctions; in the case of total copy, there is not only damage to the producers’ and artist interpreters’ rights, but also counterfeit with copyright and trade-mark laws. Different entitled beneficiaries then have the possibility of acting jointly although on different respective legal bases.

The partial copy: It is still of course reproduction without the authorization of the legitimate producer, of one or more recordings of an artist, generally extracted from an original support (cassette, compact disk...) or from studioband, unlawfully marketed under the name and the mark of the counterfeiter. But the presentation of the partial copies does not always damage copyright law; the pirates often prefer to discharge some, in order to give a kind of legitimacy to their products. Indeed, the licences for mechanical reproduction granted by the authors’ companies not comprising any exclusiveness, they are thus granted to any sound records producer who makes the request.

The processes making it possible to identify total copies and partial copies are radically different. In the case of total copies, there is reproduction of an identical one. The analysis is thus primarily comparative. In the case of the partial copies, the pirates try to sow disorder and confusion while marketing under their own

¹⁷ See Guillotreau (1998) for a more detailed analysis.

name and their own mark, recordings which they unlawfully copied. The material indices making it possible to identify the copies generally depend upon the country of consignment:

- China, Taiwan, Tunisia, Zaire, and Bulgaria (total copies);
- Italy, Germany, the United Kingdom, Holland, Portugal, and again Bulgaria (partial copies).

The bootleg: Also marketed under the name and/or mark of a pirate manufacturer, the bootleg presents an additional characteristic: mention qualifying the recording as 'live'. The principal consignment countries are currently Italy, Luxembourg, United Kingdom, Germany and the countries of Eastern Europe. (Russia, Bulgaria, Slovakia, in particular). In addition, the sales price of "bootlegs" pertaining to the recent repertory, is generally higher than the sales price of the licit products for the corresponding artist. Indeed, pirates mainly cater to a 'fans' public. They sell new recordings presented as true anthology pieces.

Thus Naghavi and Schultze (2001) demonstrate that purchasers, and traders, of bootleg music are not displacing other purchases they would have made but rather adding to collections of work which include virtually all the legal titles of the artist they collect. The tape and CD traders objectives are to collect archive material rather than erode the profits from official titles released: that is, no prices are actually charged for the material. Trades are sometimes based on swapping blanks primarily so that "newbies" can establish a pool of titles to facilitate their entry into the trading pool. Many would gladly pay again for a legitimate release of the material.

Zones of production based on the establishment of organized criminality

Generally, the majority of counterfeiting products are manufactured in Southeast Asia (Boullanger, 2002, p.221). For the musical sector, and by way of example, Panti Plaza in Bangkok is thus a famous market, the large one for counterfeit CD sale. It can manufacture in the shortest possible time any title in great quantity if an original is provided. The infiltration of organized crime in the music industry is not only reduced to one area of the world, it is very largely globalized, and the European zone thus does not escape the rule.

Thus, generally speaking, the zone of the old Soviet block, i.e. the Central and Eastern European countries and Russia, produce and consume counterfeits. In Russia, 95% of the discs are counterfeits. Russian organized criminality, in particular the Brandwain/Nayfeld group based in Antwerp (Belgium) and the group Mazurska based in Poland, is particularly active in the international counterfeit traffic. In the Czech Republic, the presence of Vietnamese criminal groups handled by the Triads would explain the dynamism of counterfeiting (13% of the counterfeits penetrating the European Union come from this country). The German market is the principal outlet for the counterfeits of Czech and Polish origin.

The European Community also shelters counterfeit manufacturers on its territory. There too, the most intense zones of traffic correspond to the cartography of organized criminality. South Italy, land of the Mafia, is often designated as the first European counterfeit goods producer and consumer. Criminal organizations from Albania which exploit the Belgian prostitution sector also invested in the counterfeiting sector. IRA seems to draw a part of its income in Ireland from this form of criminality. The hacking of CDs and videos, speciality of the Chinese gangs, also exists in the European Community. The professional federations¹⁸ concerned estimate that each year 100 million pirate compact disks (discs of music, of videos, CD-Roms professional or games) are produced on European territory. For example, in July 1998 in Cambridge, the British police force dismantled a factory and seized 250000 counterfeit CDs valued at 60 million euros.

3.4.2 Modes of production

In the early years of the CD, major recording companies or respectable industrial companies owned almost all the manufacturing plants. Much CD piracy resulted from legitimate factories being hoodwinked into producing discs in the mistaken belief that the customer owned the rights to reproduction and distribution. As this type of business grew, it eventually became the focus of anti-piracy activities with sophisticated pirates building complex webs of corporate entities to hide their activities (Ender Analysis, 2003).

¹⁸ Business Software Alliance, International Federation of the Phonographic Industry, Motion Picture Association, International Video Federation and Interactive Software Federation of Europe.

As the CD market became established and the number of optical disc plants continued to grow (there are now more than 700 plants worldwide), the focus of the problem moved to plants operating in territories with weak copyright laws and governments prepared to overlook (or profit from) pirate activities.

As the problem evolved so did the focus of global anti-piracy activities with government lobbying and border monitoring high on the agenda. The local markets and retail outlets at the tail end of the distribution chain continued to be targeted but considerable resources were devoted to cutting off the supply.

As the market matured, the underlying production technology continued to develop. With an unfortunate lack of foresight, the originators of CDs believed that the discs would always be pressed in large plants with elaborate clean rooms. So when CD manufacturing standards were agreed upon, there was no provision made for encryption or copy protection. This legacy developed the next situation : a rapid growth of small-scale local, commercial piracy attacking the most profitable format.

In the mid 1990s, counterfeiters structured themselves more effectively. The industrialization of developing countries and progress of international logistics made it possible for criminality to very quickly produce and distribute counterfeit products. Anticipated profits were such that it very quickly made the heavy industrial investments to produce in great quantity profitable. In certain cases, factories which manufactured counterfeits held a contract for subcontracting with the holder of the right of intellectual property. They then legally produced articles eight hours per day and illegal copies the sixteen following hours. 90% of the seized counterfeit discs were produced in a factory holding a legal authorization. The delocalization by the Western companies of their production to the developing countries encouraged this practice (Boullanger, 2002, p.223).

Generally, one notices that manufacturing networks are equipped with a very quick capacity for reaction. It initially appears by its faculty to move the production in reaction to actions of the repressive services. For example, the European manufacture of pirated CDs which had settled in Bulgaria is moved to Ukraine then to Moldavia as soon as the pressure of the authorities was felt. It is also illustrated by their capacity to put counterfeited articles onto the market at the same moment or sometimes before the authentic product.

3.4.3 Transport and distribution

Counterfeiting is as diverse as any legal business, ranging from back-street sweatshops to full-scale factories. One of the problems for brand owners is when their licensed suppliers and manufacturers "over-run" production lines without permission and then sell the extra goods on the side.

Distribution networks can be as simple as a stall in the street, or a shop on the other side of the world. The internet has been a boon to counterfeiters, giving them detailed information about which goods to copy and allowing them to link consumers and suppliers with ease and relative anonymity. Peter Lowe, head of the CIB (Counterfeiting Intelligence Bureau, London), reckons that some \$25 billion-worth of counterfeit goods are traded each year over the internet (The Economist, 2003).

The complex distribution network required by the larger counterfeiters has attracted organised crime. Interpol is well aware of the connection¹⁹; it established a special working group to improve co-ordination of international action against counterfeiters. Of growing concern to authorities, however, is evidence that terrorists too are in on the act. The 1993 bombing of the World Trade Centre was financed, in part, by sales of counterfeit T-shirts in New York; and the CIB maintains that the IRA has funded some of its activities in recent years through video piracy.

3.4.4 Damages to intellectual property in the margin of economic criminality

The principal alternative form of damage to intellectual property relates to cyber-piracy. This is an alternative to the purchase of counterfeit CDs: to illegally obtain a musical support: hacking on line. This form of piracy

¹⁹ See for example the text of public testimony of Ronald K. Noble, Secretary General of Interpol before the United States House Committee on International Relations, One hundred eighth congress, July 16th 2003, available at: <http://www.interpol.int/Public/ICPO/speeches/SG20030716.asp>.

exerted in the virtual world is distinguished from economic criminality whose fraud material support is the goods. The existence on the European territory of almost 200000 Internet hackings deserves to be underlined according to Boullanger (2002, p. 227). The pirates or hackers do not hesitate to configure these sites in such a manner that a little informed consumer can believe that he is dealing with a legal commercial site. They can also run out their pirated products through principal European binding on line sites.

3.5 The economic impact on the legitimate market

3.5.1 Some features

Music piracy remains a huge business, driven by organized crime, government apathy and corruption. Global sales of pirate music hit a record 1.1 billion discs in 2003 according to IFPI. Leading music groups saw the value of pirated sales rise by 4% in 2003 and claimed the proceeds were being used for money laundering, drug trafficking and terrorism. According again to IFPI, there is evidence of links between gangs involved in music piracy and Middle East terrorists, and "the clandestine nature of terrorist organizations requires large sums of money to maintain operatives in the field and for the purchase of arms and explosives: evidence and intelligence is available to prove that these groups are involved in the fabrication, distribution and sale of counterfeit music." (Burt, 2004)

An article from Asia Pulse (2004), referring to 2004 IFPI report's main results, shows that in 2003, the global average piracy rate increased to a record of 35% (pirate sales to equal 35% of the legitimate market, with roughly 1 in 3 CDs sold worldwide being a pirate product). The ratio of illegal to legal CDs sold continues to increase: in 2000, one in five CDs sold worldwide was a pirate copy; in 2003 the ratio was one in three, and rising. There are now more than 1,000 CD replication plants worldwide, with capacity 2-1/2 times greater than legitimate demand. As for enforcement activities, 56 million pirate discs were seized in 2003 along with 1,200 CD stampers.

However, music disc piracy in 2003 grew at its slowest rate in four years, indicating that enforcement efforts by industry anti-piracy teams, and by some government enforcement agencies, are now having a significant impact²⁰. There were record levels of seizures of discs and a huge increase in seizures of CD copying equipment. The 2004 IFPI report names ten priority countries where governments urgently need to react to illegal music sales, and outlines new evidence of suspected involvement in piracy by government, judiciary and civil service employees. The top 10 priority countries singled out are Brazil, China, Mexico, Pakistan, Paraguay, Russia, Spain, Taiwan, Thailand and Ukraine. These are territories that fail to protect and enforce intellectual property rights and tackle unacceptable levels of piracy.

In terms of pirate sales value, the list is topped by China, with the largest pirate market (worth just under US\$600 million) and Russia, home to a US\$330 million pirate market and a massive international exporter of pirate CDs to some 30 countries. Mexico and Brazil also feature prominently as countries that were until recently among the world's top 10 largest legitimate music markets but whose music industry, artists and workforce have been decimated by CD-R piracy. Pakistan has entered the list of top 10 for the first time, having evolved in the last three years into one of the world's largest manufacturers and exporters of discs.

3.5.2 Economic perspective

A global study on the economic impact of counterfeit²¹ in 2000 by the Centre for Economics and Business Research (CEBR, 2000) estimated that the counterfeiting of clothing, cosmetics, toys, sports equipment and pharmaceuticals within the European Union cost the region 17,120 jobs, and reduced GDP by euro 8 billion (\$7.4 billion) a year²². As counterfeiters rarely pay duties or taxes, governments lose further revenue. And countries with endemic counterfeiting may sacrifice foreign investment too. Sony, for example, has toned

²⁰ However, the recording industry's Commercial Piracy Report 2004 published by IFPI makes a 4-point « Call to Governments » asking for: strong and up to date copyright laws; proper deterrent sentencing of pirates; regulation of disc manufacturing; commitment to prosecuting copyright crime aggressively.

²¹ This study does not unfortunately focus only on the economic impact of counterfeiting on the music industry.

²² A study of the same type analyzing the economic impact of counterfeiting was also realized (OECD, 1998).

down its music operations in Hungary because of counterfeiting. There is, however, little sign that multinationals are avoiding China: it is even quite the opposite.

From a more theoretical perspective, in an ideal Becker²³ world where fines alone would be optimal, then the fine drives up the expected costs and pushes counterfeiters out of the market. Counterfeiting is unlikely to be driven to zero, unless costs of production and / or consumer resistance to copies is sufficiently high, as the resources to deter the copiers are scarce. It might seem that music-copying crimes would be driven to zero if the copyright holders lowered their prices sufficiently. There are two problems with this. First, such firms would claim that lowering prices cuts into their development budget. Second, piracy involves, in less developing economies, the circulation of some titles that may not be currently distributed in the purchasing countries.

Moreover, Cameron (2002) analyses the different effects of counterfeiting on general welfare. He surveys the literature relating to the lobbying activity of business coalitions²⁴ which suggests that strict enforcement of copyright protection will bring benefits even to those nations which are home to the major violators of copyright:

The tax revenue to nations who strictly enforce the policy can be used to enhance the position of indigenous music producers.

Low enforcement may lead to a decrease in legitimate sales and revenues and hence in employment and income.

This effect might be reinforced by the refusal of manufacturers of titles to locate pressing plants in a country that does not adequately police piracy, hence causing a loss in import revenues. The economic model suggests that this indignation factor could be offset by sufficiently low wages in such countries.

There will be decreased music innovation in the “stealing” nation and possibly in the violated exporting corporations due to the inability to capture full market entitlements of research and development.

The range of titles offered by music producers will decline.

The rate of entry to music title production by smaller companies will be jeopardised due to the reduction in the net expected rate of return on capital. In the UK music industry, for example, the average return in the independent (i.e. small-firm) music sector tends to be negative.

In contrast to the above there is literature in the academic economics journals which proposes that copying may bring welfare beyond the profits accruing to the pirates themselves; there is even some empirical evidence to support this (see Silva and Ramello, 2000; Takeyama, 1994; Givon, Mahajan and Muller, 1995; Katz and Shapiro, 1986, Reavis Conner and Rumelt, 1991). The main argument that violations of copyright protection may bring welfare gains is the presence of substantial network externalities. These would cause the user base to increase: for example, in the case of computer software the more users there are, the more people an individual user has to swap files with, in the music industry, musical copy can help the artists to become even more famous, which can ensure them positive repercussions in the future (for example in terms of audience during their concerts). There are of course gains to the consumer of the pirated goods which may outweigh the losses of corporate profits. Further, it is conceivable that the innovation factor works in the opposite direction to that envisaged by the media business lobby. Low-cost copying may bring dynamic gains in the form of music innovations and enhancements derived from the increased volume of reverse engineering possible due to the reduced price of media titles. In any event it is highly contentious that developing-economy musicians stand much chance of large-scale entry to a world market dominated by large multinational corporations with a formidable array of entry barriers at their command.

3.6 Conclusion: what can be done?

Historically, the first recognition of intellectual property law was entrusted to purely national institutions and were only of value on the territory of a single country. For example, in France, national laws are recognized by the Institut National de la Propriété Intellectuelle (INPI). This procedure thus presents a difficulty. A law

²³ See Becker (1968).

²⁴ For example, an example of this lobbying activity can be found in France with the Union des Fabricants (2004).

recognized in one country can be ridiculed in another. An international legislation must, at least, undertake to simplify the recognition by all the States of the decisions taken by each one of them. In certain cases, the international conventions can even create single property rights valid in all States. Many international conventions were concluded within the framework of the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO).

Concerning the protection of the author's copyright, two International Conventions exist²⁵. Five Harmonization Directives were made on copyright. Musical and video support must benefit from specific protection. It was necessary to react quickly to digitalization which ad infinitum authorizes copies without deterioration of the quality of the reproductions. The work of WIPO on the data-processing hacking led, on December 20, 1996, to the adoption of two treaties on the questions of intellectual property and information technologies (see Boullanger, 2002, p.213).

As a direct result of proliferating music piracy IFPI has established an Enforcement Unit to specifically target the organized criminals involved. The strategy adopted was to recruit experienced investigators with a wide range of abilities and to bring in support services in the fields of intelligence analysis and forensics. Currently there are 50 investigators worldwide who obtain evidence and intelligence from many different countries. A further 200 personnel in National Groups investigate domestic music piracy.

The success of the forensic laboratory in linking infringing discs to source factories has resulted in many raids on suspect plants worldwide. This has in turn encouraged several Governments including Malaysia, Poland, Bulgaria and Russia to establish their own forensic programs.

But enforcement in many countries remains unequal. To begin with, police or customs officers are often more interested in fighting what they consider to be more serious offences, such as homicide or drug smuggling. There is also a problem of job protection: in many poor places, counterfeiting is the biggest business in town, and local police would rather not be responsible for putting local people, and even their own relatives, out of work.

In Europe, the European Commission is working on new regulations to beef up customs action against counterfeits. It has proposed new rules to harmonise Member States' legislation on IPR enforcement. This is particularly important as the EU prepares to embrace new members, such as Poland, where counterfeiting is a serious problem. In the beginning of 2004, the European Parliament passed a new Intellectual Property Enforcement Directive. It concerns measures to deal with infringements of copyright and trade marks on a wilful, substantial and/or commercial scale, i.e. counterfeiting and piracy by criminal gangs. The Directive harmonises penalties across the EU, and establishes better co-operation between the enforcement agencies of the Member States.

²⁵ Bern Convention for the protection of literary and artistic works (1886), completed by Paris ACT (1967), and universal Convention on Copyright (Geneva, 1962), revised in Paris in 1971.

4. CASE STUDY 1: A CASE OF BIG SCALE ORGANISATION²⁶

4.1 Foreword

This section of WP 5 aims at the review and analysis of case studies highlighting the infiltration of organised criminal groups into the legal markets, with special attention paid to the music sector.

In order to reach this objective, the paper reviews one case study, the so-called “Operazione Jessica”, an inter-force police operation carried out in Naples (Italy) from 1997 to 2002. It is organised as follows: it first explains the reasons for considering “Operazione Jessica” an interesting case study (section 4.2); it then moves to the in depth analysis of the related police inquiry in terms of major criminal and institutional players, criminal *modus operandi*, results of the operation, etc. (section 4.3). It finally draws some conclusive remarks (section 4.4).

4.2 Why analyse “Operazione Jessica” as a case study of infiltration of organised crime in the music sector?

As noted, this paper analyses “Operazione Jessica” as a case study of infiltration of organised crime in the music sector. The reasons for choosing this operation as a suitable case study are the following:

- *“Operazione Jessica” was one of the first high-level police operations that involved the first generation of music pirates;*
- *“Operazione Jessica” led police forces to discover, for the first time, a well-structured criminal organisation dealing only with music piracy.* This clearly meant that this kind of crime was considered by organised crime to be lucrative enough to justify the building of an infrastructure and the management of the entire production and commercialisation processes of Musiccassettes (MCs) and Compact-disks (CDs);
- *“Operazione Jessica” struck one of the most important Camorra families (Frattasio Family) active in music piracy;*
- *“Operazione Jessica” was geographically located in an area (the Neapolitan area) playing a major role in music piracy.* One of the main European centres for music piracy is in fact the Neapolitan area, in Southern Italy, which is responsible for 80% of the national CDs’ illegal production. Illicit traffic in this area is controlled and managed by Neapolitan Camorra’s families. In the Nineties some of these started to copy MCs to satisfy growing consumer demand. In a short period of time, music piracy developed and reached industrial dimensions, with a well-structured production system and supply chain.

²⁶ This paper has been produced by the Università Cattolica del Sacro Cuore as partner of the Centre National de la Recherche Scientifique (CNRS), leader of WP 5. It has been directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Scientific Manager of the Project. It was written by Michele Brunelli, who elaborated a first draft, and Barbara Vettori, who revised it. Apart from the authors, on behalf of the Università Cattolica del Sacro Cuore, the following researcher has cooperated in producing this deliverable: Paola Zoffi.

Valuable help in the preliminary identification of Italy as a suitable EU country for the selection and analysis of one case-study was provided by Mr. Kenny Wright of the International Federation of Phonographic Industries (IFPI).

Special thanks go to the following public officials and the institutions they represent for their assistance in the analysis of “Operazione Jessica”:

For *Federazione contro la Pirateria Musicale* (FPM) (Italian Federation against Music Piracy):

- Luca Vespignani, General Secretary.

For *Guardia di Finanza* (Finance Guards – Italian Ministry of Treasury):

- Major Francesco Saponaro, Company Commander of the *Pronto Impiego Napoli*;
- Captain Mario Leone Piccinni, Company Commander of the *Pronto Impiego Milano*.

Interviews with officials of Italian law enforcement agencies and other relevant organisations, such as *Guardia di Finanza* (Finance Guards – Italian Ministry of the Treasury) and *Federazione contro la Pirateria Musicale* (FPM) (Italian Federation against Music Piracy). Asian Pulse, (2004), Music Pirate Sales Hit Record 1.1 Billion Discs, 23th July.

Two major events encouraged the development of music piracy in the Neapolitan area in the Nineties: 1) *the Yugoslav Wars (1991–1995), and the Kosovo Wars 1996–1999*. Balkan wars had a major influence on the development of music piracy. This because in order to secure the sea bordering the Former Republic of Yugoslavia (Adriatic Sea) a multinational naval force was formed. This cut tobacco smuggling activities, which were mainly managed by Southern Italian criminal groups (Sicilian Mafia, Neapolitan Camorra and Calabrian 'Ndrangheta). In the Neapolitan area tobacco smuggling was the main means of support for many families. The collapse of this market thus led to a wave of unemployment and to the conversion of most of this work force to music piracy; 2) *the spread of CD burners*: thanks to technological progress and the low costs of the burners, these became more and more common and offered everyone the possibility of duplicating records potentially *ad infinitum*.

- “Operazione Jessica” is the result of strong cooperation between two different police forces – Guardia di Finanza and Polizia di Stato (State Police, Ministry of the Interior). The interoperability between the two institutions greatly contributed to obtaining major success in fighting Camorra’s involvement in the music piracy business.

4.3 “Operazione Jessica”: players, modi operandi, international links and results

Police inquiry started in the mid Nineties. It was managed by the *Direzione Distrettuale Antimafia* (DDA) (Mafia District Office) and was carried out by two different police forces: *Guardia di Finanza* and *Polizia di Stato* (State Police), respectively belonging to the Ministry of Treasury and the Ministry of the Interiors.

Investigations revealed that in the Campania Region, and in particular in Naples, music piracy replaced tobacco smuggling. The new business was considered to be very lucrative and “Operazione Jessica” focused its investigative activities on the Frattasio Family, one of the most powerful Camorra clan in the area.

This chapter looks in detail at “Operazione Jessica” in terms of the major institutional and criminal players involved (4.3.1), criminal *modus operandi* (4.3.2), international links of the Frattasio Family (4.3.3), law enforcement *modus operandi* (4.3.4) and results of the police inquiry (4.3.5).

4.3.1 Major institutional and criminal players

Institutional players

Investigations were supervised by the Naples Public Prosecutor’s Office, in the person of the *Direzione Distrettuale Antimafia* (DDA) (Mafia District Office) Deputy Prosecutor Luciano D’Angelo. The specific competences of two forces were combined: *Guardia di Finanza* and *Polizia di Stato*.

Guardia di Finanza was responsible for wire-tapping and for eavesdropping. The *Guardia di Finanza* section involved was the one in charge of the control of Naples’ harbour. The General Command of *Guardia di Finanza* decided to involve this section because it is particularly well trained in fighting smuggling and it deals with import/export related crime.

Polizia di Stato of *Questura* of Naples was responsible for the environmental inquiries. Police Station “Dante” was chosen to participate in this operation because it was considered to have an indepth knowledge of the territory.

The first phases of the inquiry revealed that the Frattasio Family was involved in:

- illegal import of goods, a smuggling offence);
- illegal local production of MCs and CDs, piracy and counterfeiting offences.

Criminal players: the Frattasio Family and its activities

The main Family, or clan, involved in “Operazione Jessica” is the Frattasio Family, from Forcella, a district of the city of Naples. The Family was headed by Enrico Frattasio. According to the Public Prosecutor’s Office, the criminal organisation headed by the Frattasio Family “operated with many logistical resources and with professionalism, it could be considered the most seasoned and the most important organisation of all those

involved in music piracy in Naples" (Federazione contro la Pirateria Musicale, 2002). The boss was also known as *O' Imperatore* (the Emperor) underlining his power and his utter control over this kind of business.²⁷

The Family gang based in Forcella has been active in music piracy for a number of years.

The relevance of the Frattasio Family in the music piracy business is essentially due to the volume of items that it was able to sell. Investigations revealed that the Frattasio Family was able to sell about 50,000 MCs and 10,000 CDs each week, raising 40,000 Euros on each occasion.²⁸ These sales were directly carried out by the Family. Apart from this, the Frattasio Family provided illegal musical products to a network of medium and small criminal organizations, some cells controlled by the Family or by local bosses who managed a particular district.

The Frattasio Family was involved in different kinds of activities in the music field. The main activity consisted of producing counterfeit MCs and CDs, using the latest generation multiple CD-burners. This hardware was able to copy hundreds of CDs in an hour, making this kind of business very lucrative.

Another important activity was the illegal importation of counterfeit CDs and of raw material, such as Recordable-CDs (CD-Rs), blank musicassettes or videocassettes (VHS). All these goods were mainly imported from Eastern European countries, especially Ukraine. Music goods were imported through common smuggling routes.

But the most creative business was the realisation of new and "original" compilations. The Frattasio Family established its own label "mixed by Erry" (nickname for Enrico). All the Family's illegal production had the label "mixed by Erry" printed on the MCs' and CDs' covers. CD and MC compilations were created using various songs, mixed and recorded in new albums. The Family obviously didn't pay royalties to the authors or to the label, nor taxes (VAT) to the Treasury.

4.3.2 The criminal modus operandi: production, distribution and financial structure

Investigations highlighted two different type of structures linked to the Frattasio Family's music piracy activities: 1) the production and distribution structure and 2) the financial structure.

Production and distribution structure

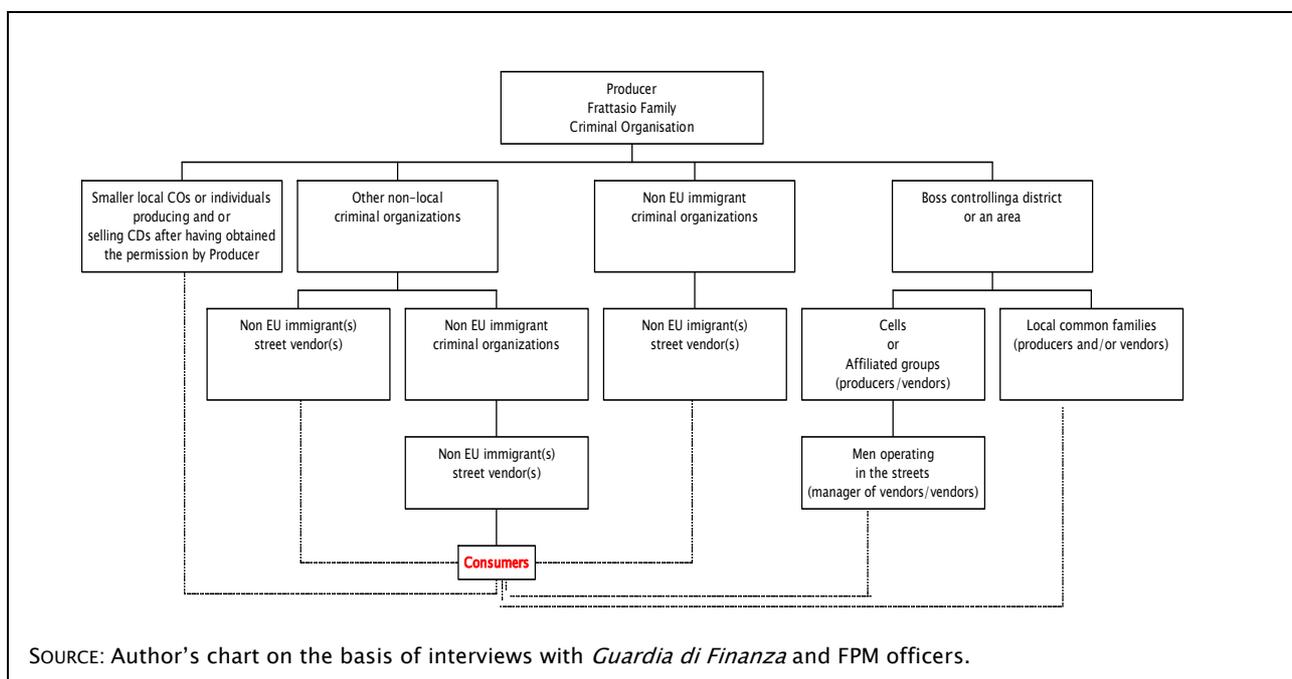
The production and distribution structure used by the Frattasio Family mirrors the power structure used by Camorra clans to rule the territory. It is a typical pyramidal structure, where the apex is represented by the main clan – the Frattasio Family itself – ruling a part of the town or of the region. At a lower level there are local bosses or clans affiliated and designated by the Family to control a district of the town or an entire area.

The production and distribution structure discovered in "Operazione Jessica" is shown in Figure 3.

²⁷ Author's interview with *Guardia di Finanza* officer.

²⁸ Author's interview with FPM officer.

FIGURE 3. "OPERAZIONE JESSICA": PRODUCTION AND DISTRIBUTION STRUCTURE



As for production, the main producer was the Frattasio Family (prime actor), which can also delegate or grant a sort of "licensed production" to minor clans, to smaller criminal organisations, to some single-affiliated people or to non EU criminal organisations (second level actors). After having obtained the permission to produce and/or to sell CDs and MCs, these second level actors must pay a tax to the prime actor.

Second level actors could decide:

- to sell their products directly to consumers;
- to give their illegal production to smaller organisations, which were usually non EU immigrant criminal organisations, managing a street vendors network composed by their own ethnic group;
- to manage a non EU immigrant street vendors network.

Looking more into detail at the distribution of illegal music goods at local level (Naples districts or other Campania Region's areas), the Frattasio Family usually delegated the control over production and sale into a single district to a local boss.

The local boss belonged to the Family and was in charge of ruling one or more districts of the town; he managed the district CDs and MCs production and decided to whom the goods were sold. He also imposed the sale price of CDs and MCs and could allow other people to produce CDs and MCs.

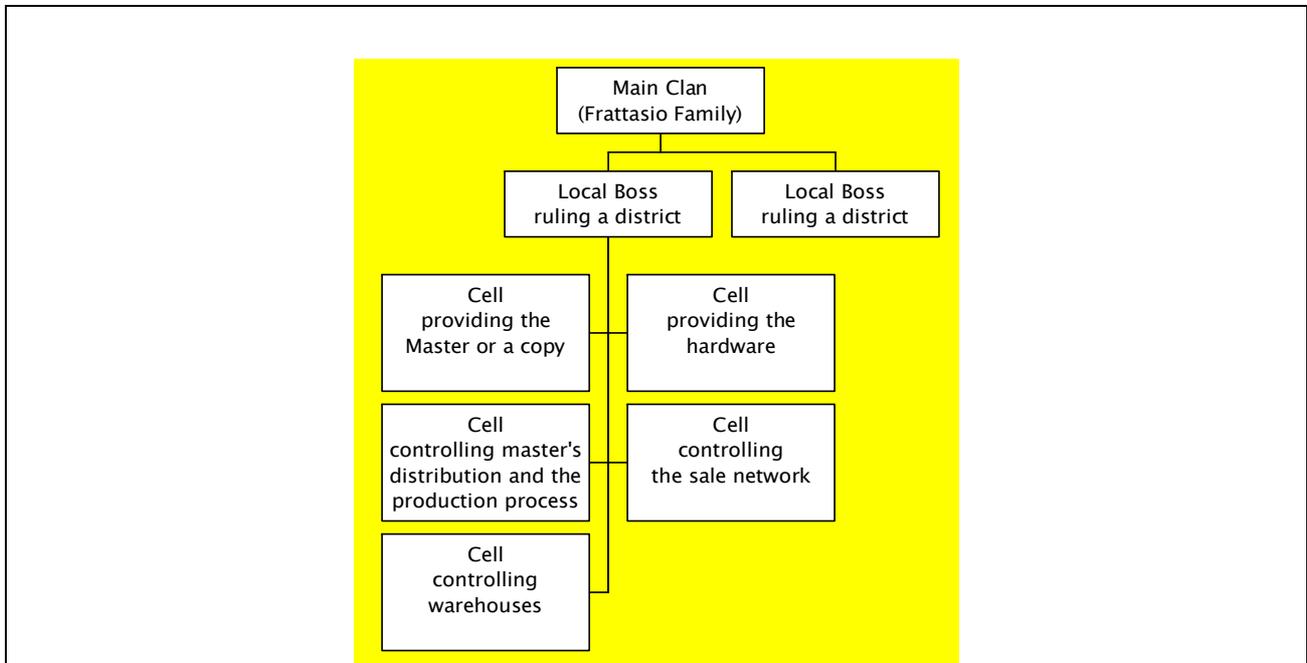
Each district had its own "label", which was however always under the ruling system of the main Family.

Local bosses could manage different cells, small affiliated groups or even ordinary families, who asked the local boss for permission to produce CDs or MCs in their own houses. In particular, cells were the basis of the music piracy structure. Cells had a direct control over the territory. Each cell had its own task. According to "Operazione Jessica", the most important cell was responsible for acquiring the master of the music or the master copy, through which the entire production was realised. Another cell provided hardware. A third one was in charge of distributing the master to a local production point and controlling the production process, and a fourth one checked the distribution of the final goods and the sale process, maintaining all the contacts with the local street vendors or with the illegal non-EU immigrants. Someone else was in charge of controlling

warehouses and transportation of the music goods outside Campania. Inquiries revealed that at a district level logistic the infrastructures were those formerly used for tobacco smuggling.

Figure 4 illustrates in detail the cell structure with its single task.

FIGURE 4. "OPERAZIONE JESSICA": THE CELL STRUCTURE IN DETAIL



SOURCE: AUTHOR'S CHART ON THE BASIS OF INTERVIEWS WITH *GUARDIA DI FINANZA* AND FPM OFFICERS.

Thanks to the organisation headed by the Frattasio Family, Naples strengthened its position in the field of counterfeiting and in the music piracy sector. Part of the MC and CD production was transferred to other national markets, particularly in the northern part of the country.

Financial structure

Because of its huge dimension, the organisation headed by the Frattasio Family needed a financial structure to manage the music piracy business. The financial organisation, whose name was "Mixed by Erry", had a "satellite" structure. It used some dummy companies and societal structures mainly to legally buy raw materials (CD-R, blank MCs and VHS) and all the equipment needed to produce CDs and MCs. Through these societies, the Frattasio Family bought these materials directly from legal companies, which were constantly monitored by FPM in order to trace unusual quantities of raw material ordered by individuals or unregistered companies. Thanks to these dummy companies, Frattasio's organisation could buy all the necessary materials without arousing suspicion and above all launder the money earned by its illicit traffic. This kind of structure was also elaborated to reduce the potential intervention of police forces.

4.3.3 International links of the Frattasio Family

"Operazione Jessica" revealed important international links among Frattasio's organisation and foreign criminal organisations.

The investigations revealed that the Frattasio Family was in touch with some other Eastern European, Russian and Ukrainian organised criminal groups. Camorra illegally imported both raw material and final products from these countries. Recordable-CDs (CD-R), blank musicassettes and videocassettes were purchased at very low cost. Furthermore, evidence showed that the Frattasio organisation also imported counterfeit CDs, which were produced in large plants located in Eastern European countries or in Russia.

Criminal organisations involved in the illegal export of these goods from their countries to the Neapolitan area used the wood trade to cover illicit activities. Illegal goods were hidden under logs, which were transported in Italy by parcel services.

Closer links were established between the Frattasio Family and Ukrainian criminal groups. The inquiry revealed that Camorra families mainly imported final products from Ukraine, such as counterfeit CDs. This is because Ukraine has some major recording plants, which are commonly used both to produce official CDs (for which taxes and royalties are paid) and counterfeit CDs. This last production is usually made during the night and always in accordance with the industry managers. The quality of counterfeit CDs is exactly the same as official CDs. The only difference is that counterfeit CD production is not foreseen by the production plans and the factory does not pay royalties or taxes.²⁹

4.3.4 Law enforcement agencies' modus operandi

During the inquiry, magistracy used all the means at its disposal. It ordered wire-tapping, shadowing, house searches and seizures of flow of capitals and goods.

In particular, "Operazione Jessica" envisaged some shadowing during the Sanremo Festival, which is one of the major Italian musical events, and a major opportunity for the illegal music market as well. Some people were contacted by the Frattasio Family. They tried to obtain masters of the original songs presented during the Festival, in order to produce illegal copies of the music compilation, which is usually presented to the public at the end of the song competition. In Sanremo police forces discovered an illegal recording studio in which masters were copied and some "copying rooms" in which CDs and MCs were produced.

4.3.5 Results of "Operazione Jessica"

Thanks to the investigations carried out under "Operazione Jessica", the Frattasio brothers (Enrico, Angelo, Giuseppe and Claudio) were arrested, a bitter blow for the entire criminal organisation. Following "Operazione Jessica", in December 2002 the first Criminal Division of the Court of Naples sentenced the Frattasio brothers (Enrico, Angelo, Giuseppe and Claudio) to imprisonment (four years and six months each). They were considered guilty of criminal conspiracy and having violated art. 171-ter of the Italian copyright law, punishing the illegal duplication and commercialisation of works of music.

Naples Court condemned another 17 people belonging to the Frattasio Family to a total of 39 years of imprisonment.

Federazione dell'Industria Musicale Italiana (FIMI) (Italian Music Industries Federation) and the major Italian labels instituted a civil action in order to claim damages.

According to police forces, the following material was seized:

- 11,000 musicassettes;
- 3,000 counterfeit CDs;
- hardware for an amount of 25,000 Euro
- 75,000 Euro cash was seized because it was considered to be the proceeds of music crime.

Beginning from "Operazione Jessica" many other operations were carried out against music piracy business managed by the Camorra clan. One of these led to the arrest of one of the main Neapolitan local bosses: the Forcella godfather Luigi Giuliano, who is considered to be the first criminal who has turned state's evidence and who spoke about Camorra's involvement in music piracy.

²⁹ According to International Federation of Phonographic Industries (IFPI 2004, 13) Ukraine today has a piracy level of about 68%. As the report underlines "[...] A major reason why illegal recordings are still widely available in Ukraine is the lack of deterrent punishment of those involved in copyright crime. Prosecution, even of obvious piracy cases, is slow and cumbersome. Rights holders seeking prosecutions face time-consuming hearings, being required to testify and turn up for endless witness interrogation sessions. The piracy cases that do end up in court merely result in the imposition of administrative or criminal fines that are not even remotely deterrent. Prison sentences are very rare and are always suspended.

4.4 Conclusions

Music piracy in Southern Italy – the Campania Region in particular – is the response to an economic sector crisis: tobacco smuggling. Some Camorra families decided to start this new business because it was considered to be very lucrative. In addition to this, as music piracy does not generate social alarm; it was well tolerated by the population. Sanctions are very limited.

“Operazione Jessica” discovered a well-structured criminal organisation dealing only with music piracy. But it also demonstrated that inter-force operability and the use of major investigative tools normally used in fighting other crime (drug trafficking, human smuggling, arms trade, etc.) can be successful in achieving the results described in this paper.

5. CASE STUDY 2 : A CASE OF SMALL SCALE ORGANISATION³⁰

5.1 Foreword

The aim of this part of WP 5 is to review and analyse case studies, highlighting the infiltration of organised criminal groups into legal markets, with special attention on the music and media sectors.

In order to accomplish this, the paper reviews a case study, which was carried out between September and December 2002 in Northern Ireland and which we baptised “Operation Bangkok” as the traffic takes place between Thailand and Northern Ireland. It is organised as follows: it first explains the reasons for considering this operation to be an interesting case study (section 2); it then moves to the in-depth analysis of the related police inquiry in terms of major criminal and institutional players, criminal modus operandi, results of the operation, etc. (section 3). It finally draws some conclusive remarks (section 4).

As indicated, this paper analyses an operation as a case study of infiltration of organised crime in the media sector. The reasons for choosing this operation as a suitable case study are as follows:

- *Operation Bangkok was one of the first high-level police operations that involved the first generation of media pirates;*
- *“Operation Bangkok” led to police forces’ discovery of a well-structured criminal organisation dealing mainly with Intellectual Property piracy.* This clearly meant that this kind of crime was considered by organised crime to be lucrative enough to justify the construction of an infrastructure and management of the production and commercialisation.
- *“Operation Bangkok” illuminated the close relationship between former armed political organisations such as IRA or Paramilitary groups, and large scale piracy.*
- *Operation Bangkok illustrates a particular case of division of work between fairly centralised criminal organisations (IRA, paramilitary, IRA dissidents) which allows distribution of products in the zones that they control and much more informal organisations that assure the production, importation and distribution of counterfeit products.*
- The type of organisation which we describe in this case study is not unique. There co-exist a large variety of organisational methods for traffic of counterfeit DVDs and CDs. This organisational plasticity is facilitated by the weakness in existing repression which places very little constraint on the organisational ingenuity of the traffickers.

³⁰ This paper has been produced by the Centre National de la Recherche Scientifique (CNRS), leader of WP 5 under the direction of Pierre Kopp, Professor of Economy at the Université Panthéon-Sorbonne (Paris 1) and coordinated by Fabien Besson, PHD student at Matisse (Panthéon-Sorbonne-University). It was written by Pierre Kopp and Fabien Besson.

Valuable help in the preliminary identification of Italy as a suitable EU country for the selection and analysis of a case-study was provided by Mr. Kenny Wright of the International Federation of Phonographic Industries (IFPI).

Special thanks go to Detective Constable Colin Cushley, Intellectual Property Crime Officer in Belfast.

5.2 Players, modi operandi, international links and results

The context of the study is that of Northern Ireland in 2002–2003 when the peace treaties are in effect but where important fractions of the old combating organisations from both (IRA and para military) are still present on the ground. In a more or less centralised manner, these organisations where their dissidents continue to operate in the fringe of the law have woven links with classical criminal organisations. Essentially these old military organisations place entire zones of the country under their control and demand their part of all trafficking going on in their zones.

Besides the durability of the peace process, point on which we shall not comment, there remains a real problem of reinsertion of the former members of the military organisations of both sides. It is certainly difficult to change, in the course of one's life from a clandestine and often violent activity to the search for traditional employment. Aside from the absence of professional references, and studies are often incomplete, the former members of military organisations have developed a particular "skill" (capacity to organise outside of the law) which is fairly close to that demanded for participation in a classical criminal organisation. Aside from reinsertion difficulties, we observe a classical phenomenon where the individuals are « skill-driven » towards organised crime. Add to this that habits of functioning created while in the underground, with strong trust in a nucleus of close companions creates a relational make-up easily redeployed to organised crime. Northern Ireland's geography with its multiple borders constitutes many sources of profit for those who know how to organise trans-border traffic by exploiting the different fiscal regulations.

The criminal group which is in the centre of the Bangkok Operation articulates around an individual under 30 whose common spouse is Thai. Upstream, the network in Bangkok is not well identified and is apparently unsettled. Bangkok plays an important role as it is there that the dealers operating in Ireland meet the suppliers of pirated DVDs. The city allows everyone to extend their connections and to consider new business. Sexual tourism plays an even more important role as a large part of the orders for pirated DVDs concerns X-rated DVDs (around 1/3) and sometimes includes traffic of Viagra.

5.2.1 Modi operandi

The criminal procedure is fairly simple. From Belfast, Y faxes the orders for DVDs to Bangkok. These orders are made based on a clever observation of the demand. 'World' film releases are analysed, local releases and the number of entries of films presented in Belfast are studied with a magnifying glass. In short, the order reflects a very good knowledge of worldwide offer of cinema products. The order also contains a part collected directly from the final resellers. They request either a small number of certain films to satisfy clients who have already contacted them, or they want large quantities of titles that they feel will sell well. In the second case, the content of the order usually crosses the importers' choices. X market represents an important source of demand. It seems that the amateurs of these products are looking for novelty. Novelty can reflect either a new type of X, or the appearance of a new actress or actor. It seems that the big consumers of X films have an addictive relation with the products or a collector's mentality which creates great demand.

The great majority of the demand does not seem to be created by the desire to save money. Indeed, although it is not possible to state exact figures, it would appear that the price of a DVD on the black market is 15–20 USD or approximately the same price as the DVD distributed legally. Considering the poor quality of some pirated DVDs and the presence of 10% of them unusable, the average final price could even be higher on the black market.³¹ The dynamic of the demand is explained then by the quicker presence on the black market than on the legal market of novelty. The fact that the moment of release of 'blockbusters' is different across the planet, as are the cinema and DVD releases, creates a good opportunity for profit. Also the regulation forbidding access to a certain public (youngsters) of certain films creates a source of demand. There obviously exists a portion of DVD consumers whose impatience is sufficient to solicit a black market. Lastly, and without being able to quantify it, there obviously exists a clientele who doesn't like to buy its DVDs in the

³¹ A decrease in quality of 10% and the presence of 10% of unusable DVDs may be interpreted as an additional cost of 20% for an individual who is neutral to risk.

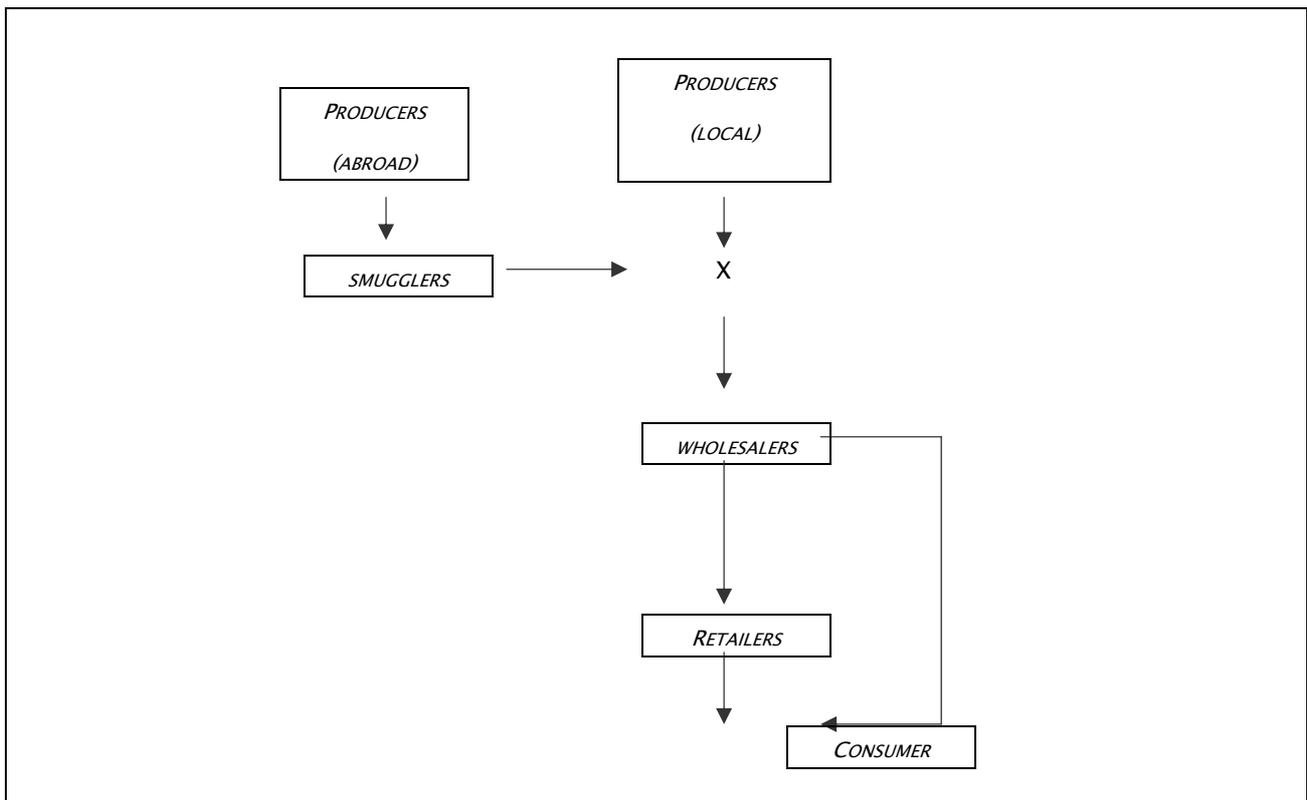
department of a large store (ex. Virgin) but prefers to buy in a bar or in the street. This remark apparently doesn't apply exclusively to DVDs.

Organisation of the distribution network presents interesting particularities

DVD production is still often carried out in Thailand, notably the better quality pirated DVDs those made from a master). The copies can also be made in Thailand, but there also exist laboratories in Northern Ireland or on the borders.

The criminal organisation is composed of its leader Y, helped by his common law wife and a group of resellers. The resellers can sell directly to the final customer or to video club owners or barmen. The order is made by Y who distributes his merchandise to wholesalers. There also exists a group of smugglers who may sometimes be the wholesalers who we find in the final sale of the DVDs.

FIGURE 5. THE PRODUCTION/DISTRIBUTION CHAIN OF PIRATED DVDs



The above graph represents the network used for operation Bangkok. The smugglers operate most often by crossing borders with baggage loaded with pirated DVDs. They make several trips per month, often have numerous passports. They vary the itineraries to deceive the customs agents. They do not hesitate to abandon the merchandise in the airports if they feel watched and risk arrest.

Different from drug trafficking where the temptation to defect felt by the smugglers is strong and where they are sometimes tempted to recover the merchandise for themselves, in the case of DVDs, the strong dispersion of the value on a large number of DVDs efficiently discourages this type of strategy. Similarly, resale of DVDs, when one has no network ad hoc, is a costly operation in time and is easily spotted by a partner from whom a smuggler might have taken the merchandise. Smugglers are thus not directly watched by the importer and there seems to be little violence in the relationship between the different actors in the chain. There are however violent settling of scores that the police enquiry was not able to explain. Probably purely commercial and personal motives become mixed. The network includes a large number of women and sentimental business criss-crosses the traffic.

It is logical that pirated DVDs be transported in small quantities and with rapid rotation. It is not plausible that a market the size of Belfast (in all fairly narrow: 300.000 inhabitants) be supplied by container. Firstly,

maritime transport is longer and the demand for novelty doesn't wait. If Y's organisation is not able to supply the demand as soon as it is expressed, the consumers will turn to other sources. Secondly, as the lots of pirated DVDs are very heterogeneous – a case of 500 titles often contains 60 different titles – it would take a long time to assemble containers as heterogeneous which would make the smugglers lose time in advance in the race for novelty. Lastly, contrary to drugs or arms, the value of the pirated DVDs drops very quickly over time. Once again, the novelty's dictatorship plays its role and the risk of seeing a rival organisation saturate the demand for a title drives the smugglers to adopt logistics which are very flexible and reactive.

Y who is the centre of the criminal organisation does not necessarily recover all the merchandise from the smugglers. Sometimes they are also wholesalers and go directly to the retail market. In this case, they can give a part of the final sale to X. In other cases X collects the merchandise, pays the smuggler about 5000 USD and dispatches the merchandise to the wholesalers. It is at this moment that he takes his maximum risk. In any case the imported quantities (from 500 to 1000 DVDs and sometimes more) do not make him run the risk of a serious criminal conviction. This is why the police prefer to carry out a long enquiry to accumulate proof rather than to try and catch him red handed.

It would appear that the relation between Y and the producers of pirated DVDs in Thailand remains airtight. Y pays his Thai correspondents for his pirated DVDs. In comparison with drug networks, it seems that Thai criminal organisations have not tried to monopolise the traffic right through to importation. There are of course networks of which head is Thai, we can then suppose that the degree of integration in criminal organisations of this country is greater than in the case of the Bangkok operation.

On the other hand, when the DVDs Y distributes on the national market are copied locally, he can both invest directly in the material and organise the production or place orders with underground workshops.

As far as the circulation of sums of money is concerned, we are in the presence of a criminal organisation where there is little massive surfacing of money abroad. Y pays his DVDs at import or at production and sells them to his wholesalers. He may sometimes offer credit. The money centralised by Y does not seem to need to leave the country and finance a criminal organisation situated in Bangkok. Y must also acquit a certain number of payments to military organisations which continue to control large sectors of Northern Ireland. These payments can be made by Y himself but most probably by wholesalers who work in a given zone.

Observe that, according to the police, there is very little or no conflict over territory between wholesalers resulting in violent conflict. Contrary to drug trafficking which creates fairly numerous assassinations between groups for the control of markets, territorial control for the resale of DVDs does seem to be responsible for many murders.

It would appear that the mobility in the heart of Y's the criminal organisation is fairly weak. In contrast to arms or drug traffic, where some actors can intervene one day as a smuggler and the next build up a complete operation for themselves, the more so as they are sometimes paid in merchandise, it does not appear that the actors at the bottom of the organisation (wholesalers, smugglers) try to build their own networks. In this sense Y's criminal organisation has not created by spontaneous generation new organisations. It does not appear that scissions have occurred to thus create new organisations. These comments are important as due to the low repression of pirated DVDs and the light sentences incurred, except when the police succeed in building a very complete file we could ask why there does not exist a greater number of import networks. In economical terms it is generally thought that when the barriers to entry of a criminal market are weak and the profits great, new candidates try to penetrate the market. We saw that the drug market was sufficiently attractive to set off a migration of talent and we saw ex-burglars and racketeers redeploy to drug trafficking thus creating a violent reaction within the organisations already installed. The explanation for the insignificant migration of criminal talent to pirated DVDs is no doubt due to the fact that to be profitable the importation–distribution of pirated DVDs, in a small marketplace such as Belfast, must nevertheless consist of a large number of units. The unitary margin is fairly small and the total profit depends crucially on the quantities sold. However the demand is fairly dispersed. Consequently, the principal asset upon which rests the success of a criminal enterprise in the domain of DVD traffic is mastering a network of numerous and efficient resellers. Create and operate such a network requires a specific know how and a form of obstinacy which discourages certainly a number of criminals who prefer to take substantially greater risks in drug or arms traffic but who collect more rapidly greater profits. We will not here discuss the compared profitability of a career in pirated DVDs and DVD trafficking. Suppose that the profit

adjusted to risk of incarceration and the severity of sentences is equal, in the long term, between the two activities. If this hypothesis is verified, then the relation to risk alone explains the investment of some in traffic of DVDs and others in arms and drugs. Comparative sociology of criminal careers still remains to be done but the idea that the trafficking of DVDs attracts criminals who are averse to risk and likely to lead a long term strategy is fairly attractive.

5.2.2 Income Flux

It is interesting to try to reconstruct the flux of revenue circulating in the criminal organisation operated by Y. In order to carry out the calculation of revenue of each of the levels of the criminal organisation we need to formulate a certain number of hypotheses based on the interviews we carried out in the field. We consider, in order simplifying, that the cost of production of a pirated DVD is null. This hypothesis allows us to focalise on the importation–distribution chain which is the perimeter of Y’s action and leaves in the shadows the functioning of producers of DVDs situated abroad. Y buys his DVDs at about 2 USD and sells them about 12 USD to his wholesalers. The wholesalers sell them to final consumers or final intermediaries at about 20 USD. Y’s margin is thus 10 USD and that of the wholesalers 8 USD.

The following table calculates the revenue and the margin at each level of the organisation for a lot of 1000 DVDs.

TABLE 1. CRIMINAL INCOME OF Y FOR 1000 DVDs

Quantity	Cost variable	fixed cost at import	Total cost	Sale price	Sales	Margin
1	2	5000	5002	12	-	-
1000	2000	5000	7000	12	12000	5000

We observe that the « breakdown point » is fairly high. As long as Y has not sold 500 DVDs, he makes no profit. Profit only begins at 500 units sold. On the other hand, the loss of 1000 DVDs means a fairly small cost of 7000 USD. These few figures explain simply why the type of transportation by air or by express post (type Federal express) remains dominant. It limits losses in case of seizure; it doesn’t attract covetousness of the smugglers. A smuggler paid 5000 USD might try to steal the stock but he would only gain in addition to his 5000 USD, 12000 USD. He multiplies his revenue by more than three in betrayal but runs a great risk of being punished by the organisation.

In order to obtain monthly revenue of 20.000 USD Y must sell 4.000 DVD per month, which is a large quantity.

We can continue the reasoning and present the revenues of the other actors in the criminal organisation.

TABLE 2. CRIMINAL INCOME OF THE CRIMINAL NETWORK FOR 1.000 DVD

Quantity	Cost variable	Total cost	Sale price	Sales	Margin
100	12	1.200	20	2.000	800

The margin of a wholesaler who sells 100 DVDs is comfortable (close to 800 USD). We could reasonably consider that the sale of 100 DVDs takes on average 30 hours. This hypothesis is realistic as the buyers are sometimes final consumers and sometimes video clubs or barmen. With such a hypothesis it becomes apparent that the hourly salary is less than 10 USD which is close to two minimum salaries. Consequently, either the wholesalers can sell limited quantities (500 DVDs/month) to bring in a salary of 4.000 USD, which

appears interesting for a criminal occupation with little risk, or the resell of pirated DVDs is a complementary activity. Two scenarios can then be presented, either the seller of pirated DVDs has other criminal activities (procuring, drugs, etc.) or he has a legal job (barman, DVD salesman) and his illegal activity complements his salary.

Supposing Y sells 4.000 DVDs per month, and employs 10 resellers, which is corroborated by police sources, we can consider that the resellers sell on average 400 DVDs per month which brings them extra money of about 3.200 USD.

It is amusing to note that if the DVD industry makes a margin of 70% in the production and distribution on their products sold, it loses for 1.000 pirated DVDs about 14.000 USD. This is a classic story as the cost for the collectivity (14.000 USD) is superior to the criminal profit (5.000 for Y and about 8.000 for the wholesalers, or 13.000 USD) In purely economic terms, the social cost of the crime is superior to the criminal profit, and the crime is thus economically inefficient. We observe that the economic justification of the fight against pirating is however very dependent on the hypotheses and the results less clear cut than in drug trafficking where the social cost created by the dealers is immense. Without falling under the illusion that pirating is a "victimless crime" the preceding calculation explains why the police hesitate to make the fight against pirating a priority. This observation is reinforced we will see by the fact that the cost of police investigation is very high.

Such a calculation is obviously very abrupt as it does not consider the de-incentives of pirating on the production of novelty or the problems of distribution of riches which is not trivial.

Impact of police repression

Police action is complicated by many factors. Firstly, a non negligible portion of phone tapping leads to conversations in Thai which present a translation problem. The multiplication of postal packages all sent to the same name (sometimes slightly deformed) but to different addresses requires a heavy surveillance system. At customs the smugglers often use Belfast airport but coming from complex destinations. Bangkok does not always appear when they use a system of crossed flights. The data from foreign informers is practically absent as different from arms or drugs where foreign governments are often incited to cooperate (more or less) by international treaties and mediatization of the problem, in the case of pirated DVDs international cooperation is weak. Neither the police nor foreign informers offer abundant sources of information.

Furthermore the fines and sanctions risked for fraudulent importation of pirated DVDs are slight and do not incite smugglers who are arrested to name the rest of the network. The airtight network thus resisted police investigation for a long time. As we have mentioned police work is made even more difficult as the investigators must present a very complete file to the prosecutor if they want to have a chance of seeing heavy sentences pronounced. They cannot use caught red handed techniques which makes the investigations long, heavy, and expensive. The fact that the smugglers transport small quantities is a precious arm as in case of seizure the losses are small and the risks for the smugglers are minimal. In as much as the fixed cost of transport is low (plane, hotel and bonus) it is profitable to multiply the passages rather than to concentrate the shipments as in the case of drugs. Note that the cost for police to seize a pirated DVD increases in function of the distance from the final consumer. It is in fact almost impossible to interrupt a transaction between a reseller and a buyer. It would be necessary to concentrate important means of intelligence for a seizure which would not result in a conviction. It is obviously less expensive to seize the DVDs at customs but that would not permit the .demolition of the network. The police must follow a portion of the DVDs which enter illegally and attempt to find proof of the implication of each of the members in the network in the traffic in order to search simultaneously on a given day and play on synergy between accumulated proof and the fruits of the seizure. The cost of an investigation is thus very high.

The cost-benefit relation is thus in all cases very high. Demolish a network such as Y's costs very approximately two full time occupations for one year plus around 50.000 USD in scientific police costs and various investigations. A strict minimum of 150.000 USD is mobilised to interrupt the work of a network which creates an annual social cost of approximately 480.000 (with 4000 DVDs sold per month). To make a precise calculation we must compare the cost of the investigation and the variation of the offer of pirated

DVDs due to police action. Obviously if the offer of pirated DVDs is regenerated immediately after the arrest of the network Y, the result is more tenuous. But as we don't know what would remain as a legal DVD market if there were no repression of traffic, our approach although, certainly a bit static, gives a good indication of social profitability of the action against pirating.

5.3 Conclusions

Y disappeared before his arrest. The police do not know if his organisation continues to function and think that Y will reappear one day. From a police point of view, operation Bangkok is not crowned with success as it did not allow prosecution of the criminal even if he had to dissolve his organisation or abandon its leadership.

It appears from our study that the pirating of DVDs in the case we studied is the action of small criminal organisations, difficult to infiltrate and resistant to repression. Logistical choices and notably auto limitation of quantities transported illustrate a strong economic rationality on the part of the criminals. They minimise the risks, temptations to defect and the impact of loss of shipment. Investigation of these organisations is expensive, takes time, mobilises men and means. It is also clear that an important source of demand and thus traffic exists because of the regulations limiting the access of a certain public to films and the policy of non synchronisation on a world level of the cinematographic industry.

6 GENERAL CONCLUSION

At the term of this study we feel able to draw certain conclusions.

Firstly, organised crime obtains substantial profit from pirated music and images. These profits are even more interesting as they are compensation for minimum risk taking. Anti-pirating legislation is often recent and the police do not place its enforcement at the heart of their preoccupations. The two case studies suggest that repressive agencies mobilise against pirating when they want to attack an already identified criminal family (Italy) and the pirating activity provides a means which is easier than another. In other words, it is not so much the cessation of pirating activities that repressive authorities are after, the real target is the destruction of the criminal group. In the Irish case, the procedure is the opposite. It is the creation of a police unit specifically designed for the fight against piracy which dynamites the repressive activity. Taken as priority a desire to publicize the fight against piracy, the organisational dynamic then did the rest and the police forces rapidly established their territory of action. Different from the Italian case, the struggle against piracy was at the centre of police strategy, even if the authorities did not exclude using this strategy against large criminal organisations resulting from the period of violent confrontation.

Secondly, music pirating is an activity which can be moulded into any form of criminal organisation. It is interesting that it is not the choice of criminal activity (piracy rather than drug trafficking) which dictates the organisation's type of internal management. On the contrary, we observe that criminal organisations with very different contours are all capable of including musical piracy in their portfolio of activities without having to reconsider their modalities of internal management. When a criminal organisation is created around pirating activity, it appears that the essential qualities are the capacity to respond to a very heterogeneous demand concerned with obtaining novelty. To do this, criminal organisations must adopt very reactive schemas operating in steady flows in order to satisfy the demand. The quality of the distribution network is important as it is necessary (notably in the domain of DVDs) to satisfy very different *desiderata* from one client to another. The network must be able to furnish each client with the products they want. Consequently, the quantities of CDs and DVDs involved are very rapidly in loads of modest size and on the market. The small size of the loads, difficulties in administering the proof of the traffic and light sentences are all elements which complicate the policeman's task.

Thirdly, it appears that penetration of organised crime is certainly not limited to the activity of criminal organisations. In as much as piracy is a clearly identifiable offence, most literature is centred on this theme. In fact, it has become apparent that organised crime has also penetrated the music sector further upstream. The cases where money from drug trafficking is reinvested in music production seem fairly numerous.

Concert organisation also seems to be able to supply a series of malversations such as emission of counterfeit tickets or laundering of money based on fictive earnings. These questions, although interesting, were not really the subject of our research.

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ANNEX 6

STRATEGIES OF BUSINESS TO MANAGE RISKS OF ORGANISED CRIME

By:

- Henk van de Bunt, Vrije Universiteit (*coordinated by*)
- Jan Terpstra , Institute of Social Safety Studies (IPIT), University of Twente
- Henk Nelen, Vrije Universiteit
- Dina Siegel, Vrije Universiteit

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FOREWORD

This paper is the deliverable for WP 6 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 6 aimed at the review of the private sector's current approach to security and crime prevention.

This paper has been produced by the Vrije Universiteit, leader of WP 6. In particular, it has been directed by Henk van de Bunt, Professor of Criminology at Vrije Universiteit. It has been written by Jan Terpstra, Institute of Social Safety Studies (IPIT), University of Twente. Apart from the authors, on behalf of the Vrije Universiteit, the following researchers have cooperated in producing this deliverable: Henk Nelen and Dina Siegel.

The paper is organised as follows. This paper presents a detailed analysis of the strategies business companies use in the prevention and control of the risks of organized crime. Four economic sectors are dealt with: the Rotterdam Main Port, transport of goods by road, banking and the music industry. A distinction is made between three main categories of strategies in the management of the risks of organized crime: strategies which focus on the pre-conditions of crime reduction (often conducted by economic sector organizations), strategies which focus more or less directly at the prevention of organized crime and reactive strategies. This last category of strategies partly is oriented to the reduction of the consequences of crime. Seven factors or circumstances are described which may impede the development and diffusion of strategies of business to prevent or control the risks of organized crime. Finally the paper discusses some important questions with regard to the new division of responsibilities between public and private agencies in the prevention and control of risks of organized crime.

1. INTRODUCTION

In many Western countries over the last ten to fifteen years the prevention and control of disorder, crime and other risks of safety are increasingly seen as not the responsibility of the police or criminal justice agencies alone. A strategy of 'responsibilization' (Garland 1996) aims to create a new distribution of responsibilities. According to this, private agencies, companies and citizens now have responsibilities formerly seen as the proper tasks of the police and criminal justice agencies.

This shift in the management and control of safety is also occurring with regard to the risks of organized crime that companies are confronted with. In addition to public sector institutions, private sector agencies like companies and economic sector organizations are involved in the prevention and reduction of organized crime. Different approaches and forms of control, both public and private, are combined here (Dorn 2003). Besides traditional criminal justice approaches to reduce organized crime there is a growing number of alternative or non-traditional approaches, in which both public, but non-criminal justice institutions and private agencies are involved. Endeavours to reduce organized crime are increasingly based upon notions of public-private partnerships, multi-agency networks and more or less comprehensive methods of intervention (Schneider, Beare and Hill 2000; Levi 2002; Levi and Maguire 2004)

This development raises several important questions. What do private businesses do to prevent and control security risks and safety hazards caused by organized crime? What are the strategies used by companies and private economic sector organizations in the management of these risks? These questions are important because in many western countries and economic sectors companies have increasingly been confronted with criminal acts caused by more or less organized groups.

Private companies are confronted with a wide array of risks caused by organized crime or criminal groups. Levi, Morgan and Burrows (2003) described a great number of 'material' risks of business caused by organized crime: false accounting, deception, fraud, kidnap/ransom, arson, theft, product piracy and counterfeiting, hacking (especially if it results in the loss of information, intellectual property or cash), corrupt inducements and money laundering. Organized crime may also have significant effects on the reputation of the business.

Organized crime may have a direct impact on companies, but also more indirect, long term effects. In some cases only individual firms may be hit. In other cases, companies in certain sectors or locations may be faced with more or less collective damage. The risks caused by organized crime may concern widely divergent

elements of the company: information, ICT-systems, employees, financial organization, procedures or estates, plants and equipment.

Companies may have different relations with organized crime: as a victim, intermediary, accomplice or even offender (for example if they are used as a front for illegal activities). The distinction between 'victim' and the other roles mentioned may be hard to make (Van Dijk et al. 1999; Bucquoye et al. 2005). Even if a company is victimized, the relation with the offender may be full of ambiguity and contradiction, for example because the criminals involved are also clients of the company (Levi and Maguire 2004: 452).

Companies' risks of organized crime may be classified in three categories. First, both directly and indirectly, companies may be the *victim* of organized crime. These risks often come from the outside, like theft, fraud and deceit; hacking; threat and extortion; product piracy and counterfeiting. Secondly, companies may be confronted with what may be called, *institutional abuse*. Criminal groups want to (ab)use the information, expertise, production facilities, social reputation or any other element for their own illegal goals. To realise this, they need the business to be operating in (what is presented as) the 'normal way'. The company may be used as a facilitator for criminal groups, be infiltrated by criminals or established as a front for illegal activities. These risks may come from both the outside and inside of the firm. In some cases institutional abuse may be very complex because of a symbiosis between legal and illegal activities. Thirdly, organizations may have to operate in a *corrupt environment*. Confronted with the norms and practices which dominate there, they may feel forced to conform to these corrupt ways of doing business.

Some concepts used here need some explanation. The concept of organized crime may suggest a too organized and homogeneous form of crime of what in fact are only loosely coupled networks. Moreover, as Levi and Maguire (2004: 399) rightly observe, there is a tendency to conflate the risk with a current level of factual criminal activity.

For the companies involved it may often be unknown or irrelevant to what extent risks are caused by organized crime or by other types of crime (Bouloukos, Farrell and Laycock 2003). These strategies may be (partly) motivated by other considerations than crime reduction, like a cost-benefit analysis (Levi and Maguire 2004: 403).

This paper concentrates on the strategies applied by business in four economic sectors: the *Rotterdam Main Port*, *transport of goods by road*, *banking* and the *music industry*. These sectors were selected as case-studies because they represent quite different economic structures and market conditions. Road transport is a market mainly of small firms, the music industry is worldwide dominated by a couple of large companies ('*The Big Five*'), with the banking sector in-between. Moreover, these sectors are confronted with divergent risks (see next section).

This paper is partly based upon a study of available social-scientific literature and documents.

Eight persons (having key positions with regard to security management in the economic sectors mentioned) were interviewed in the period of January-March 2005. Most of them worked at organizations in the Netherlands. However, much of the information presented here seems to apply generally to the situation in Western Europe. Data presented here are based on interviews, unless another source of information is mentioned.

2. RISKS OF ORGANIZED CRIME IN FOUR ECONOMIC SECTORS

Each of the four economic sectors is confronted with specific risks caused by organized crime (Figure 1).

FIGURE 1. MAIN RISKS OF ORGANIZED CRIME IN FOUR ECONOMIC SECTORS

Main Port Rotterdam	Road transport of goods	Banks	Music industry
<ul style="list-style-type: none"> – theft; – smuggling (drugs and human beings); – fraud and corruption <p>(Van Dijk et al. 1999; Security Mainport Rotterdam n.d.; Staring, Van de Bunt and Van der Schoot 2002)</p>	<ul style="list-style-type: none"> – theft (cargo, trucks); – abuse of companies or employees for smuggling of drugs and human beings; – the use or taking over of a legal company as a front for illegal activities <p>(Bucquoye et al. 2005; KPMG Forensic Accounting 2000)</p>	<ul style="list-style-type: none"> – break-in of bank's vault; – bank robberies; – money laundering; – fraud – risks at giving credits, investments of money and other forms of banking business 	<ul style="list-style-type: none"> – traditional piracy; – counterfeiting; – illegal bootlegs; – online piracy <p>(Brunelli and Vettori 2005; IFPI 2005)</p>

The differences in risks between the sectors result from specific vulnerabilities and opportunities for organized crime. Specific properties (like equipment, facilities, expertise, competencies or infrastructure) of these economic sectors may make them attractive as a target for criminal groups. For instance, the road transport sector is largely made up of small and rather marginal firms in often difficult economic circumstances. This makes them vulnerable to criminal groups. Moreover, the control on cross-border transport has largely diminished as a result of the European integration and Schengen agreements. At the same time, organized groups may be largely dependent on transport companies for moving illegal goods. Banks may be of high interest to criminal groups because they want to store and use their money without its illegal source being traceable (Levi and Maguire 2004: 400) or they wish to defraud them. The vulnerability of the music industry results from new technological opportunities that make piracy and counterfeiting rather easy. These activities are attractive for criminal groups because they require only limited investments, the profits are relatively high and the chance of being caught small (Brunelli and Vettori 2005).

In interviews it is often assumed that the damage and financial loss caused by organized crime in the four economic sectors mentioned, have been increasing for the last about fifteen years in Europe. However, there is a short of accurate and reliable information on the level of illegal activities in these four sectors.

3. SOME CONCEPTUAL REMARKS

Businesses use highly diverse strategies to manage the risks of organized crime. Some distinctions in the strategies applied may be useful as an introduction.

1. On the one hand there are preventive or pro-active strategies of managing the risks of organized crime. These strategies may be focussed more on the preconditions of crime reduction than on crime itself. On the other hand, there are strategies which are more re-active. If used by businesses, re-active strategies are generally not repressive (as is often the case with re-active strategies by public agencies), but focussed on for example tracing stolen goods, recovering losses on offenders, reporting victimization to the police or building up crisis management.
2. According to Levi and Maguire (2004) the reduction of organized crime should contain two core elements: a focus on harmful *acts* and a reduction in the growth and development of organized groups (a focus on harmful *actors*). Businesses will generally be focussed on the first element.
3. A distinction should be made between strategies applied by individual companies and more or less collective strategies. These latter strategies are often implemented by sector organizations, like for

instance an association of employers. Some of these strategies are focussed on the participating companies (the members of the association).

4. Some strategies are more or less enforced by legal rules or by the government. Other strategies are of a more voluntary nature.
5. In some cases only private agencies are involved in the strategies to reduce the risks of organized crime. Often, however, some co-operation with public agencies (like the police or public prosecution) is a part of the strategies used.

Most strategies by business on the reduction or management of risks caused by organized crime are not specific for certain risks or economic sectors, but may be used more generally. For this reason, the strategies here are not described for discrete risks or sectors, but in a more general sense.

4. STRATEGIES FOCUSED ON PRE-CONDITIONS OF CRIME REDUCTION

This study does not allow definitive conclusions on the extent to which currently business in Western Europe have security measures. The interviews in this study indicate that since the middle of the 1990's there have been important changes in the attention paid by companies to the risks of crime. There seems to be more awareness of these risks and the need for security measures. In the economic sectors analysed here there certainly has been a growth in joined-up approaches to prevent and reduce crime, both within the sector and between private and public agencies. Especially the last few years there has been more pressure from national and international governments on companies to take security measures and to meet higher security standards. The new 'War on Terror' since 11 September 2001 has within a short period of time resulted in new demands on companies in many economic sectors. This also had its effects on measures against organized crime.

However, there are still remarkable differences in the attention paid to security measures and risk management, both between sectors and between companies. The banking sector and large multinational companies pay much attention to these problems and created well developed, specialized units with expertise on risk management and security. However, many small companies in the road transport of goods do not meet even quite simple demands of security.

There may be a range of motives and arguments for companies to create strategies to prevent and control risks of organized crime and to handle the resulting damage or loss. These strategies may often be motivated by cost-benefit considerations. This should not be understood in a limited, only financial sense. Companies are often seriously concerned about the consequences of crime for their reputation. Strategies against organized crime may also be motivated by the fear of negative consequences of serious crime for the continuity of the company or for the safety and integrity of the employees. Although moral considerations are not completely absent here, self-interest often dominates. Moreover, external circumstances are often needed to trigger the development and use of these strategies. Strategies are often enforced by (inter)national law and other rules and by the pressure of governments or regulatory bodies. Companies are often triggered to pay attention to these issues if there is some scandal or other dramatic event with organized crime in nearby companies or economic sectors that causes a lot of political and mass media upheaval.

The strategies applied by businesses focussed on the risks of organized crime may be subdivided in three main categories (Figure 2): (1) some strategies focus on the pre-conditions of crime reduction; (2) strategies more or less directly focussed on the prevention of organized crime; (3) strategies that are re-active and partly focussed on the reduction of the consequences of crime. These three categories of strategies are described in this and the next two sections.

FIGURE 2. STRATEGIES OF BUSINESSES ON RISKS OF ORGANIZED CRIME

focussed on pre-conditions	focussed on crime prevention	re-active strategies
<ul style="list-style-type: none"> - at sector level: <ul style="list-style-type: none"> • Influencing formal rules, agenda of policy and law enforcement • Promoting awareness of risks and educational courses on security management • Promoting co-operation between companies • Promoting co-operation between private and public agencies at sector level - at company level: <ul style="list-style-type: none"> • Enhancing expertise with regard to security management • Complying with formal (administrative) and regulatory demands on security 	<ul style="list-style-type: none"> - security measures <ul style="list-style-type: none"> • Physical and techno-security • Staffed security measures - screening (new) employees - control over employees - reporting systems - adjusting routine activities - adjusting process of production - assessing trustworthiness of (potential) clients and principles - (compliance to) administrative and formal demands on procedures and work processes - creating alternative legal markets 	<ul style="list-style-type: none"> - reporting to the police and starting legal action - tracing and detecting stolen goods and vehicles - recover financial loss

Strategies focussed on the pre-conditions of crime reduction are to a large degree applied at the level of the economic sector by sector organizations. Some of these strategies are applied at company level.

4.1 Strategies focussed on pre-conditions at sector level

Sector organizations try to influence both national and international governments to pay more attention to the risks of organized crime that companies are confronted with. They try to convince governments of the seriousness of these risks, of the damage caused by them and of their view on appropriate measures. Sector organizations lobby to convince governments and politicians to sharpen rules and laws with regard to organized crime, to develop a preventive and repressive policy, to support security measures by business and to promote (financially) private-public partnerships in this field. National governments are asked for a more active detection and strict prosecution of criminal groups. Sector organizations try to influence international governments and governments abroad so that the notorious 'safe heavens' (countries used as a home base by criminal groups) will disappear.

The International Federation of Phonographic Industries (IFPI) represents the international music industry and has an active lobby to influence governments. According to the IFPI it is 'the responsibility of industries prone to organized crime influence and activity to alert and educate the public guardians'. It is seen as 'a challenge to all intellectual property industries (-) to inform the relevant law enforcement agencies of the criminal potential of piracy and counterfeiting. IFPI wants 'to increase the awareness of law enforcement agencies and to assist them in tackling the problem on a national and international basis.' (IFPI, 2005: 3-4)

In some cases sector organizations try to convince politicians of the need to criminalize certain activities. For instance in the Netherlands it is not forbidden for individual consumers to download music from internet for their own use. The music industry tries to present this as a serious form of intellectual property crime.

The lobbies by sector organizations indicate that strategies by businesses on risks of crime should not be considered as only additional to public rule enforcement. Probably it is more accurate to say that both public and private agencies try to influence each other, given their own interests and points of view.

A second important category of strategies by sector organizations is focussed on their own 'rank-and-file'. This strategy is especially found in the transport sector. The many small companies in this sector often lack the expertise and facilities of specialized security management. Transport sector organizations try to promote the awareness of companies of the risks of organized crime. These sector organizations try to disseminate information to their members on the potential risks they may face and on appropriate measures of prevention. They organize frequent meetings with members to inform them on security matters. TLN and EVO, two of the largest sector organizations for transport and logistics in the Netherlands, published handbooks with hundreds of suggestions for measures companies might take to prevent and control risks of (organized) crime. EVO had a two-years campaign focussed on their members, called '*Awareness and Prevention*'.

Sector organizations also have educational courses on security and security management for employees at different levels in the transport sector (from truck drivers to middle management). In some cases these courses on security are a mandatory element of the professional training. In sectors with larger and more professional companies these strategies are organized by the companies themselves. Banks have their own courses to promote awareness of risks of crime, where (new) employees in different positions get information on all kinds of risks (from bank robbery to money laundering) and how to handle them.

A third strategy of sector organizations is to promote co-operation between companies in their sector. This strategy may have divergent forms, some with only modest implications, other with more far-reaching consequences. First, companies may exchange information on relevant issues. For example, the International Road Transport Union (IRU) has a list with safe trucking areas in Europe. Some sector organizations try to create so-called 'black listings', with the names of suspicious firms or potential clients (Dorn 2003: 235–236). Although there have been several endeavours to create such listings, in practice this is an initiative accompanied by many legal and practical problems. Banks in the Netherlands have a common list of persons one of the participating banks had negative experiences with. Because of privacy considerations this list contains only names and dates of birth. If one of the banks has a so-called 'hit', more information is exchangeable only between so-called 'trusted persons' of the banks involved. Such lists do not exist for the exchange of information with banks in other countries. Until now the sector organizations in the Dutch road transport did not succeed in realising a collective list of untrustworthy companies.

Secondly, sector organizations may also disseminate information on 'best practices' with regard to security management. For example, in the Rotterdam Main Port a so-called toolkit was created to support companies to make a Facility Security Plan.

Thirdly, sector organizations may be interested in creating an integrated or comprehensive security policy for all companies in a sector or economic chain, like for instance logistics from the seller until the ultimate buyer, including all organizations in-between. This requires that all companies concerned have to meet certain demands and criteria of security. For example in 2004 in the Rotterdam Main Port, all facilities had to make their own Port Facility Security Plan, which had to meet the demands of the overall Port Security Plan. This strategy may be an element of self-regulation. In the sector of transport and logistics so-called TAPA (Technology Asset Protection Association) security guidelines have been introduced. The aim of these guidelines is to promote security practices of transport companies. On the long run transport companies may be accountable for not meeting these guidelines. One of the future effects of these security guidelines may be that companies which meet these criteria may have to pay lower premiums for insurances.

Fourthly, economic sectors may try to guard the entrance to their sector, for example by making demands on the trustworthiness of new companies. These measures may be legally enforced. In the European road transport, operators have to meet a good-repute requirement besides appropriate financial standing and professional competence (Bucquoye et al. 2005; KPMG Forensic Accounting 2000).

A fourth strategy is focussed on the promotion of co-operation between public and private organizations at sector level. This co-operation may be limited or more elaborated: from the exchange of information, co-ordination of activities to an integrated joined-up approach. Co-operation between public and private partners may be found at a local, national and even international level. At a local level there is the Regional

Platform Crime Control at the Rotterdam Harbour, with the local government, the police, public prosecution, representatives of port facilities and the fire brigade as its main participants. Exchange of information and the co-ordination of activities of public and private agencies are among the main tasks of the Platform. The Agreement on Crime and Road Transport ('*Convenant Aanpak Criminaliteit Wegtransport*') is a co-operation at the national level in the Netherlands. The main premise of this Agreement (2004) is that the prevention and control of crime in the transport of goods are a common responsibility of government, private sector organizations and companies. The Agreement contains specific arrangements on the tasks of each of the participants. The transport sector also has forms of co-operation at the international level. Since 1978 the transport of goods in Europe has the so-called TIR-system ('*Transport Internationaux Routiers*').

The TIR-system is based on co-ordination between the customs and transport sector. Goods are transported under cover of a TIR carnet by companies (indirectly) recognized by national customs authorities. It is issued given certain enterprise's moral, professional and financial guarantees. Each TIR carnet covers a vehicle's load. A TIR carnet allows a more speedy transport. With a TIR carnet normally the customs only check if there is a carnet and the seals are not opened (Bucquoye et al. 2005).

The Customs-Trade Partnership Against Terrorism (C-TPAT) is a recent joint business-government initiative to build co-operative relationships that strengthen overall supply chain and border security. Although primarily focussed on terrorism, this public-private co-operation has also implications for the prevention and control of risks of organized crime in the international transport sector.

If companies want to participate in C-TPAT, they have to present a self-assessment of supply chain security according to C-TPAT security guidelines. If a company meets these guidelines, it may have some advantages: fewer inspections by customs, a regular account manager at customs and there will be more reliance on self-policing than on customs verifications.

The International Ship and Port Facility Security (ISPS)-code was introduced in 2002 by the International Maritime Organization (IMO) and largely adopted by EU as an element of the '*post 9-11 war on terrorism*'. According to ISPS, port facilities and international shipping companies have to comply with strict security guidelines. The ISPS-code aims to enable detection and deterrence of security threats within an international framework, to establish roles and responsibilities, to collect and exchange security information, to provide a methodology for assessing security and to ensure that adequate security measures are in place. Ship and port facilities which do not have such a formally approved security plan will on the long run lose the opportunities to trade on the U.S.

Outside the transport sector there are many other examples of public-private partnerships which are relevant for the management of risks of organized crime. For instance, the Interpol International Property Crime Action Group (IIPCAG) is a coalition of representatives from police, customs, inter-governmental organizations, and private sector associations. It is a forum to co-ordinate and enhance international action against intellectual property crime, like music piracy. IIPCAG aims to facilitate international law enforcement action against intellectual property crime and to raise awareness of the economic and social impact of the trade in counterfeit products and pirated goods.³²

4.2 Strategies focussed on pre-conditions at company level

For about the last 20 to 25 years banks and large multinational companies created departments with a professional expertise on the management of a range of safety risks. These security departments make, among others, comprehensive security plans, which focus on a wide range of risks in different elements of the production process. This implies that accurate information is to be collected on risks, their probability and the impact on the company. This information should be a basis for focussed strategies and interventions. As a rule specialized departments and expertise on risk management are lacking in small companies, for example in the road transport of goods.

Another strategy at company level focussed on pre-conditions of crime reduction consists of compliance with formal administrative organizational demands, often imposed by (inter)national governments or regulatory bodies. These demands aim to enlarge the external accountability of companies on security issues. This may

³² www.interpol.int/public/financialcrime/intellectualproperty/default.asp

be also an element of self-regulation by companies in an economic sector, in many cases enforced by (international) governments (Braithwaite, 2000). The recent 'war on terrorism' strengthened these lines of policy and regulations, with implications for the management of risks of (organized) crime. The IMO- and EU- demands laid down in the ISPS-code for shipping and port facilities, mentioned before, are examples here.

5. STRATEGIES FOCUSED ON CRIME PREVENTION

The second category of strategies applied by businesses is more directly concerned with the prevention of (organized) crime. With these strategies companies often try to manipulate the value, inertia, visibility and access of potential targets (Felson 1998: 54-63) for criminal groups. In this way the perceived efforts and risks of organized crime should be increased and the perceived rewards reduced (Clarke, 1997). Nine types of direct strategies may be distinguished: security measures, screening, control and supervision on employees, reporting systems, adjusting routine activities, adjusting processes of production, assessing reliability, compliance with administrative demands, and creating alternative (legal) markets.

5.1 Security measures

Physical security measures are the traditional way of guarding potential targets of criminals. Physical measures for closing the entrance to buildings and business areas are to be found in all economic sectors. The specific measures depend partly on the products and production processes. In the transport sector, with its tangible goods and vehicles which may be stolen, physical security measures are still among the most important. Technological developments have contributed to new sorts of anti-theft security in road transport. Air brake immobilisers of trucks, alarms, alarm sensors, cab (tilt) locks, container locks, driver recognition systems, identification systems, key switches, King Pin Locks, security curtains, slam locks and security window grills are among the new techno-physical security measures in transport (Bucquoye et al. 2005; Albrecht 1998). X-ray scans of containers should find out if containers are not used for illegal trafficking of human beings or illegal goods.

In the past physical security measures were among the most important to prevent break-ins of bank's vault and bank robberies. More sophisticated electronic security systems were introduced in bank vaults to prevent break-ins. To prevent bank robberies in the 1970's and 1980's, physical security measures were introduced at the bank counters, like iron bars, bullet-proof glass shields and later on CCTV.

With the rise of information technology and Internet, companies in all economic sectors were confronted with new risks of crime, like cybercrime and computercrime, also by organized groups. For the past ten to fifteen years companies were increasingly forced to create new systems and technologies of security to safeguard their systems of information, documents and communication. All kinds of computer and internet security devices have been created with this aim (Nasheri 2005). This also happened in the fight against intellectual property crime, like for instance music piracy.

In addition to physical security measures there are also forms of staffed security measures. Buildings and industrial areas are watched over by guards, who may also be responsible for protection, patrol in the area and access control. Other forms of staffed security may be found in road transport. To prevent the risks of being robbed of cargo, container or even complete truck, transport companies decide to use two employees on each truck (Transport en Logistiek Nederland, 2004), to drive in a column of vehicles (Kernteam Noord- en OostNederland, 2001) and/or to hire private security guards to accompany (a group of) truck drivers abroad.

For these security measures companies may use in-house security employees, employ a contract security company or some combination of this. Because security is not a core task for most companies, it may look cost-efficient to contract out these security services. According to a study of Button and George (1994) there are still reasons why companies decide to take in-house security. They expect that in-house security workers are more loyal to the company, are more inclined to conform its standards and will better understand the specific setting and culture of the organization. Bad experiences with contracting out security services and legal barriers may contribute to the decision to take in-house security.

5.2 Selection and screening

The need of pre-employment screening of employees is often emphasized. However, it looks as if this type of screening, even of candidates for high-level positions, is often rather neglected. Although in road transport a declaration of good repute may be asked, in practice this rarely happens. One of the reasons is that transport companies often hire only temporary employees (Albrecht 1998; Bucquoye et al. 2005). Also in the other sectors studied pre-employment screening of new employees often seems to be lacking.

5.3 Control and supervision on employees

Many organizations introduced codes of conduct as an element of integrity programmes to reduce risks of organized crime. This also implies the need of increased accountability about the extent in which employees conform to these codes and rules of integrity (Van de Bunt and Van der Schoot 2003: 27–28). However, accountability and supervision often are not taken-for-granted. For example, large banks have integrity programs, including codes of conduct. However, the control on conformity of employees to these codes often seems largely to be left to the informal and personal initiative of team managers.

In some cases new technological instruments are used to strengthen control on employees. Access to areas, buildings, equipment and information and several forms of surveillance on employees and other people are regulated with passwords, ID-cards, but also with more advanced biometrical forms of identification (Lyon, 2001). For instance, the digital tachograph should provide companies with an easy and close control on truck drivers. This system is said to be less vulnerable for manipulations by drivers. Although the tachograph was introduced for other reasons, it may also be useful to reduce risks of organized crime in road transport (Bucquoye et al. 2005).

5.4 Reporting systems

Reporting systems may be relevant in several respects. Many companies often have no detailed information about their losses by crime. Therefore it may be important that employees (like truck drivers) report lost or stolen goods or information. A growing number of companies realise that it is important that employees who want to report suspected situations or practices in the company should not be afraid of repercussions. Therefore hot lines, systems of trusted person or so-called whistle blower procedures were introduced (Albrecht 1998). Experiences with whistle blower procedures show that this is not unproblematic. Even if a company's top management supports persons who give information about for instance fraud or corruption, the direct environment may still be able to exclude them as a colleague.

5.5 Adjusting routine activities

An important strategy to reduce risks of (organized) crime may consist of changing everyday, taken-for-granted activities of employees. This strategy fits with the notion of Felson (1998) that routine activities create all kinds of opportunities for criminal acts, often without being noticed as such. Changing these routines should reduce these opportunities. Companies try to realize this by introducing codes of conduct, new procedures or handbooks with practical suggestions on how to behave in certain circumstances. Sector organizations in road transport try to support small companies by drawing up lists of such concrete advices, often on what seem at first sight to be only minor issues:

- Don't make appointments at petrol stations.
- Watch out for (un)loading at odd locations.
- Don't trust if the driver is not allowed to be present at the loading of the truck.
- Don't accept it if the driver has to wait at a parking area for new orders about the deliverance.
- Watch out for a damaged hood.
- Be on the alert out for an illogical route.
- Try to avoid that drivers have to make a stop not far away from home.
- Don't park trucks on barely lighted parking areas.

- Have clear and written instructions for drivers.
- Make explicit rules on how to handle keys³³

5.6 Adjusting processes of production

Companies may decide to change their products or processes of production with the aim of reducing risks of (organized) crime. This strategy may resemble the former one, but often has more consequences for the organization.

In the 1960's banks in the Netherlands were for the first time confronted with robberies, probably by more or less organized groups. Since that time the number of bank robberies increased, from about one hundred in the early 1970's up to about 570 in the early 1990's. In that period of time the banks tried to prevent bank robberies with an increasing use of physical security measures: closed counters, iron bars, bullet-proof glass shields, (hidden) alarm and CCTV-systems. In the early 1990's banks concluded that these physical security measures were not effective (anymore) and that the cumulative development of this kind of measures should be stopped. Only drastic changes in service processes of the banks would be capable of breaking through this process. With the introduction of cash-points, a policy to a large degree motivated by security considerations, cash money almost disappeared from the bank's counter. With this development there was no longer the need of closed and secured counters. This implied that perceived opportunities and awards of bank robberies also diminished. The current level of bank robberies is the same as it was in the early 1970's. Presumably the change in security policy of the banks played an important role in this development.³⁴

Changes in processes of production to reduce the risks of crime may also be less far-reaching. With the increasing mobility and the disembedding of social relations bank employees could no longer rely on their personal acquaintance with clients and on social trust. This was the main argument why banks decided that bank employees should follow standardized and computerized check lists in deciding whether a credit should be given. If the computer indicates that the client does not meet a minimum of requirements, the credit will be refused. With this new procedure the granting of a credit is no longer dependent on the discretionary judgement of individual employees but on a standardized risk assessment.

5.7 Assessing trustworthiness of clients

Not only for banks, but also for companies in other economic sectors it may be important to assess the trustworthiness of clients, principals or partners. Therefore it is important to find a way to assess and handle the risks in (new) purchasing and sales relations. Screening new clients may be useful, not only on criteria of credit reliability, but also on the risk of illegal practices. For this reason in some sectors companies may use black lists of suspicious organizations or persons. In other cases companies are advised to make explicit demands on potential partners on anti-fraud and anti-corruption measures. Regulation by means of self-certification may include elements of integrity.

5.8 Administrative and formal demands

To reduce risks of (organized) crime, businesses may be enforced by governments or regulatory bodies to comply with formal, administrative demands on work processes or procedures. For example, since the 1990's in several European countries banks and other financial agencies have to report certain financial transactions as a measure to fight money laundering. In the Netherlands evaluations of this system show that this does not meet the initial expectations (Terlouw and Aron 1996; Faber and Van Nunen 2004). Although over the past ten years there has been a rising number of reports by banks and other financial agencies (up to more than 170.000 in 2004), there is almost no follow-up of these reports by the police. The reporting seems to have become a ritual and goal-in-itself. This unintended effect is presumably partly caused by the broad category of unusual transactions this system is concerned with. According to many critics, instead it should be focussed on the more limited and relevant category of suspicious transactions.

³³ *Transport en Logistiek*, 2004/10, 8-9.

³⁴ The decreased opportunities of bank robberies seems to have created new opportunities for crime elsewhere, for example for robberies at cash-points. Presumably it also contributed to a displacement of robberies from banks to the transport of money and valuables.

Somewhat comparable is that in the United Kingdom since 1986 financial service companies and other entities, like accountants and lawyers, provide Suspicious Activity Reports to the Economic Crime Sector at the National Criminal Intelligence Service. This system also aims to deter, disrupt and displace money laundering (KPMG LLP 2003).

5.9 Creating alternative, legal markets

One way of decreasing the risks of organized crime is to reduce the perceived awards for criminal groups to sell illegal goods. This may be realized by creating alternative, legal markets, where consumers may buy products comparable or even preferable to that offered by criminal groups.

This strategy is, for example, used by record companies. As an alternative to the supply of pirated and counterfeited CD's, record companies try to create an alternative with music on demand offered online. This should be an alternative because music on demand may better meet the flexible demands of consumers than the fixed collection of music on standardized CD's. Of course, the main question is to what extent this strategy will be effective as long as there is no effective measure to counter music piracy on Internet.

6. RE-ACTIVE STRATEGIES

Businesses may apply three types of re-active strategies with regard to organized crime: reporting to the police and starting legal action, investigating and tracing stolen goods, and recovering financial loss. These strategies are often not so much focussed on the reduction of crime, but on the reduction of the consequences of crime.

6.1 Reporting to the police and starting legal action

Companies confronted with organized crime may be often reluctant to report this to the police. They may feel that the police did not react adequately on former reports, that it did not contribute to recovering stolen goods, that it takes too much time and/or that reporting may have a bad influence on the company's reputation (Van Dijk et al. 1999; Johnston et al. 1994).

In other cases companies may decide to start a legal action and take the case to court. With this strategy they aim to recover their loss or hope that the court's sentence will create a new formal basis as a support in the future fight against (organized) crime.

Sector organizations may also decide to investigate cases of (organized) crime more or less on their own. This may be a preparation to take a case with the necessary amount of information to the police or public prosecution. This investigation may be a co-responsibility of the sector organization and the police or a regulatory body. For example, in the Netherlands the Stichting Brein was established in 1998 to fight crime against intellectual property rights, especially with regard to CD piracy and counterfeiting. Brein investigates cases of piracy and counterfeiting, takes civil law actions and tries to prepare criminal law actions (in which case information of the investigation is delivered to the FIOD-ECD, the public organization policing fiscal and economic crime). Another example is the Business Software Alliance (BSA), a joined-up organization established by international and leading soft ware companies. This private organization investigates soft ware piracy to start civil law actions or to prepare criminal law cases.

6.2 Tracing and detecting stolen goods

Especially the road transport sector pays much attention to 'tracing and tracking' of stolen goods and vehicles. With satellite navigation and positioning systems or with radio device on vehicle, detection equipment and telecommunications network and operating centres it is possible to track the position of the company's vehicles, also stolen trucks with cargo. GPS- or GPRS-systems give information if a truck deviates from the planned route or time schedule. There are specialized companies offering tracking and tracing services (Albrecht 1998; Bucquoye et al. 2005). About one third of the Dutch transport companies uses these tracing and tracking systems (Transport en Logistiek Nederland 2004).

Companies also use tagging-systems to trace stolen goods. Tagging means that articles or goods have an electronic signal which may help to find the stolen goods and to identify the owner. Both tracing and tagging may also have the function of deterrence (Bamfield 1994). These tagging-systems are mainly used by shops, but also by transport companies.

6.3 Recover financial loss

Companies may try to recover financial loss caused by (organized) crime. Therefore companies may insure potential risks or may hold others liable for the financial damage. In some cases there may arise conflicts about the question which agency is liable, for example the shipping company, the ship owner, the port facility, the road transport company or the agency at the end of the logistical chain who ordered the goods.

Since the 1990's large companies increasingly decide to engage forensic accountants. Their expertise on both accountancy and financial detection are used to investigate cases of large scale fraud that (large) companies may be confronted with.

7. IMPEDIMENTS TO BUSINESS STRATEGIES ON ORGANIZED CRIME

Many factors or circumstances in companies and economic sectors may impede the development and diffusion of strategies to prevent or control problems of organized crime. These factors differ from company to company and from economic sector to sector. Still, however, there are some common impediments to the development of strategies on the risks of organized crime too. Seven impediments are shortly described here.

1. Awareness of the risks of organized crime is for companies a prerequisite to develop strategies on these risks. According to many of the interviewees this awareness is not always sufficient. Banks and music industry today seem to be more aware of the main risks than many companies in the transport sector.
2. Strategies on risks of (organized) crime may be underdeveloped because companies have a lack of insight and detailed information, for example on the financial loss caused by these risks. Closely associated may be a lack of expertise on security management. Information and expertise on security issues are often missing in small and medium-sized companies. Especially banks and large multinational companies have, for about the last ten to fifteen years, professionalized their security management.
3. Companies may be reluctant to create strategies on (organized) crime because they fear disruption of production processes which may result in a financial burden. Investment in security may be seen as detrimental to the competitiveness of the company. Security measures are only accepted if they do not seem to disturb the level playing field. For example, companies in the Rotterdam Main Port are often watching very closely to what extent companies in the competing harbours of Antwerp and Hamburg will follow new security demands imposed by international regulation. Companies often only accept security measures if they are enforced by governments and also apply for competing companies.
4. As long as companies are able to shift off the financial burden of (organized) crime (to other companies, the government or insurance companies), this will be a disincentive for developing active strategies to prevent or control these risks. In many cases this will presumably be a misapprehension: on the long run clients will probably become dissatisfied and insurance companies will raise the premiums or draw up stricter criteria of eligibility.
5. Rules and procedures of the government or other public agencies may have a perverse effect. Contrary to their aims they may discourage companies to pay attention to risks of (organized) crime or report serious crime to the police. For example, companies in the Rotterdam Main Port confronted with the loss of a container with cigarettes before it arrives in the harbour, still have to pay excise-duty. The result may be that these companies decide not to report the theft to the police, hoping that in this way the customs authorities will not find out about the container and will not tax them.
6. Many strategies of companies on risks of (organized) crime consist of a joint-up approach. Co-operation between companies in the same sector may be hard to realize because they are also competitors. Exchange of information may be limited because companies do not want to favour their rivals. Co-

operation between public and private agencies may be problematic because of differences in view, culture and interests (Van Dijk et al. 1999: 67–97).

7. The impediments to strategies of companies on (organized) crime partly depend on sector-specific circumstances, like the complexity of the risks that companies are confronted with and the resources available to cope with them. This is one of the reasons why banks and large multinational companies are more willing to develop these strategies than for example small road transport companies. The structure of the economic sector is relevant too. For a sector consisting mainly of small, competing companies, it may be problematic to produce a collective good like safety. The production of these goods is often dependent on intervention by and rules of the state or by self-regulation enforced at a larger scale, at sector level instead of by individual companies (De Swaan 1988). Strict demands by a powerful private agency (for instance an insurance company) may have a comparable effect. In all these cases enforcement by a third party is a prerequisite to avoid free-rider behaviour or the fear of undermining level playing field conditions.

8. CONCLUDING REMARKS

This analysis of strategies applied by businesses to prevent and control risks of organized crime leaves a range of important questions. Many of these questions have to do with the lack of adequate and valid information. There is a short of empirical studies in this field. Hardly any information is available about the practical implementation of these strategies. What are the problems that occur in the implementation of these strategies? Is there an 'implementation deficit' in these strategies by business just like in so many crime prevention activities by public agencies?

No systematic evaluation studies were found on the effects of strategies of business on organized crime. Because of a range of practical and methodological reasons (cf. Levi and Maguire, 2004: 405–407) it is hard to assess the impact of crime reduction by business.

This paper also leaves many questions about the international co-operation in the strategies by businesses on the risks of organized crime. On the one hand, the role of international institutions like the EU or IMO is getting more important, with international rules and demands on companies, like for instance the ISPS-code. The contemporary 'war on terrorism' promotes this development. On the other hand, presumably with the exception of the music industry and multinational companies, many of the strategies on organized crime by business seem to be largely bound to national borders. This even seems to apply to a considerable degree to internationally oriented economic sectors as road transport and banks.

Important questions refer to the relations between the strategies on crime by business and those of public agencies like the police and public prosecution. To what extent do these two types of strategies run parallel? To what extent is there a more or less clear division of tasks and responsibilities? In many respects it looks as if there is a gap between two different worlds and perspectives, that of law enforcement and that of security management. Public policing is more focussed on prevention and repression of (potential) offenders according to justice and formal rules. Security management, however, is more oriented to the reduction of loss. Speed and efficiency are there often more important than formal rules and justice. Its aims are often realized by exclusion and limiting participation in stead of punishment or rehabilitation of offenders (Bayley and Shearing 2001: 17–19; Button 2004).

Often only informal, personal relations between representatives of the public and private sector, with a stress on mutual trust and personal acquaintance, seem to be able to bridge this gap. Still, however, co-operation between companies, private sector organization and the (public) police often seem to be hampered by differences in perspectives and priorities (Van Dijk, et al. 1999: 97). The relations between public and private agencies has also become more complex because of the rise of new regulatory bodies, supervisory agencies and indirect forms of regulation and self-regulation, in some cases even enforced by the state.

In this highly fragmented field, where both business and public agencies have their own views and interests, relations between public and private agencies are often partial or may even be missing. Still, agencies try to co-operate, because they are to a certain degree dependent on each others and see that they have something

to win by working together. Nevertheless, this is not a '*nodal governance of security*', as Johnston and Shearing (2003) called it. Because the public police and prosecution have special powers, competencies and legitimacy, they should not, at least not in the European context, be considered as just only of the 'nodes' in security networks (cf Crawford 2003). However, their influence is increasingly limited by the fragmentation of these networks and by the displacement of security powers, resources and strategies to private agencies like companies and sector organizations and by the rise of new forms of regulation and supervision.

The new distribution of responsibilities between public and private agencies in the field of security raises new fundamental questions. The once clear demarcations between public and private tasks and organizations have increasingly eroded. Tasks of crime reduction and management, in former days considered as proper public policing tasks, are partly taken over by private agencies, albeit often in a somewhat other shape. This development raises questions about public accountability of private initiatives and about the guarantees of justice and equity. These questions are relevant because private strategies of crime prevention and security management may have serious implications both for safety as a public good and for individual citizens (Loader and Walker 2001). The blurring of boundaries between public and private organizations in the field of crime prevention and security management should not have as a consequence that questions about safety and 'public interest' and about the implications of security strategies for important social and individual values are no longer on the public agenda. However, the displacement of security management to private agencies, like companies and economic sector organizations, in combination with a gradual withdrawal by the state and the rise of new regulatory bodies implies the risk that these questions may disappear from public debate and attention.

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ANNEX 7

THE PRIVATE SECURITY INDUSTRY AND ITS POSSIBLE ROLE/CONTRIBUTION IN THE DEVELOPMENT OF A COMMON EUROPEAN APPROACH TO ORGANISED CRIME: WOULD LESS BUT BETTER QUALITY COOPERATION BE HELPFUL?

By:

- Michael Levi, Cardiff University (*coordinated by*)
- Nicholas Dorn, Cardiff University

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ABSTRACT

The private security industry stretches from local guarding, to international private military companies, with the investigation activities of corporate and private security firms working for corporate and governmental clients sitting between these local and international extremes. Themes from the literature (academic and industry) are presented, together with brief examples of private security firms and activities. Cooperation with public enforcement agencies varies from being strong in some areas, to low or no formal cooperation but some informal 'helping out' in other areas. Such variation is analysed in terms of formal priorities and constraints on both sides, and in terms of cultural and occupational closeness. Implications for the shaping of organised crime include its restraint and possibly its reduction in areas of relatively high cooperation, such as anti-terrorist work, at the expense of its resilience and possibly its growth in areas in which cooperation is relatively low, such as insider frauds and competitive business behaviour.

1. INTRODUCTION: JOINT ACTION – COOPERATION – SOLO ACTION

This chapter of the IKOC (Improving Knowledge of Organised Crime) project addresses the questions of cooperation between private security firms and public enforcement agencies, and how such cooperation may shape opportunities for and constraints on organised crime operating within legal and/or illegal markets. This presentation is based directly on literature searches and on face-to-face, telephone and email discussions with private security practitioners in the summer of 2004.

¹ It is also more loosely based on interviews with 14 senior security managers, finance directors and auditors in 2003² and consultancy and research over some years. A summary is presented of the literature on the private security industry, followed by a descriptive focus on those private security activities that are most relevant to organised crime. Some formal (legal and commercial) boundaries to cooperation are then noted, followed by an analysis of ways in cultural and informal dimensions of private security and public policing selectively but not universally transcend such formal limitations. Implications of the patterns of cooperation observed are discussed, in relation to the shaping of organised crime in illegal sectors of the economy, in legal sectors, and in area of linkage and overlap between legal and illegal sectors. Finally, some future and emerging issues are discussed.

First, in introduction, some observations on the contemporary context. The US National Commission report on intelligence failings leading up to events on 11 September 2001 offers the following thought.

The agencies cooperated, some of the time. But even such cooperation as there was is not the same thing as joint action. When agencies cooperate, one defines the problem and seeks help with it. When they act jointly, the problem and options for action are defined differently from the start. Individuals from different backgrounds come together in analysing a case and planning how to manage it.³

International and national security issues have become intertwined with organised crime issues and the issues raised continue to reverberate. The extract above illustrates a much wider trend: the agreement in principle at the level of governments and agencies on the necessity to move from formal and often limited forms of

¹ The authors thankfully acknowledge who assisted in 2004. Two interviewees headed small private security firms (Graham Satchwell, who gave helpful insights on the industry generally; and a person who remains anonymous on kidnap and ransom aspects). Two worked for anti-counterfeiting organisations (Kenny Wright at IFPI, Micky Buchan at FACT). Two worked in insurance (Andy Wragg and his colleague Malcolm Woolgar at Lloyds in London, consulted on enforcement aspects of the insurance markets; Benoit Montens at Assuralia like wise consulted in Brussels) and one in pharmaceuticals (Ashley Howe). Two persons were active in the coordination of private investigators' associations (Peter Upton at Prudential; Tony Immosi, representing the interest group PSIACT, who was helpful on private investigators' responses to UK government on licensing proposals). About half of the interviewees previously worked in public enforcement agencies. Many others throughout Europe assisted by email or telephone in 2004. On starting the work we also benefited from discussions with and advice from Alison Jamieson; Henk van de Bunt, Hans Nelen and Dina Siegel at Vrije Universiteit Amsterdam; and Jan Terpstra. This paper was delivered in November 2004, subsequently being slightly revised and extended in 2005, in response to comments received meanwhile from Telecom Italia (consortium partner) in early 2005 and from the European Commission (sponsor) in November of that year. The use made of information and the conclusions reached are the responsibilities of the authors.

² Levi, M., Morgan, J. and Burrows, J. (2003), 'Enhancing Business Crime Reduction: UK Directors' Responsibilities to Review the Impact of Crime on Business', *Security Journal*, vol. 16, no. 4, pp. 7-28.

³ National Commission of Terrorist Attacks upon the United States, *The 9-11 Commission Report*, Washington: Government Printing Office, page 400, <http://www.9-11commission.gov/report/index.htm>.

cooperation, to much closer and more productive ways of working together. However such in-principle agreements – to move *beyond cooperation* and on to *joint action* – can be difficult to translate into practice, for a variety of reasons. The reasons are not only practical (such as lack of time or resources) but also concern legitimate differences in the missions and motivations and performance indicators of different ‘players’ (not always just a matter of ‘guarding one’s own turf’), and constitutional and legal safeguards (on human rights and data protection). The same issues affect public cooperation with private and corporate security firms. It should be stressed (as implicit in the ‘9/11 Commission’ quote) that the lack of ‘joined up government’ (or, when we include private security, joined up governance) regularly occurs within the nation state as well as between states – and within commercial entities.

In reality, compromises have to be struck. If this is true in relation to government agencies when concerned with national security and anti-terrorism in peacetime,⁴ it is even more so in relation to the broader arena of public and private security co-working. Like the public sector and private sector in the wider sense (discussed in the preceding chapter by VU), the public enforcement agencies and private security agencies experience disparate pushes and pulls. For reasons to be discussed, there are many areas in which their activities fall short of cooperation. Not only is there sometimes no formal and routinised cooperation: there may be little informal, ad-hoc cooperation either. Whilst lip service is paid to a core of common concerns, there are wide savannas across which the gamekeepers work more or less alone. This is reality.

In overview, the topic of this chapter, *cooperation*, can be seen as being a mid-point on a scale of closeness of public/private security relations, being between *joint action* (strong cooperation that transcends different perspectives), and *solo action* (little or no cooperation). Private and corporate security firms are sometimes the partners of government, regulatory, compliance and law enforcement agencies; sometimes fellow travellers; and occasionally opponents. Tobacco companies’ security departments might be a good example of this complexity of relationships. As several senior personnel in the private security field stressed during interviews for this research, they would never do anything illegal, but that does not mean that all the economic interests of all of their clients are always the same as those of government (a point whose implications are taken up at the end of this chapter). Finally, there are some areas of economic crime in which neither law enforcement nor private security has much of an interest. To identify these areas and to unpack some implications for shaping opportunities for crime, this chapter first provides a sketch of the contexts in which the private security industry works and gives a flavour of some private security activities against OC. It then provides an analysis of the varying levels of cooperation between enforcement agencies and private security firms and examines how the resulting variable geometry of cooperation between enforcement agencies and private security shapes environments and opportunities for OC.

2. CONTEXT: THE PRIVATE SECURITY INDUSTRY, ITS DEVELOPMENT AND SOME DEBATES

Private security covers quite a wide field. At the local level it involves static and mobile guards, some of which may work for very small security firms or even be individuals, whilst others work for large multinationals and almost inevitably are drawn into cooperation with national and international police agencies and sometimes military depending on the countries in which they operate.⁵ At international level the industry shades off into ‘contractors’ who have more arduous guarding duties for corporate or political entities and/or a brief to change or maintain the military and political balance of power (Private Military Companies, or PMCs). In between these extremes of local guarding and international private armies, one finds investigation activities for corporate clients, with its primary focus on safeguarding the particular interests of the economic entities which directly employ/contact it.

⁴ This study does not cover the use of private security in times of war or other full-blown emergency, when most countries have legal provision for the private security industry (alongside many other services) to come under central control. See Collett, B. (2004), ‘Strong in attack... civil in defence’, *Security Management today*, February, pp. 18–20.

⁵ A recent estimate is that in the enlarged European Union (henceforth EU), over 27,000 ‘firms’ employing over 1262,000 persons are active in guarding, and more in cash transit protection and related fields. CoESS (2004), *Statistics: panoramic overview*, Brussels: Confederation of European Security Organisations, <http://www.coess.org/stats.htm> These figure are bound to be underestimates since regulation/licensing (which would give a more reliable basis) is relatively recent in some countries.

Early commentaries

It is fair to say that although academic commentators have seen the question of relations between the public interest and the private sector as interesting and as potentially problematic,⁶ that view has not always been shared with policy makers. A relatively early European commentary⁷ found it remarkable that not one of sixty French civil servants interviewed found private security to be at all problematic. As Ocqueteau⁸ commented, with reference to France, if the state certifies private security as legally competent to carry out what hitherto might have been regarded as state-only functions – for example, dealing informally with shoplifters instead of turning them over to the police, carrying out baggage searches in public places and transportation systems, affecting immigration expulsions, managing prisons – then there is a considerable departure from traditional ideas and practices about public policing and legality.

Whilst most Anglo-Saxon commentators have described this as *privatisation* of public functions,⁹ Ocqueteau suggests that we see it as a *making public* of private functions. Indeed it is not clear who is crossing whose boundaries, nor if the concept of a public/private boundary sets up something of a pseudo-problem. This is a thought to be pursued below – we maintain that it is not just the public/private boundary that needs to be considered but, rather more, the question of what priorities and practices the agency has, be it private or public. The French position may reflect the still relatively strong hold of ‘ENArchistes’ in French corporate as well as public life which still, a decade after Ocqueteau wrote, differs somewhat from the more neo-liberal model of Anglo-Saxon capitalism. As for attitudes of the general public, some evidence suggests that the public is not always aware of how many tasks are now partially or fully privatised.¹⁰

In reviewing the industry as it was across Europe in the 1990s, Jaap de Waard distinguished between contracted security firms, in-house security, sellers of surveillance equipment and surveillance (eg cameras) and guards for high-value goods in transit.¹¹ Other researchers paint a similar picture and attention also being paid to legal frameworks and licensing/regulation.¹² De Waard’s paper does not deal with private investigators, who are of interest for present purposes, nevertheless his sketch is useful for background, as it captures the tone of debate on private policing in relation to localities, shopping malls and gated communities. De Waard notes increasing acceptance of private provision in what once were core (public agency) police tasks, such as ‘erection of crash barriers, attendance at receptions and publicity functions, attendance at public events, traffic control and parking enforcement’ (op cit, p 144–5). The same author offers 1990s estimates of numbers of private security personnel in European and other developed (and some developing) countries and gives brief sketches of the industry and its regulation in several countries. He cites the CoESS 1997 study on quality of private security as perceived by its clients (purchasers), suggesting that quality was lower in countries which then had no regulation of their relatively large private security sector (Britain, Ireland, Germany) than in regulated countries (Sweden, the Netherlands).¹³ Lastly, de Waard

⁶ For a useful overview of sources allied to a critical stance, see Stenning, P. (2000), ‘Power and accountability of private police’, *European Journal on Criminal Policy and Research*, vol. 8, no. 3, September, pp. 325–352. Stenning finds that the private security industry does have powers but that mechanisms for accountability exist.

⁷ Gatto, D. and Thoenig, J. (1992), *Le policier, le magistrat et le préfet, le gestion de la securite publique a l’epreuve du terrain*, Paris: Ibesi, roneo.

⁸ Ocqueteau, F. (1993), ‘Legitimation of the private security sector in France’, *European Journal on criminal policy and research*, vol. 1, no. 1, pp. 108–122.

⁹ South, NO. (1998), *Policing for profit*, London: Sage.

¹⁰ See for example Obergfell-Fuchs, J. (2000), *The Possibility of Privatisation of Police Tasks and its Impact on Feelings of Safety in the Public* (study carried out for the Bundeskriminalamt), Freiburg: Max Planck Institute for Foreign and International Criminal Law, abstract at http://www.iuscrim.mpg.de/forsch/krim/obergfell2_e.html.

¹¹ De Waard, Jaap (1999), ‘The Private Security Industry in an International Perspective’, *European Journal on Criminal Policy and Research*, vol. 7, no. 2, pp. 143–174.

¹² See for example Cools, M. (1998), ‘Evolution in the private police and private security sector in Belgium’, *International Journal of Risk, Security and Crime Reduction*, vol. 3, no. 1, pp. 65–66. Brion, F., Kaminski D. (2001), *Etude de droit compare sur la réglementation du secteur de la sécurité privée dans 9 Etats membres de l’Union Européenne*, rapport final, 15 novembre, Université Catholique de Louvain – Unité de Recherches en Criminologie.

¹³ For current information on guarding and similar aspects of private security throughout the enlarged EU, and for reports from national associations CoESS, *Annual Report 2003*, Brussels: Confederation of European Security Services, www.coess.org. CoESS represents corporate bodies and natural persons involved in surveillance and protection of civil aviation, in particular inspection of individuals, luggage and cargo and other security measures. For an independent study see Hoff, O et al. (2003), *Sectoral Unions and Employers Organisations in the Private Security Sector in the EU*, Louvain: Université Catholique de Louvain, Institut des Sciences du Travail (Project VT/2002/0215, Research project for the Employment and Social Affairs DG of the European Commission), <http://www.trav.ucl.ac.be/recherche/rapports%202003/rapport%20final%20EN%20private%20security.pdf>.

speculates that the industry might expand as police focus on their 'core business',¹⁴ and that governments will see a greater need for regulation and that 'stringent procedures for quality control... will be incorporated in to private security companies' cultures' (op cit, p 171). De Waard thought that, in the light of international developments, forensic accounting would become a growth area of the larger international firms (ibid, p 172): how prescient! On the other hand, with hindsight, his prediction that developments in IT would reduce the scope for crime (ibid) was sadly misplaced.

Expansion of the market and quality of service

In 2004, market-leading firm Securitas¹⁵ analysed trends and predicted as follows.

The market has moved from being a low-end supplier of guarding personnel, provided by a number of facility service conglomerates, to a more focused and specialized security solutions industry. In the past few years, a similar development has taken place in cash handling services. Traditionally the industry focused on cash transporting, carried out by distribution companies. Today the market is almost entirely driven by dedicated cash handling companies and there is a steady move towards integrated cash handling solutions. Over the next decade, the challenge will be to ensure that the electronic security systems and monitoring industry develops efficiently. Today the market is highly fragmented and participants range from large industrial conglomerates and telecommunication companies to individual electricians. Future growth and profitability in the systems segment are dependent on our ability to further contribute to building a focused and specialized industry.¹⁶

On market fragmentation and the drive by the bigger firms to grow further, the following, also from Securitas, is typical of marketing by the bigger firms, emphasizing the diseconomies of small scale.

A department store. Incident: The management discovers during an inventory that goods are missing for no apparent reason. An internal investigation showed that guards from the security provider – a small security firm – had stolen goods worth hundreds of thousands of euros. Consequence: The legal proceedings were extensive and the store lost money, time and goodwill. The security provider did not have insurance to cover liability and is today no longer operational, which makes it difficult for the store to take legal action. Lesson: It is vital to know who the provider is, its financial position and how it is covered.¹⁷

Growth is generated by linking up various services so that they can be provided as a package by one firm, and by improvements in the quality of service, going beyond reliability and integrity, to include a feel good factor analogous to the 'reassurance policing' model developed by the UK Home Office¹⁸. An increase in 'client-centeredness' has been observed by researchers.¹⁹ Karel Vankeirsbilck, responsible for security at Belgacom, offers the following 'puff' for Securitas.

"The Securitas guards are friendly, helpful and prepared to do more than their job. They have also helped us on many occasions with major distribution tasks, such as when we changed our logo and they brought 22,000 CDs into almost every office. I also recall one freezing cold winter when the Securitas people on patrol brought warm soup to our workers who were out repairing burst pipes in the streets. Such things are greatly appreciated."²⁰

Academic commentators have noted the expansion of the industry, and have posited a number of reasons, implicating different styles of social science explanations: factorial, historical and post-modern.²¹ *Factorial* explanations consist of lists of factors assumed to push the expansion of private society, such as higher level

¹⁴ See also Hoogenboom, A. (1991), 'Grey policing: a theoretical framework', *Policing and Society*, vol. 2, no. 1, pp. 17–30.

¹⁵ Securitas was founded in 1934 in Helsingborg, Sweden. Pinkerton and Burns International (originally the William J. Burns Detective Agency), both parts of Securitas now, were founded in Chicago, US, in 1850 and 1909, respectively.

¹⁶ Securitas (2004), *Market development*, <http://www.securitasgroup.com/www/secgroup/secgroupwww.nsf/wwwfsMain?openframeset>.

¹⁷ Securitas magazine (2004), 'Seven mini case studies illustrate unforeseen incidents and the lessons learned', issue 1, <http://www.securitasgroup.com/www/secgroup/secmagazine.nsf>.

¹⁸ Singer, L. (2004), *Reassurance policing: an evaluation of the local management of community safety*, Home Office Research Study 288;

Dalgleish, D. and Myhill, A. (2004), *Reassuring the public – a review of international policing interventions*, Home Office Research Study 284.

¹⁹ O'Connor, D., Lippert, R., Greenfield, K. & Boyle, P. (2004), 'After the "quiet revolution": the self-regulation of Ontario contract security agencies', *Policing & Society*, vol. 14, no. 2, June, pp. 138 – 157.

²⁰ Vankeirsbilck, K., cited in Securitas (2004), 'A good call for Belgian Telecom: Belgium's national telephone company finds a more effective security solution at a lower total cost', issue 1, <http://www.securitasgroup.com/www/secgroup/secmagazine.nsf>.

²¹ Johnson, L. (1999), 'Private policing in context', *European Journal on Criminal Policy and Research*, vol. 7, no. 2, pp. 177–9.

of reported crimes, fear of crime, increasing quantity of diversity of private property, etc.²² Longer-range, *historical* approaches invoke not just the expansion of forms of private property but also an increase in social inequalities and changes in social relations.²³ Others commentators, working with over-arching concepts of modern, late modern or post-modern society,²⁴ talk of convergence of the goals of the public and private sectors, whilst at the same time socio-cultural groups become more diverse and more dependent on conspicuous consumption to underpin social identities. Reacting to the crime implications, governments initially tried to harness disparate social forces and political dissatisfactions by appealing to 'community' – bringing public and private sector actors together in defence/creation of community-based crime prevention. More recently, however, 'security' has since taken the place of 'community'. Giddens, Beck and others²⁵ have described a global highlighting of a sense of risks and a scramble to pre-empt such risks. Certainly the public and private sense of risk in western countries and of the need for (and difficulties) of pre-emption has heightened since September 2001 in New York and the subsequent multiple train bombings in Madrid in 2004. As 'security' has replaced 'community' as a key motif (*securitisation*), so pre-emption has replaced prevention as a strategy.

Commenting critically on the academic literature on risk, policing and private security, Johnson (op cit, p 182) suggested that some 'totalising' historical perspectives might carry an implication of fatalism. If grand historical themes and narratives drive all before them, and if nothing can be changed, then what point in independent research and analysis? By contrast, the work of Foucault²⁶ has been claimed by some²⁷ as reconciling an account of grand trends and micro-level 'resistances'. From this less deterministic analysis, trends such as governments' adoption of *actuarial* thinking, which gives impetus to both private and public forms of policing, also stimulates diversity in forms of provision.²⁸ The present authors observe that, from that perspective, one could not count upon the predictions of industry observers that consolidation would necessarily continue unabated – the private security market might creatively stimulate new service approaches and new entrants who would take market share away from the bigger players. Johnson himself cautiously raised the issue of whether improvements in public accountability and public good might become possible, due to a greater willingness by governments to ensure that a *partially privatised* policing sector is adequately regulated.

3. FOCUS: FORMAL LIMITATIONS TO COOPERATION IN RELATION TO ORGANISED CRIME

Turning now to the question of cooperation between the private security industry and public enforcement bodies,²⁹ most attention has been directed to 'low level' guarding (see above and more recent European commentary³⁰) and to 'high level' activities of international PMCs (some of which may also involve low-level

²² See for example Kakalik, J. and Wildhorn, S. (1971), *Private policing in the United States*, report, Washington: US Department of Justice, National Institute of Law Enforcement and Criminal Justice, 4 volumes. Cunningham, W. and Taylor, T. (1985), *Private security and police in America: the Hallcrest Report 1*, Boston: Butterworth-Heinemanno. For a critique of such approaches, see Jones, T. and Newburn, T. (1998), *Private police and public policing*, Oxford: Clarendon Press.

²³ Spitzer, S. and Scull, A. (1977), 'Privatisation and capitalist development: the case of the private police', *Social Problems*, vol. 25, no. 1, pp. 18–29. Shearing and Stenning (1981).

²⁴ Giddens, A. (1990), *The consequences of modernity*, Cambridge: Polity Press. Beck, U. (1992), *Risk society: towards a new modernity*, London: Sage. Bottoms, A. and Wiles, P. (1996), 'Understanding crime prevention in late modern societies', in Bennett, T. (ed), *Preventing crime and disorder*, Cambridge: Institute of Criminology, pp. 1–41.

²⁵ Giddens, op cit.

²⁶ Foucault, M. (1977), *Discipline and punish: the birth of the prison*, London: Allen Lane.

²⁷ O'Malley, P. and Palmer, D. (1996), 'Post-Keynesian policing', *Economy and Society*, vol. 25, no. 2, pp. 137–155. Simon, J. (1988), 'The ideological effects of actuarial practices', *Law and Society*, no. 22.

²⁸ Johnson, op cit, p. 185.

²⁹ Defined for the purposes of this study as police, customs and other agencies that bring cases to criminal prosecutors. Relations between the secrete intelligence agencies and private security firms are outside the scope of the preset research but for clues, see Warner (Sir Gerald) (1998), 'Transnational organised crime and the secret agencies', *International Journal of Risk, Security and Crime Prevention*, vol. 3, no. 2, April, pp. 147–8.

³⁰ Van Hassel, W. (2004), *The European Model of public-private partnership*, 4th European Conference Private Security, Madrid, 14 & 15 October, http://www.coess.org/madrid2004/madrid_x_speech_vanhassel.pdf.

guarding), with a view to introducing/tightening regulation.³¹ This low level guarding focus for analysis is true also of those commentators who have looked at the 'flipside' of cooperation, namely competition for business between public and private security.³² Relatively little research attention has been paid to the 'middling' level of private/corporate security and its cooperation with enforcement agencies against organised crime³³, reflecting the general lack of research on crimes against business above the retail crime aspects of the corporate sector³⁴. There seems no reason to expect an identical configuration or even development path of private-public policing interface in different EU countries, but our interviews suggest that transnational companies will try to ensure comparable standards of both physical security and internal measures against corruption (by or against the firm) wherever they operate, not least because of pressure from staff for physical protection, but also because reputational risk is global for them, and incidents and scandals happening to them anywhere in the world are newsworthy and are likely to be picked up by electronic newsgathering.

Some common ground between enforcement agencies and private security firms has been found in several areas, notably vehicle theft, where private security firms and in-house units of the insurance industry have been active in liaising with their police opposite numbers,³⁵ and more recently in anti-terrorism. However, in general, our industry respondents described cooperation as variable and sometimes frustratingly so. Why is this? One private security operative, with considerable experience of public/private security cooperation issues both within and outside the EU, suggested to us in interview that there is a hierarchy of concerns/propensity to action in public sector enforcement agencies, and these priorities shape enforcement agencies' cooperation with the private security industry.

The crimes most amenable to cooperation include all those with an identifiable individual complainant and victim, for example burglary, especially if linked to a strong policy perception of the problem. For example many burglaries are assumed to be motivated by a drug-stimulated need for cash. A medium level of cooperation is evoked for crime where there is an individual victim, who however typically is at least partially reimbursed, alongside a corporate victim, credit card fraud being an example. Low cooperation or no cooperation occurs when there is no individual victim (only a corporate one), for example intellectual copyright crime such as unlicensed music or films or counterfeit branded clothing, where some 'punters' (buyers) think that they get a bargain through purchasing unlicensed stuff.³⁶

This viewpoint on the variability of public/private cooperation – and associated complaints that, when private society entities pass information to the police or other enforcement agencies, the latter give insufficient feedback on the use of that information – seem to be widespread within the private security industry throughout the European Union.³⁷ Many interviewees (including those making suspicious transaction reports

³¹ UK House of Commons (2002), *Private Military Companies: Options for Regulation*, HC 577, London: The Stationery Office, 12th February, London, <http://www.fco.gov.uk/Files/kfile/mercenaries,0.pdf>. This contains the following at para 62: 'Although there is little risk of a return to the circumstances of the 17th and 18th centuries when privateers were hard to distinguish from pirates, and Corporations commanded armies that could threaten states, it would be foolish to ignore the lessons of the past.' Whilst attention has been given to PMCs active in Africa, and to a lesser extent South America, contemporary attention is on the Middle East. See for example, Singer, P. (2004), *Outsourcing the War: Warriors for hire in Iraq*, Brookings Institution, April 16, page 1, <http://www.brook.edu/views/articles/fellows/singer20040416.htm>; Christian Science Monitor (2004), 'War-zone security is a job for ... private contractors?', 3rd May edition, <http://www.csmonitor.com/2004/0503/p02s01-usmi.html>; Isenberg, D. (2004), *A Fistful of Contractors: The Case for a Pragmatic Assessment of Private Military Companies in Iraq*, Research Report, London: BASIC (British American Security Information Council, 4 September, pp. 138, <http://www.basicint.org/pubs/Research/2004PMC.htm>. BASIC is an independent research organization that analyses government policies and promotes public awareness of defence, disarmament, military strategy and nuclear policies in order to foster informed debate.

³² Adam Crawford has outlined four possible scenarios – similarity/convergence, market competition, enforcement agencies trying to steer the private security sector, and enforcement agencies employing (cheaper) non-police personnel in order to capture back from private security some of the privatised market. Crawford, A. (2004), remarks made in the context of panel session on 'Public-private security', Conference on Global similarities, local differences, European Society of Criminology, Amsterdam, 25–28 August. In eastern Europe (or at least in Slovakia), according to Mesko, G. (same session) the enforcement agencies hold private security in some disdain.

³³ Recent European scholarship such as that of Diego Torrent seems focuses on public security and crime-fighting: Torrente, A. (2004), *The articulation of public and private security: the case of Spain*, University of Barcelona, presentation in the panel session on 'Public-private security', Conference on Global similarities, local differences, European Society of Criminology, Amsterdam, 25–28 August.

³⁴ See Wakefield, A. (2003), *Selling Security – The private policing of public space*, Cullompton: Willano.

³⁵ Various authors (2003), Seminar [on] Public-Private Partnership, 16 and 17 December 2002, The Hague, The Netherlands, pp. 35, http://www.coess.org/documents/seminar_public-private_partnership.pdf.

³⁶ Interview note 2004, London. The main points are captured, not the spoken speech.

³⁷ Interview note 2004, Brussels.

on money laundering to Financial Intelligence Units) appreciated that there were data protection issues in receiving feedback, but the consequences were seen as negative, since at least private police (but not all Money Laundering Reporting Officers) saw that they were essentially doing the same job.

In order to contextualise these perceptions, it is helpful now to give some examples of the 'middle' part of the private security industry. We focus on those services that are particularly relevant in cooperation against organised and economic/corporate crime.³⁸ The private security firms that provide such services are not necessarily large; indeed some of them are small networks of independent contractors, hiring themselves out to the corporate sector, such as the UK firm that is profiled below (Example 1). Others are firms with a truly global reach, like Control Risks and Kroll (Example 2). There are many sectoral, specialist organisations, set up by industries concerned with counterfeiting and intellectual property theft (fashion, films, music, etc). Lastly there service providers who seek to supply the private security industry with information, databases or other services. Some case studies of the variety of players and activities help to set the stage for an understanding of the limits of cooperation with the public sector.

Example 1: a small network and limitations on cooperation

This is a UK company whose managing director (like many of those in the corporate security business) used to work in the police, following which he worked in-house in the security departments of several large international companies before setting up independently. The firm builds teams for particular projects by tasking independent specialists in investigation, surveillance, electronics, criminal analysis, etc, who are generally ex-police people. Categories of investigation include thefts of goods, counterfeiting,³⁹ safeguarding competitive advantage by ensuring confidentiality of key processes within the company (and with suppliers), and/or questions about people within the company itself.

The environment in which this and other investigation firms work is a difficult one. There is no Memorandum of Understanding with police or other public authorities and, because of this, cooperation is unstructured, informal and dependent on personal contacts (see section 4 below for the cultural basis of this). Reportedly it is not difficult to get police officers to listen, but almost impossible to get them to talk (share information). All the energy has to come from the private security firm, unless a clear public interest is threatened. The situation is seen to be better in those countries where private investigators are licensed, when police may treat them as quasi-public. In general, cooperation is and is seen to be a one-way street.

Having said that, constraints on information sharing are sometimes attributable to the corporate sector client. There are cases within companies of possible mistakes, thefts by staff at all levels, corruption amongst middle and upper management, manipulation of procurement contracts (to favour particular suppliers), breaking of regulations or other illegal practices, which perhaps should be reported to the public authorities for investigation. The extent to which there is an obligation to report frauds to financial regulators in the EU remains contested terrain but, both in and outside the financial services sector, in many cases frauds are not reported – because managers of the company concerned do not want publicity and would rather hush things up, striking a deal with the staff members concerned to leave quietly.⁴⁰ In some cases some or all of the

³⁸ In-house departments of security are excluded from this review since they are dealt with in the broader context of cooperate risk management in the preceding chapter by VU.

³⁹ For an insider view on counterfeiting of medicines, see Satchwell, G. (2004) (November) *A Sick Business: Counterfeit medicines and organised crime*, ISBN 0-9547663-2-6, London: Stockholm Network, <http://www.stockholm-network.org/about.cfm>. The aim of the network is 'to build and develop a formal network of academics, policy practitioners, journalists and business people who will exchange market-oriented policy ideas and reform strategies across the EU and beyond.'

⁴⁰ As Telecom Italia commented to the authors in 2005, 'When the media becomes involved, public enforcement bodies feel obliged to produce newsworthy information with important names and sums of money: the aim of the private individual is exactly the opposite, to keep as low a profile as possible'. For the UK, 'Nearly half of businesses don't inform their external auditors of instances of economic crime, although 68% inform their internal auditors, and only 38% inform their industry regulators.' RSM Robson Rhodes (2004), *Economic Crime costs UK plc £40bn a year*, London: RSM Robson Rhodes, summary at <http://www.rsmi.co.uk/rrweb/news.nsf/0/9679975828B8AE8280256F3100348832?OpenDocument>. The reader will note that the statistic generated by this survey derives from those companies who responded to the survey, which had endorsement of the Home Office and the Fraud Advisory Panel and support from the CBI and other collaborators. For a review of the UK Financial Services Authority position, see 'The FSA's new approach to fraud – Fighting fraud in partnership', 26 October 2004 and 'Fighting Financial Crime Together', 15 November 2005. See also: Higson, A. (no date), *Why is Management Reticent to Report Fraud? An Exploratory Study*, London: Fraud Advisory Panel, working party paper, pp. 19.

board-level directors of the company may be unaware of the problems, because managers feel it is expedient not to inform them. This is especially likely where the one or more managers fear that the fraud might reflect badly on internal controls or aspects of corporate culture for which they hold some responsibility.

The private investigator may then have a difficult choice between (i) servicing the wishes of the manager(s) who has/have employed the investigator (and whom they may hope will employ them again in future); or (ii) trying to get the manager(s) to change their stance (which can lead to conflict); or (iii) whistle-blowing to the board of directors (which can lead to loss of future business); or (iv) ignoring the wishes of the client and going to the authorities (difficult in those cases where the contract for private security services contains confidentiality clauses that are not over-ridden by national law).⁴¹ In most cases, the private security firm itself is not motivated to conceal the situation, but it may face strong pressure to do so. Such pressures weigh heavily upon smaller private security firms. Certainly there is a market in the corporate sector for 'clean' private security services (like *Example 1* above). However there is also a market for the less scrupulous.⁴² It will be a consequential choice – based on imperfect market knowledge – for particular firms which ethic and market profile they wish to adopt.

To summarise from the perspective of the small private security firm, cooperation with enforcement agencies is the lifeblood of the business but, equally, cooperation faces constraints from the public authorities and sometimes from corporate customers.

Example 2: the big battalions and their variable relation to the public sector

As described on its website, 'Kroll is the world's foremost independent risk consulting company. Kroll helps clients reduce their exposure to global threats, capitalize on business opportunities, and protect employees and assets [covering] Corporate Advisory & Restructuring, Forensic Accounting, Valuation & Litigation Consulting, Electronic Evidence & Data Recovery, Business Intelligence & Investigations, Background Screening and Security Services'.⁴³ We focus for present purposes on business intelligence and investigations.⁴⁴ At this level of the market (unlike the smaller firms, profiled immediately above), the customer may sometimes be a government agency. Kroll's website includes the following sketch of such a case.

'The Problem: The finance minister of a Caribbean nation suspected that the failure of three major banking groups was the result of fraud. The Kroll Solution: Faced with a large and complex investigation, Kroll assembled and managed three teams of forensic accountants, investigators and a government audit staff. These teams conducted interviews with a large number of parties, including some suspected of wrongdoing. These teams also analyzed and managed documentation, determined a timeline of suspicious activities, traced and located hidden assets and helped quantify the scope of the fraudulent activities. The Result: Kroll discovered hidden assets in domestic and international locations, assembled evidence of fraud and corruption and worked closely with the police and justice officials from the Caribbean nation to help prepare charges against several former owners and managers of the banks.'⁴⁵

Investigations where the client is a private sector company include hostile takeover situations. Here, 'Kroll's investigators and analysts gather and synthesize intelligence on takeover strategies, intentions, vulnerabilities and tactics. Kroll's experts work closely with your senior managers, corporate counsel and

<http://www.fraudadvisorypanel.org/pdf/Why%20is%20Mgt%20Reticent%20to%20Report%20Fraud.pdf>.

⁴¹ In some countries, for example Belgium, there is a general obligation on citizen to report crime that they become aware of, which is made more explicit in the case of private investigators; in other countries, for example the UK, this is not the case.

⁴² Cf Gill and Hart, op cit.

⁴³ Kroll (2004), About Us, <http://www.krollworldwide.com>.

⁴⁴ In May 2004, Kroll was purchased by the insurance and financial services firm Marsh & McLellan, which itself has been hit by New York Attorney-General Spitzer's long-running investigation of misconduct by elite Wall Street firms, The firm's official website history states: "Since being founded in 1972 by Jules B. Kroll...Kroll has expanded beyond investigative and security services to include corporate advisory and restructuring, consulting and other risk mitigation services. Kroll's expansion started in the 1980s, when the company began helping corporate clients size up the financial standing of suitors and takeover targets. Kroll quickly became known as Wall Street's "private eye." By the 1990s, strategic acquisitions and mergers helped Kroll become a full-service global risk consulting company. By acquiring companies specializing in forensic accounting, background screening, drug testing, security engineering, corporate restructuring and electronic-data recovery, Kroll was able to complement its traditional investigative and intelligence expertise."

⁴⁵ Kroll (2004), Intelligence and Investigations Services, Case Studies, http://www.krollworldwide.com/services/investigations/case_studies/index.asp.

public relations consultants to provide detailed research, intelligence and analysis of the business practices and personalities involved in the contest. [...] Having the right information can make all the difference in winning or surviving a corporate contest.⁴⁶

Unhappily, it was in such a context in summer 2004 that Kroll found itself obliged to answer questions of the authorities of Italy, Brazil and the United States, illustrating possible problems in and limits to cooperation.⁴⁷ This again illustrates that, whilst there are constraints on the cooperation that state agencies offer to private security firms, these are by no means the only constraints. There are also circumstances in which the private sector companies that hire private security firms are pursuing very particular and hard-fought interests, which are opposed not only by competitor companies and but also by politicians aligned with or sympathetic to one or other interest.

Example 3: cyber crime investigations

Cybercrime⁴⁸ – and in particular identity theft, financial frauds over the internet, extortion including denial of service attacks on companies generally and on-line retail sales companies in particular – is a broad area in which cooperation between the private and public sectors is relatively high. This is because cybercrime is seen as serious both for the private sector (who suffer reputation damage as well short-term financial loss), by their customers (who are defrauded), and by the police and related agencies (who are stimulated by the widespread and rather public nature of the damage and by ‘national interest’ considerations). Whilst industry giants such as Microsoft have significant internal capacity to assess and counter such risks, a variety of independent private security companies and individuals are typically mobilised as well.

Interestingly for present purposes, one of the key issues in cooperation is confidentiality. Private sector firms would not like their commercial secrets and intellectual property inadvertently to be compromised by police officers in conversation with competitors. This leads to the creation of Memoranda of Understanding for joint work.⁴⁹ Such problems can be handled, it seems. However what has been rather more problematic is the division of responsibilities and difficulties of co-working within and between enforcement and allied agencies, and between countries.⁵⁰

Example 4: the private sector buys a seat at the table

The 4IPR (For Intellectual Property Respect) project⁵¹ is sponsored by the Research Directorate-General of the European Commission. The aim of the project is to identify information systems currently available and in use within the European Union to tackle the problem of counterfeiting and to develop an information infrastructure that allows the sharing of relevant data wherever possible. The final system will allow secure sharing of information between government agencies, companies threatened by counterfeiting, the legal community, technology providers and the public in general, all of whom are frequently deceived and placed at risk from counterfeit goods. The following companies are involved in this project: Thales Information Systems, Agence pour la Protection des Programmes, Worldwide Security Exchange Limited, and REACT Services UK Limited.⁵²

It is understood from industry and enforcement sources that, as of 2004, REACT is seeking to finance a seat at the UK National Criminal Intelligence Service, in order to digest information from the private sector, and to

⁴⁶ Kroll (2004), ‘Hostile Takeovers and Proxy Contest Consulting’, <http://www.krollworldwide.com/services/investigations/takeovers/>.

⁴⁷ Wheatley, J. (2004), ‘Companies [in] the Americas: Italy seeks Kroll probe answers’, *Financial Times*, October 29 (www access requires subscription but copy on News Italia Press, 29 ottobre 2004, <http://www.newsitaliapress.it/interna.asp?sez=240&info=101919>).

⁴⁸ Wall, D. (2002), ‘Insecurity and the Policing of Cyberspace’, in Crawford, A. (ed) *Crime and Insecurity*, Cullompton: Willan, pp. 186–209. Also: Savona, E and Mignone, M. (2003), ‘The impact of technology on crime’, paper presented at the international Conference on Crime and technology: new frontiers for legislation, law enforcement and research (Courmayeur Mont Blanc, 28–30 November), Trento: TRANSCRIME.

⁴⁹ NHTCU (no date), *Confidentiality charter: the NHTCU working with business*, London: Metropolitan Police, National High Tech Crime Unit, <http://www.nhtcu.org/Confidentiality%20Charter.pdf>. For background, see Peter Sommer, 2000, Investigating cyberspace, 27 January, ComputerWeekly.com, <http://www.computerweekly.com/Article21418.htm>.

⁵⁰ Levi, M & Wall, D, D, 2004, Technologies, Security, and Privacy in the Post-9/11 European Information Society, *Journal of Law and Society*, volume 31, number 2), pp 194-220.

⁵¹ 4IPR site, 2004, <http://www.4ipr.info/slideshow/index.html>.

⁵² Ibid.

explore ways of exchanging it securely.⁵³ This might then provide a linchpin for a secure European information exchange network. This would possibly bolster information flows from private security firms and from the private sector generally to the public enforcement agencies. (However it would not seem to tackle the question of when and if so how could it be legitimate for enforcement information to be given to the private sector.) When public bodies are funded by the private sector, issues of public accountability arise. Such issues also arise when private bodies are given delegated enforcement discretion, for example having its guards assist in emergency responses.⁵⁴ On the other hand, issues of accountability to shareholders may arise when an commercial banking entity foregoes investigation of its priority credit card fraud cases, in favour of terrorist finance investigations into relatively small frauds committed against other banks.

Clearly, there are formal pressures to cooperate, and some understandable limitations to cooperation between security firms and public section enforcement agencies – sometimes legal limitations, sometimes commercial ones. However, our interviewees indicated that these rather formal limitations are by no means the whole story. Sometimes in practice cooperation falls short of what might have been expected: one explanation given for this is that “personalities do matter”, and some people cannot get on together. On other occasions, cooperation turns out to be higher than expected from the point of view of formal arrangements.

4. ANALYSIS: THE INFORMAL DIMENSION CAN TRANSCEND FORMAL LIMITS

Two dimensions – an overlap of priorities in some specific areas, and professional and cultural closeness between the sectors – bring some aspects of OC strongly into focus as objects for control by both the public and the private sectors, meriting formal cooperation between the sectors, whilst delegating other aspects to the sphere of occasional and/or informal cooperation.

First, structurally and occupationally speaking, there is considerable staff movement from public to private, leading to *cultural closeness and a multiplicity of informal ties*. Successful (and some unsuccessful) police officers will be fully aware of the prospect of a second career in private security. (There is much less movement from private security into public policing.) This closeness leads to easy dialogue between individuals, identification of areas of common interest in which both formal and informal assistance may take place between units; even in low-priority areas, where formal cooperation is lacking, informal assistance may take place between individuals if close ties exist between them.

Differences in *formal priorities* remain, alongside cultural closeness. Public sector enforcement agencies are led by their traditional concerns and by contemporary tasking by public policy to target, for example, serious crimes against the person, drug trafficking (operations against which typically form a significant percentage of the workload of national enforcement agencies), money laundering and, most recently, terrorism. As for the priorities for private security firms, these are derived from commercial contracts, and typically concern risks to profitability of the industries that retain them, such as intellectual property piracy. As for harms to the state and/or the collective interest, such as tax evasion or money laundering, a private security firm may be tasked by the private sector entity retaining it to take an interest only in specific cases – for example if there is a fear of serious internal non-compliance and the consequent threat of reputational damage. Anything else may be outside the contractual mandate. Where high priorities coincide, for example in relation to anti-kidnap cases (where both public and private see the issues as very serious), then cooperation will generally be excellent; whilst in relation to laundering (which generally remains more a matter of compliance for the private sector and indeed for enforcement agencies other than those which have specialist roles), cooperation may be restricted to what is required to ‘cover one’s back’.

⁵³ Privately financed aspects of mainstream law enforcement are not entirely new, for example parts of the Stolen Car Squad investigators in the Metropolitan Police Service are privately supported and the whole of the joint City of London/MPS Dedicated Cheque and Plastic Crime Unit is funded (from 2004) by the Association for Payment Clearing Services.

⁵⁴ Premier banking industry guards have been trained at private expense to assist in London with full co-operation of the police, as part of Operation Griffin in 2004. (Source: Interview with Security Director.)

Thus, although there are some contextual differences from one EU member state to another,⁵⁵ in general there are two sets of circumstances in which formal policies/priorities determine levels of cooperation. (1) Cooperation routinely occurs when both parties have a strong interest in the area of OC in question. In such cases, the public sector enforcement agencies and the private sector firms cooperate, albeit within certain constraints which are set by law and by resource constraints that are often high in both sectors.⁵⁶ Whether the individuals working on the case know or respect each other is not relevant to the formalities of cooperation (although if for historical reasons relationships are bad or suspicion exists, the cooperation may be more formal than substantive).⁵⁷ (2) By contrast, when one party has a very low or no mandate at all in the area in question, it is extremely difficult to get formal cooperation, however good the informal links might be. Thus, to summarise, when policies/priorities are clear, and when they are consonant, then they determine a higher cooperation level.

In areas that are only *moderately* prioritised by both private and public agencies, the broader cultural closeness between them and the existence of any personal relationships between investigators become the determining factors in cooperation. In such circumstances, some degree of formal cooperation can be expected, if not always on a reciprocal basis (since it may not be legally possible for the public enforcement agency to pass information to a private partner or to involve it operationally). When resource constraints and short-term crises make it difficult for one side to persuade his agency to enter into formal cooperation, *informal* cooperation plays its role. This may be achieved by individuals in enforcement agencies making a database search or other enquiry on behalf of the private security sector colleague, and then simply transmitting the result by phone. Alternatively, where a database search would not be wise (for example because there are efficient logs of computer access that may yield problems for the officer subsequently), possibilities include asking someone to send some new, albeit minor data on the case, which would permit the record to be accessed to be updated. 'Deniable' ways of passing on information include having a quiet drink with their contact, or spending social time with them *en famille*, around which occasion any sensitive information may be quietly and 'deniably' conveyed by facial expression, tone of voice or even a silence in response to questions. (For the private security sector person to convey information to a public sector enforcement colleague is generally not so convoluted.)

Specific agencies in the public sector have *particular sectoral priorities*, which may not be so strongly shared by other public agencies. For example, in the UK, Her Majesty's Customer and Excise (HMCE) has responsibility for combating frauds in relation to Value Added Tax.⁵⁸ Thus, private security agencies tackling music or film 'piracy' – which typically also involves VAT evasion – generally find a greater level of formal cooperation with HMCE than with police, for whom such 'piracy' is a rather secondary issue compared with more pressing concerns. But on some other aspects of tax, however, eg corporate tax efficiency, not all private security firms would be so keen to assist the public authorities: tax-collection is not their job, and

⁵⁵ Contexts do differ somewhat. However, this affects the detail of the pattern of cooperation rather than the general principles set out above. In Italy, for example, where culturally there is a strong feeling that Italian design and associated brands are not just an asset for the private sector entities that own them, but also for the national as a whole, and where the concept of organised crime is seen as having permeated cooperate entities and indeed aspects of the state rather more than is admitted in northern European countries, cooperation against intellectual property theft is relatively strong. Even so, as Telecom Italia suggested to the authors in 2005, there is a sense in which 'the extensive know-how of the private sector is not recognised by the public authorities'. In Northern Ireland, because of the historical involvement of some terrorist groups in a range of illegal income-generation activities, and because of the decay of such groups into criminality pre and simple following some success in moves towards political settlement, the public enforcement agencies see links between terrorism, OC generally and concerns of the private sector around intellectual property theft. However, that is not the case on the mainland of UK, so private security entities trying to 'sell' their specific concerns to public enforcement agencies are generally less successful. Consequently, there are efforts to emphasise possible linkages between different aspects of OC, for example the private security agencies (and the private sector generally) may put forward a view that copying of patented or licenced goods is not simply theft of intellectual property but also: a form of 'piracy'; linked to organised illegal immigration; linked to other forms of organised crime; and may be linked to terrorism.

⁵⁶ See comments above on constraints on passing information from public enforcement agencies to private agencies, but see also reservations expressed on compliance with these constraints and also on disruption. As contrasted with guarding staff, the number of private business security staff operating in industry and in corporate bodies can usually be counted on one hand.

⁵⁷ The question of what is and is not permitted by law differs somewhat between European countries, although in most there has been a general post-war tendency for stronger regulation of the conduct of police investigations, especially those leading to prosecutions. At the same time, 'disruption' has come more explicitly to the fore in enforcement strategies, and what may be allowed is not always so clear in this respect. This remarks applies equally to public enforcement and private security agencies.

⁵⁸ Although this chapter is structured in a binary manner – public/private – this distinction should not be pushed too far, since differences within the public sector and equally within private security are significant, as this small example reminds us.

they might fear that cooperation in such matters might cause complications in marketing their services in the corporate arena in future. There are other areas in which private security is not necessarily fully aligned with public enforcement, see below.

Finally the existence of *quasi-public security agencies* must be referred there. To re-capitulate, security agencies may be regarded as quasi-public on either definitional or functional grounds. An agency is quasi-public in definitional terms if it has been empowered (*'deputised'*) by the state to carry out specific duties normally reserved for a state agency, whilst remaining outwith the state or 'mainstream' criminal justice sector. UK examples include Lloyds, the insurance market-maker, which is empowered by its founding Act of Parliament to exchange all manner of sensitive data with enforcement agencies and regulators, both in the UK and internationally.⁵⁹ In some other countries, for example Belgium, the insurance industry has participated in lobbying for its specialist security units to receive sensitive information from as well as give it to the public authorities, and this is understood to be under consideration.⁶⁰ Some corporate sources favour this question being addressed at the European level.⁶¹ These developments reflect tendencies of 'blurring' between public and private sectors that runs much wider than the field of security. Even when the public and private sectors remain definitionally distinct (as they are in terms of legal ownership), the private sector may take on quasi-public functions. An private entity may be regarded as quasi-public in functional terms if a public agency concludes with it a Memorandum of Understanding (MOU) that allows specific forms of cooperation during the duration of the MOU.

The existence (and possible growth) of quasi-public security bodies introduces more complexity into the analysis of public-private cooperation; indeed, it rather calls into question the utility of these terms. However, considering the points made above that neither public enforcement nor private security are monoliths (there is considerable variation within each sphere), the existence of 'mixed cases' is perhaps to be expected. The main point remains that cooperation, public/private/mixed, both within and between the sectors is shaped by the interaction of the two factors, cultural/occupational closeness and specific priorities of the actors concerned.

5. CONSEQUENCES: HOW PRIVATE SECURITY AND PUBLIC ENFORCEMENT TOGETHER SHAPE ENVIRONMENTS AND OPPORTUNITIES FOR OC

This section explores the ways in which the various forms of cooperation observed between private security and the public sector may shape of opportunities for organised crime. After that, the final section of the chapter will explore some possible emergent trends and implications for crime control in Europe. At this point it is useful to recall that the purpose of the work as a whole is to improve understanding of organised crime in illegal sectors of the economy, and in legal sectors that have been infiltrated by organised crime, and also to understand 'factors facilitating the link between legal and illegal activities' (IKOC Project Proposal, page 6). Accordingly it is appropriate to structure this discussion under the subheadings, illegal sectors, legal sectors and legal/illegal. The analysis to date has proceeded upon the assumption that the policing sectors – private or public – are not themselves connected with 'organised crime'. But it must be acknowledged that individuals, groups and even whole companies may be corrupted and may seek out crime opportunities, using security services as a protection racket.

Before proceeding, however, some caveats are in order. It is worth spelling these out.

- The first caveat is that, whilst the present writers believe that the above-described general framework for understanding cooperation between the private security sector and public enforcement agencies is serviceable, other commentators no doubt will be able to point out scope for improvements.
- Second, when it comes to trying to derive an understanding of how the various forms of cooperation might shape OC, we are immediately in trouble, because of uncertainty over how to model the assumed

⁵⁹ Lloyds Act full ref.

⁶⁰ Industry source.

⁶¹ As Telecom Italia commented to the authors in 2005, one approach would be to undertake a detailed study to determine the limits of investigative secrecy. Meanwhile, broader (strategic) information continues to be exchanged.

relationship “cooperation → OC shaping”, and because of paucity of relevant data on that relationship (indeed, the jury is still out on the more general question of impacts of policing against OC).⁶²

- Third, the “cooperation → OC shaping” issue begs a number of unsettled questions, for example: *what aspects* of the interactions both within and between enforcement agencies, private security and OC are of greatest interest (sensitive information flows from private sector to public, or vice versa, or both; operational assistance in investigations for criminal prosecution, or for administrative actions, or to facilitate civil actions, or extra-judicial disruptions, or staying clear of each other...); what are the most appropriate dimensions in which the presumed ‘shaping’ of OC is to be observed or inferred (in organisational hierarchies, their modes of crime, temporal characteristics, size of the market measured in financial terms or its damage in human terms, or other dimensions...); and how can we bring into the analysis what criminology suggests and police officers believe about the dynamic quality of learning and counter-measures by OC?

If we knew all the answers to such questions – if we had a proven model that said for example that “X amount of or increase/decrease in these specific enforcement agency/private security firm cooperation [*inputs*] produces Y impact on OC [*outputs*]” – then things would be relatively easy! But no such model has been demonstrated. We shall conclude that, when uncertainties stack up on uncertainties, then what one generates are hypotheses, rather than established results.

In illegal sectors of the economy

In order to proceed, assumptions and careful delineations of the argument are necessary, and we introduce them as we go along.

- Our working assumptions will be that the greatest policy interest is in ‘organisers’ and in those upon whom they rely for key skills (market knowledge, communications, counter-surveillance, relations with non-key workers, legal, etc). We also assume that the outcome of greatest interest is their desistance/retirement or, failing that, degradation and slowing down of their criminal activities.
- As for the aspects of cooperation that may be most relevant to the “cooperation → OC shaping” relationship, we suggest, on the basis of the research literature, that forms of public/private cooperation involving undercover and surveillance threatening to identify the principals and/or remove their capital are off-putting to OC. The means by which this is achieved (criminal, administrative, civil action, or other) are less significant than the result (though one may presume that the lower the evidential burden, as in civil confiscation/forfeiture, the greater the deterrence since the greater the contingency risks for offenders).
- Finally we suggest that significant *increases* or *decreases* in cooperation in a particular sector of the illegal economy may play a part in shaping the readiness of OC to continue in business in that particular sector – but only if that increase or decrease that is visible to OC. As for what then happens, based on past observations of changes in serious criminality, the most likely first response to increased pressure is displacement into other forms of OC, insofar as existing skills and other resources can be employed, and insofar as pickings seem easier there. Whether displacement can, in a longer period, be translated into retirement by OC, may depend on increased pressures also being experienced in the new areas.

Putting things together, and summarising, the following linear model could be offered:

Continuing occupational/cultural closeness + convergence in policy/priority areas

→ increase in public/private cooperation

→ pressure on OC organisers/capital

→ some OC displacement and some retirement.

⁶² It would perhaps be nice if one could assume that higher levels of cooperation always had predictable consequences as far as OC is concerned, but that assumption runs somewhat ahead of the available evidence. Indeed, the effects of most measures against organised crime remain hard to specify: see Levi, M. and Maguire, M., ‘Reducing and preventing organised crime: An evidence-based critique’, *Crime, Law and Social Change*, vol. 41, no. 5, pp. 397–469.

Based on the observations made above in relation to cooperation, some hypotheses may be made. Given the current patchiness of cooperation between enforcement agencies and private security agencies, there may be scope for increases in cooperation in many areas, which may feed through to some displacement of OC from such areas.

For example, the situation following 11 September 2001 has lifted counter-terrorism and anti-hostage work up the agendas of public agencies and the private sector (at least in relation to sensitive countries). So, other things being equal, one might look for some displacement of OC from such activities. The problem is however that other things certainly are not equal, and international geo-political factors have probably stimulated terrorism/hostage activity by more than any cooperation could hope to decrease them, at least for the foreseeable future. Another area in which cooperation has increased is money laundering and proceeds work generally. However, the fact that such cooperation is so general (not focused on any particular sector) may dissipate efforts, with the result that no particular impact can be discerned⁶³.

A provisional conclusion might be that OC might be more impacted by a sharper focus for increases in cooperation.

In legal sectors of the economy

There are three broad threads of cooperation work here, concerning (i) cooperation against illegal/legal market crossovers or infiltration, (ii) cooperation against internally-driven crimes against businesses, (iii) cooperation when the business is criminalized at the top.

(i) Cooperation against illegal/legal market crossovers or infiltration

OC activity in the legal sectors of the economy may involve infiltration by OC which was previously active in the illegal sectors.⁶⁴ This infiltration may be just 'a means to an end', with the use of front companies and other legal infrastructure in order to shield, service and support illegal market activities. Or it or it may involve a dual-track strategy by the OC organisers, in which illegal market activity and legal market activity are parallel parts of their 'brand' – a situation that may result in (or require but not receive) cooperation between a wide variety of public sector regulatory and enforcement bodies⁶⁵, and possibly private security bodies. Or it may represent criminal 'retirement' (going 'legit'), that is to say previous activities may be entirely given up in favour of investment of criminal proceeds in the legal economy. In such a case, enforcement agencies will for some years keep an open file on the people and activities concerned and, in some cases, private security firms will be cooperating along the lines mentioned above (at least for some years until other more contemporary and pressing cases lay claim to all available investigator resources). In general the cooperation points are as discussed above: greater focus might sharpen cooperation.

(ii) Cooperation against internally-driven crimes against businesses

In the context of a paper on crime against businesses,⁶⁶ Levi and co-authors identify three ways in which crime can damage business: 'Catastrophic' single major hits, for example, arson or terrorist attacks causing the destruction or serious interruption of major business assets, or a major fraud like the transfer of many millions by a member of staff or director (ie, where the broader business staffing and structure are often negligent but are not implicated as active perpetrators); criminal acts where individual occurrences have comparatively little impact on profitability, but where the cumulative effect of repeated occurrences can lead to business failure; and crime which may not damage the business directly but which can have a significant effect on its reputation.

Such instances and the risks thereof provide considerable work for internal compliance and security units, and for contracted private security services in the first instance. The role of cooperation with public enforcement agencies varies markedly. Whilst external threats such as terrorism trigger routine and formal cooperation (all the more so after 11 Sept 2001 in New York and 11 March 2004 in Madrid), internal

⁶³ Assessing impact on money laundering is made particularly hard by the often absurdly high estimates of its extent, which make the chances of any policing operation or set of operations very unlikely to change any order of magnitude.

⁶⁴ Reuter, P.

⁶⁵ In narrow organisational terms, the organised crime group's activity may not merit priority assistance compared with other criminal actors, but either joint task force or requests for assistance may generate a re-prioritisation.

⁶⁶ Michael Levi, James Morgan and John Burrows, *op cit*.

problems may be more quietly dealt with, in the light of reputational considerations. To the extent that the corporate security department does not have close links with internal audit and compliance, the former may never hear about the issue. In such cases, the police may not be called and, if they get to hear about it subsequently, may reckon that they have enough to do, if the management do not wish charges to be brought. If the case is reported to financial services regulators, there is no automatic passage to the police, investigative judge or other criminal investigative authorities, though Continental systems in which the principle of legality exists may have greater difficulties in ignoring such information once it has been defined as a crime.

Most major firms' contingency and risk management planning will allow for an internal security unit, and/or an outside private contractor, to advise both on preventive aspects (see Chapter 6 above) and post-hoc reactions. However the existence of such safeguards, bolstering the normal management system, has not always been enough. Levi et al (op cit, p 12) comment as follows.

The common scenario in many major crimes that cause business failures is that a combination of risks – anticipated or unanticipated individually but not anticipated collectively – have gone wrong. This was amply illustrated by the Barings case, where: a) Leeson acted illegally to try to cover up trading losses; b) local management failed to do its job; c) senior management in the head office failed to do their job; d) business controls didn't work; and e) neither internal nor external audit provided any protection.

In a similar vein but with reference to other industrial sectors, Martin Henning⁶⁷ has argued that, although traditionally security has been seen as the intention to reduce frequencies of crime, it would be better to try to refocus upon severity of impacts. He points to mining, construction and retail organisations that have attempted this. Critical failures should be the (preventive) focus for security efforts. Non-critical failures are not so important (ibid). Here, again, perhaps, we see an aspect of the ways in which less cooperation could mean more security.

The issues raised are at the heart of EU and member states' concerns, as outlined by the various Commission/Europol joint reports.

The detection of suspicious criminal activities and the collection of evidence is not the exclusive domain of criminal justice since private security services co-operate more and more with law enforcement to detect criminal activity and collect evidence as so called "first-line defenders" (such as accountancy, corporate security department or internet service providers). [...] This should not blur the fundamental principles of the Rule of law and should not give opportunity to entrepreneurs without appropriate qualifications for these services to enter the field. In this context, particular attention should be paid to the relation between public and private security services, their competencies, and internal transparency and data protection.⁶⁸

The realisation seems to be dawning is that, if cooperation is stretched too far, then holes may appear in it. As a matter of resource and practice, the holding of frequent cooperation and coordination meetings without operational units to activate the decisions may not further the practical means of achieving the goals sufficiently.

Cooperation factors facilitating the link between legal and illegal activities

The following extract, taken from a recent study of broad trends in information/ intelligence gathering by, and sharing between, public sector authorities and agencies, summarises the uses to which information can be put. It also points to some potential countermeasures by the corporates concerned (which may be seen as no more than a continuation or extension of mainstream approaches to ensuring business confidentiality in the context of risk management)⁶⁹ and to the highly ambiguous opportunities that then open up for private security firms.

First, information sharing [amongst public authorities and agencies] may be a prelude to criminal law action, disruption, confiscation of assets, administrative fine or exclusion [from] a call for tender. Second, a wide range of

⁶⁷ Henning, M. (1996), 'Is security enough?', *International Journal of Risk, Security and Crime Prevention*, vol. 1, no. 1, pp. 41–57.

⁶⁸ Commission of the European Communities, 13.03.2001, Commission staff working paper: Joint report from Commission Services and Europol, 'Towards a European strategy to prevent organised crime', Sec(2001) 433, Brussels, pp. 27 & 34 of 42.

⁶⁹ Risk management within the private sector generally is described the preceding chapter 6 by colleagues from VU.

agencies are becoming involved in sharing information that might be used for putting people out of business. Third, legitimate and reputable economic enterprises may become a target for intelligence gathering, or may believe themselves to be so targeted. Fourth, enterprises already use private security firms for a variety of purposes, amongst them checking whether they may be under investigation by control and regulatory agencies and finding out what information is held on them. It is possible that such private checking will increase. The role of private security firms in relation to multi-agency information is important though too complex to be discussed here but, clearly, they can be on either side. Fifth, both reputable and disreputable enterprises may wish to take action in order to prevent administrative or regulative action or to compensate for its negative impacts on their business. [...] ⁷⁰

Of course, reputable private sector firms will employ private security not so much to neutralise enforcement agencies and regulators but rather to ‘nip in the bud’ any problems that may arise within the firm, and perhaps to pass information to the authorities to take action against those responsible (see above). Equally, however, managers of corporate entities are no less likely to need private security services when they are contemplating or engaged in dubious activities – either on behalf of themselves, limited number of colleagues, and/or on behalf of the firm – indeed then they may find a particular need for discreet services. As for public/private operation against OC, if some private security firms represent or imagine that they could in future be retained by corporate entities currently involved in wrongdoing, then the public/private relationship can become complicated.

As for possible future trends, one could speculate. It is worth mentioning an orthodoxy in corporate risk management, and its possible abatement or even reversal, which could have implications for public/private cooperation. The orthodoxy is that risk management should not be a stand-alone function, but should be integrated into mainstream management processes and indeed with the whole corporate culture.⁷¹ The potential problem with this position is that such mainstreaming of risk management may be achieved only at the costs of dilution of its ‘teeth’.⁷² Following decades of corporate scandals and recently alleged criminal misconduct, the question is being asked if internal risk management and security may have been so absorbed into the corporate mainstream that it has become ‘passive’.⁷³ Top managers who are keen to detect wrongdoing may feel that they would be better served by an independent private security firm, than by internal units that are so integrated within the corporate culture. (Though the practical issue still remains of how to commission investigative work without it becoming known.) Thus recent and ongoing difficulties might provoke a re-assessment of current risk orthodoxies and could possibly stimulate re-specialisation and externalisation of some corporate security functions, resulting in closer private/public cooperation.

6. CONCLUSION

To re-cap, some formal (legal and commercial) boundaries to cooperation have been noted, as have ways in which cultural closeness can selectively transcend such formal limitations, at the risk of compromising further legal proceedings against the targets because the evidence may be inadmissible if improperly obtained. Possible implications in relation to the shaping of organised crime in illegal sectors of the economy, in legal sectors, and in linkages and overlaps between the two have been discussed. The untidiness of the picture revealed may not please those who would prefer more general results and correspondingly simple policy making. Indeed, security is sometimes described as a *public good*, implying that further integration of security efforts and of funding would be in the general interest.⁷⁴ The problem is that, whilst this might be

⁷⁰ Dorn, N. (2003), ‘Proteiform criminalities: the formation of organised crime as organisers’ responses to developments in four fields of control’, in Edwards, A. and Gill, P., *Transnational organised crime: perspectives on global security*, London & New York: Routledge, pp. 236–7.

⁷¹ See for example the preceding IKOC chapter by VU; Levi, Morgan and Burrows, *op cit*; and DEMOS, 2004, *Doing Business in the New Global Security Environment*, <http://www.demos.co.uk/projects/currentprojects/corporatesecurity>; Hidden Assets, Putting people at the heart of security, http://www.demos.co.uk/CommitmentBasedSecurityEventReportFINAL_pdf_media_public.aspx.

⁷² *Ibid.*

⁷³ Kelleher, E. and Felsted, A. (2004), ‘Pressure on risk managers to drop Marsh’, *Financial Times*, 8 November, p. 16.

⁷⁴ Dulbecco, P. and Laporte, B. (2003), *How can the security of the international supply chain be financed? A global public good approach*, Report commissioned by the General Secretariat of the World Customs Organisation (WCO), April, Clermont Ferrand: CERDI (Centre d’études

true in relation to some aspects – security of persons, etc – it become a more tenuous proposition if extended to all forms of property (not just intellectual property recognized as such in law, but for example competitive industrial intelligence). Sometimes, different private security firms, indeed also different national public agencies, may find themselves supporting competing national/regional ‘champions’. Fissures then occur not only between public and private, but also *within* each sector. In other words, cooperation is and will continue to be an uneven space.⁷⁵

Implications for the shaping of OC might include some displacement from those areas, such as anti-terrorist work, in which cooperation is relatively high (approaching *joint action*). However, in areas in which cooperation is relatively low (insider frauds and competitive business behaviour), there could be more of an open door for OC. One might reasonably expect criminal opportunities to be more shaped by formal policies on cooperation (which will be known to OC) and rather less shaped by the informal mechanisms discussed above (which are less likely to be known to OC). After all, opportunities for crime or terrorism are not shaped directly by the actions of public enforcement agencies and private security companies, but rather by potential perpetrators’ perceptions of vulnerabilities.⁷⁶

As for future trends, the development of cooperation on organised crime between private security services and state enforcement agencies has been and will continue to be shaped by broader developments in the global economy, by risks in private and public sectors, by European and global consolidation within the industry, by alliance-making and mergers between private security firms and providers of closely related management services and risk services (such as insurers), and by the direction of regulation.⁷⁷ Unless there are big changes in these contexts, the patterns of cooperation described in the first part of this chapter are likely to continue for the foreseeable future. Close and formal cooperation will continue to make sense when the matter in hand is high in the priorities both of enforcement agencies and of the private sector and/or government when purchasing private security. Cooperation on issues where priorities are not so closely aligned will continue to be more patchy – unless of course particular interests within the private sector pay for public sector infrastructure and/or salaries in specialised units (which is happening in a small way in some areas such as payment card and motor vehicle fraud). Outside such exceptions, what may determine whether a particular issue is a focus for timely cooperation will continue to depend upon informal links between individuals, in the context of occupational and cultural closeness. Such informal working, outside the framework of agency guidelines and management control and sometimes outside legality, carries its own risks. The question of how legislators can fine-tune cooperation, in the context of legality and respect for human rights, whilst keeping its sensitive aspects shielded from wider view, remain on the policy agenda.

We are faced with a paradox, one which poses something of a challenge in terms of regulation, accountability and governance. On the one hand, there has been an inflation of rhetoric on cooperation on many aspects of security, whether in the public or private sectors (or, for that matter, on public-private cooperation).⁷⁸ On the other hand, as we have seen, in practice there is recognition of different interests, driven as much as anything

et de recherchés sur le développement international), Université D’Auvergne, http://www.wcoomd.org/ie/En/Past_Events/Report%20FINSEC.pdf.

⁷⁵ This echoes other aspects of regulatory behaviour, as captured by Hood *et al* in the concept of regulatory regimes, and as they illustrate in relation to wide range of case studies, not including organised crime. Hood, C., Rothstein, H. and Baldwin, R. (2001), *The Government of Risk – Understanding Risk Regulation Regimes*, Oxford: OUP, 0-19-924363-8. A sample is available online at <http://www.oup.co.uk/pdf/0-19-924363-8.pdf>.

⁷⁶ A useful and topical reminder of this criminological adage is given by Peter R. Orszag, R. (2003), *Homeland Security and the Private Sector*, Testimony before the National Commission on Terrorist Attacks Upon the United States, November 19, Washington DC: The Brookings Institution, <http://www.brookings.edu/dybdocroot/views/testimony/orszag/20031119.pdf>. In passing, Orszag says, “It is also possible, at least in theory, for private firms to invest too much in anti-terrorism security. In particular, visible security measures (such as more uniformed guards) undertaken by one firm may merely displace terrorist attacks onto other firms, without significantly affecting the overall probability of an attack. In such a scenario, the total security precautions undertaken can escalate beyond the socially desirable levels – and government intervention could theoretically improve matters by placing limits on how much security firms would undertake. Unobservable security precautions (which are difficult for potential terrorists to detect), on the other hand, do not displace vulnerabilities from one firm to another and can at least theoretically reduce the overall level of terrorism activity. (Orszag, *op cit*, page 2, footnote 3)

⁷⁷ Regulation of these sectors is being addressed by the present authors within Work Package 4 of Project MARC – developing Mechanisms for Assessing the Risk of Crime due to legislation and products in order to proof them against crime at the EU level, coordinated by prof. Ernesto Savona of the Università Cattolica del Sacro Cuore.

⁷⁸ As witnessed internally in the EU by the ‘principle of availability’ and externally by sharing of information on travellers, both of which may be more easily agreed upon than done proportionally.

by specific commercial investments. Within this evolving space, some specific accountability issues have been identified, including:

- what is the proper role of private security in assisting the state;
- how, if at all, should the governance of public sector law enforcement alter when it is funded in whole or in part by the private sector;
- how far law enforcement agencies can go in imposing obligations on the private sector (eg, reporting on money flows); and
- how far private security and public agencies should be allowed to go in exchanging sensitive information.

These questions cannot be answered satisfactorily by reference to the concept of accountability as traditionally discussed in the literature, since that refers primarily to mechanisms to ensure that entities are ultimately answerable to specific stakeholders (such as political representatives, appointees, and company shareholders). When (a) stakeholders are diverse – as sometimes happens between public and private security but is particularly common within the private sphere – and when (b) there is recognition of the uneven and indeed sometimes fractured nature of the relations that result between security entities, then it becomes more difficult to conceptualise appropriate forms of governance of those relations, of information flows and of other forms of assistance. Arguably, the issues are less complex in relation to the public security sector than in the private sector and its security interests and activities. This complexity, together with the increasing inter-penetration between public and private sectors (and data sharing within and between them), lead to the conclusion that security governance cannot be *purely* a EU third pillar issue since it also has both first and cross-pillar aspects. To consider in any detail the implications of that, however, would be to go beyond the present brief, however important the issue.

In closing it should be emphasised that, although in the policy area and in management the words ‘cooperation’ and ‘partnerships’ tend to evoke a fast and respectful salute, this study suggests that, in reality, the situation is more complex. Cooperation is an uneven space and is likely to become all the more uneven, the more it is stretched over additional issues and additional players. Quality of cooperation – defined as formal cooperation that follows the rules and is not undercut by informal and sometimes illegal practices – may increase if it can focus on areas of greatest concern. It is counter-productive continuously to expand the list of high-priority concerns. Those not worried by heresy might conclude that sometimes, less cooperation might be helpful, especially when the resources to act upon information obtained in the cooperative process are limited, as they tend to be.

ANNEX 8

ANALYSIS OF THE SIMILARITIES AND DIFFERENCES IN ORGANISED CRIME'S *MODI OPERANDI* IN THE LEGAL AND ILLEGAL MARKET

By:

- Andrea Di Nicola, Università di Trento (*coordinated by*)
- Areti Antoniou, Università di Trento
- Barbara Vettori, Università Cattolica del Sacro Cuore

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1. FOREWORD

This paper is the draft deliverable for WP 8 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 8 aimed at analysing the similarities and differences of organised crime’s *modi operandi* (MO) in the illegal and legal markets.

The paper is organised as follows. Sections 2 and 3 focus on the *modus operandi* engaged by OC within the two different markets (legal and illegal), as they appear in the EU and national law enforcement data sources reviewed in previous WPs. Section 2 therefore presents the organised crime’s *modi operandi* in the illegal market. Section 3 presents, on the other hand, the organised crime’s *modi operandi* in the legal market. In section 4 a comparison is made between the organised crime’s *modi operandi* in the legal and illegal markets, identifying similarities and differences between the two markets. Finally, section 5 briefly defines the forms of OC involvement in legal and illegal markets and relevant MO, as identified in the literature.

This paper has been produced by the Università di Trento, leader of WP 8. In particular, it has been directed by Dr. Andrea Di Nicola, researcher at the Università di Trento and research coordinator of Transcrime (Trento office). It has been written by Aretì Antoniou for the Università di Trento, with the cooperation of Dr. Barbara Vettori, Executive Project Manager of the Project.

Valuable assistance was provided in writing this document by the partners involved in the WP, i.e. Cardiff University (The United Kingdom), which provided the Università di Trento with a bibliography of reviews on *modi operandi* of organised crime in licit and illicit sectors (see section 5 of this paper), and Vrije Universiteit Amsterdam (The Netherlands).

The methodology and data sources providing the basis of this paper include a horizontal analysis of the data sources at EU and MS level as analysed in WPs 3 (on organised crime’s activities and *modi operandi* in the illegal markets) and in WPs 4 through 7 (on organised crime’s activities and *modi operandi* in the legal markets), as well as a review of the literature not dealt with in the above work packages, but directly addressing the topic of the WP. With reference to MSs’ data sources, as already noted in the deliverables for previous WPs, even if all Member States collect a variety of data to different extents on organised criminal groups for intelligence and operational purposes, only a very limited amount of this information, if any, is made public owing to its confidential character. Therefore the analysis will herein concentrate only on those MSs where information is publicly available.

2. ORGANISED CRIME’S *MODI OPERANDI* IN THE ILLEGAL MARKET

On the basis of the results of the previous WPs, it appears that the *modi operandi* are dependent on each activity engaged by the organised crime groups and vary accordingly. However, a general list of the *modi operandi* used in the illegal market by the organised crime groups includes the following, (all of which are analysed in depth below):

- 1) links with other criminal activities;
- 2) transportation methods;
- 3) use of violence;
- 4) use of facilitators;
- 5) use of expert knowledge/use of technology;
- 6) use of commercial structures;
- 7) use of corruption.

2.1 *Links with other organised criminal activities*

This *modus operandi*, according to the Bundeskriminalamt definition, is intended as “[...] involving more than one area of crime if a group of perpetrators intends to make profits in more than one field of crime or

individual groups members act in several crime areas in the group's interest" (Bundeskriminalamt, 2004: 27; 2003: 19; 2002a: 10). In detail for each activity:

- with reference to *drug trafficking*, groups acting in more than one field of crime have primarily come to notice in connection with trafficking in vehicles, weapon offences and trafficking in human beings (Bundeskriminalamt, 2003: 27; 2002a: 19);
- with reference to *trafficking in human beings* (THB) it is worth mentioning that OC groups are very opportunistic in adopting pre-existing *modi operandi*, facilities and networks used for the smuggling of other commodities. This seems to be confirmed by the fact that several Member States report that criminal groups active in THB are also involved in drugs and arms trafficking and illegal immigration (Europol, 2003). In addition, there are a series of crimes committed to force victims into prostitution in order to exploit the victims in the destination country (rape, assault, torture and even mutilation) (Europol, 2004). In Denmark several cases have shown that extortion, assault etc. targeting people linked to massage parlours is a rising problem (The National Commissioner of Police, 2002);
- with reference to *illegal immigration* there are indications that OC groups involved in illegal immigration are among the most likely to engage in multiple types of crime. The links between illegal immigration and other forms of criminal practices are strengthening with the increased involvement of organised criminal networks. The forgery of all types of documents, corruption and money laundering activities have been reported, as well as close links between illegal immigration and trafficking in human beings. Due to the similarities of smuggling routes and basic ethnic connections, in many cases links were detected with other commodity trafficking, namely drugs (Europol, 2004). Although some of the reported criminal practices remain instrumental to the main criminal purpose of illegal immigration (forgery of documents, illicit possession of firearms, theft of vehicles, fraud), other reported criminal practices are connected, in one way or another, with the difficult living conditions normally associated with the illegal immigrants (namely, robbery, extortion, burglary, product piracy, forgery and smuggling of diverse goods, fraud of all types, violence in general) when at the transit and/or destination countries (Europol, 2003). In Denmark, 2003 it was noted that the correlation between the smuggling of human beings and the smuggling of narcotics was becoming more evident than in previous years (Danish National Police, 2004:18). Furthermore, many serious and organized criminals involved in immigration crime are also involved in other serious and organized criminal activities, such as Class A drugs trafficking, and excise and VAT fraud. This is to be expected as the capabilities needed to facilitate illegal immigration into the UK are similar to those required to import any illicit commodity. However it appears that illegal migrants and other commodities are not regularly smuggled together, although this has occurred in some cases. The need to acquire fraudulent or false documentation in order to facilitate immigration crime has obvious links to more general counterfeiting. Meanwhile, it also opens up opportunities for other crimes, such as benefit and revenue fraud. There is evidence of illegal immigrants being used by serious and organized criminals to facilitate other serious and organized crimes, as drugs couriers, particularly for cocaine from West Africa and the Caribbean. Some are used in the organized theft of vehicles. Serious and organized criminals also make use of illegal immigrants to commit various types of organised low level crime, including aggressive begging and pick pocketing, particularly in large cities such as London (NCIS, 2003; 2002);
- with reference to *fraud*, it was mentioned in the German report that in 2003 the organised criminal groups involved in criminal activities such as financing offences, investment fraud and competition-relates offences, misappropriation and other fraud, *were not normally involved in other criminal activities*. When they did, the main links were with counterfeiting and property crimes (Bundeskriminalamt, 2003);
- with reference to *counterfeiting*, in certain countries, such as Slovenia and Greece, it is associated with the specific problem of illegal immigration owing to their proximity to non EU Member States. Greece reports a 65% increase in cases of this nature as a result of the situation in the former Yugoslavia and Albania. In other countries forged documents are used in smuggling and trafficking in commercial goods. The Czech Republic reports an increase in document forgery for the import of goods and customs fraud. In Poland false documentation is most widespread in the vehicle market where it is used for the large-scale traffic in luxury cars shipped predominantly to the Russian Federation. Finally, in Germany the proportion of counterfeiting groups acting in more than one area of crime (42,9%) was far higher than the overall

average (23,5%) for all fields of crime. These groups of perpetrators were primarily active in the fields of alien smuggling, trafficking in stolen vehicles and fraud (Bundeskriminalamt, 2003: 32);

- with reference to *tobacco smuggling*, the Italian report confirms that, among the gangs involved in mafia-type organised crime, the Camorra and Puglia groups have reached various agreements with Balkan mafia gangs, particularly those in Albania and Montenegro, to smuggle drugs, arms and cigarettes (CoE, 1999). Commodity smuggling mainly provides a source of income for OC groups to fund their involvement in other types of crime (Europol, 2003). While the German report (Bundeskriminalamt on tax and customs offences, including mainly cigarette smuggling (90%), followed by VAT carousel fraud) confirms that to a great extent, these type of offences were committed with specialization in one specific field of crime while *modi operandi* involving more than one area of crime covered, in addition to the tax offences, smuggling of immigrants and motor vehicle trafficking (Bundeskriminalamt, 2003);
- with reference to *trafficking of stolen vehicles*, five organised criminal groups in Greece and fourteen in the Netherlands were involved in car thefts and their illegal trafficking. It is suspected that the cars in some cases were used as payment for narcotics, otherwise the profits made by the trafficking of stolen cars may be recycled into other forms of crime, such as drug trafficking. In Lithuania there was also found a link with extortion. Organised criminals offer the owners of stolen property to pay a certain amount of money which depends on the value of the stolen car and which has to be paid by the legal owner of the car in order to get it back. Some countries, including the Czech Republic and Denmark, report that there has been an increasing number of insurance frauds. According to the Danish report it is not possible to establish with certainty the number of vehicles stolen in connection with organised crime. It has previously been estimated that around 500 vehicles a year are stolen and then shipped abroad, but an unspecified number of these are involved in non-organised insurance fraud. In Germany, groups active in more than one area of crime often also committed fraud or drug trafficking offences (Bundeskriminalamt, 2004);
- the *trafficking in firearms* is often linked to other types of illegal activities, such as drugs and tobacco smuggling, trafficking in human beings and illegal immigration (Europol, 2003). Europe's recent history has seen examples of the links between trafficking in arms and organized crime and to some extent also terrorism. For example, the ETA and the Real IRA as well as other terrorist movements are believed to obtain their weapons from areas inside the former Yugoslavia (CoE, 2004:33).

2.2 Transportation methods

This *modus operandi* is subdivided into three categories which are a) transportation by land (truck, post, couriers etc.), b) transportation by sea and c) transportation by air. For each of these categories, detailed information were provided by both European and national reports, in relation to each activity carried out by the organised crime groups in the illegal market. For example:

- in *drug trafficking* the transportation method engaged, depends upon the type of drug. In general, according to the EU OCSR, some 85% of drugs arrive in the Member States by sea freight. Of note is the use of international mailing systems. While in particular:
 - small amounts of *heroin* are transported by individual couriers and large-scale transportation of heroin is carried out by air transport, by sea and by truck. In Greece 90% of the transportation of heroin is done by land (Σ.Ο.Δ.Ν, 2002: 23). In the UK it appears that most heroin enters the UK through ports in the South East of England, particularly Dover, Felixstowe and Harwich. The bulk arrives in freight vehicles although some is transported by couriers in passenger vehicles or as baggage. Some heroin also enters through major UK airports, particularly those with connections to Turkey or Pakistan. However air couriers are increasingly seeking to evade detection by travelling to the UK via Europe;
 - in the case of *synthetic drugs* (such as amphetamines and ecstasy) no complex routes and methods are required since the drugs are produced close to the consumer markets (Europol, 2004). Regardless, in Austria it was reported that amphetamines were transported by motor-vehicles, scheduled bus lines, or by rail (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2003). In Denmark and in Italy synthetic drugs are typically smuggled across the land frontier (Danish National Police, 2004; 2003; Ministero dell'Interno, 2004; 2003);

- a substantial part of *cocaine* transportation occurs in large consignments concealed in maritime containers. However, when transported by air, couriers ingesting or concealing cocaine in body cavities and luggage, and by hiding illicit drugs in airfreight has gained in popularity, in particular on the air route from the Netherlands Antilles to the Netherlands. The number of cocaine couriers arrested at the Dutch national airport of Amsterdam has doubled in only two years (about 1,400 in 2001 versus 700 in 1999). Notwithstanding stricter controls at the airport, the first half of 2002 shows a further increase. Dutch customs authorities estimate the total number of drug couriers travelling to Europe at over 2,000 a month. Many of them have relatively small amounts with them, between 0.5 and 2 kilos, but the sheer number of couriers makes this *modus operandi* one of the most important ways of intercontinental cocaine transport (CoE, 2001). In Austria cocaine transport by air is only one method among many other means of transport. In 2003 couriers were also traveling by motor-vehicles or train (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2003). In Denmark regarding cocaine, the great majority of seizures in Denmark were carried out at airports from international flights (Danish National Police, 2004; 2003). While in Spain, transportation methods for cocaine is by ship or by aeroplane with a recent case uncovered in the international airport of Madrid where cocaine was coming from South America (Ministerio del Interior, Oficina de Relaciones Informativas y Sociales, 2004). Lastly with regard to cocaine transport to the UK, the Netherlands plays a significant role as a point of entry into the EU for South American cocaine, arriving by both sea and air. Cocaine is imported into the UK on cruise ships and the postal service and express mail companies are used to import smaller amounts direct from South America and the Caribbean to the UK. Cocaine is also smuggled into Europe and the UK by couriers arriving on flights from South and Central America and from the Caribbean. Most of the detected movements of cocaine trafficked from the Caribbean to the UK are believed to be smuggled in this way, although large quantities are also smuggled from the Caribbean in sea borne vessels. Couriers are 'hired' by organised criminal gangs based in the Caribbean or the UK (NCIS, 2003);
- finally regarding *cannabis*, several national reports, such as in Denmark, reported that cannabis is typically smuggled into the country by car or lorry. No major smuggling into Denmark by sea was detected, and it is assumed that such activity does not take place as a central part in the distribution of cannabis in Denmark (Danish National Police, 2004; 2003). In Greece 90% of cannabis, as for heroin, is transported by land (Σ.Ο.Δ.Ν, 2002: 23). On the other hand, in Italy it appears that for cannabis, as well as for heroin and cocaine, the most popular method of transport is by sea (Ministero dell'Interno, 2004; 2003);
- in *tobacco smuggling*, even if there is some dispute as to the negligence or even connivance of some large tobacco companies in ensuring that their cigarettes do not sell in the illicit as well as the licit market, consignments of smuggled (and counterfeit) cigarettes are transported by truck or ship to the destination country, usually combined with a cargo of legitimate products, 'justified' (if necessary) by fake documents (CoE, 2001). In Denmark cigarettes are mainly smuggled into the country concealed in ordinary cargo on lorries. Only in some cases were the cigarettes carried by coaster from Klaipeda (in Lithuania) to Denmark (Danish National Police, 2004: 19; The National Commissioner of Police, 2002: 20). In the UK, regional airports continue to be used for smuggling by opportunist tourists and by serious and organised criminals, attracted by the availability of cheap flights and a perception of a lack of controls (NCIS, 2003; 2002; 2001);
- in *illegal immigration* and at the same time in *trafficking in human beings* (as the transportation phase in THB is common to illegal immigration), the inflow of illegal immigrants are accessing the EU countries by land, sea and air. The use of a specific means of transport depends mainly on the distance between the destination and the originating country or the natural geographical obstacles faced during the trip and the chosen way to disguise the illegal immigrants at the arrival country (Europol, 2003). Increasingly vessels are used to smuggle persons to Europe, often at high risk to their lives. Several hundred people die every year between northern Africa and southern Europe on their journey across the Mediterranean Sea (CoE, 2004: 28). In Italy, illegal immigrants cross land borders by traveling in commercial vehicles to pass through "green borders", while they overcome air borders to reach Italy through using false documentation. In 2003 this *modus operandi* was used above all by Albanians, Nigerians, Chinese and Montenegrins (Ministero dell'Interno, 2004). In the UK some illegal immigrants arrive in the EU by air,

either directly from their country of origin or, more likely, from a third country. However many make the final leg of the journey overland or by a short sea crossing from countries bordering the EU (NCIS, 2003; 2002; 2001);

- in *trafficking of arms*, air and shipping companies appear to be involved . Some information about *modi operandi* is given also in the national contributions. For example, the UK states that firearms have been found smuggled using the postal service (Europol, 2000).

2.3 Use of violence

Violence is frequently used by OC groups in the illegal market. They intimidate victims in order to successfully carry out their activities. Intimidation and violence against victims are an intrinsic part of specific offences, such as trafficking in human beings, robbery, extortion and racketeering (CoE, 2004). For example:

- in *trafficking in human beings*, during the phases of victims' recruitment, various methods are engaged such as false promises, false agencies, conditioning of the victims by violence etc., either before or after transportation. In fact, this follow up violence differentiates the phenomenon of THB from illegal immigration. There are numerous reports of women kept in isolation or beaten or raped in order to 'break' them (CoE, 2004);
- in *trafficking in stolen vehicles* violence is sometimes used against drivers and there are indicators that levels of violence have increased (CoE, 2001). A change in the *modi operandi* engaged by the OC groups has taken place, due to the improved security systems now fitted in high value vehicles. Simple theft decreased due to anti-theft security measures used on all new models and there has been a move from simple theft to other criminal activities such as car jacking and home jacking where the offenders obtain the original keys under the threat or use of violence against persons (Europol, 2004; 2002). Therefore, one consequence of improved anti-theft technology in new cars has been a rise in offences aimed at stealing keys: primarily house burglary, but also fraud (hiring cars with the intention of stealing them) and robbery by car jacking. Though recent well-publicised instances of car jacking have sparked a concern that this tactic is becoming more common, with an increased threat of attendant violence, robbery accounts for only one to two per cent of all vehicle thefts (CoE, 2001).

2.4 Use of facilitators

This *modus operandi* is mainly used by the OC groups in activities such as trafficking in human beings and illegal immigration. The relevant organised criminal groups provide victims with a variety of facilitators in order to make their illegal immigration possible. These are namely when visas in large numbers are obtained under false pretences, such as fake invitations or hotel room bookings – against considerable payments by the victims. Facilitators, therefore, abuse legal means of immigration obtaining genuine documents by deception for migrants to use for entry. Visas and work permits may be supplied, and some facilitators set up apparently legitimate businesses, such as language schools, to provide fraudulent support for visa applications. There are huge amounts at stake, which makes illegal entry into the European Union a lucrative and flourishing business. The smuggling rings take advantage of every possibility, every loophole and possible inadvertence in controls and surveillance to reach their goals. They will thus make use of every thinkable route that implies little risk and costs. Another type of facilitator (also mentioned before as a transportation method), used predominantly in the Mediterranean, is the filling of boats or ships (many old and barely seaworthy) with migrants and heading for the coastline of the EU, notably Italy and Spain, where the migrants can claim asylum on arrival. (CoE, 2001: 40).

2.5 Use of expert knowledge/use of technology

The use of expert knowledge and the use of technology is not only a vital *modus operandi* for certain illegal activities, such as counterfeiting and forgery, but it is also important for carrying out other criminal activities. European and national reports on organised crime underline not only the importance, but also the increasing use of expert knowledge and technology throughout the years. In particular:

- in *drug trafficking* advanced production methods, with the use of sophisticated equipment and the involvement of skilled specialists, have resulted in an ever increasing production efficiency and capacity. The production process, from chemical synthesis to the end of product packaging, now invariably takes place in separate locations, occasionally even in different countries. This division of tasks reduces the risks for OC groups of an inclusive production network being dismantled when one site is discovered by law enforcement (Europol, 2004: 13);
- in *counterfeiting* the use of expert knowledge and high technology have been reported as highly important. In particular, more sophisticated printing facilities and the employment of professional counterfeiters has dramatically improved the quality and quantity of the counterfeit euro (Europol, 2004; 2003). With regard to the counterfeiting of goods (such as illegal copying and sale of programs, games and music, as well as other multimedia products) – that is taking place on a vast scale globally – the use of technology appears to be very important. Advances in technology have facilitated its growth by enabling the speedy reproduction of high quality counterfeit goods, the best of which are difficult to differentiate from the genuine articles. The counterfeiting of CDs, DVDs and other digital media, much of it done in the Far East, is well publicised, but the counterfeiting of all types of goods from designer clothes to pharmaceuticals is also rife (CoE, 2001). In particular, it was reported by the Danish National Police that counterfeits are mainly produced by scanning a genuine banknote with a computer and then printing it with an inkjet printer (Danish National Police, 2004:16);
- in *trafficking of stolen vehicles* today it is virtually impossible to steal a car without expert knowledge, which is available, more often than not, only to resourceful and well organised criminal groups (Europol, 2002). International vehicle trafficking needs a professional well-organised network as the logistics of international vehicle trafficking are complex. It needs thieves, couriers, document forgers, professional mechanics and knowledge to step across different borders and re-register ‘legalised’ stolen vehicles. It requires the different participants to specialise in particular fields (e.g. theft, transforming vehicles, forging documents). It is noteworthy that specialists do not work solely for one organisation but often work for different trafficking organisations. Some groups seem to have the technical expertise to re-programme immobilisers (Europol, 2000).

2.6 Use of commercial structures

OC groups are increasingly taking advantage of the benefits of legitimate company structures to conduct or hide their criminal activities (Europol, 2004). Serious and organised criminals cannot operate exclusively within a criminal underworld. Many, probably the majority, make use of legitimate or quasi-legitimate businesses to further their criminal activities. In some cases, criminals own the businesses themselves. In others, they collude with or coerce and deceive businessmen and employees. Legitimate or quasi-legitimate businesses are used most obviously to launder the proceeds of crimes, but they are also used to facilitate illicit trades and in some instances to fulfil a desire for social acceptability and status (NCIS, 2003). Almost all countries report the use of legal commercial structures by OC groups and networks, in that they either collaborate with one or more insiders or in that they own or invest in legal structures, or by sometimes setting up cover companies, thus blending legal and illegal activities. Specifically, the use of commercial structures in the illegal market appears to serve as cover or shield for illegal activities and to provide logistical support and other services for criminal activities (CoE, 2004). In particular:

- with relevance to *drug trafficking*, the same legitimate and quasi-legitimate businesses used by serious and organised criminals frequently to launder cash, may also support money-making criminality, such as for example providing the means to transport drugs or the venue where they are sold (Europol, 2005). These businesses typically have a high cash turnover, since this makes it easier for criminally acquired cash to be mixed in with legitimate funds, for example, restaurants, nightclubs, fast food outlets, tanning salons, taxi firms and car sales or repair companies (NCIS, 2003);
- in *trafficking of human beings*, traffickers place advertisements in local newspapers and media, advertising legitimate employment opportunities in the EU, for example as maids, nannies, bar and catering staff, receptionists, clerical staff, dancers and entertainers. Advertisements are also placed offering marriage opportunities to women seeking EU husbands, and front agencies are also used for this purpose (NCIS, 2003);

- in certain types of *fraud*, front companies are essential. Businesses provide cover for purchases of regulated items, such as precursor chemicals, and for shipments of illicit commodities. Haulage companies are used to move goods, sometimes unknowingly as illicit cargoes are hidden in or amongst freight. Company premises may be used for storage or to break up loads, while clubs and pubs are used for distribution. Control over a sales outlet, such as a mobile phone retailer or car dealership, provides covert access to key resources (NCIS, 2003);
- meanwhile, employment agencies may be used to support those involved in organised *illegal immigration* (NCIS, 2003).

2.7 Use of corruption

The use of corruption appears to be a *modus operandi* engaged by OC groups in order to facilitate and support the commission of the OC activities carried out in the illegal markets. Specifically, it secures help from people with access to information that they want or need in order to successfully carry out their illegal activities (Europol, 2003; NCIS, 2003). In particular:

- *trafficking in human beings* (THB) into the EU is accomplished by the collaboration of criminal networks and by the corruption among officials (CoE, 2004);
- with reference to *illegal immigration*, as previously mentioned, OC groups involved in such an OC activity are likely to engage in multiple types of crime, including corruption (Europol, 2004). In the United Kingdom serious and organized criminals involved in both smuggling and trafficking make extensive use of bribery and corruption to support their activities. They exploit border guards, police and customs officers, and a range of political and official contacts in order to operate unhindered (NCIS, 2003);
- in *trafficking of stolen vehicles*, the corruption of individuals with inside knowledge of loads and routes is also a tactic used (CoE, 2001);
- finally, with reference to *trafficking in firearms*, according to surveys by Transparency International, after construction and public works, the arms and defense sector is the one where corruption is most likely to occur. This includes corruption of senior officials to obtain export permits, forgery of end-user certificates, transport across borders and the laundering of the proceeds (CoE, 2004).

3. ORGANISED CRIME'S *MODI OPERANDI* IN THE LEGAL MARKET

It has first to be remarked that, because of the extreme scarcity of information on the organised crime activities in the legal market included in EU and MS law enforcement data sources, this is herein supplemented by information of two crimes that can be regarded as related to the infiltration of organised crime in the legal market, i.e. money laundering and corruption. While corruption expresses the contact point between organised criminal and the state, money laundering is the necessary step for the criminal infiltration in the legal world.

By reviewing the available data sources (European and national), it appears that a general list of the *modi operandi* used in the legal market by the organised crime groups could be the following:

- links with other criminal activities (as predicate offences);
- use of expert knowledge/use of gatekeepers;
- use of commercial structures and
- use of corruption.

3.1 Links with other organised criminal activities (as predicate offences)

Money laundering is an activity carried out by the OC groups after the perpetration of a given (predicate) offence, in order to clean up and enjoy the gains obtained from the offence itself. In this sense, money laundering is linked with other organised criminal activities in a vital way. Drug trafficking is the most

important predicate offence of money laundering in the majority of EU Member States, though in Sweden it is fraud (Europol, 2000). This is also confirmed by the national reports:

- in Luxembourg and Portugal it is trafficking in narcotics and psychotropic substances that is the major source of illegal proceeds (Cellule de Renseignement Financier, 2003; Ministério da Administracao Interna, 2000);
- very little information on the link between money laundering and organised crime is given in the Belgian Annual Reports. The latest reports highlight that money laundering is principally linked to trafficking in people and prostitution. A large number of files are connected with organised financial fraud (Belgian Financial Intelligence Processing Unit Annual Report, 2003; 2002; 2001);
- in Germany the main predicate offences for money laundering are drug trafficking and smuggling (Bundeskriminalamt, 2002);
- in Finland drug offences are predicate offences in approximately 10% of cases. The majority of proceeds from crime originate from fraud offences, embezzlement, tax fraud, debt offences drug crime, and the avoidance of value added taxes by illegal means such as the importation of gold and GSM–mobile phones to Finland (National Bureau of Investigation Money Laundering Clearing House Annual Report, 2003);
- in Ireland the main predicate offences are drug trafficking, robbery and murder (An Garda Siochana, 2003; 2002);
- according to FATF, illicit drug trafficking, forgery, and swindling are the predominant sources of money which is laundered in Spain (FATF, 2003; 1999);
- the major sources of illegal proceeds in the Netherlands are fraud and drug trafficking (MOT, 2004; CoE, 2001) and
- finally, in the UK although drugs are still the major source of illegal proceeds for laundering, proceeds from other offences such as financial fraud and the smuggling of excise goods appear to have become increasingly important (NCIS, 2003).

3.2 Use of expert knowledge/use of gatekeepers

Increasingly, money launderers seek the advice or services of specialised professionals to help facilitate their financial operations. This trend toward the involvement of various legal and financial experts, or gatekeepers, in money laundering schemes has been documented previously by the FATF and appears to continue today (FATF, 2004). As anti–money laundering measures are implemented in financial institutions, the risk of detection becomes greater for those seeking to use the banking system for laundering criminal proceeds. Therefore, the means employed by OC groups to hide the illicit origin of their funds are increasingly sophisticated, often involving the recruitment of professionals such as accountants or lawyers who can give an apparently legal origin to illicitly gained money (Europol, 2005; 2004; 2003; FATF, 2005). In particular, solicitors, notaries, accountants and other similar professionals perform a number of important functions in helping their clients organise and manage their financial affairs (e.g. provide advice to individuals and businesses in such matters as investment, company formation, trusts, preparation of necessary paperwork for the setting up of corporate vehicles or other legal arrangements, holding or paying out funds relating to the purchase or sale of real estate of their clients etc.), all of which are perfectly legitimate functions that may also be sought out by organised crime groups or the individual criminal. They may do so for purely economic reasons; however, more important is the desire to profit from the expertise of such professionals in setting up schemes that will help to launder criminal proceeds. This expertise includes both advice on the best corporate vehicles or offshore locations to use for such schemes and the actual establishment of corporations or trusts that make up its framework. Gatekeepers may also be used to offer the veneer of legitimacy to their operations by serving as a sort of intermediary in dealing with financial institutions. This is the reason why the revised FATF Forty Recommendations issued in June 2003 address this issue by calling for the expansion of preventative financial measures to legal and financial professionals that are at risk of being involved in money laundering (FATF, 2003a). However, it appears that even when subject to anti–money laundering rules, the non–financial professions still display an unwillingness to co–operate with anti–money laundering authorities in contrast to the relationship that exists in most jurisdictions between these authorities and the financial sector. This fact is most clearly reflected in the generally low number of STRs (Suspicious

Transaction Reports) submitted by this group. This may be due to various reasons, as mentioned by experts, such as that legal and accounting professions often cite concerns about confidentiality or the fear of losing a client or simply due to lack of public pressure for them to do so. Other reasons may be, a lack of awareness or curiosity amongst professionals who may be being used to launder money, some may 'turn a blind eye', or there may be a degree of collusion. In the latter instance, the professional may not be an entirely willing accomplice, since serious and organised criminals are often prepared to use intimidation as well as inducements to obtain the help they need (NCIS, 2003; FATF, 2002). Examples can be found within the national reports:

- in Finland it was recognised as a technique used by OC groups in successfully infiltrating the legal market. It was therefore suggested that the following new entities should be under obligation to report suspicious transactions: the entire field of financing including also businesses or professions practising payment transfers other than payment intermediation referred to in the Credit Institutions Act; businesses or professions offering services in accounting or auditing, businesses or professions selling or dealing in precious stones or metals, works of art or vehicles; businesses or professions holding auctions and lastly businesses or professions providing assistance in legal matters, when they participate on behalf of the customer in the planning and realisation of the transactions (National Bureau of Investigation Money Laundering Clearing House Annual Report, 2004; 2003);
- similarly in the Netherlands, 2003, another new group of reporting institutions joined those already covered by the reporting obligation, those working in the gatekeepers' sector. This group includes: accountants, lawyers, business economic consultants, tax consultants, real estate intermediaries, real estate agents, civil-law notaries, independent legal advisers, trust companies and other providers offering services relating to trusts (MOT, 2003);
- in Germany it was reported that persons suspected of having committed money laundering were very often relatives of to the main suspects. In some cases, bank staff and lawyers were aware of money laundering activities. Sometimes, these were also relatives of the suspects (Bundeskriminalamt, 2002);
- in the UK, intelligence points to a growing trend for specialist money launderers, who use their expertise and apparent respectability to launder criminal proceeds. Criminals target professionals, such as solicitors or accountants, who have easy access to the financial sector and who are able to integrate 'dirty' money into the legitimate financial system. These individuals may be witting or unwitting accomplices. In some cases, they may be coerced. Property purchases, cash rich businesses and front companies are the most frequently identified methods for laundering money in the UK. Consequently, legal professionals (conveyancing) and accountants (auditing, book-keeping) have a pivotal role in combating money laundering. The number of STRs from the legal profession has increased significantly, but those from accountants have not and comprise only 1.5% of the total. Moreover, where banks have reported suspicious transactions, turnover, or profitability from companies for which they provide services, the accountancy firm responsible for managing the company's accounts and audit in most cases has not done so. New measures aimed at ensuring that serious organised criminals do not profit from their crimes will prompt them to look for new and better ways to protect their criminal proceeds and assets against seizure and confiscation. Some, especially those that have ties to countries where the threat of confiscation is lower, may try to move assets overseas. Others may look to create more apparently legitimate sources of income and more complex audit trails to explain their wealth, increasing the likely use of financial and legal professionals (NCIS, 2004; 2003);
- the Netherlands reported the number of Dutch investigations in which reference was made to corrupt contacts (national/international) in various categories, among which were also legal professions. Data described in 2000 also referred to four more categories: accountancy profession/tax experts; notaries; media and other (CoE, 2001: 80).

3.3 Use of commercial structures

Various procedures/techniques are used by the OC groups to carry out money laundering. Principally: money transfers, through the Cash Deposit Systems (CDS), where the accountholders are often straw men and forged cards are used to withdraw the money; bureaux de change; land and estate purchases (Europol, 2004, 2000). In 2001, the most infiltrated sectors used to invest dirty money have been the exchange of money for foreign

currency (it highlights the external destination of illicit money), the sector of quick transfer of funds and money transfers. The sectors with the highest percentage of disclosures registered are: banks, bureaux de change and building societies (CoE, 2001). Therefore, it appears that one of the most important and frequently used techniques by OC criminals is the use of commercial structures for money laundering purposes. Italian organised crime groups show an interesting use of these structures. These groups make use of all three forms of corporate abuse: a) the pre-existing legal firms, in which several employees co-operate with organised criminals; b) mixing of legal and illegal activity within the company; and c) the use of front companies (also mentioned as shell or cover companies), including those offshore, almost devoid of any real commercial activity (CoE, 1999). Italy has experienced the use of shell companies, both offshore and onshore (CoE, 2000), therefore business companies may have different roles in their relation with organized crime: as a victim, intermediary, accomplice or even offender (when being exclusively front companies). The distinction between *victim* and the other roles mentioned may be hard to make (Van Dijk et al., 1999; Bucquoye et al., 2005). Even if a business is victimized, the relation with the offender may be full of ambiguity and contradiction, if for example the criminals involved are also clients of the company, who normally add to its profitability (Levi and Maguire, 2004: 452). However hard it might be to make this distinction, evidence of the use of such techniques/procedures can be found reported in various national reports, such as:

- in Finland and Ireland almost half the groups were known to launder money and to use cover companies that are often for transportation, motor trading, catering and export/import business. In particular, in Finland the most frequently used methods of money launderers are currency exchange, cash deposits, and money transfers; while traditionally in Ireland, criminals have sought to use the border to cover their money trail by transferring funds between accounts into different jurisdictions. They also utilise bureaux de change to exchange their money between Euros and Sterling to disguise its origins. Criminals also make use of 'shell' companies. In addition, the purchase of significant assets, notably properties, in another jurisdiction is perceived as a means of concealing criminal wealth (An Garda Siochana, 2003; National Bureau of Investigation Money Laundering Clearing House Annual Report, 2003);
- in Greece, efforts were made to launder money through banks and through the purchase of real estate domestically (CoE, 1999);
- in Spain, organised crime groups above all use the real estate sector. According to FATF the techniques engaged include money-changing at banks or bureaux de change, blending illicit funds with money generated by lawful activities, and international transfers with incomplete or fictitious data. In addition, cross-border conveyance of cash as well as investments in the real estate sector through front companies, especially in tourist areas are used (FATF, 1999; CoE, 2000);
- in the United Kingdom money is recycled through the legitimate banking system or the purchase of property or other assets overseas (CoE, 2000). However, in the UK it appears that criminals make use of more than one method of laundering at once. In 2002 purchasing property domestically was the most popular method. Investment in front companies or high cash businesses came next, followed by spending the proceeds to fund a lifestyle, and by transferring cash overseas using bureaux de change and money transmission agencies. Roughly 1 in 10 groups was known to use bank accounts in the UK and similar proportions used accounts overseas or transmitted cash through couriers. Fewer groups invested in property overseas or in financial products and a small percentage used gambling or alternative remittance systems (for example, 'hawala') (NCIS, 2003);
- in Austria money transmittal and Hawala-bankings systems are the techniques most frequently used, as well as Electronic Banking, Internet Banking, and Paybox. The chapter 'Organised Crime' contained in the annual report on crime in Austria, jointly produced by the Austrian Federal Ministry of the Interior and the Federal Ministry of Justice, shows that over the past few years it has registered an alarming interest by the Russian Mafia towards the real estate sector as a means of laundering and investing their ill-gotten gains. Real estate is bought by criminals using straw men and shell companies, which make it possible to circumvent the laws disciplining the purchase of real estate by foreigners (Austrian Federal Ministry of the Interior and Federal Ministry of Justice, 2004, 2003);
- in Belgium the method used most by money launderers is the banking system in order to transfer money from criminal sources across national borders (Belgian Financial Intelligence Processing Unit Annual Report, 2001). However, money launderers use a range of techniques to inject the proceeds of crime into

the economic system to give their dirty money a legitimised origin. Money launderers perform their illicit activities by using banking transactions aimed at carrying out organised crime and terrorist activities and, to a lesser extent, fraudulent bankruptcy, financial fraud and illegal public appeals for savings. The detected banking transactions took the form of deposits and withdrawals in cash and (inter)national payments, as well as the cashing and issuing of cheques drawn on accounts in Belgium or abroad. These files are characterised by the rapid succession of such transactions as well as by the amounts per transaction (Belgian Financial Intelligence Processing Unit Annual Report, 2001). As stated by (CTIF-CFI), 'the use of commercial structures serves to facilitate criminal activities or to assist in the establishment of (inter)national money laundering networks. By mixing legal and illegal activities, the most visible part of the fund flows are concealed and, in this way, organised crime can be offered effective protection' (Belgian Financial Intelligence Processing Unit Annual Report, 2001). In Belgium another interesting sector where money laundering is carried out is the diamond sector, where the transactions are mainly carried out by using cash deposits and international money transfers through these accounts ordered by individuals and/or foreign companies in the diamond trade. The funds are generally transferred to foreign currency accounts and involve very large sums. In general these transfers are immediately followed by cash withdrawals or by transfers to other individuals and/or companies in the same business. There is no economic justification whatsoever for these transactions. They do not correspond to the activities officially reported to customs or the VAT administration. The technique consists of mixing funds of illegal origin with funds from legal commercial activities, which is typical of money laundering. The Unit has repeatedly found that the money was transferred to the personal account of the individuals concerned. This technique is aimed at disguising the financial transactions related to commercial activities outside the legal framework. In some files forged documents and fictitious invoices were also used (Belgian Financial Intelligence Processing Unit Annual Report, 2003);

- in Germany the information collected by Bundeskriminalamt concerns different methods used by money launderers to carry out their activities. These are: frequent deposits and withdrawals of cash; use of payment cards that are not linked to a bank account; frequent, in particular international, money transfers; cross-border transport of cash; investment in the form of securities and life insurance policies; use of cash transfer systems that are not connected to a bank account; currency exchange transactions at banks and bureaux de change; issuing of fictitious invoices; use of crossed cheques; declaration of illegal revenue as donations; running (loss-making) businesses to provide a cover story for revenue; conclusion of loan and leasing contracts; use of bank safes. Finally, investment in material assets, legal companies and real estate: OC groups invested more frequently than average in hotel and restaurant businesses, the entertainment industry (discotheques, amusement arcades), vehicle workshops, vehicle trade and rental, construction businesses, real estate and financing companies and security services. Non-German groups often invested in real estate and businesses in particular in their countries of origin (Bundeskriminalamt, 2002). Simple but efficient money laundering techniques predominate (for example returning revenue from drug trafficking to the legal business cycle via the hotel and restaurant business). Nevertheless, some investigations revealed very professional *modi operandi*, some of which have come to run very smoothly over the years (Bundeskriminalamt, 2002). In the last three years the percentage of OC investigations in Germany that unveiled use of commercial or business-like structures increased significantly, reaching 94.0% of the investigated OC cases (Bundeskriminalamt, 2003; 2002; 2001);
- in the Netherlands the MOT (Unusual Transaction Reporting Office) Annual Report reported that the carriage of cash across borders with neighbouring countries has increased, as has the use of money transfer businesses. Whilst the number of bureaux de change has decreased significantly, other areas of money laundering concern remain. One issue is the inflow of money from countries of the former Soviet Union and Eastern Europe, whilst another is the use by representative offices of certain foreign banks of "collection accounts" to send money on behalf of their nationals back to the country of origin (MOT, 2004).

3.4 Use of corruption

Europol's OCSRs considers corruption as a key instrument for OC groups to achieve criminal successes, in order to efficiently acquire, hinder access to or prevent the use of information (Europol, 2004; 2003; 2002; 2001). Corrupt behaviours are carried out by organised criminal groups in countries outside the EU

characterized by political and economic instabilities. Their aim is to facilitate crime by planting associates in relevant political or administrative positions (apart from using legal professions as seen before) (CoE, 2004). Particularly with the expansion of economic crime, corruption as a primary tool of organised crime, will be gaining in importance more and more (CoE, 2004; Europol, 2003). In most OCSRs, the difficulties and limitations in reporting and analysing this variable, especially with reference to organised crime, are highlighted (CoE, 2002; 2001). For example, in Denmark all four of the latest Danish reports on OC highlight that there are no signs that organised crime is connected with undue influence on public administration, the law enforcement authorities or political circles (Danish National Police, 2004: 19; 2003: 18; The National Commissioner of Police, 2002: 21; 2001: 34), while in Finland it was only suspected that bribes took place in Estonia or Russia (CoE, 2002; 2001). Despite these difficulties, most of the Member States record a significant propensity for the use of influence by organised crime. The public sector is usually the most affected. Corruption practices are mainly mentioned with reference to a variety of criminal activities (such as smuggling or trafficking of goods or persons, public works and tenders, identity theft, fraud etc.), among which is also money laundering. The nexus between corruption and money laundering manifests itself in that the process of laundering is facilitated by corrupting law enforcement agencies or financial institutions. Where these agencies and institutions would normally be expected to detect or prevent money laundering, they are induced to turn a blind eye or facilitate iniquitous practices. This way the profit generated by OC activities is significant enough to provide these OC groups with sufficient financial powers to strengthen their internal structures, to ensure the continuation of their illegal activities, to have the capacity to corrupt officials, and finally to guarantee their future (Europol, 2005). In particular:

- in Germany, as well as in the Netherlands, it is noticed that the corrupt contacts take place both at the national and international level. In particular, in Germany a distinction is made between corruption used inside Germany and outside Germany (Bundeskriminalamt, 2003). The corruption cases carried out abroad often affected important decision-making processes and showed a connection between criminal groups and the higher levels of the political system, the judicial authorities, the economy and public administration (Bundeskriminalamt, 2003: 35). The Bundeskriminalamt report also reported that German OC groups exploit, in particular regionally, existing contacts (e.g. acquaintances, friends, etc.) in the corresponding positions of public life or use them to contact decision-makers (Bundeskriminalamt, 2003: 34). Groups dominated by non-Germans committed acts of influencing people predominantly from their country of origin where they can rely on existing contacts as well as persons in the respective areas of influence (Bundeskriminalamt, 2003: 34);
- the Netherlands reported the number of Dutch investigations in which reference was made to corrupt contacts (national/international) in eight categories (Police, Customs & Royal Gendarmerie, Law enforcement agencies, Judiciary, Business community, Politics, Public administration, Legal profession) (CoE, 2001: 80);
- while in Spain a slight increase was reported in corruption attempts and successes, with no gangs bribing the judiciary and with only one (domestic) gang involved in corrupting the public administration. The most corruption-prone sector was law enforcement, which had six domestic and three foreign organised crime groups gaining some corrupt advantage or improper influence. In 2001 Spain noticed some minor links between organised crime and certain elected local representatives (CoE, 2002; 2001);
- finally in the UK there have been a number of instances where UK law enforcement officers acted corruptly and colluded with criminals, some of which have received extensive publicity. The advantages to a serious and organised criminal of maintaining a corrupt relationship of this sort are fairly obvious. The criminal can use it to discover information about the status and direction of operations against him, including the identity of surveillance vehicles, informants or witnesses. He can also discover general information concerning law enforcement capabilities, procedures, operational priorities and resource deployments, which though of less immediate use will be of value to a career criminal or to his associates. He may, in addition, see such a relationship as providing an insurance policy should he be arrested and prosecuted, perhaps creating the possibility for evidence to be tampered with or destroyed. For this reason, serious and organised criminals have maintained corrupt relationships not just with those involved in 'front-line' law enforcement, such as the police, HM Customs and Excise, and HM Immigration Service, but with others throughout the criminal justice system, including in the Crown Prosecution Service, the Prison Service, and the legal profession. While there is intelligence to show that serious and organised criminals

actively target those employed within the criminal justice system, this appears to be largely opportunistic, based on the accessibility and perceived vulnerability. 'Cold' approaches are unlikely, as they might backfire. The opportunity for a criminal to make a corrupt approach safely may arise socially, through friends, family connections or in pubs or sports clubs, or it may occur in a professional setting. In the past, areas of covert policing such as informant-handling were seen to pose the greatest risk, though this has been greatly reduced by the introduction of stricter controls under the Regulation of Investigatory Powers Act (2000). Unsurprisingly, money or other material rewards appear to be a significant motivation for those who become corrupt, but a number of the corrupt relationships that have been uncovered seem to have been motivated not by money but by friendship or family loyalty. As well as corrupting someone who is already in place, there is evidence of serious and organised criminals planting a group member or associate into a job or location of importance, although this does not seem to be commonplace (NCIS, 2004; 2003).

4. COMPARISON BETWEEN THE ORGANISED CRIME'S *MODI OPERANDI* IN THE LEGAL AND ILLEGAL MARKET

The two previous sections reviewed the *modi operandi* that appear to engage the OC groups in the legal and illegal market, according to the European and MS data sources. These *modi operandi* are now brought together in the tables below, in order to help in identifying the similarities and differences between the *modi operandi* in the two markets.

TABLE 1. MODI OPERANDI ENGAGED TO CARRY OUT OC ACTIVITIES IN THE ILLEGAL AND LEGAL MARKETS

TYPE OF MARKET	MODUS OPERANDI	SPECIFIC MODALITIES
ILLEGAL	LINKS WITH OTHER CRIMINAL ACTIVITIES	<p>Chronological sequence of the various activities varies, i.e.:</p> <ul style="list-style-type: none"> - other criminal activities are committed before the main activity (e.g. the forgery of all types of documents is carried out before the THB and illegal immigration), while - other criminal activities are practically carried out at the same time by the same OC groups (e.g. OC groups active in THB are also involved in drugs and arms trafficking and illegal immigration)
	TRANSPORTATION METHODS	<ul style="list-style-type: none"> - by sea - by air - by land
	USE OF VIOLENCE	<ul style="list-style-type: none"> - follow-up violence (e.g. THB) or - occasional violence (e.g. car theft)
	USE OF FACILITATORS	<ul style="list-style-type: none"> - visas - false travel documents - cross-border passes by lorries or ships, etc.
	USE OF EXPERT KNOWLEDGE/USE OF TECHNOLOGY	<p>Use of skilled specialists (e.g. document forgers, professional mechanics etc.)</p> <p>Use of sophisticated equipment</p>
	USE OF COMMERCIAL STRUCTURES	<p>Forms of corporate abuse used in order to facilitate the commission of criminal activities (e.g. providing the means to transport drugs or the venue where they are sold) are as follows:</p> <ul style="list-style-type: none"> - pre-existing commercial structures (cooperation of organized criminals with several employees), - mixed legal-illegal commercial structures within the company, - front (or shell or cover) companies
	USE OF CORRUPTION	<p>Collusion with a range of political and official contacts in order to operate unhindered (e.g. exploit border guards, police and customs officers in order to obtain export permits, forgery of end-user certificates, transport across borders)</p>
LEGAL	LINKS WITH OTHER CRIMINAL ACTIVITIES	<p>Chronological sequence of the various activities is as follows:</p> <ul style="list-style-type: none"> - after the commission of the predicate offence (which is mainly drug trafficking and fraud)
	USE OF EXPERT KNOWLEDGE/USE OF GATEKEEPERS	<p>Use of legal and financial experts (e.g. solicitors, notaries, accountants, lawyers, etc.)</p>
	USE OF COMMERCIAL STRUCTURES	<p>Forms of corporate abuse vital for the commission of criminal activities (e.g. in the carrying out of money laundering procedures) are as follows:</p> <ul style="list-style-type: none"> - pre-existing commercial structures (cooperation of organised criminals with several employees) - mixed legal-illegal commercial structures within the company - front (or shell or cover) companies
	USE OF CORRUPTION	<p>Collusion with a range of political and official contacts in order to operate unhindered (e.g. exploit existing contacts such as acquaintances and friends in corresponding positions of public life, induced to turn a blind eye or facilitate iniquitous practices)</p>

Source: Author's elaboration of EU and MS data sources.

Based on the information summarised in the previous table the following comments can be made regarding the similarities and/or differences that appear to exist between the *modi operandi* engaged by the OC groups in the legal and illegal markets:

- both in the legal and illegal markets there appear to exist links with other criminal activities. However, there is a fundamental difference. In the legal market, as mentioned earlier, OC groups need to commit their illegal activities (namely money laundering) *after* the perpetration of a given predicate offence. In the illegal market such a chronological sequence is not compulsory. In the illegal market two or more activities might be developed *at the same time*, as OC criminals take advantage of the already existing networks, for example, of human trafficking and use the victims as couriers for drugs. Or, some activities may sometimes have to be executed *before* the main criminal activity, such as the forgery of the victim's documents (in THB) or the theft of vehicles (in stolen cars trafficking);
- intimidation and violence against victims appears to be an intrinsic part of specific offences that take place in the illegal market (such as trafficking in human beings). With regard to the legal market, acts of violence per se are not required. In most European countries, organised crime groups and networks avoid open confrontation with public authorities, even if there are some exceptions (CoE, 2004);
- the use of corrupted officials in order to acquire or prevent use of information is rather important for the accomplishment of the illegal activities carried out by OC groups in illegal and legal markets. In particular, it appears to be a key instrument for OC groups, to successfully carry out their illegal activities (e.g. corrupt officials in order to get export permits, forgery of end-user certificates, transport across borders etc.) until the proceeds have been laundered (e.g. corrupted officials are induced to turn a blind eye or facilitate iniquitous practices). In conclusion, corrupt officials may tolerate or participate in criminal activities or protect criminals from law enforcement, or – in the case of senior officials – sponsor organised crime groups and networks. Such use of influence – symbiotic relationships based on mutual interest – are more sustainable than the use of violence and intimidation in both markets (CoE, 2004);
- it appears that within the illegal market the use of expert knowledge and technology gains in importance, not only to move into new fields of crime (e.g. offences against the confidentiality, integrity and availability of computer data and systems, so-called CIA-offences), but also as a tool in committing 'old forms' of crime more efficiently (e.g. drug trafficking, computer-related fraud etc.) (CoE, 2004). However, also in the legal market, organised crime groups and networks are increasingly contracting the task of money laundering to professionals because the methods required to circumvent the law and avoid detection are complex. Professionals are used not only to conceal the origin of the source of proceeds, but to manage the subsequent investment into assets such as real estate, stock, bonds or legitimate businesses;
- the use of commercial structures appears to be a *modus operandi* definitely engaged by OC groups operating within the legal market. Criminal enterprises seek to penetrate legitimate business by exploiting vulnerable points of entry into particular firms or industries, in order to protect their funds, to provide apparent legitimacy for wealth, and in a few cases to provide an option for a transition to licit business or retirement from criminal activities (Williams and Godson, 2002; Fiorentini and Peltzman, 1995). However it should be pointed out, that with regard to the illegal market, licit business enterprises can also be excellent covers for various kinds of trafficking activities. As stated by (CTIF-CFI), 'the use of commercial structures serves to facilitate criminal activities or to assist in the establishment of (inter)national money laundering networks. By mixing legal and illegal activities, the most visible part of the fund flows are concealed and, in this way, organised crime can be offered effective protection' (Belgian Financial Intelligence Processing Unit Annual Report, 2001).

Hence, by analysing the available data sources, it becomes evident that, as a result of the blurring division between the two markets due to the various forms of OC involvement in legal and illegal markets, it is not always so clear. Therefore, the distinction between the MO used in the legal and illegal markets are similarly blurred. This consequently renders any such comparison, between the MO engaged for each of the markets, as rather difficult.

After analysing and comparing the organised crime's *modi operandi* in the illegal and legal markets – as they appear in the EU and national law enforcement data sources reviewed in previous WPs – the following section briefly outlines the forms of OC involvement in the legal and illegal market and the relevant *modus operandi*

engaged as identified by the literature. This has been done in particular so that a general picture of the topic can be outlined by including different perspectives.

5. FORMS OF OC INVOLVEMENT IN LEGAL AND ILLEGAL MARKETS AND MO ENGAGED ACCORDING TO THE LITERATURE¹

First, there is a persistent question in the literature about to what extent illegal and legal markets can be understood as being distinct from each other. Some authors argue that making this distinction is, in general, analytically unhelpful. Other authors point to specific historical circumstances that encourage blurring at some time (such as market privatisations in European countries emerging from communist rule) whilst encouraging separation at other times (Edwards and Gill, 2002; Lea, 2004; Vande Walle, 2002; Juska et al., 2004; Los, 2003; Hobbs, 2001; CoE, 2004).

However, even if the distinction between the markets is at many times blurred and merging, the following forms of OC involvement in the legal and illegal market appear:

- *illicit market participants stay in those markets*: Beare and Naylor's category of 'predatory crime' illustrates this possibility (Beare and Naylor, 1999; Naylor, 2003). Predatory crime is directed against victims who may be wholly within the licit sector or may be other full-time or occasional criminals. The implications of this type of OC involvement on the MO engaged is that: predatory criminals may be more likely to employ or at least threaten violence – both in the commission of income-generating acts (e.g., theft and/or extortion) and in 'market regulation' – than other 'types' mentioned below. This is partly because violence has fewer disadvantages when one is totally outside the licit arena. Predatory criminals therefore benefit either from being competent in violence or from having that reputation. They normally have less need to corrupt those in licit sectors or in enforcement/judicial agencies because fear keeps their victims in check, but over the longer term such control may be difficult to sustain, especially if demands for 'protection' increase (Dorn et al., 2005; Snel and Van San, 2004).
- *illicit market participants invade licit sectors*: this is the most commonly referred to form of illegal/legal cross-over. The implication on the MO is that: quite a wide range of illicit market and licit market skills may be employed, including getting a licit 'cover', corruption and/or 'fronting', investment of proceeds, and hiring specialists to carry out such tasks. The metaphor of 'invasion' assumes a covert simulation of legitimacy when one in fact continues with illegitimate conduct – but this may not be the case where the illicit actors simply want somewhere to park their assets or to move towards respectability/retirement (Levi, 1998; Ponsaers, 2002; Mingardi, 2001; Punch, 2000; Smith, 2002).
- *legal markets generate their own criminalities* (without assistance from external 'organised criminals'): consider recent instances of major business fraud and market manipulation, many of which seem to have been generated wholly within the licit sector. Consider also 'bent' solicitors. The implications on the MO are that: business & professional skills are required, personal charisma is also useful, corruption sometimes is an issue (in relation to compliance and/or regulation) but violence is rather exceptional (Passas, 2001; Harding, 2004; Ruggiero, 1997).
- *licit market actors collaborate with OC*: some licit market actors may knowingly or unknowingly facilitate illicit activities, for example turning a blind eye to suspicious orders of chemicals or tobacco products, in order to enhance sales. The MO in this case is an artful cultivation of lack of suspicion, while in a corporate context, a simple lack of curiosity in some parts of the business may be involved (Aronowitz, 2001; Basler, 2004; Rowell and Bates, 2000; Lock, 1999; Forests Monitor, 2001).

Before concluding, it is worth mentioning that there are several studies that tried to reveal the interface between the legitimate and illegitimate environments, in order to generate possibilities for preventive action. For example, Van de Bunt et al.(2003) in their study affirmed that contacts between organised crime groups and the licit environment are of vital importance to the existence and subsistence of organised crime. Thus, in order to give indications for possible preventive interventions, they tried to reveal this interface by conducting an analysis – based on data from police files – focused on the role of public administration and

¹ This section is based on the contribution by Cardiff University to WP 8.

local businesses, the legal professions, official and informal financial services, and forged official documents². Other studies, for example, focused on how company law may provide opportunities for exploitation by OC criminal and so on³.

What is of interest about these studies is the insights they may provide with regard to some of the MO engaged by OC groups. For example, several criminological studies on organised crime show that one aspect that is neglected in many criminal cases is the role that gatekeepers/legal professions play within and between criminal networks. Despite some illustrations in the Financial Action Task Force's 2004 Money-Laundering Typologies Report, there is very little structured understanding about the nature and extent of the compromising conduct of lawyers and notaries or about the contemporary dilemmas these professionals face in their contacts with clients who are actually or potentially criminal (Levi et al., 2005). That is why several studies tried to address the topic⁴ by providing, at the same time, valuable insight on the forms of culpable involvement by legal professions⁵.

In particular, according to the findings of Van de Bunt et al. (2003) this abuse mostly concerns legal professions such as lawyers, legal advisors, notaries, auditors, accountants and tax consultants. These legal professions facilitate organised crime groups by providing judicial and financial expertise. It is difficult to eliminate the contact between the legal professions and criminals. In many cases professionals are not aware that their services are being used for criminal purposes. Despite this, however, there are cases of culpable involvement.

According to Fijnaut et al. (1998) culpable involvement can be divided into two categories: actual culpable involvement and negligence. Culpable involvement means that the professionals are aware of the illegality of their client's activities. Negligence refers to situations in which the culpable involvement of professionals cannot be ascertained, but where warning signals were present, and where the professional should have been alerted. Just like negligent public officers, these professionals could and should have known they were facilitating criminal activities.

Additionally, Nelen et al. (2003) tried to analyse the ways in which lawyers and notaries can facilitate wrongdoing by others, including organised criminal groups⁶. In their findings it was noted that most activities can be categorised under 'culpable involvement', in the widest sense. In such cases the professional practitioner has taken insufficient care to avoid the abuse of his practice for criminal purposes. There were fewer examples of culpable involvement in the narrow sense, as a co-perpetrator or accomplice. A further distinction was also made between 'active' and 'reactive' forms of involvement. The 'active' variant involves 'doing' or 'acting' in the conduct of the profession, often at the initiative or instigation of the professional practitioner himself. Hence, in several cases where lawyers are involved there is a visible loss of balance between partisanship and independence. The 'reactive' variant concerns negligence or culpable negligence or allowing abuse of office, and of the reputation connected to the office etc. In these cases, the notary or lawyer emerges as the opposite of a gatekeeper in society and this is much more an example of carelessness. In both variants, either the expertise and/or the authority of the notary and lawyer are incorrectly employed, or the involvement of a professional creates the impression that the conduct and construction of the transaction of the suspect are bona fide and honest.

As seen in the case of legal professions in the above example, academic studies might provide considerable additional knowledge with regard to the nature and extent of the use of the *modus operandi* engaged by organised crime groups in illegal and legal markets, Therefore, it is always best to look at both official data

² The final report of this project, entitled "The Identification and Prevention of Opportunities that Facilitate Organised Crime", was based in four national reports produced by four participating countries – namely Finland, Hungary, Italy and the Netherlands, that each have drawn up a report in which 15 cases of organised crime are described and analysed.

³ Examples of such studies are Transcrime (2000) and Transcrime (2001).

⁴ References to the findings of FATF can be found in these studies, such as Van de Bunt et al. (2003) and Nelen et al. (2003).

⁵ More information on the types of culpable involvements, as well as on the factors that may influence and increase the risk of legal professions to become culpably involved in serious forms of crime can be found for example in Di Nicola et al. (2005), Lankhorst et al. (2005), Chevrier (2005), Middleton et al. (2005).

⁶ They based their analysis on research material from interviews and dossier investigations.

sources, as well as at the literature and academic studies – when available, as they might provide a more comprehensive understanding of the topic⁷.

⁷ As demonstrated in Fijnaut et al. (2004) – that tried to sketch a picture of the available sources (both official and literature) and of their contents about the nature, extent and development of organised crime in Europe – academic and journalistic literature has at least as many limitations as official sources.

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ANNEX 9

WORKING SEMINAR WITH REPRESENTATIVES, SELECTED BOTH WITHIN THE ORIGINAL 15 MEMBER STATES AND THE NEW ONES, TO PRESENTS AND EXPLAIN THE RESULTS OF THE RESEARCH AND TO ELICIT FEEDBACK

DELIVERABLE FOR WP 9 OF:

Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach



A Project financed by the European Commission – DG Research under the Sixth Framework Programme

and coordinated by:



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DECEMBER 2005

This working seminar took the form of a panel session (panel session 3.3) within the *5th Annual Conference of the European Society of Criminology on Challenges of European Integration: Challenges for Criminology* that took place in Krakow (Poland) from the 31st of August to the 3rd of September 2005.

Panel session 3.3 was on “Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry”. This panel session, chaired by Dina Siegel (Vrije Universiteit Amsterdam), just aimed at presenting the results of the first year of activities of the IKOC Project. It took place on the 1st of September 2005 from 15.30 to 16.15. 39 people attended this session. The following speeches were on the agenda:

- *Project IKOC (Improving Knowledge on Organised Crime) what we achieved until now*, by Ernesto Savona (Catholic University of Milan, Italy);
- *Quantitative and qualitative data on organised crime collected by law enforcement agencies in the EU*, by Areti Antoniou (Catholic University of Milan, Italy);
- *Private security services to the corporate sector: an analysis*, by Michael Levi and Nicholas Dorn (Cardiff University, UK);
- *Strategies of business to manage risks of organised crime*, by Jan Terpstra (University of Twente, The Netherlands).

In the same conference, WP 12 of the Project was also addressed, in the context of panel session 4.3 on “Organised crime in Europe. Toward the common EU’s strategic concept of Organised Crime”. Because of this, **the findings from WP 9, i.e. a summary of the discussion that took place in panel session 3.3, are included in the deliverable for WP 12 (see *Deliverable 12 – Working seminar with public and private representatives, selected both within the original 15 Member States and the new ones, to present and discuss the results of WP 11*).**

ANNEX 10A

REVIEW OF ORGANISED CRIME RISK ASSESSMENT MODELS

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Paola Zoffi, Università Cattolica del Sacro Cuore
- Lisa Russell, Transcrime

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MARCH 2005

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1. FOREWORD

This paper is the deliverable for WP 10A (introductory deliverable) of Project IKOC – *Improving Knowledge on Organised Crime to develop a common European approach*.

The aim of this paper is to review and compare existing (organised) crime risk assessment models. Such a review and comparison represents the starting point of the IKOC project. It is in fact the necessary background knowledge of the Project, which aims at developing a common EU methodology to measure organised crime risk. In order to reach the above-mentioned aim, the paper is organised as follows. Section 2 defines (organised) crime risk on the basis of the existing criminological and non-criminological literature. Section 3 reviews existing (organised) crime risk assessment models. Section 4 sums up the results from the previous.

This paper has been produced by the Università Cattolica del Sacro Cuore. In particular, it has been directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Executive Project Manager of the Project. It has been written by Lisa Russell, intern at Transcrime, who elaborated a first draft, and Paola Zoffi, who revised it. Apart from the authors, on behalf of the Università Cattolica del Sacro Cuore, the following researchers have cooperated in producing this deliverable: Michele Brunelli and Francesca Romana Pandolfi.

2. DEFINING (ORGANISED) CRIME RISK

Scholarly literature defines (organised) crime risk as the result of the probability that an (organised) crime event, as a negative event, will happen (threat) and of its impact (or harm). This can be translated into the following formula (Queensland Crime Commission, 1999; Black et al., 2000; Transcrime, 2002):

$$(ORGANISED) CRIME RISK = PROBABILITY(\text{threat}) \bullet IMPACT(\text{harm})$$

Such a definition of (organised) crime risk is supported by both non-criminological literature, mainly business literature, and criminological literature.

2.1 Non-Criminological Literature Defining Risk

Much of the recent business literature has analysed risk and risk assessment and the following are some examples of business data sources defining these two concepts.

In most of the business data sources risk is examined by looking at what can go wrong in any given situation. As adopted by Meier (2000), risk is defined in terms of its effects on the business environment. It is “the possibility that something will go wrong to impede the attainment of specific business objectives”. According to this author, “most risks are an outcome, the risk itself is not something that can be directly managed or controlled [However] the root cause or factor that creates the risk is manageable and in many cases controllable. There are alerts, warning signs or indicators that a risk may occur” (Meier, 2000: 2). The report *Mitigating Risk/threat of Terrorism and Other Risks* (Effgen, 2002) define risk as “the likelihood of a given threat attacking a particular vulnerability and the resulting impact”. This report details a generic risk assessment method designed to allow individuals and organisations to carry out risk mitigation evaluations in order to reduce personal risk from terrorism and other threats; it aims to identify risks based of potential threats, determine the consequence of those threats and to develop techniques that can mitigate the identified risks (Transcrime, 2004).

According to the *Canada Threat and Risk Assessment Working Guide* (Government of Canada, 1999), risk is “the adverse effects that can result if a vulnerability is exploited or if a threat is actualised. In some contexts, a risk is the measure of the likelihood of adverse effects or the product of the likelihood and the quantified consequences”. Threat and risk assessment is defined as “a process in which the objective is to identify

system assets, to identify how these assets can be compromised by threat agents, to assess the level of risk that the threat agents pose to the assets and recommend the necessary safeguards in order to mitigate effects of the threat agents”.

Pradham and Meher (2004) define risk as “the probability of an event that has negative consequences”. These two authors argue that risk assessment is the process of identifying vulnerabilities and threats (defined as “any circumstances or events with the potential to cause harm on an information resource”, see Pradham and Meher 2004:3) to organisations’ information resources or IT infrastructure in achieving business objectives and deciding what countermeasures, if any, to take in reducing risk to an appropriate acceptable level, based on the value of the information resource to the organisation (Pradham and Meher, 2004: 1). The mathematical equation they use is the following:

$$TOTAL\ RISK = THREATS \cdot VULNERABILITY \cdot ASSET\ VALUE$$

Accordingly, the authors suggest that the proper way of determining the elements of risk is to calculate: Impact X’s vulnerability (probability of occurrence related to a particular information resource) for each threat to give a measure of overall risk. Therefore, the risk is “proportional to the value of loss/damage and to the estimated frequency of the threat” (Pradham and Meher, 2004:3).

Many others define risk by focusing on the loss or potential impact that a certain threat may cause the system and the severity of that loss. Oryang (2002), for example, begins his analysis by defining risk according to the Oxford dictionary, where risk is defined as a (noun) “hazard, chance, bad consequences, loss, etc., exposure to mischance”. Risk (as a verb) is “exposure to chance of injury loss, venture on, accept the chance of”. The author argues, however, that for his own purposes, risk can be defined as the likelihood of disease/injury/harm/damage/loss and the magnitude/severity of that disease/injury/harm/damage/loss.

Further, the ASIS *General Security Risk Assessment Guideline* defines risk as “the possibility of loss resulting from a threat, security incident, or event. A threat is an intent of damage or injury; an indication of something impending”. Risk or threats are “those incidents likely to occur at a site, either due to a history of such events or circumstances in the local environment” (ASIS, 2003: 5). Risk assessment then is “the process of assessing security-related risks from internal and external threats to an entity, its assets, or personnel” (ASIS, 2003: 5–6).

Similarly, the *Risk Assessment Information System* defines risk as “the product of impact of severity (consequence) and impact of likelihood probability”. Risk assessment is defined as “the process of establishing information regarding acceptable levels of a risk and/or levels of risk for an individual, group, society, or the environment” (Risk Assessment Information System, 2004).

According to the *Comprehensive Risk Analysis and Management Network* (2004), in a broad definition risk is “the combination of the probability of a possible unwanted event and the quantity of possible damage”. In a more technical sense, risk is defined as “the potential occurrence of unwanted adverse consequences to human life, health, property and/or the environment”. Also according to this source, the estimation of risk is usually based on “the expectation value of the conditional probability of the event occurring, multiplied by the consequences of the event, given that it has occurred”.

Other scholars elaborate upon previous models or create and use their own to help explain risk. According to Clemens (1993) risk is “the expectation of loss, an expression of the combined severity and probability of loss, the long-term rate of loss (loss rate value)” (Clemens, 1993: 4). The author uses the following Risk Assessment Matrix (RAM) to determine that for any given hazard (i.e. an activity or condition posing threat of harm):

$$\begin{array}{ccc}
 RISK & = & SEVERITY \cdot PROBABILITY \\
 \text{(Expected Loss/Unit Time or} & & \text{(Loss/Loss Event)} \\
 \text{Activity)} & & \text{(Loss Event/Unit Time or} \\
 & & \text{Activity)}
 \end{array}$$

Jaisingh and Rees (2001) perform an *Information Security Risk Assessment* by using the value at risk (VAR) methodology. They define risk as “the sum of threats (those events which cause harm), vulnerabilities (the openness of an enterprise to the threats) and asset value (the worth of the asset in danger)”. According to these two authors, this can be demonstrated in the following formula (Jaisingh and Rees, 2001: 3; 9):

$$RISK = THREATS + VULNERABILITIES + ASSET VALUE$$

Although this formula is more complex than that previously proposed, it nonetheless contains the same basic elements of threat and harm that make up the definition of risk.

2.2 Criminological Literature Defining Risk

Looking now at criminological literature on risk, one of the first and most famous exercises in the definition (and also measurement) of organised crime risk is represented by the Australian Queensland Crime Commission (QCC) which in 1999 performed a comprehensive study on risk assessment, called *Project Krystal*, where risk is defined as “an assessment of the likelihood that harm might occur and its impact” (Queensland Crime Commission, 1999).

Black, De Ruyver and Vander Beken (2000), which incorporate Project Krystal’s RAM model into their risk assessment methodology, defines risk as “the chance of something happening which will have an impact upon objectives”.

Starting from the general definition of ‘crime risk’ as a measure of the probability that a crime (as an undesirable event with a negative impact) will occur, a recent paper produced at Transcrime (2002) suggested that an ‘organised crime risk’ could be assessed by evaluating probability (threat) and impact (harm), where probability is the likelihood that an organised criminal event, as a negative event, will occur and impact is the harm caused to society and individuals by a particular crime.

3. REVIEWING (ORGANISED) CRIME RISK ASSESSMENT MODELS

After having defined organised crime risk in Section 2, it is now necessary to turn to several studies on crime risk assessment. These studies propose models to measure threat and harm and in some cases they go further and also apply the developed model. We will first examine the literature discussing the two components of the proposed risk formula, which are threat and harm. Then, we will analyse the data describing crime risk assessment models.

3.1 Reviewing (Organised) Crime Threat Assessment Models

This subsection reviews (organised) crime threat assessment models developed up-to-date. It distinguishes between methodologies elaborated in non-EU countries (analysed in letter A) from those developed in the EU framework (analysed in letter B).

IKOC Project is focused on the European Union framework; the review of non-European data sources is in fact extremely relevant to have a full understanding of the theoretical framework of the Project. Not only non-European literature on the topic is particularly rich, but also it dates earlier than the European literature and in many instances was a source of inspiration for the latter.

(A) (Organised) Crime Threat Assessment Models Developed Outside the European Union

United States

Regarding the criminological literature on this issue, Ross (1988) developed a questionnaire to measure crime threat levels in US overseas posts, where crime threat is measured by 1) crime environment 2) perpetrator profile and 3) police effectiveness. According to the author, crime environment is made up of two factors. The first factor is ambient crime, which is the occurrence of all incidents in a given location. The second factor is the mobility of crime, which is the extent to which criminal elements from other quarters of the city intruded into areas of the city where diplomatic installations and residences were located. Further, the questionnaire looked at police effectiveness, which included both police deterrence/response and training/professionalism variables. It is now used as a threat and risk assessment measurement tool in the Bureau of Diplomatic Security of the Department of State (Ross, 1998: 12).

Still other threat assessments define threat in terms of capability and intention. Further, they also envision countermeasures that would be necessary to thwart a potential attack. For instance, the 1999 GAO Report argues that a threat analysis “identifies and evaluates each threat on the basis of various factors such as its capability and intent to attach an asset and the likelihood and severity of the consequences of a successful attack” (GAO, 1999: 6). Further, the 2001 GAO Report considers the likelihood a threat will damage an asset and identifies actions that reduce the risk and mitigate the consequences of an attack. Accordingly, a threat assessment “identifies and evaluates threats based on various factors including capabilities and intentions, past activities as well as the potential impact of an event” (GAO, 2001: 1).

The purpose of the 2002 *Iowa Money Laundering Threat Assessment* (Iowa Department of Public Safety, 2002) is to establish a threat-driven strategy to combat money laundering, assessing the potential types of criminal activity that might be facilitated by money laundering. In order to achieve this goal, the report considers, among others, data about reported crimes in Iowa from 1997 through 2001. The Iowa report selects categories of criminal activity similar to those used by the Financial Crimes Enforcement Network (FinCEN) to classify Suspicious Activity Reports (SARs). The criminal activities considered are: bribery; fraud; counterfeiting/forgery; embezzlement; intimidation; extortion/blackmail; robbery; drugs; pornography; prostitution; gambling; weapons (Iowa Department of Public Safety, 2002: 10).

(B) (Organised) Crime Threat Assessment Models Developed in the European Union

Germany

In Germany the *Organised Crime Situation Report for the Federal Republic of Germany* published by the Bundeskriminalamt provides information on the ‘OC potential’ of groups of perpetrators (Bundeskriminalamt, 2004). The term ‘OC potential’ is calculated using a system of weighted OC indicators and is portrayed on a scale from 1 (= very low) to 100 (= very high) (Bundeskriminalamt, 2004: 19).

Spain

In a study in Spain, Reinares and Resa (1997–1999) addressed the impact of organised crime on democracy and global governance. They argue that under some specific circumstances organised crime can pose a direct threat to liberal democracy. Organised crime’s most serious threat to democratic institutions is its activity from outside the political system. Ironically, some of the risks involved in the internal fight against organised crime are produced from the legislation designed to combat it (Reinares and Resa, 1997–1999: 56). According to these authors, “the danger of organised crime does not correspond to the traditional threat, in the sense that it seeks the complete subversion of power distribution [...] there has been a shift in the threats to democratic governance throughout the world. Before, these were associated with the extensive accumulation of power, resources, and territory. Now, they include the control and production of information” (Reinares and Resa, 1997–1999: 69; 70).

3.2 Reviewing (Organised) Crime Harm Assessment Models

(A) (Organised) Crime Harm Assessment Models Developed Outside the European Union

Australia

Walker (1996) attempts to estimate the financial and economic costs of crime in Australia. According to Walker, the costs of crime or harm include “not only property losses and/or medical costs incurred during the actual incident and its immediate aftermath, but also costs of long-term and wide-ranging consequences of the incident, the costs of preventive efforts made to reduce the future incidence or severity of such crimes, and the costs of the criminal justice system set up to deal with the offenders” (Walker, 1996: 1). Walker separates the financial costs and economic costs of crime. Financial costs are the illegal transfer of resources from victims to offenders. According to the author, they are not losses for the community; economic costs are damages that occur when crime causes society to divert time, energy or resources from more productive purposes. (Walker, 1996: 2). He concludes that the minimum total cost is between \$11 billion and \$13 billion per year and the majority is attributed to white-collar crime (Walker, 1996: 6).

Mayhew (2003a) estimates that the total costs of crime in Australia in 2003. She includes in his estimation the assessment of such intangible costs like the monetary value of pain, suffering and loss quality of life (Mayhew, 2003a: 1). Mayhew argues that to understand the ‘full impact’ of crime one has to estimate ‘the actual number of crimes that occur rather than the number recorded by the police’ (Mayhew, 2003a: 2). He therefore uses victimization surveys to estimate the level of crime. She concludes that the cost of crimes total over \$19 billion in 2003, while the total estimated bill could be as high as \$32 billion (Mayhew 2003a: 8). Mayhew elaborates on her previous conclusions (Mayhew 2003b) by further dividing the costs of crime into three categories. First are the costs in anticipation of crime. Second are the costs incurred as a consequence of crime. Third are the costs in response to crime (Mayhew 2003b: 7).

Canada

The study entitled *The Costs of Substance Abuse in Canada* (AADAC Profile, 1996) measured the economic costs of alcohol, tobacco and illicit drug abuse in Canada. For the city of Alberta, the national study estimated this cost at 1.6 billion dollars in 1992, this amount to \$613 per person and represented 2.2% of Gross domestic Product. This study estimated the economic costs of substance abuse distinguishing between productivity losses, health care costs, and law enforcement costs in relation to alcohol and illicit drug.

Brantingham and Easton (1998) measured the costs of crime in Canada by separating the costs of crime into two major categories. The first is the costs arising from the physical and psychological distress caused by criminal acts, which they argue, is almost impossible to measure. The second is the amounts spent on the police, the courts, and the legal profession. The authors believe this is a lot easier to quantify and calculate. (Brantingham and Easton, 1998: 23). The methodology measures losses based on the direct monetary costs attributable to some specific crimes. These include:

1. direct cost of victimization;
2. costs of private security and public policing;
3. costs of the courts;
4. costs of correctional institutions.

They further divide up the costs based upon the category of offence and the costs for punishment and prevention to draw some overall conclusions. Brantingham and Easton estimate the total cost of crime in 1993 is \$42.40 billion (Brantingham and Easton, 1998: 23–35).

In Canada in 1998, Porteous conducted a study on the impact of organised crime related activities. He focused on the scope and impact of key activities that organised criminals participate in and help perpetuate. These activities include: money laundering, illicit drugs, environmental crime, selected contraband, economic crime, migrant trafficking, counterfeit products, and motor vehicle theft. The impacts were of an economic and commercial, social-political, violence generation, health and safety and environmental nature (Porteous,

1998: 1) He concluded that organised crime in Canada is very pervasive and is not limited to drugs and mafia-type incidents. He concluded that the illicit drug market did have the greatest impact of all the illicit markets in Canada. However, he cautions that organised crime activities are varied and expansive and are often hard to quantify so environmental and economic crimes should not be ignored (Porteous, 1998: 21).

Finally, Richter-White (2003) conducted a study in Canada to assess the direct and indirect impacts of organised crime on youth. It looked at the youth as offenders and as victims. This study is different from Porteous's study in that this focuses on specific segments of the population, in particular the youth, in order to determine impact. It looked at many variables including drug and alcohol use, gambling, and gang affiliation. It concluded that 'one of the major impacts organised crime has on youth is their recruitment into criminal activity' (Richter-White, 2003: 5).

United States

Many US studies have focused specifically on impact or the harm caused by crime. Often, it is measured in terms of the costs of crime on society. The 1986 Wharton Econometrics (Wharton Econometrics Forecasting Ass. Inc., 1986) is one of the first examples of a study performed to measure the harm caused by organised crime to the US economy. The study measured harm by developing an estimate of the income generated through the activities of criminal organisations in the US (Wharton Econometrics Forecasting Ass. Inc., 1986: 4). It estimates the impacts of sustained higher price levels and continued underpayment of taxes on the U.S. economy (Fishman, Rodenrys and Schink, 1986: 487). The Wharton study determined the total amount of income generated by organised crime by looking at the number of persons engaged in organised criminal activities and the average income of persons involved in the criminal organisations. Fishman, Rodenrys and Schink (1986) elaborated on and applied Wharton's method to study the magnitude of organised crime also by measuring its income. They performed an impact assessment based upon the amount of income organised crime groups generate. They suggest that there are two approaches to measuring income:

1. estimate gross receipts (sales) minus the cost of purchased inputs to develop an estimate of income;
2. measure the income generated by criminal organisations as the product of the number of persons engaged in organised crime and of the average annual income of persons involved with criminal organisations.

They further evaluate income estimates by dividing them up by type of criminal activity. They estimated that, at most, the total income for organised crime in 1986 was over \$75.3 billion. (Fishman, et. al, 1986: 478-479).

Further studies have expanded the idea of costs of crime from purely economical costs to include hard measuring costs like social and societal costs. One such study is that of Michael Maltz, *Measuring the Effectiveness of Organized Crime Control Efforts* (1990). This study represents one of the first quantitative and critical approaches to the evaluation of organised crime control efforts and contains a conceptual framework for understanding and measuring the harm caused by organised crime (Transcrime, 2003). Maltz defines harm as "the general term used to describe direct and indirect and tangible and intangible effects". The study provides a description of five typologies of harm (Maltz, 1990: 41) and at the same time discusses the difficulties encountered in measuring them. The five typologies of harm are:

- physical harm (e.g. murders, physical injuries);
- economic harm, (e.g. property losses caused by theft);
- psychological harm (e.g. intimidation of witnesses);
- community harm (e.g. impairment of the business community by extortion/protection racket);
- societal harm (e.g. corruption of public officials).

The author further describes exactly what it is about certain activities that requires the use of criminal sanctions and why some are labelled 'organised' crime. He concludes that there are many difficulties in labelling harm because "some activities are labelled as crimes because they generate harm (e.g. arson), and other activities generate harm because they are labelled as crimes (e.g. gambling)" (Maltz, 1990: 47).

According to the author, both types of activities need to be addressed by law enforcement but different methods need to be employed.

(B) (Organised) Crime Harm Assessment Models Developed in the European Union

Global Studies

In the 2000 paper *Measuring Governance, Corruption and State Capture: How Firms and Bureaucrats Shape the Business Environment in Transition Economies* (Hellman, Jones, Kaufmann and Schankerman, 2000), the authors investigated the factors that facilitate or impede business investment and development in Central and Eastern Europe and the Commonwealth of the Independent States. The Survey did this by measuring the level of obstacle organised crime creates to the operation and growth of businesses. The survey results focus on the categories of governance, corruption, and state capture as the areas organised crime is most likely able to penetrate business. Further, Fries, Lysenko and Polanec's EBRD *Business Environment and Enterprise Performance Survey* asks firms to assess how the functioning of state institutions, physical infrastructure, and financial institutions affect their business operations. (Fries, Lysenko and Polanec, 2003)

Similarly, the *World Global Forum's Global Competitiveness Report* for 2003–2004 looked at the effect of organised crime on legitimate business. It tried to identify existing impediments to economic growth in the 102 of the world's leading nations. The PricewaterhouseCoopers' Global Economic Crime Survey 2003 measured the harm that the private sector faced due to organised crime activities.

The Expert Group Meeting on Global Report on Crime and Justice (UNODC, 2003) looks at the source indicators of the Organised Crime Index to assess the impact that crime has on society. It concluded that a high level of corruption facilitates organised crime activities and examines organised crime groups infiltration into legitimate businesses.

Germany

von Lampe (2002) examines organised crime in Germany by attempting to link organised crime networks with certain criminal activities and assessing the impact that these activities have on society. He notes that "the effects of organised crime are commonly lumped together in an undifferentiated concept of harm" (von Lampe, 2000: 5). For others like Vander Beken (Vander Beken, 2000:36) and Queensland Crime Commission in Project Krystal, (Queensland Crime Commission, 1999: 31), harm encompasses 'economic, emotional, physical, intellectual, and political damage'. However, von Lampe's model 'shows a distinction between the impact on society in terms of material and immaterial damages, and the specific effects of manipulating institutional decision-making processes' (von Lampe, 2002: 5). Von Lampe also states that there are two kinds of harm, the infliction of damages and the manipulation of institutional decisions but they are not necessarily correlated (von Lampe, 2002: 5). Von Lampe concludes that 'no overall trends are discernable regarding the nature and extent of organised crime' (von Lampe, 2002: 25–26). Therefore it is difficult to draw any definite conclusions on the impact that organised crime has on society.

Italy

The 1992 Censis *Research on the Economic Burden of Illegal Activities* (Censis, 1992) measured the economic dimensions and turnover of criminal activities, by considering organised crime as a 'crime company'. The study estimates the turnover of organised crime starting from single criminal activities (offences). In order to come to an estimate of the turnover of organised crime, the authors use a multiplier representing the quota of total crimes which are not committed by organised criminal and therefore shall not be considered in the calculation of turnover. Therefore, the multiplier represents the "ratio between the part of the criminal activity which is in the hands of organised crime and the part which is not" (Transcrime 2002). Data comes from criminal proceedings and looks at different types of property crimes including: theft, robbery, forgery, extortion, kidnapping, fraud, usury, money laundering, corruption, illegal drug production and trafficking, prostitution, illegal gambling, trafficking in weapons, and illegal smuggling of goods.

The methodology is represented in the formula:

$$\begin{array}{ccccccc} \text{TOTAL ESTIMATED} & & \text{NUMBER OF} & & \text{ESTIMATED AVERAGE VALUE} & & \text{MULTIPLIER} \\ \text{TURNOVER FOR} & = & \text{CRIMES} & \cdot & \text{OF CRIME (calculated on the} & \cdot & \text{(coefficiente di} \\ \text{EACH OFFENCE} & & \text{(reported +} & & \text{analysis of reports and} & & \text{abbattimento)} \\ & & \text{estimated)} & & \text{judicial cases)} & & \end{array}$$

The 1993 study by Rey (1993) looks at illegal activities in order to estimate the variety of existing kinds, their concrete dimension and the impact of the illegal economy on Italian National Accounts. The author focuses particularly on two specific related problems:

- 1) how to quantify the number of workers employed in illegal activities?
- 2) how to determine the effective turnover of these productive activities?

With regards to the former, according to the author the problem of *doppio lavoro* (second job) needs to be considered. In fact, it happens that one single worker could be employed in more than one activity at the same time, or eventually might be employed in both legal and illegal activities. Concerning the second question, it depends on the effective working time of each single activity carried on by the worker. The author argues that there is an absence of precise indicators about the quantities produced, the difficulty of knowing prices, the important role of the use of violence as a means of business administration, and the interactions between different and separate illegal activities.

Quantification is based upon several indicators:

1. number of crimes, from the ones reported to the Judicial Authorities;
2. persons involved in each illegal activity;
3. economic value of the crime.

Switzerland

In their paper *Male violence: the Economic Costs – A Methodological Review* (Godenzi and Yodanis; 1999), the two authors review, among others, studies on the economic costs of male violence against women and discuss their common methodological approaches. They summarize in a table, reproduced below, the economic cost of violence against women studies in the period between 1991 and 1998:

TABLE 1 STUDIES ON THE ECONOMIC COST OF VIOLENCE AGAINST WOMEN (1991–1998)

Country/ Region	Authors/year	Type of Violence	Total Cost Estimate (USD)	Types of Costs included in estimate
New South Wales (Australia)	NSW Women's Coordination Unit /1991	Domestic violence of women at various stages	\$1,000,000,000	Individual, government, employer and third party - health care, legal, criminal justice, social welfare, employment, child care, and housing
Queensland (Australia)	Sunshine Coast Interagency Research Group/1993	Physical abuse, physiological abuse, rape, sexual assault of women	\$40,000,000	Victims, public/community and other individuals - housing and refuge, social security, health care, and criminal justice
New Zealand	S. Snively /1994	Family violence, including threats of violence, on women and children	\$625,000,000 - 2,500,000,000	Individual, government, third party, and employer - medical care, social welfare and assistance, legal and criminal justice, and employment
Canada	T. Day/1995	Physical and sexual abuse of women	\$1,000,000,000	Health costs - medical, dental and psychiatric care, paid and unpaid work loss, housing and refuge, long term cost
Canada	L. Greaves, O. Hankivsky & J. Kingston-Riechers	Physical violence, sexual assault, rape, incest, child sexual abuse	\$2,750,000,000	Individual, government, and third party - social services & education, criminal justice, labor & work, health and medical
Northern Territory	Office of Women's Policy/1996	Physical, sexual and psychological domestic violence - effects on women and children	\$6,500,000	Individual, community and other costs - crisis support, police, housing, financial, medical, child care, legal services, employment
Netherlands	D.J. Korf, H. Meulenbeek, E. Mot, T. van den Brandt/1997	Physical and sexual domestic violence against women	\$80,000,000	Police and justice, medical, psychosocial care, labor and social security
Hackney (UK)	E.A. Stanko, D. Crisp, C. Hale, & H. Lucraft/1997	Physical and sexual abuse of women and children	\$8,000,000	Police, civil justice, housing, refuge, social services, and health care
Switzerland	A. Godenzi & C. Yodanis/1998	Physical, sexual and psychological abuse of women and girls	\$290,000,000	State costs - medical treatment, police and justice, victim - related support, support and counseling, research

SOURCE: Godenzi and Yodanis; 1999.

United Kingdom

From the U.K., Brand and Price (2000) assess the costs of crime in England and Wales in 1999. They define costs of crime (harm) as “the full range of impacts of crime” (Brand and Price, 2000: vii). The economic or social cost of crime is ‘a measure of the impact of crime on society’ (Brand and Price, 2000: 3). The authors categorize costs into those in anticipation of crime, those as a consequence of crime, and those costs consequential on the response to crime (Brand and Price, 2000: 20–25). They further break the categories down into types of crime and incidences of crime to measure the impacts of specific offences. They conclude that intangible costs make up about 30 percent of total costs (Mayhew, 2003b: 19). Brand and Price further estimate that the total costs of crime in England and Wales in 1999/2000 is around £60 billion (Brand and Price, 2000: vi).

Falcetti, Sanfey and Taci (2003) give an overview and analysis of private sector activity and investment in southeastern Europe. They conclude that bridging gaps in living standards and capital flows between the region and central Europe will take time, but can be facilitated by targeted measures to increase access to capital, reduce the size of the informal sector, enhance the investment climate, and facilitate cross-border trade. When discussing the informal economy the authors make a distinction between legal but unrecorded activities and organised crime, which are illegal and unrecorded (Falcetti, Sanfey and Taci, 2003: 1–3).

3.3 Reviewing (Organised) Crime Risk Assessment Models

(A) (Organised) Crime Risk Assessment Models Developed Outside the European Union

Australia

The Queensland *Project Krystal* in Australia articulated a comprehensive risk assessment methodology. As mentioned previously, the definition of risk is “an assessment of the likelihood that harm might occur and its impact” (Queensland Crime Commission, 1999: 31). It is articulated in the formula:

$$RISK = PROBABILITY(\text{threat}) \bullet IMPACT(\text{harm})$$

Project Krystal further elaborated on the definition of risk by defining the component parts. Threat is defined as “the measure of how likely a subject is to succeed in carrying out some activity that may cause harm”. Threat is based on an assessment of the subject’s intent and capability. Harm is defined as “the magnitude and type of damage or injury that would occur should a threat be realized’. Harm encompasses physical, emotional, intellectual, economic, and political damage and refers not only to factual data, but also to client perceptions” (Queensland Crime Commission, 1999: 31). Risk assessment is:

$$\begin{aligned} \text{Desire} \bullet \text{Confidence} &= \text{Intent} \\ \text{Resources} \bullet \text{Knowledge} &= \text{Capability} \\ \text{Intent} \bullet \text{Capability} &= \text{Threat} \\ \text{Threat} \bullet \text{Harm} &= \text{Risk} \end{aligned}$$

Project Krystal looks at the nature and extent of organised crime in Queensland as well as the level of risk for organised crime. It provides a process for the assessment of organised crime that takes into consideration “what is currently known about organised criminal identities and groups, the illicit commodities they trade, the external environmental factors that facilitate or inhibit their criminal activities, and the impacts of these activities on the community”. RAM is based on the premise that organised crime is a business and is motivated by a desire for financial gain (Queensland Crime Commission, 1999: 29). RAM compares possible sources of risk. Risk is determined by considering the intensity of the threat, how likely it is to occur, and the seriousness of the consequences should it occur. RAM shows the combined effect of the probability of an undesired event occurring and the severity of damage or loss to key organisational assets or operations if the events were to occur.

United States

Jay Albanese (2002) uses risk assessment tools in order to create a model for law enforcement to target organised crime in a systematic way. His study *The Prediction and control of Organized Crime: A Risk Assessment Instrument for Targeting Law Enforcement Efforts* is an attempt to identify linkages between isolated incidents of organised crime in a systematic way in order to aid law enforcement personnel in the identification and prioritisation of high-risk activities and markets. It is a qualitative analysis of a broad range of data collected from numerous sources and is intended to evaluate the influence of organised crime in local jurisdiction, and the impact of new laws and policies that affect commerce and criminal opportunities.

The author's risk assessment model analyses opportunity factors, the criminal environment, and harm potential based on 17 opportunity and environmental risk factors, which he identifies. The model utilises qualitative assessment of the potential risk of each of these factors to determine a total risk rating for a jurisdiction. Albanese further suggests that harm can be assessed in terms of monetary cost, individual harm, and long-term social costs. Finally, he concludes that rather than viewing organised crime activities as 'unique events' the risk assessment model allows one to see the similarities of the organised crime activities and operations.

(B) (Organised) Crime Risk Assessment Models Developed in the European Union

Belgium

As noted previously, Black and Vander Beken incorporated the methodology used in Project Krystal to create a new risk assessment methodology. Risk is described in terms of "the likelihood and consequences of the chance of something happening that will have an impact upon objectives" (2000). Risk assessments aim to provide an understanding of the factors that can influence events of interest to responsible parties. The study starts with the premise that organised crime businesses should be considered in the context of the market for the illicit commodity or service they provide.

Vander Beken further develops a risk assessment methodology when examining crime proofing and threat assessment models. Accordingly, the risk model is:

$$RISK = LIKELIHOOD \bullet CONSEQUENCE$$

Where:

LIKELIHOOD = PROBABILITY AND FREQUENCY (*threat*) AND

CONSEQUENCE = HARM (*impact*)

The author further argues that:

$$OC RISK = OC THREAT \bullet OC IMPACT$$

Italy

As noted previously, a paper by Transcrime (2002) suggested to assess 'organised crime risk' by evaluating probability (threat) and impact (harm) and proposed an user-friendly methodology to do so.

The variables defining OC threat in such methodology are as follows:

- *variables related to organised crime groups* involved in the carrying out of the criminal event. The likelihood that a crime occurring is linked to the 'evaluation of the seriousness and organisation' of the criminal groups involved. The more dangerous and well equipped the criminal groups involved in a crime, the more likely the crime will occur again;
- *variables related to the offence itself*, such as the number of reported crimes for the previous year. The more a crime has been committed in the past, the more likely it is that it will be committed again;

- *variables related to the risks for criminals committing the given event*, which takes into account the level of effort by law enforcement. The more effort focused on a specific crime, the less likely that the particular crime will be committed again;
- *variables related to the opportunity structure for a given criminal event*, which take into account the environment and its capabilities to produce incentives for crimes.

As far as OC harm is concerned, the paper suggests some possible variables (e.g. for heroin trafficking, the number of deaths caused by overdose and their average cost, using insurance criteria and the cost to health services; the income from a given OC activity).

The European Union

In recent years, the Council of the European Union has adopted the Belgian framework of analysis of the organised crime phenomenon and incorporated it into the European Union Organised Crime Report annually produced by Europol (Council of the European Union, 2002).

4. CONCLUSIONS

Having reviewed the organised crime risk assessment models and identified a number of variables which characterize the OC risk assessment models, it is possible to list – in the tables below – these variables.

TABLE 2 CRIME THREAT ASSESSMENT MODELS DEVELOPED OUTSIDE THE EU AND IN THE EU

Country/ Region	Author/Year	Objective	Crime Threat Assessment Model
US	Ross/1988	To measure crime threat levels in US overseas posts. Now used as a threat and risk assessment measurement tool in the Bureau of Diplomatic Security of the Department Of State	Crime threat is measured by: <ol style="list-style-type: none"> 1. crime environment (ambient crime + mobility of crime) 2. perpetrator profile 3. police effectiveness (police deterrence/response + training/professionalism variables)
US	GAO Report/1999		A threat analysis identifies and evaluates each threat on the basis of various factors such as: <ul style="list-style-type: none"> - its capability and intent to attack an asset and - the likelihood and severity of the consequences of a successful attack
US	GAO Report/2001		A threat assessment identifies and evaluates threats based on various factors including capabilities and intentions, past activities as well as the potential impact of an event
US	Iowa Department of Public Safety/2002	To establish a threat-driven strategy to combat money laundering and assess the types of potential criminal activity that might be facilitated by money laundering	In order to achieve this result, the IOWA Dep. of Public Safety considers, among others: <ul style="list-style-type: none"> - data about reported crimes in Iowa from 1997 through 2001 - categories of criminal activity similar to those used by the FinCEN to classify Suspicious Activity Reports
Germany	BKA/2004		The 'OC potential' of groups of perpetrators is calculated using a system of weighted OC indicators and is portrayed on a scale from 1 (= very low) to 100 (=very high)
Spain	Reinares and Resa/1997-1999		The authors addressed the impact of OC on democracy and global governance. According to their study: <ul style="list-style-type: none"> - under some specific circumstances OC can pose a direct threat to liberal democracy - OC's most serious threat to democratic institutions is its activity outside the political system - some of the risks involved in the internal fight against OC are produced by the legislation designed to combat it

TABLE 3 CRIME HARM ASSESSMENT MODELS DEVELOPED OUTSIDE THE EU AND IN THE EU

Country/ Region	Author/ Year	Objective	Crime Harm Assessment Model	Cost estimate/Results
Australia (New south Wales)	NSW Women's Coordination Unit /1991	To estimate the cost of domestic violence against women at various stages	The types of costs included in the estimate are: individual, government, employer and third party - health care, legal, criminal justice, social welfare, employment, child care, and housing	\$1,000,000,000
Australia (Queensland)	Sunshine Coast Interagency Research Group /1993	To estimate the costs of physical abuse, physiological abuse, rape, and sexual assault of women	The types of costs included in the estimate are: victims, public/community and other individuals - housing and refuge, social security, health care, and criminal justice	\$40,000,000
Australia	Walker /1996	To estimate the financial costs (the illegal transfer of resources from victims to offenders) and economic costs (the damages that occur when crime causes society to divert time, energy or resources from more productive purposes) of crime in Australia	The costs of crime or harm include: - property losses and/or medical costs incurred during the incident and its immediate aftermath - costs of long-term and wide-ranging consequences of the incident - costs of preventive efforts made to reduce the future incidence or severity of such crimes - costs of the criminal justice system set up to deal with the offenders	The minimum total cost is between \$11 billion and \$13 billion per year and the majority is attributed to white-collar crime
Australia	Mayhew /2003	To estimate the total costs of crime in Australia in 2003	The estimation included: - the estimation of the level of crime - the assessment of intangible costs like the monetary value of pain, suffering and loss quality of life. The costs of crime are divided into three categories: 1) costs in anticipation of crime 2) costs incurred as a consequence of crime 3) costs in response to crime	The cost of crimes total over \$19 billion in 2003. The total estimated bill could be as high as \$32 billion.

Country/ Region	Author/ Year	Objective	Crime Harm Assessment Model	Cost estimate/Results
Canada	T. Day /1995	To estimate the costs of the physical and sexual abuse of women	The types of costs included in the estimate are: health costs – medical, dental and psychiatric care, paid and unpaid work loss, housing and refuge, long term costs	\$1,000,000,000
Canada	Government of Canada /1996	To estimate the economic costs of alcohol, tobacco and illicit drug abuse in Canada	The study distinguished between costs in relation to alcohol and illicit drugs: – productivity losses – health care costs – law enforcement costs	For the city of Alberta the study estimated the economic costs of substance abuse at 1.6 billion dollars in 1992, this amounts to \$613 per person and represented 2.2% of Gross domestic Product
Canada	Brantingham and Easton /1998	To measure the costs of crime in Canada	The authors' methodology measures losses based on the direct monetary costs attributable to some specific crimes. These costs include: – direct cost of victimization – cost of private security and public policing – costs of the courts – costs of correctional institutions	The authors estimated that the total cost of crime in Canada in 1993 was \$42.40 billion
Canada	Porteous /1998	To assess the impact of some OC related activities	The author concluded that the impacts of OC related activities were of an economic, commercial, social-political, violence generation, health and safety and environmental nature	
Canada	Richter – white /2003	To assess the direct and indirect impacts of OC on youth (as offenders and victims)	The author considered many variables, including drug and alcohol use, gambling, and gang affiliation	
Germany	von Lampe /2002	To examine OC in Germany by linking OC networks with certain criminal activities and assessing the impact that these activities have on society	The author's model shows a distinction between the impact on society in terms of material and immaterial damages, and the specific effects of manipulating institutional decision-making processes	According to the author, no overall trends are discernable regarding the nature and extent of OC

Country/ Region	Author/ Year	Objective	Crime Harm Assessment Model	Cost estimate/Results
Global Studies	Hellmann et al.	To investigate the factors that facilitate or impede business investment and development, by measuring the level of obstacle OC creates to the operation and growth of businesses	The survey results focused on the categories of governance, corruption, and state capture as the areas OC is most likely able to penetrate business	
Global Studies	World Global Forum /2003-2004	To look at the effect of OC on legitimate business	The Global Competitiveness Report tried to identify existing impediments to economic growth in 102 of the world's leading nations	
Global Studies	UNODC /2003	The Report looks at the source indicators of the OC Index to assess the impact that crime has on society		The Report concluded that a high level of corruption facilitates OC activities and examines OC group infiltration into legitimate businesses
Italy	CENSIS /1992	To measure the economic dimensions and turnover of criminal activities, by considering OC as a crime company	The methodology is represented in the formula: Total estimated turnover for each offence = Number of crimes • estimated average value of crime • multiplier	
Italy	Rey /1993	To estimate the variety of existing kinds of illegal activities, their true dimension and the impact of the illegal economy on Italian National Accounts	Quantification is based upon these indicators: 1) number of crimes 2) persons involved in each illegal activity 3) economic value of the crime	
Northern Territory	Office of Women's Policy /1996	To measure the costs of physical, sexual and psychological domestic violence - effects on women and children	The types of costs included in the estimate are: individual, community and other costs - crisis support, police, housing, financial, medical, child care, legal services, employment	\$6,500,000
New Zealand	Snively /1994	To measure the costs of family violence, including threats of violence, on women and children	The types of costs included in estimate are: individual, government, third party and employer - medical care, social welfare and assistance, legal and criminal justice, and employment	\$625,000,000 - 2,500,000,000

Country/ Region	Author/ Year	Objective	Crime Harm Assessment Model	Cost estimate/Results
Switzerland	Godenzi and Yodanis /1998	To measure the costs of physical, sexual and psychological abuse of women and girls	The types of costs included in the estimate are: state costs - medical treatment, police and justice, victim-related support, support and counselling, research	\$290,000,000
The Netherlands	Korf et al. /1997	To measure the costs of physical and sexual domestic violence against women	The types of costs included in the estimate are: police and justice, medical, psychosocial care, labour and social security	\$80,000,000
The UK	Stanko et al. /1997	To measure the costs of physical and sexual abuse of women and children	The types of costs included in the estimate are: police, civil justice, housing refuge, social services, and health care	\$8,000,000
The UK	Brand and Price /2000	To assess the costs of crime in England and Wales in 1999	The authors define harm as the full range of impacts of crime. They categorize costs into costs in anticipation of crime, those as a consequence of crime, and those consequential of the response to crime. They break the categories down into types of crime and incidences of crime to measure the impacts of specific offences	The authors estimate that the total costs of crime in England and Wales in 1999/2000 was around £60 billion
US	Wharton Econometrics /1986	To measure the harm caused by OC to the US economy	The study measured the total amount of income generated by looking at the number of persons engaged in OC activities and the average income of persons involved in criminal organisations	

US	Fishman, Rodenrys and Schink /1986	The authors elaborated on and applied Wharton's method to study the magnitude of OC and also by measuring its income	They suggest that there are 2 approaches to measuring income: 1) estimate gross receipts (sales) minus the cost of purchased items to develop an estimate of income 2) measure the income generated by criminal organisations as the product of the number of persons engaged in OC and of the average annual income of persons involved with criminal organisations	The authors estimated that the total income for OC in 1986 was over \$75.3 billion
US	Maltz /1990	To evaluate OC control efforts and understand and measure the harm caused by OC	Harm is defined as the term used to describe direct and indirect and tangible and intangible effects. The author describes 5 typologies of harm: physical, economic, psychological, community and societal harm	

TABLE 4 CRIME RISK ASSESSMENT MODELS DEVELOPED OUTSIDE THE EU AND IN THE EU

Country/Region	Author/Year	Crime Risk Assessment Model
Australia	Queensland Crime Commission /1999	Risk is defined as an assessment of the likelihood that harm might occur and its impact. It is described in the formula: RISK = PROBABILITY (threat) • IMPACT (harm)
Belgium	Black et al. /2000	The authors incorporated the methodology used by the Queensland Crime Commission to create a new risk assessment methodology. Risk is described as the likelihood and consequences of the chance of something happening that will have an impact upon objectives. Vander Beken further develops a risk assessment methodology when examining crime proofing and threat assessment models. The risk model is: OC RISK = OC THREAT • OC IMPACT
Italy	Transcrime /2002	The authors' methodology was developed to measure OC threat and considers the following variables: <ul style="list-style-type: none"> - variables related to OC groups involved in the carrying out of the criminal event - variables related to the offence itself - variables related to the risks for criminals committing the given event - variables related to the opportunity structure for a given criminal event Regarding harm, the authors suggest some possible variables; for example, for heroin trafficking, the number of deaths caused by overdose and their average cost, using insurance criteria and the cost to health services
US	Albanese /2002	The author uses risk assessment tools in order to identify links between isolated incidents of OC in a systematic way in order to aid law enforcement personnel in the identification and prioritization of high-risk activities and markets. The author's risk assessment model analyses opportunity factors, the criminal environment, and harm potential based on 17 opportunity and environmental risk factors. The model uses a qualitative assessment of the potential risk of each of these factors to determine a total risk rating for a jurisdiction. The author suggests that harm can be assessed in terms of monetary cost, individual harm and long-term social costs

The previous tables suggest the following comments on the various (organised) crime risk assessment models reviewed for the purposes of this study.

With regard to the crime threat assessment models developed outside the EU and in the EU, great differences can be noted among the models, in relation to the variables identified and used. For example, Ross (1988) developed a questionnaire to measure crime threat levels in US overseas posts, where crime threat is measured by using variables such as 'crime environment', 'perpetrator profile' and 'police effectiveness'. GAO (1999), instead, defines threat in terms of 'capability and intent to attack an asset' and 'likelihood and severity of the consequences of a successful attack'.

With regard to the crime harm assessment models developed outside the EU and in the EU, great differences can be noted in relation to their objectives, to the variables identified and used in their estimates, as well as to the results of these estimates. In fact:

- *in relation to the objectives and variables identified by the crime harm assessment models herein reviewed*, that many differences can be noted among the various crime assessment models, both in relation to their objectives and to the variables they make use of. On the basis of these differences, these models can be grouped as follows:
 - a) *models assessing the cost of violence*. These models aim at assessing the costs of different types of violence (e.g. domestic violence, sexual, psychological, physical abuse), sometimes only against women (e.g. NSW Women's Coordination Unit/1991, T.Day/1995, Korf et al./1997), sometimes against both women and children (e.g. Office of Women's Policy/1996, Snively/1994, Stanko et al./1997). With regard to the variables considered by these models, a certain uniformity can be noted on the variables taken into consideration. For example, costs such as those of 'criminal justice', 'health care' 'social services' and 'housing refuge' are considered by the vast majority of these models (e.g. Stanko et al./1997, Korf et al./1997, NSW Women's Coordination Unit/1991);
 - b) *models assessing the cost of crime in the society in general*. These models aim at estimating the total cost of crime in a specific society, for example in Australia (Mayhew/2003, Walker/1996) or in the UK (Brand and Price/2000). With regard to the variables considered by these models, also in this case a certain uniformity can be noted on the variables taken into consideration. For example, the vast majority of the models categorizes costs into: costs in anticipation of crime, costs as a consequence of crime cost as a response to crime (e.g. Mayhew/2003, Brand and Price/2000);
 - c) *models assessing the cost of OC related activities*. These models, which aim at assessing the costs of OC related activities. In particular, some assess the cost of OC related activities on the society in general (e.g. Government of Canada/1996, Porteous/1998, von Lampe/2002); others focus on specific segments of the population, in particular the youth, in order to determine the impact of OC on them (Richter-White/2002); lastly, they may assess the impact of OC on the business sector (e.g. Hellman et al., World Global Forum/2003-2004). Various are the variables considered by these models. For example, in relation to models assessing the cost of OC in the society in general, Porteous (1998) considered that the impacts of OC related activities were of an economic, commercial, social-political, violence generation, health and safety and environmental nature, while Maltz (1990) divided the costs of OC in tangible and intangible, direct and indirect and concluded by describing 5 typologies of harm being: psychological, physical, economic, community and societal harm;
 - d) *models estimating the OC income*. This type of models can be considered an indirect way of estimating the cost of OC crime in society. Estimates of the income from OC can in fact be regarded as the starting point to evaluate the impacts of sustained higher price levels and continued underpayment of taxes on the economy of a society, as suggested by the Wharton study (1986). Differences are to be found in the variables considered among the various models. For example, CENSIS (1992) estimated the total turnover of each offence by taking into consideration the 'number of crimes', the 'estimated average value of crime' and a 'multiplier' representing the ratio between the part of the criminal activity which is in the hands of organised crime and the part which is not (Transcrime 2002); the Wharton study (1986), instead, determined the total amount of income

generated by organised crime by looking at the 'number of persons engaged in organised criminal activities' and the 'average income of persons involved in the criminal organisations'.

- *in relation to the results/cost estimates achieved by the crime harm assessment models*, great differences can be noted among those models. These can be attributed to different factors such as the different geographical scope of the estimates, and, consequently, the use of different data sources, as well as differences in objectives and variables used. For example, Mayhew (2003) estimated the total cost of crime in Australia over \$19 and \$32 billion , while Walker (1996) between 11\$ and \$13. One of the reason of such a difference is due to the fact that Mayhew included in her estimation more variables than Walker (1996), such as the intangible costs (like the monetary values of pain and suffering and loss quality of life).

With regard to the crime risk assessment models developed outside the EU and in the EU, similarities can be noted among these models, in relation to the components used in the formulas. In fact, Black et al. (2000) seem to have incorporated the methodology used by the Queensland Crime Commission (1999).

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ANNEX 10B

CONCLUSION ON EXISTING KNOWLEDGE

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Areti Antoniou, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

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1. FOREWORD

This paper is the deliverable for WP 10B of Project IKOC – *Improving Knowledge on Organised Crime to develop a common European approach*.

The aim of this paper is to draw some conclusions on the existing knowledge on OC groups and activities at EU level gained as a result of the first-year activities of the Project.

This paper has been produced by the Università Cattolica del Sacro Cuore, leader of WP 10. In particular, it has been directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Executive Project Manager of the Project. It has been written by Areti Antoniou, Ph.D. candidate at the Università Cattolica del Sacro Cuore, who drew up a first draft, and Barbara Vettori, who revised it.

2. KEY FINDINGS FROM THE REVIEW OF THE QUALITATIVE LAW ENFORCEMENT DATA SOURCES ON ORGANISED CRIMINAL GROUPS IN THE EU

The two main qualitative data sources on organised criminal groups in the EU at the EU level are the European Union Organised Crime Situation Report, annually produced since 1994 and, from 1998 onwards, under the primary responsibility of Europol; and the Council of Europe Organised Crime Situation Report annually produced since 1998 by a group of specialists on criminal law and criminological aspects of organised crime set up by the Committee on Crime Problems of the Council of Europe. The variables on OC groups collected by the EU OCSR are the following: origin of OC groups; composition of OC groups; structure of OC groups; links/cooperation among OC groups; use (or threat) of violence; use of corruption/undue influence; use of Information Technology (IT). The variables on the OC groups collected by the CoE OCSR are instead the following: origin of OC groups; composition of OC groups; structure of OC groups; links/cooperation among OC groups; use (or threat) of violence; use of corruption/undue influence. A certain uniformity can be noted among the variables on which data are collected by the two entities. Differences sometimes arise in so far as the modalities of the variables are concerned, even if, in many cases, these are not clearly indicated in the abridged version of the reports produced by Europol and by the Council of Europe.

With reference to qualitative data sources on organised criminal groups at MS level, marked differences can be noted among MSs. In most cases, data on a given variable are collected and disseminated only by one or a very limited number of MSs (e.g. variable ‘links/cooperation among OC groups and professionals’, variable ‘use of IT’). The remaining MSs do not collect or do not disseminate any data on the variables considered. Even in those cases where some MSs collect data on the same variable, they may use different modalities. For instance, Austria, Denmark, Germany, Italy and the UK collect information on the variable ‘origin’ of OC groups. However, as far as the modalities of the variable are concerned, while Austria, Italy and the UK focus on whether or not the groups involved are of domestic or foreign origin, Germany focuses on the ethnic background of the criminals and on the nationality of the members who dominate the criminal activity. In most cases, however, modalities are not clearly indicated.

3. KEY FINDINGS FROM THE REVIEW OF THE QUANTITATIVE LAW ENFORCEMENT DATA SOURCES ON ORGANISED CRIMINAL GROUPS IN THE EU

The two main quantitative data sources on organised criminal groups in the EU at the EU level are, in this case too, the Europol European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report. Their analyses made it possible to present the aggregate number of organised criminal groups active in the EU framework and of their members as contained in the EU OCSR. Figures provided by the COE OCSR enabled more detailed quantification to be made by presenting rough estimates of numbers of groups and members at national level within the EU Member States. The conclusions reached in this regard were as follows. First, the central role of the European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report in persuading Member States of the importance

of adequately measuring organised crime. The consequence has been greatly improved homogeneity in the collection of data and considerable refinement of the relative methodology since the first experiments of the early 90's. Nevertheless, it was noted that there are still great disparities in the quality and quantity of data contained in the national contributions to the EU OCSR and COE OCSR, which in turn reflect disparities in the quality and quantity of data collected at national level. This can be explained by the different interpretations given to the terms 'organised criminal groups' and 'organised criminal member', and by the different counting rules and data collection systems used. But the intrinsic difficulty still remains of correctly interpreting these quantitative pieces of information, influenced as they are by the geographically and chronologically variable extent of law enforcement efforts against the phenomenon.

4. KEY FINDINGS FROM THE REVIEW OF THE QUALITATIVE AND QUANTITATIVE LAW ENFORCEMENT DATA SOURCES ON THE ILLICIT ACTIVITIES CARRIED OUT BY ORGANISED CRIMINAL GROUPS IN THE EU

First, the review of the two main relevant data sources at the EU level – the Europol European Union Organised Crime Situation Report and the Council of Europe Organised Crime Situation Report – showed that the principal activities carried out by OC groups, which were therefore selected for analysis, were as follows: trafficking in drugs; trafficking in human beings; smuggling of immigrants; fraud; counterfeiting; tobacco smuggling; trafficking of stolen vehicles and trafficking in arms. This said, the following conclusions were reached on the variables on the above OC activities on which data are collected and disseminated at EU and MS level, and on the related modalities.

With regard to the MS level, marked differences can be noted among MSs, both in the variables and in the modalities. In fact:

- in most cases, data on a given variable are collected and disseminated only by one or a very limited number of MSs. The remaining MSs do not collect or do not disseminate any data on the variable. So, for example, in relation to trafficking in human beings, information related to the variable 'charges against perpetrators' appears to be collected and disseminated only by Denmark, while data on the variable 'overseas routes' are only collected by Germany. Germany also appears to be the only MS collecting data on variables related to fraud (e.g. origin and composition of the OC groups involved) and trafficking in stolen vehicles (e.g. origin of OC groups involved, origin countries of stolen cars and overseas routes), while only the UK collects data on trafficking in arms (e.g. origin of OC groups and links with other criminal activities). The result is highly fragmented knowledge on OC in the EU;
- even in those cases where some MSs collect data on the same variable, they use different modalities. Specifically, in relation to drug trafficking, both Austria and Denmark collect information on the variable 'origin of OC groups involved'. However, as far as the modalities of the variable is concerned, Austria focuses on whether or not the groups involved are of domestic or foreign origin, while Denmark focuses on the ethnic background of the criminals involved in carrying out the activity.

With regard to the EU level, a certain uniformity can be noted. So, for example, in relation to drug trafficking both Europol and the Council of Europe collect information on the large majority of the variables indicated in the tables, the only exception being the variable 'persons arrested', in relation to which data are collected only from the CoE. This is confirmed by inspection of the variables collected for the other OC activities selected for analysis in the present study.

However, different modalities are sometimes used to collect data on the same variable. So, for example, in relation to trafficking in human beings, different modalities are used to collect data on the variable 'modi operandi' (specifically Europol collects data on recruitment and transport modalities, while the Council of Europe does so on recruitment, use of violence, victims re-selling, links with other criminal activities).

5. KEY FINDINGS FROM THE REVIEW OF THE QUALITATIVE AND QUANTITATIVE LAW ENFORCEMENT DATA SOURCES ON THE ACTIVITIES CARRIED OUT BY ORGANISED CRIMINAL GROUPS IN THE LICIT MARKET IN THE EU

First, *direct information on the organised crime activities in the legal market* included in MS data sources is extremely scarce. When data are collected and disseminated on variables directly related to the infiltration of organised crime into the legal market, this is done only by one or a very limited number of MSs. So, for example, the only data on the OC infiltration in the real estate sector are collected and disseminated in Austria, in relation to the variables ‘real estate properties purchased by OC members’ and ‘modi operandi’. Equally, data on the OC infiltration in the diamond sector are only collected and disseminated in Belgium, in relation to the variables ‘criminal actors’ and ‘modi operandi’.

No information of this type can be found in the two key EU data sources, i.e. the Europol and the CoE Reports. With reference to *indirect information on the organised crime activities in the legal market*, which consists in information on two proxy crimes for criminal infiltration in legal markets, i.e. money laundering and corruption, the following conclusions can be drawn.

With regard to the MS level, marked differences can be noted among MSs, both in the variables and in the related modalities. In fact:

- with the sole exception of data collected on some variables related to money laundering (i.e. ‘suspicious transaction reports’, ‘predicate offences’ and ‘modi operandi’), which are collected by almost all MSs, in most cases information on a given variable is collected and disseminated only by one or a very limited number of MSs. The remaining MSs either do not collect or do not disseminate any data on the related variable. So, for example, in relation to money laundering, information related to the variable ‘country of origin of the suspects’ is collected and disseminated only by Germany, while data on the variable ‘money laundering cases’ are only collected by Spain. In relation to corruption, information related to the variable ‘origin of the OC groups involved’ is again collected only by Germany. The result is highly fragmented knowledge on OC in the EU;
- in those cases where some MSs collect data on the same variable, different modalities are used. For example, in relation to money laundering, both Austria and Italy collect data on the variable ‘seizures’, but as far as the modalities of the variable are concerned, Austria focuses on the number of seizures, while Italy focuses on the amount seized (in euros). In many cases, moreover, the modalities are labelled as ‘various’, which may imply differences among MSs.

With regard to the EU level, a certain uniformity can be noted among the variables on which data are collected. Differences arise, however, as far as the modalities of the variables are concerned. So, for example, in relation to money laundering, both the reports by Europol and by the Council of Europe collect information on the large majority of the variables indicated in the tables, the only exception being the variable ‘country of origin of suspects’, in relation to which data are collected only from the CoE.

However, different modalities are sometimes used to collect data on the same variable. So for example, in regard to corruption, different modalities are used to collect information on the variable ‘use of corruption’, with Europol focusing on whether or not use of corruption occurs, while the Council of Europe focuses on the use of corruption at national/international level per MS.

6. KEY FINDINGS FROM THE REVIEW OF THE PRIVATE SECTOR’S CURRENT APPROACH TO SECURITY AND CRIME PREVENTION

The analysis of strategies applied by businesses to prevent and control risks of organized crime raises a variety of important questions. Many of these questions have to do with the lack of adequate and valid information. There is a shortage of empirical studies in this field. No systematic evaluation studies were found on the effects of strategies of businesses in regard to organized crime. Many questions also arise concerning international co-operation on strategies by businesses to counter the risks of organized crime. On the one hand, the role of international institutions like the EU or IMO is growing more important, with international rules and requirements imposed on companies, for instance the ISPS-code. The contemporary ‘war on terrorism’ promotes this development. On the other hand, presumably with the exception of the

music industry and multinational companies, many of the strategies adopted by businesses to counter organized crime seem to be largely confined within national borders. This also seems to apply to a considerable degree to internationally oriented economic sectors like road transport and banks.

Important questions concern the relations between the strategies on crime adopted by businesses and those of public agencies like the police and public prosecution. To what extent do these two types of strategies operate in parallel? To what extent is there a more or less clear division of tasks and responsibilities? In many respects it seems that there is a gap between two different domains and perspectives: those of law enforcement and those of security management. Public policing is more focused on prevention and the repression of (potential) offenders in accordance with justice and formal rules. Security management, however, is more oriented to the reduction of loss. Speed and efficiency are therefore often more important to it than formal rules and justice. Its aims are often pursued by exclusion and limiting participation, rather than by punishing or rehabilitating offenders.

Often only informal, personal relations between representatives of the public and private sectors, with the emphasis on mutual trust and personal acquaintance, seem able to bridge this gap. Nevertheless, co-operation among companies, private sector organizations and the (public) police still often seem to be hampered by differences in perspectives and priorities. The relations between public and private agencies has also become more complex, owing to the advent of new regulatory bodies, supervisory agencies, and indirect forms of regulation and self-regulation, in some cases even enforced by the state.

In this highly fragmented field, where both business and public agencies have their own views and interests, relations between public and private agencies are often partial, or may even be non-existent.

7. KEY FINDINGS FROM THE ANALYSIS OF THE CONTRIBUTION THAT THE PRIVATE SECURITY SERVICES MAY MAKE TO THE FIGHT AGAINST ORGANISED CRIME, IN ORDER TO IMPROVE COOPERATION BETWEEN THE PRIVATE AND PUBLIC SECTORS

The private security industry extends from local surveillance to international private military companies, with the investigative activities of corporate and private security firms working for corporate and governmental clients lying between these local and international extremes. Cooperation with public enforcement agencies varies from being close in some areas to low or non-existent, although some informal 'helping out' occurs in other areas. This variation is analysed in terms of formal priorities and constraints on both sides, and in terms of cultural and occupational closeness. Implications for the shaping of organised crime include its restraint, and possibly its reduction, in areas of relatively close cooperation, such as antiterrorist action, at the expense of its resilience and possibly its growth in areas in which cooperation is relatively low, such as insider frauds and competitive business behaviour.

ANNEX 10C

INTERMEDIATE REPORT

DELIVERABLE FOR WP 10CoF:

Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach



A Project financed by the European Commission – DG Research under the Sixth Framework Programme

and coordinated by:



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MARCH 2007

The Intermediate Report is the document bringing together deliverables 1 to 10B as presented in the previous pages.

ANNEX 10D

OUTLINE OF PART 1 OF THE BOOK PRESENTING THE OVERALL RESULTS OF THE PROJECT ON 'ORGANISED CRIME – KNOWLEDGE AUDIT'

DELIVERABLE FOR WP 1 ODOF:

Project IKOC – Improving Knowledge on Organised Crime to develop a
common European approach



A Project financed by the European Commission – DG Research
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DECEMBER 2005

Outline of part 1 of the Book presenting the overall results of the Project on 'Organised Crime - Knowledge Audit' (forthcoming with Springer)

- Quantitative and qualitative data on organised crime collected by law enforcement agencies in the EU (Ernesto U. Savona and Aretì Antoniou)
- Understanding how organised crime infiltrates the legal markets: a case study of DVD piracy in Belfast (Pierre Kopp)
- Strategies adopted by businesses to manage the risk of organized crime (Jan Terpstra)
- The Diamond Industry and the Risk of Organized Crime (Dina Siegel and Henk van de Bunt)
- The private security industry and its possible role/contribution in the development of a common European approach to organised crime: would less but better quality cooperation be helpful? (Michael Levi and Nicholas Dorn)
- A preliminary evaluation of the usefulness of existing qualitative and quantitative data on organised crime groups and activities, in building a common EU approach (Ernesto U. Savona and Barbara Vettori)

ANNEX 11

EVALUATION OF THE USEFULNESS OF EXISTING OC DATA IN CONSTRUCTION OF A COMMON EU METHODOLOGY TO MEASURE OC PROBABILITY AND IMPACT

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Aretì Antoniou, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

DELIVERABLE FOR WP 11 OF:

Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach



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1. FOREWORD

This paper is the draft deliverable for WP 11 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 11 aims at analysing which data on organised crime groups and activities in the legal and illegal markets are available at national, regional and European levels and if and how they could be used for the construction of common EU indicators of 1) probability and 2) impact of OC activities.¹

Considering that different possible methodologies exist to measure the OC probability and impact, this paper reviews these methodologies in preparation of the construction of a common EU methodology for measuring probability (WP 13) and impact (WP 14).

The paper is organised as follows. Section 2 briefly defines the criteria to be considered in the construction of a common EU methodology to measure OC probability and impact. Section 3 reviews different possible methodologies to measure OC probability in order to identify, in the light of the criteria identified in section 2, their advantages and disadvantages in the construction of a common EU methodology to measure OC probability; section 4 does the same with reference to the impact of OC activities. Finally in section 5 some conclusions are drawn.

This draft has been produced by the Università Cattolica del Sacro Cuore, leader of WP 11. In particular, it has been directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore. It has been written by Areti Antoniou, who elaborated a first draft, and it was revised by Dr. Barbara Vettori, Executive Project Manager of the Project. Apart from the authors, on behalf of the Università Cattolica del Sacro Cuore, the following researchers have cooperated in producing this draft deliverable: Fabrizio Mura and Stefano Montrasio.

2. DEFINING THE CRITERIA TO BE CONSIDERED IN THE CONSTRUCTION OF A COMMON EU METHODOLOGY TO MEASURE OC PROBABILITY AND IMPACT

It is preliminarily important to define the criteria to be considered in relation to the construction of a draft EU methodology to measure OC probability and impact. These criteria are the following:

1. *Choose separate indicators of probability, on the one side, and of impact, on the other side.* As pointed out in deliverable 10A for this project, the concept of (organised) crime risk can be defined as the result of the probability that an (organised) crime event, as a negative event, will happen and of its impact [$OC\ RISK = PROBABILITY\ of\ an\ OC\ event\ X\ its\ IMPACT$], the proposed methodology needs to separately identify indicators of probability, on the one side, and of impact, on the other;
2. *Use existing and available data:* in order to promote the *feasibility* of the proposed methodology and its efficient implementation, the methodology will take advantage, as much as possible, of existing data on OC already collected by the majority of MSs (see deliverables 1 to 4). This in order to a) promote to the widest possible extent the use of existing knowledge and therefore b) minimise any waste of time and resources, due to the imposition on MSs of the burden to collect new indicators;
3. *Make the methodology compatible with current data collection procedures:* considering the importance of providing the European Commission with a methodology that is immediately and easily applicable, the proposed methodology should be easily incorporable into the current data collection procedures of law enforcement agencies. This is in order to avoid the risk of launching a methodology too far from the reality of actual OC data collection procedures, which nobody would apply;
4. *Develop innovation:* by critically evaluating the data on OC already collected by the majority of MSs (see deliverables 1 to 4) in the light of academic literature the proposed methodology will a) not include those indicators, already collected by MSs whose efficacy in measuring OC has been criticised by the literature

¹ The original project says that this WP should evaluate the usefulness of existing qualitative and quantitative data on organised crime. Due to the ambiguity of the concept 'usefulness' the authors have made the concept clearer by explaining its sense.

and, on the contrary, b) include indicators not yet collected but retained, according to the literature, to produce a more powerful description of OC and its activities;

5. *Develop user-friendliness in the proposed methodology*: considering the wide geographical scope of applying the proposed methodology and its implementation by different institutions, the proposed methodology is intended to be as simple and understandable as possible.

In the following sections a review of different methodologies relevant to the measurement of OC probability and impact will be carried out. The advantages and disadvantages of each of them will be identified according to the criteria defined above. This review will provide the basis to develop, in the following WPs (13 and 14), common EU indicators for measuring the probability (WP13) and impact (WP14) of specific activities carried out by organised criminal groups.

3. REVIEW OF DIFFERENT POSSIBLE METHODOLOGIES TO MEASURE THE OC PROBABILITY – ADVANTAGES AND DISADVANTAGES

There are two main methodologies relevant to the measurement of OC probability. One has been suggested by Vander Beken et al. (2004:105–6) and uses OC activities as the unit of analysis. The other, proposed by Europol (2005), uses OC groups as the unit of analysis.

3.1. Measuring the OC probability by using OC activities as the unit of analysis

In the following paragraphs, the methodological approach for assessing the OC probability suggested by the study of Vander Beken et al will be briefly presented. (2004:105–6). It considers probability (threat) as the first element of a risk assessment formula described as: *Crime risk = Probability (Threat) x Impact (Harm)*². It takes OC activities as the unit of analysis for the calculation of both probability and impact.

According to Vander Beken et al. (2004), probability is the element of the above risk assessment formula which determines the likelihood that a given criminal event will occur. Probability is defined through indicators belonging to the following areas:

1. Characteristics of OC groups involved in a given crime: this category includes the indicators related to the characteristics of the organised crime groups involved in carrying out of the criminal event. The likelihood that a given crime occurring is linked to the 'evaluation of the seriousness and organisation' of the criminal groups involved. *The more dangerous and well equipped the criminal groups involved in a crime, the more likely the crime will occur again* (Transcrime, 2003a; 2002). For example, indicators relevant to this category could be the group structure, the use of expert knowledge, the use of violence and so on.
2. Frequency of a given offence: to this category belongs an indicator related to the offence itself, such as the number of crimes reported in the previous year: *the more a crime has been committed in the past, the more likely it is that it will be committed again in the future* (Transcrime, 2003a; 2002). The problem with this variable is that it is rather difficult to know with certainty the extent to which the criminal offences are OC related (Maltz, 1990). Attempts to deal with this issue were made by some studies that developed indicators of OC involvement. For example, one of the indicators of OC involvement of trafficking in stolen cars used by Van Dijk (2003) was the number of thefts of cars, excluding joyriding (ICVS minus cars recovered). In other words, he used as an indicator of OC the non-recovery rate of stolen vehicles (variable collected by the Council of Europe). However, considering that the OC data collection systems of most MSS already foresee the separate collection of crimes committed by organised criminal groups, the above-mentioned problem related to this indicator could be, in most cases, easily sorted out.
3. Law enforcement risk for a given crime: this category includes indicators related to the risks for criminals committing a given crime by taking into account the level of effort by law enforcement, the greater the effort focused on a specific crime, the less likely it is that that particular crime will be committed again (Transcrime, 2003a; 2002). Savona stated (1995)³ that law enforcement risk refers to the sum of the probabilities of being identified, arrested, convicted and having one's assets confiscated. Therefore, according to this definition, indicators relative to the level of effort by law enforcement could be for example the ratio of people reported/people convicted for a given crime: *the higher the percentage of persons reported for a given crime that are then convicted, the lower the probability that the crime is committed*.
4. Opportunity structure for a given crime: includes indicators related to the opportunity structure for a given criminal event, by taking into account the environment and its capabilities to produce incentives for

² This formula was firstly introduced by the Queensland Crime Commission (1999) and was then incorporated and further developed by other studies such as Black et al. (2000) and Vander Beken et al. (2004).

³ Quoted in Kututwa N. & Kunaka C. (2001), *Practical Value of Legislation to Combat Organised Crime: A Southern African Perspective*, paper presented for the 2nd World Conference for the Investigation of Crime, Durban, 3–7 December 2001.

crimes (Commission of the European Communities, 2001). Examples of such indicators could be the use of corrupted officials, the use of commercial/business-like structures⁴ etc by OC.

Based on the criteria to be considered in the construction of the IKOC common EU methodology to measure OC probability, defined in the previous section, the above methodological approach has the following advantages and disadvantages:

Advantage(s):

- it meets the criterion of the necessarily separate identification of indicators of probability, on the one side, and of impact, on the other side – the two components of any crime risk assessment exercise. This is because impact can only be assessed by having OC activities as the unit of analysis and because, in order to adopt a methodologically correct approach, it is necessary to consider the same unit of analysis also in the assessment of the OC probability, as this methodology does. Sharing the same unit of analysis, i.e. a specific OC activity, this approach for assessing OC probability could therefore be combined with an approach for assessing OC impact, thus making it possible to overall assess the risk of specific OC activities.
- could potentially take advantage of the existing data on OC already collected by the majority of MSs, promoting to the widest possible extent the use of existing knowledge and therefore minimising any waste of time and resources, due to the imposition on MSs of the burden to collect new indicators;
- it could lead to a user-friendly methodology.

Disadvantage(s):

There are some problems regarding the indicator 'frequency of OC offences'. It is widely appreciated both by those who compile official statistics and by those who use such data (for example, criminologists) that publicly available statistics on perpetrators and numbers and characteristics of criminal acts generally give figures lower than the actual numbers of perpetrators and acts. Some of the reasons why 'known cases' are thought to be lower than the real extent of the phenomenon may be the lack of a national law covering the behaviour in question or even corruption – which explains its own low statistical count (which makes it extremely difficult for criminologists to reach a reasonably valid figure). Another reason is that when legislation does cover the acts in question, prosecution may remain unlikely, for reasons that are consistent with law.⁵ It is not difficult to imagine a range of circumstances in which government law officers, if consulted by prosecutors, might feel that disclosure could harm international relations (for example, the reputations of governments and firms involved). In other countries, less formalised arrangements may operate, reducing for example the proposition of serious cases of corruption and other economic crimes that are prosecuted. Consideration of formal and informal 'filters' goes some way to explaining the low level of prosecutions – characteristically and significantly lower than the numbers of serious economic crimes indicated by other sources. Defamation risks apart, it is one thing to assert that there is 'a dark figure', but without state-of-the-art pan-European victimisation surveys, the European Commission might encounter serious political difficulties in asserting that the 'true' rate of corruption or economic crime was *n* times greater than that member state's own data implied. Such difficulties occur on top of the normal difficulties that regulatory and enforcement agencies have in investigating potential cases, restricting the flow of data (Dorn and Levi, 2006). An attempt to overcome or compensate such difficulties in order to arrive at 'probabilities' could be to multiply the statistics by a ratio that is thought to be appropriate for the acts in question, representing the quota of total crimes not committed by organised criminals, and which therefore, were not considered in the

⁴ The term 'commercial structures' is used to describe enterprises that are officially registered, e.g. legal companies or companies especially founded for criminal purposes. The term 'business-like structures' refers to structures existing if the perpetrators proceed in a particularly professional manner (Bundeskriminalamt, 2002; 2003; 2004).

⁵ For example, in the UK until quite recently, whilst bribery of a UK public official was an offence, bribery of foreign officials was not. This was widely commented upon and has been linked to the view held by many UK business persons that bribery was an essential aspect of doing business in many settings. In 2001, the Anti-Terrorism, Crime and Security Act 2001 made bribery of foreign officials an offence. However, it remains the case that bribery offences are amongst those offences for which any prosecution requires the permission of the Attorney General (a law officer to whom the Director of Public Prosecutions and Director of the Serious Fraud Office represents, but also a member of the government), who can block prosecution on a number of grounds (Dorn and Levi, 2006).

calculation of turnover. In other words, the ratio between the part of criminal activity which is in the hands of organised crime and the part which is not⁶ – in CENSIS (1992) also called ‘coefficiente di abbattimento’. The limits of this formula proposed by CENSIS (1992), according to Vander Beken et al. (2004) are that the data on fraud, robberies and forgery are fairly objective, but the majority of the crimes considered are statistically difficult to assess, and data on them are merely estimates drawn from judicial cases or other sources. Furthermore, there are some types of crime (money laundering and international drug trafficking) whose income is almost impossible to estimate and data on them are only qualitative.

3.2. Measuring the OC probability by using a methodology that sees OC groups as the unit of analysis

Before presenting briefly the methodological approach for assessing the OC probability as suggested by Europol (2005), two important matters should be clarified. Firstly, that the present methodology for measuring the OC probability uses as unit of analysis the OC groups, and secondly, that instead of the term OC probability uses the term ‘OC threat potential’.

Europol in 2001 has taken the decision to develop the Organised Crime Report (OCR) into an Organised Crime Threat Assessment (OCTA). This process has already produced the first OCTA Report (see Europol, 2006).

The two main components of the OCTA threat assessment exercise are 1) OC groups and 2) criminal markets. For each of these two components, indicators of threat are identified and used in the threat assessment exercise. In greater detail, the two components and the related threat indicators are as follows (Europol, 2006; Europol, 2005):

1. OC groups: Europol considers a set of key indicators of OC threat, with regard to OC groups, such as their international dimension, the group structure, the use of legitimate business structures, the level of specialisation, the use of influence and corruption, the use of violence and the countermeasures developed to contrast OC activities. According to Europol, OC is prevalent in all Member States (MS) and increasingly international in its composition. OC groups are also becoming increasingly heterogeneous and dynamically organised in structural terms, moving towards loose networks rather than pyramidal monoliths. They are employing legitimate business structures in their criminal endeavours, be it for concealment of criminal proceeds or profit, and the level of specialisation in their activities is also growing. Many are in a position to influence external parties, be they business partners, public administrators or law enforcement officers. Violence is an inherent part of many crimes, and one could argue that it is an inherent part of OC in general, either overtly expressed or tacitly understood. Increasingly, OC groups are mastering efficient counter-measures against law enforcement activities.
2. Criminal markets: Europol considers here a set of threat indicators consisting of facilitating factors, such as document forgery and identity fraud, the use of technology, the misuse of the road transport sector, the exploitation of the financial sector, globalisation and borders. According to Europol, these horizontal facilitating factors together present a set of opportunities to OC. Changes in them could change opportunities into threats.

Based on the criteria to be considered in the construction of a common EU methodology to measure OC probability, defined previously, the above methodological approach has the following advantages and disadvantages:

Advantage(s):

- once again this approach appears to be taking advantage of the existing data on OC already collected by the majority of MSs, promoting to the widest possible extent the use of existing knowledge and therefore minimising any waste of time and resources, due to the imposition on MSs of the burden to collect new indicators;

Disadvantage(s):

The most relevant weakness of this approach in the framework of this Project is that it does not meet the criterion of the necessarily separate identification of indicators of probability, on the one side, and of impact,

⁶ One source for calculating that ratio could be victim studies. Such ratios may vary over time (Dorn and Levi, 2006).

on the other side – the two components of any crime risk assessment exercise. This is because, as previously noted, impact can only be assessed by having OC activities as the unit of analysis and because, in order to adopt a methodologically correct approach, it is necessary to consider the same unit of analysis also in the assessment of the OC probability. By using the OC group as the unit of analysis for assessing OC probability, this approach cannot therefore be combined with an approach for assessing OC impact, thus making it impossible to overall assess the risk of specific OC activities.

4. REVIEW OF DIFFERENT POSSIBLE METHODOLOGIES TO MEASURE THE OC IMPACT – ADVANTAGES AND DISADVANTAGES

In this section two methodological approaches relevant to the measurement of OC impact are reviewed. The first one, based on relevant literature, considers the average impact of each OC offence, while the second one, proposed in the framework of this Project by Dorn and Levi (2006), considers the overall impact (aggregate harms) of OC activities.

4.1. Measuring the OC impact by using a methodology looking at the average impact of each OC offence

Before reviewing briefly, the literature on which the methodological approach for measuring the OC impact presented here was based, it is important to clarify the reason why this approach is looking at the average impact of each OC offence. This is due to the fact that impact (harm) is considered as the second element of a risk assessment formula described as: *Crime risk = Probability (Threat) x Impact (Harm)*. For methodological reasons, in order to be able to multiply the above two elements of the formula and avoid the risk of double estimation of some aspects of the OC probability (such as the frequency of a given offence), it is necessary to consider the average impact of each OC offence. Therefore, all the harms encountered within the following methodological approach refer to average values.

The concept of impact (or harm) can be broadly defined as the level of economic, emotional, physical, intellectual and political damage caused should a threat be carried out. Looking in greater detail at a definition of the harm caused by organised crime, there is Michael D. Maltz's study, *Measuring the Effectiveness of Organized Crime Control Efforts* (1990), representing one of the first quantitative and critical approaches to the evaluation of organised crime control efforts and containing a conceptual framework for understanding and measuring the harm done by organised crime.

The evaluation design suggested is predicated on a harm-based measurement of organised crime, rather than on a measurement of the criminal activities themselves (as done previously). On one hand the background for this research is a sound analysis of the different types of harm (physical, economic, psychological, community and societal) produced by organised crime, and on the other hand a specification of how these general characteristics apply to some of the most representative organised crimes (arson-for-profit, assault and murder, auto theft and chop shops, distribution of illegal drugs, extortion, illegal gambling and public corruption). The author stresses how important it is to understand and consider all aspects of harm when making assessments of organised crime programs and related budgetary policies, and provides a "catalogue of harm for selected offences" which measures to what extent each offence generates a certain type of harm (Transcrime, 2002; 2003).

However, when reading other studies we realise that to some extent the cataloguing of OC harms are similar with minor distinctions. In particular, Walker (1997) complied with economic doctrine by separating the *financial costs* and *economic costs* of crime, as the former are not real losses for the community because they represent the illegal transfer of resources from the victims to the offenders, while the latter refers to damages that occur when crime causes society to divert time, energy or resources from more productive purposes (i.e. diversion of medical resources to the treatment of the victims of crime). Another distinction made by some studies (Brand and Price, 2000; Lee and Thorns, 2003; Mayhew, 2003a; Cohen, 2005; Moolenaar, 2006) was between costs in anticipation of crimes occurring, costs as a consequence of a criminal event and cost in response to crime. However, within each of these categories, they have been considered types of harm (such as economic, physical, psychological), where monetary value can be attributed in some way.⁷

⁷ For example Mayhew (2003a) includes in her estimations the assessment of such intangible costs like the monetary value of pain, suffering and loss of quality of life, by taking as a guide the estimation made either by Brand and Price (2000) or those made by the Bureau of Transport Economics on the intangible costs of road accidents. Even if such estimations are subject to great uncertainty, she decided to include them, since it would be unbalanced not to do so, as crimes such as robbery or violence against the person, which have significant 'intangible' costs, would appear much less serious than they actually are, whilst other crimes would appear relatively more serious. It is therefore, important to try and quantify all the impacts of crime in common terms as far as possible (Brand and Price, 2000).

Summarising the typologies of harm used by various studies and considering the difficulties encountered in measuring each one of them, the following types of harm appear to be relevant to the assessment of the average impact of each OC offence:

- *economic harm* (e.g. direct enforcement costs for each OC activity)⁸: consists of valuing the economic losses imposed by each OC activity on the victims of organised crime and the society in general. In order to overcome the problems in measuring this type of harm posed by the distinction between mala in se (e.g. car theft, extortion) and mala quia prohibita (e.g. prostitution and drug smuggling), two approaches for each measurement should be employed, considering both: a). the *cost of each organised crime activity*, either direct (victim-based), such as the economic losses of the victim and direct enforcement costs,⁹ or indirect (second-order effects of crime), such as bankruptcy, increasing insurance premiums; and b) the *OC income per activity* (perpetrator-based), referring to the economic gains to organised criminal enterprises. This is another indirect way of measuring the OC impact, as it consists of estimating the income generated by organised crime groups when engaging in their illegal activities and calculating the impact on society in terms of unpaid taxes (Fishman et al., 1986; CENSIS, 1992; Rey, 1993; Transcrime, 2002).¹⁰ The two approaches are not necessarily complementary, as stated by Maltz (1990), since economic losses sustained by the victims are not always translated into gains realised by OC groups (e.g. property may be destroyed instead of being transferred or a transfer payment to a corrupt official will not produce victim-based harm);
- *societal harm* (e.g. corruption of public officials)¹¹: stresses the harm that organised crime poses to the governmental integrity and social fabric of the nation. Maltz (1990) defines this harm as the most serious and also the most difficult to measure, and suggests correlating research surveys on residents with empirical evidence of actual organised crime activity. Porteous (1998) considered as part of societal harm, also the political harm that organised crime has in the society, such as the complication in the foreign policy goals. For example, when a country becomes a source or transit country to drugs distribution, this may lead to corruption within governments that must at the same time collaborate in the international fight against the drug problem;

⁸ According to various studies (Maltz, 1990; Canadian Center on Substance Abuse, 1996; Brantingham, 1998; Porteous, 1998; Brand and Price, 2000; Mayhew, 2003; 2003a; Richter-White, 2003; Cohen, 2005), examples of direct costs of the OC activities could be the economic costs that result as a consequence of each criminal event – such as the health care costs, the costs of social services provided to the victims (for example in the case of smuggling of immigrants, it could be the cost of social services provided to refugee claimants), the reduced labour productivity (as opportunity cost of person-hours lost from work) and so on – and the economic costs that result as a response to each crime – such as the public expenditure for policing, the costs of courts and those of correctional institutions. While examples of indirect costs of the OC activities could be the increased insurance premiums for consumers, as well as the security expenditure in anticipation of crime (e.g. alarms, guard dogs etc.).

⁹ Examples of such are the costs of police, courts, corrections (including probation), customs and excise (Canadian Center on Substance Abuse, 1996).

¹⁰ With reference to this point, there are two methods. The first concentrates on evaluating the income generated by an entire criminal industry by estimating the outputs of a criminal activity and subtracting the inputs ('sale less cost'). Usually these estimates are calculated in relation to an entire criminal activity (i.e. drug sale in a given country). They are general estimates on criminal income rather than on organised crime's income in relation to the specific offence under scrutiny. The second method specifically focuses on members of organised crime by estimating 1) their total number, 2) their average income and 3) from here the income of organised crime. This approach is obviously more focused on criminal groups than on criminal activities. It has to be stressed that – with this second method – it will be possible to calculate the income and the impact in terms of unpaid taxes not only with reference to organised crime in general, but also to single organised crime groups. The only thing that will be necessary is the estimated number of members of a given group. This is interesting in relation to the possibility of comparing the harm posed by different groups within the same country and in order to effectively orient national counter-actions (Transcrime, 2002; Vander Beken et al., 2004).

¹¹ An indicator relevant to this dimension of harm is the corruption of public officials. Corruption of government, police and key private sector officials promotes more corruption by suggesting to law-abiding citizens that the dice are loaded against them and the only way to achieve parity is to engage in corruption themselves (Porteous, 1998; Shelley, 1995; Maltz, 1990). This encourages cynicism among the public, damages legitimacy of political and enforcement institutions and promotes disrespect for the legal system, as it confirms the belief that "crime does indeed pay" (Porteous, 1998; Barrow, 2000).

- *community harm* (e.g. impairment of the business community by extortion/protection rackets, disintegration of neighbourhoods): refers to the disruption that organised crime has in various aspects of a community (i.e. neighbourhoods and businesses). Maltz (1990) provides a list of indicators of this type of harm including comparison of real estate sales and rental data, comparison of gross sales receipts for business, analysis of bankruptcy data and data on contract awards;
- *physical harm* (e.g. murders, physical injuries): according to Maltz (1990), even if this is the most concrete type of harm, there are plenty of issues related to its measurement (for instance, how do we know that a murder is organised crime related, or how can permanent injury be measured?). Porteous (1998), on the other hand, made distinction between health & safety and violence generation of OC-related activities, referring always to the physical harm that may be caused, for example in the first case, due to no quality controls of illicit products¹², while in the second, due to the use of violence as *modus operandi* of the organised criminals;
- *psychological harm*¹³ (e.g. intimidation of witnesses, fear of crime): this type of crime is very difficult to estimate. It includes the fear of future physical or economic harm and the consequential diminution of reliance on the integrity and safety of institutions. Suggested measurement techniques are interviews with victims, witnesses and persons involved, or by survey research techniques on affected populations (Maltz, 1990; Brand and Price, 2000; Transcrime, 2003; Vander Beken, 2004);
- *environmental harm* (e.g. disruption of the ecosystem, extinction of species): it considers the harm that might be caused to the environment as a result of specific activities carried out by organised crime groups. Such activities can be, for example, the illicit treatment of hazardous waste and its deleterious and long term effects on the environment, or even the illegal trade in endangered species (wild animals and plants), posing a risk of species extinction or endangerment (Porteous, 1998).

Based on the criteria to be considered in the construction of a common EU methodology to measure OC impact, defined in the previous section, the above methodological approach has the following advantages and disadvantages:

Advantage(s):

- this approach is indeed promoting the innovative character of the proposed methodology and the critical evaluation of existing data on OC already collected by the majority of MSs in the light of academic literature. This means that the proposed methodology could eventually include indicators not yet collected but required, according to the literature, to produce a more powerful description of OC and its activities.
- In addition, the above approach proposes the consideration of average harm for each of the OC activities that permits the inclusion of the concept of probability, a rather important component for the risk assessment formula (totals would already represent the product of all crime events and their costs).

Disadvantage(s):

- unfortunately the data on OC needed in order to implement the methodological approach that should measure the average impact of each OC activities, appear presently, not to be collected by the majority of MSs (see deliverables 1 to 4), at least on the basis of the data that is publicly available. In this case, for such an approach to be operationalised it would require a dataset of reasonable quality and comparable over EU member states. Some practical difficulties in data availability, comparability and quality can be foreseen. For example, even if various studies (Brantingham, 1998; Porteous, 1998; Brand and Price,

¹² This is what Maltz (1990) called the paradox of “labelling harm”. His study distinguishes between activities that are labelled as crime because they generate harm (e.g. arson) and activities that generate harm because they are labelled as crimes (e.g. gambling). This is called “labelling harm” and it is not intrinsic in the activity, but rather due to the activity being labelled as criminal. An example of this paradox is fully developed in the case of the distribution of illegal drugs. While the harm caused by hard drugs, such as cocaine and heroine, is intrinsic to the activity of distribution because of their addictive power, some of the physical harm occurs precisely because drugs are illegal (for instance there is no control on the quality, as is the case in legal drugs and this can lead to deaths or injuries).

¹³ There may be little or no psychological harm associated with some activities, such as trafficking in stolen vehicles or corruption. This type of harm is not normally associated with corruption, although, for example, the victim of the offender who buys a not guilty verdict may experience such harm in specific cases (Maltz, 1990).

2000; Canadian Center on Substance Abuse, 1996) consider the 'law enforcement costs' as one of the economic impacts of the OC to the society, according to Brand and Price (2000), the only reliable information on police costs that is readily available at present is the cost of the total police budget. This budget must be split into resources that are crime-related and those that are not in order to estimate the police resources devoted to crime. No national estimates of the allocation of police resources are currently available. However, Humberside Police use a detailed activity sampling exercise to analyse the amount of time spent by officers on different tasks and crimes. The results have been adapted in order to estimate the proportion of police activity that is crime-related. In short, it seems unlikely that such an approach would be feasible at present (Dorn and Levi, 2006).

- The above methodological approach in each present state does not promote a user-friendly nature. In order to become more user-friendly it should be further simplified though being careful not to oversimplify the phenomenon.
- In addition to the criteria defined, another issue arose with regard to the inclusion of costs of responding after the criminal event and their utility, for the following reasons. (i) Those aspects of crime which are currently very intensively policed would appear more serious than those which are less intensively policed: however that ranking would be caused by the response, not the crime. (ii) If such measures were to be taken as indicators of the need for future resources and action, then those areas which already attract attention would be further enforced, whilst those so far relatively neglected would continue to be neglected. (iii) That tendency, for enforcement to 'chase its own tail', could be further amplified through media publicity and public debate about the apparent problems - leading to a policy amplification of an understandable but generally undesirable kind. At the end of the day, the choice remains whether or not one wishes to include in seriousness the costs of activities that responders elect to undertake, with that choice being influenced by the use to which the resulting 'indicators' are to be put. If however one wishes to get information that is strategic in the sense that it may be used in assessing the best direction of future preventive and/or enforcement measures ("what shall we do next?" - an instrumental question), then such inclusion would be most unwise. However, if one wishes to be able to attribute to criminals the costs of enforcement and 'clear-up' actions by public and private actors then the inclusion of such would be logical (Dorn and Levi, 2006). In any case, it was also recognised that it is very difficult to decide to delete the law enforcement costs from the model as it is a strong component in comparing the costs that different types of crime have on societies.¹⁴

4.2. Measuring the OC impact by using a methodology looking at the overall impact of OC activities

Another methodological approach has been proposed by Dorn and Levi (2006). Before moving on to the review of the literature on which this approach was based, it should be clarified that their approach is concerned exclusively with aggregate harm. First, drawing upon sources primarily from the fields of crime policy and criminology, the authors tentatively identify potentially *systemic harms*. Second, drawing conventionally upon crime policy and upon criminological research, harmful impacts upon particular victims (*specific harms*) are discussed in relation to economic crime. It is suggested that these concepts can work together in a practical manner.

Systemic risk has also been developed as a concept in three other fields - *markets*, particularly in international banking; *environmental policy*; and *anti-terrorist policy*.

With regard to markets, a paper by staff of the European Central Bank (De Bandt and Hartmann, 1998) refers to systemic risk as the risk of a generalised institutional and/or market collapse due to 'contagion' (related ideas being 'knock-on' effects or the 'domino effect'). Whilst early work portrayed systemic risk in quite narrow terms - technical problems of bank liquidity, leading to disruption to trading, collapse in confidence, etc. - recent work broadens the concept to take in a much wider set of disturbances, including fraud.¹⁵

The second arena in which systemic risk is well established as a concept - even if it may be more often referred to as an irreversible risk - is the environment. The risk of irreversible and serious changes has

¹⁴ Discussed during the 'Meeting of the Consortium Board for the project IKOC', Brussels, 6 February 2006. However the inclusion or exclusion of any type of costs will be further discussed and decided in the following WPs.

¹⁵ For more information see Icard (2005).

provided a focus for action, but also for controversy, in such fields as climate change, marine protection, food safety, health and diversity of species of plants and animals (United Nations Conference on Environment and Development, 1992). Closely related to the idea of irreversible and serious changes in such systems is the Precautionary Principle, which seeks to justify preventative actions (Vander Zwagg, 2002). Principle 5 of the Rio Declaration, the source definition of the precautionary principle, says that “where there are threats of serious or irreversible damage; lack of scientific certainty shall not be used as a reason for postponing cost-effective measures” (United Nations Conference on Environment and Development, 1992). Even a threat that is difficult or impossible to quantify in terms of likelihood is seen as deserving pre-emptive action if it would be serious or irreversible, it being the possibility that the unwanted event might occur that is the issue. Quantification of risk, in the sense of prediction of likelihood, may be impossible here: one may not be able to distinguish between a likelihood of one chance in a five hundred and one chance in five (Dorn and Levi, 2006).

Expressed in terms of ‘catastrophic’ risk, broadly similar ideas can be found in the field of anti-terrorism policy. Although here perhaps the underlying concept is at its most opaque – making up in terms of drama (‘catastrophe’) what it may lack in analytical precision – the themes are similar to those found in discussions of systemic market risk and irreversible environmental risk. These concern the possibility that a ‘tipping point’ may be reached, due to contagion between one event and others, such as (for example) a terrorist action leading to a breach of a dam containing millions of gallons of water, flooding areas of industry and population, disrupting power supplies and communications, resulting in economic and political changes that are both severe and difficult to reverse. Similar concerns have been articulated in relation to attacks on radioactive waste which is stockpiled at power stations and elsewhere and (controversially) may be vulnerable to an airplane crash or (more mundanely) an accident in transit from site to site (Dorn and Levi, 2006).

With regard to specific harms, victimisation surveys – of corporates and of the general population – report forms of harm that specific victims notice, recall and see as sufficiently important (and non-stigmatisation) to report. Fear of being victimised may also be covered. Surveys of economic crime include, for example, the PricewaterhouseCoopers 2005 Global Economic Crime Survey and other surveyors and studies of losses; and general population surveys that ask victims about the impacts of economic crimes, for example the British Crime Survey and Commercial Victimisation Survey, and the International Crime Victimisation Survey. It is noteworthy that business crime surveys appear to be coming of age, in the sense that they increasingly interpret their sources, rather than automatically deriving the worst possible news. For example, the Economic Crime Survey 2005 global report by PricewaterhouseCoopers indicates that, whilst companies in 2005 reported more frauds than in 2003, the same companies believed that the prevalence of fraud (i.e. including undiscovered and unreported instances) was lower in 2005 than in 2003. This belief was based on consideration of the stronger internal controls brought in, especially by larger companies, in recent years. The indications (though not verified independently) are that a higher proportion of economic crimes are being uncovered than previously (Dorn and Levi, 2006).

According to Dorn and Levi (2006), international and European regional developments have drawn attention to a relationship between serious economic and organised crime and the breakdown in governance and institutions. This relationship may be two-way: on the one hand, crime impacting negatively on institutions and governance, on the other hand, poorly-developed or deteriorating institutions and governance opening the door to serious crime. Without in any sense meaning to minimise the importance of the second relationship (systemic problems, such as institutional corruption, facilitating crime), the present theoretical approach is concerned with the first (crime causing or making systemic damage more likely). From this perspective, systemic seriousness is harmful to government and public institutions – not financial harm (which can be dealt with as a specific impact), but damage to the ability of government and institutions to function.

Summing up, the following types of harm appear to be relevant to the assessment of the overall OC impact, according to Dorn and Levi (2006):

- *systemic harms* as those that undermine institutions, governance, markets, regulatory and law enforcement agencies. High seriousness is attributed in terms of systemic effects that trigger system collapse, due to contagion from one point of impact to another; and/or

- *specific harms* as those experienced (although not always reported) by victims, concerning their financial, social and/or reputational losses. High seriousness is attributed in terms of specific effects that are particularly uncomfortable to victims (as percentages of public sector GNP, of private body annual turnover, or income of individuals affected).

Based on the criteria to be considered in the construction of a common EU methodology to measure OC impact, defined at the beginning of this paper, the above methodological approach has the following advantages and disadvantages:

Advantage(s):

According to Dorn and Levi (2006), this approach should be preferred for three reasons: purposes, parsimony, and practicality. In relation to *purposes* (utility), the authors observe that what is required, from the EU's point of view as a policy-maker, is what can be used in policy. From that perspective, it may be useful to know the overall (aggregate) harm caused, since it may provide a sense of the proportionality of various existing and/or potential alternative countermeasures. The touchstone of proportionality, alongside those of legality and dissuasion, can be found at the core of the European Union's approach to criminal policy and the judgements of the European Court of Justice and of the ECHR. In relation to *parsimony*, this approach seems simpler. It does not necessarily follow that fewer problems would be encountered in implementing it in practice, nor that it would be more cost-effective, but the possibilities are there to be explored. In relation to *practicality*, the authors will advance a position in which the common problem of what may and may not count as 'organised' crime – and hence what instances of crime events and crime harms should we admit by way of data and which should we exclude from this exercise – is dealt with by considering seriousness of harm as encompassing the concerns traditionally represented by the epithet 'organised' crime.

Disadvantage(s):

- this approach may have problems of sustainability in the long term. This is because, rather than being easily incorporable into the data collection procedures of law enforcement agencies, this methodology considers completely different types of data sources – such as TI-style surveys, business confidence in markets and regulators (OECD-style; business surveys), police integrity indexes, surveys of private sector/public perceptions of, and confidence in, regulators and police, and perhaps LEAs own perceptions of themselves being targeted, threatened, neutralised by fraudsters and their accomplices. For the environmental impacts of serious crimes, this approach would take in available information from environmental impact studies (Dorn and Levi, 2006). For this reason, it runs serious risks of proposing an approach being too far from reality, which nobody would be able to apply;¹⁶
- specifically, this approach would look at systemic harm in terms of a basket of perception measures. Needless to say, there are problems with some of these sources, notably the tendencies for the victims to under-report¹⁷ and/or to over-estimate losses from external perpetrators (Dorn and Levi, 2006). In addition, there is the paradox that, as hitherto-hidden problems become public, it would most likely lead to an increase in new cases and a corresponding wave of business and public awareness and indignation. Therefore, serious doubts arise about whether or not perception indicators (of 'key informants' external to the situation, of staff in the key agencies, of private sector bodies or of the general public) would be a good guide to what was really going on, as not all victims might be prepared to declare themselves even in anonymous surveys, and the available 'perception indicators' might be a bit vague, ahead of things becoming heavily publicised (Dorn and Levi, 2006). Finally, another important problem posed by basing this approach on the perception of the victims is that often, they do not know who the perpetrator is, so the OC component is once again lost;¹⁸

¹⁶ Discussed during the 'Meeting of the Consortium Board for the project IKOC', Brussels, 6 February 2006.

¹⁷ For example, many businesses under-report 'insider' fraud. In relation to counterfeiting, some victims report losses according to full sale price of the items concerned, ignoring that fact that the number of counterfeit sales reflects reduced pricing and that the same number of full price sales certainly would not have been achieved. Nevertheless there are also serious reputational issues where customers purchase, say, fake pharmaceutical products believing they are genuine and then become ill or die (Dorn and Levi, 2006).

¹⁸ Discussed during the 'Meeting of the Consortium Board for the project IKOC', Brussels, 6 February 2006.

- another issue raised by the above approach is that by considering aggregate harm in measuring the seriousness of OC activities, it excludes the concept of probability, as according to Dorn and Levi (2006), the inclusion of the concept of probability within the concept of seriousness is not a necessary feature of the concept of risk of OC.

5. CONCLUSIONS

In the previous two sections, a preliminary evaluation was conducted of different possible methodologies to measure the OC probability and impact. While reviewing these methodologies relevant to the measurement of the two components of OC risk (probability and impact), some of the advantages and disadvantages of those were acknowledged according to the defined criteria to be considered in the construction of a common EU methodology to measure OC probability and impact. In the light of these methodologies and on the basis of extant literature, some of the limitations in existing data on organised crime became apparent that may hamper the building of a common European approach.

In particular, the first main problem to appear was the lack of data, either because it is not being collected or simply because it is not being disseminated. In addition, different modalities exist between the collected variables. One of the main reasons for this is the absence of an agreed-upon and established definition, and the complexity of the issue which embraces different levels and quite diverse units of analysis (Von Lampe, 2004).

Regarding the issue of measurement, certain caveats must be stressed in the development of this methodology. Police efforts at data collection often provide the basis of the assessments and are predominantly focused on reported offences, and thus are usually restricted by legislation and resource scarcity to already specified targeted areas. This raises the possibility of overemphasizing the seriousness of one crime area and missing another, simply because of the historical commitment to enforce the law in certain ways (McCardle, 2000). In addition, it is also likely to miss the emergence of new forms of offences (Vander Beken and Defruytier, 2004).

As noted by Bruggeman (1998), quantitative measurement and analysis may have a variety of misleading effects. They can reduce the focus of attention to specific types and aspects of activity, and in relying on only a few key indicators, they can result in misleading over-generalisations. Furthermore, in the attempt to measure the size or impact of organised crime, according to Beare and Naylor (1999), crime statistics mostly have little meaning, simply because the actual numbers are not available. The very same arguments against reliance upon quantitative data apply equally to qualitative research, as this produces descriptions, which are rarely an accurate presentation of the whole phenomenon (Vander Beken and Defruytier, 2004).

In order to overcome some of the limits using a quantitative or qualitative approach alone would encounter, a combination of the two could give us a better picture. Or, better still would be to find a way to quantify the qualitative variables. This appears to be a real challenge, as variables such as, for example, fear of crime and loss of quality of life are very awkward to quantify.

Another problem that became apparent is the difficulty in keeping together the two components of risk, impact and probability. Some of the above methodological approaches appear to exclude one of the two components by focusing on different units of analysis, while others seem to be less user-friendly (besides not being presently feasible due to the lack of data), by considering too many aspects of each of the two components of OC risk.

However, rather than retire from the field, what is of real importance is to attempt to maintain the balance between the two components of OC risk as much possible by ensuring that the same aspect is not measured two times, and moving on by proposing a methodology that will be user-friendly but without over-simplifying the phenomenon and acknowledging always the limits that both law enforcement agencies data and other sources impose in the application of such a methodology.

Before moving to the proposal of a draft model for measuring the OC risk (probability and impact) in the following WPs (WP13 and WP14), of each of the OC activities considered in the previous WPs (WP3 and WP4), it should be underlined that the indicators of OC probability and impact proposed could be measured either through subjective evaluation or objective criteria (data). Subjective evaluation means that, as there is no official way of measuring that indicator, the researchers have to rely on the opinion of experts (through a Delphi group). Objective variables can be measured in an impartial manner by independent observers. As researchers, we are of the opinion that the more we are able to use objective variables, the more we will produce solid results. Expert evaluation does not always represent reality and may be influenced by his/her perception (Transcrime, 2003a).

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ANNEX 12

WORKING SEMINAR WITH REPRESENTATIVES FROM THE PUBLIC AND THE PRIVATE SECTORS, SELECTED BOTH WITHIN THE ORIGINAL 15 MEMBER STATES AND THE NEW ONES, TO PRESENT AND DISCUSS THE RESULTS OF WP 11

By:

- Dina Siegel, Vrije Universiteit Amsterdam
- Henk Van De Bunt, Vrije Universiteit Amsterdam
- Hans Nelen, Vrije Universiteit Amsterdam

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FOREWORD

This paper is the deliverable for WP 12 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 12 consisted in a working seminar with representatives from the public and the private sectors, selected from both the original 15 EU Member States as well as the new Member States, and was aimed at presenting and discussing the results from the first year of activities of the IKOC Project, as well as the draft deliverable of WP 11 on the potential for developing indicators of probability and impact of organised crime (OC).

This working seminar took the form of two panel sessions within the 5th Annual Conference of the European Society of Criminology on *Challenges of European Integration: Challenges for Criminology*, that took place in Krakow (Poland) from the 31st of August to the 3rd of September 2005. The two panel sessions of the Conference devoted to the IKOC Project were the following:

- panel session 3.3 on “Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry”, chaired by Dina Siegel (Vrije Universiteit Amsterdam), took place on the 1st of September 2005 from 15.30 to 16.15. It was aimed at presenting the results of the first year of activities within the framework of the IKOC Project;
- panel session 4.3 on “Organised crime in Europe. Toward the common EU’s strategic concept of Organised Crime”, chaired by Hans Nelen (Vrije Universiteit Amsterdam), took place on the 1st of September 2005 from 16.45 to 18.00. The purpose of this session was to introduce the second year of activities within the framework of the IKOC Project. The discussion focused on the usefulness of existing OC data in constructing a common EU methodology to measure the probability and impact of OC.

This paper was produced by Dina Siegel, Henk van de Bunt and Hans Nelen from the Vrije Universiteit Amsterdam, the leader of WP 12. It is organised as follows. Section 1 summarises the discussions that took place during the two IKOC sessions in Krakow. Section 2 focuses on the speech that concluded the two sessions. This speech, *Critical analysis of existing methods and reports on measurement of organised crime*, was given by Henk van de Bunt in panel session 4.3. Since it contained valuable as well as provocative remarks which led to a lively discussion on the difficulties of measuring OC with due observance of academic standards, it was decided to include the speech in this deliverable.

1. SUMMARY OF THE TWO IKOC PANEL SESSIONS IN THE 2005 ESC CONFERENCE (KRAKOW, 01.09.2005)

1.1 Summary of the first IKOC panel session (panel session 3.3)

The first IKOC panel session in the 2005 ESC Conference was panel session 3.3, on “Organised crime in Europe. Measuring Organised Crime within licit market sectors; private sector responses; the private and corporate security industry”.

The session, chaired by Dina Siegel (Vrije Universiteit Amsterdam), aimed at presenting the results of the first year of activities of the IKOC Project. It took place on the 1st of September 2005 from 15.30 to 16.15. 39 people attended this session. The following speeches were on the agenda:

- *Project IKOC (Improving Knowledge on Organised Crime) what we achieved until now*, by Ernesto Savona (Catholic University of Milan, Italy);
- *Quantitative and qualitative data on organised crime collected by law enforcement agencies in the EU*, by Areti Antoniou (Catholic University of Milan, Italy);
- *Private security services to the corporate sector: an analysis*, by Michael Levi and Nicholas Dorn (Cardiff University, UK);
- *Strategies of business to manage risks of organised crime*, by Jan Terpstra (University of Twente, The Netherlands).

The speeches and the related discussion are herein summarised.

Ernesto Savona gave a presentation entitled *Project IKOC: what we achieved until now*. This was an introduction to the IKOC Project. The aim was to inform a wide public of conference participants about the

Project. First the background and aims of the Project were presented. The results achieved during the first year of activity of the Project and its future steps were then summarised.

Areti Antoniou gave a speech on *Quantitative and qualitative data on organised crime collected by law enforcement agencies in the EU*, that presented the results of WPs 1 to 4 of the IKOC Project. The presentation reviewed and compared the quantitative and qualitative data on organised crime collected by European institutions (Council of Europe and Europol) and national law enforcement agencies in the original 15 EU member states. Quantitative and qualitative data on organised criminal groups (structure, composition, the socio-economic and cultural framework in which they operate) collected at European and MS levels were presented for the first time. This was followed by an overview of quantitative and qualitative information on the activities of these groups (in both legal and illegal markets) collected at the levels mentioned above.

This presentation was followed by a discussion on measuring and defining organised crime in general.

Michael Levi presented the results of WP 7 of the IKOC Project in a paper on *Private security services to the corporate sector: an analysis*. The starting point of his presentation was that the private security industry ranges from local guarding to international private military companies, with the investigation activities of corporate and private security firms working for corporate and governmental clients sitting between these local and international extremes. Themes from the literature (academic and industry) were presented, together with brief examples of private security firms and activities. It was noted that cooperation with public enforcement agencies varies from being strong in some areas, to low or no formal cooperation but some informal 'helping out' in other areas. Such variation was analysed in terms of formal priorities and constraints on both sides, and in terms of cultural and occupational closeness. Implications for the shaping of organised crime, it was concluded, include its restraint and possibly its reduction in areas of relatively high cooperation, such as anti-terrorist work, at the expense of its resilience and possibly its growth in areas in which cooperation is relatively low, such as insider frauds and competitive business behaviour.

Jan Terpstra presented the results of Wp 6 of the IKOC Project on *Strategies of business to manage risks of organised crime* (see abstract in the ESC Conference Book). The presentation therefore aimed at giving a review of the private sector's current approach to crime prevention and managing security with regard to the risks of organised crime. The paper concentrated on four economic branches: road transport of goods, the Rotterdam Main Port, banks and the music industry. A detailed description was given of strategies applied by businesses in these branches focused on the risks of organised crime. Three categories of strategies were distinguished: strategies focused on pre-conditions (both at the branch level and at the level of the individual company), strategies focused on crime prevention and re-active strategies (mainly focused on the reduction of the consequences of crime). At the end of the paper some impediments to the development of these strategies were analysed and some of the fundamental questions raised by these strategies were dealt with.

The panel session was followed by a discussion on the definition of organised crime, measuring methods and risk assessment approaches. The interest of a wide public of criminologists and policy-makers in the methods and results of the IKOC Project was obvious.

The discussion was followed by the second session of the IKOC Project.

1.2 Summary of the second IKOC panel session (panel session 4.3)

The second IKOC panel session of the 2005 ESC Conference was panel session 4.3 on "Organised crime in Europe. Toward the common EU's strategic concept of Organised Crime".

This session, chaired by Hans Nelen (Vrije Universiteit Amsterdam), aimed at introducing the second year of activities of the IKOC Project by discussing the usefulness of existing OC data in constructing a common EU methodology to measure the probability and impact of OC activities. It took place on the 1st of September 2005 from 16.45 to 18.00. 26 people attended this session. The following speeches were on the agenda:

- *Evaluation of the usefulness of existing OC data in the construction of a common EU methodology to measure OC probability and impact*, by Barbara Vettori (Catholic University of Milan, Italy);
- *Towards a European Criminal Intelligence Model: how could the EU's strategic concept of OC translate into information flows and policy?*, by Nicholas Dorn and Michael Levi (Cardiff University, UK);

- *Critical analysis of existing methods and reports on measurement of organised crime*, by Henk van de Bunt (Erasmus University, Rotterdam, The Netherlands);
- *The little we know about the measurement of organised crime*, by Pierre Kopp (Centre National de la Recherche Scientifique, Paris, France).

Only three of the four planned presentations were given, since Pierre Kopp was unable to attend the conference. The three speeches and the related discussion are herein summarised.

Barbara Vettori presented the draft deliverable for WP 11 of the IKOC Project, on *Evaluation of the usefulness of existing OC data in construction of a common EU methodology to measure OC probability and impact*. The presentation aimed to provide a preliminary evaluation of the usefulness of existing qualitative and quantitative data on organised crime groups and activities to build a common European approach to measure OC risk. It defined the criteria adopted in order to conduct the evaluation of the usefulness of existing data on organised crime in constructing a common EU methodology to measure OC probability and impact. It carried out a preliminary evaluation of the utility of these data to construct a common EU methodology to measure a) OC probability and b) OC impact, therefore drafting an EU methodology to measure respectively the probability and impact of crimes committed by organised criminal groups, whose joint implementation by MSs would enable the assessment of the risk posed by OC activities in each MS.

Nicholas Dorn (Cardiff University, UK) continued with his presentation *Towards a European Criminal Intelligence Model: how could the EU's strategic concept of OC translate into information flows and policy?* The starting point of the presentation was the idea that the current widening at a policy level of the notion of internal security – linking it with external security, transparency in the financial affairs of public and private sector bodies, good functioning of markets, and reduction of business and political risks – implies a ‘strategic concept’ of organised and cross-border crime, cooperation and intelligence (cf: EU COM(2005)232 final of 02.06.2005). The presentation took up various approaches to ‘risk’, differentiated between ‘risk assessment’ (description) and ‘risk reduction’ (action), and explored to what extent such approaches could be fitted with data on international fraud. First, some dimensions of international fraud and of the difficulties in producing meaningful information about them were described: some types of fraud are in fact much easier to gather information on than others. Second, approaches to risk were outlined: (1) European law enforcement agency organised crime threat assessment methodology has been influenced by its ‘older brother’ of international and defence threat assessments. (2) Auditors focus less on external threats and more on internal tracking of and controls over the assets of the public or private bodies being audited. (3) Regulatory bodies, supervisors, consultants and social scientists typically scan systemic vulnerabilities in markets and other environments, including those that would favour fraud, other serious economic crime and/or terrorism. (4) In the business or corporate approach, risk assessment per se is of less interest than risk-reduction, taking place within an active and continuous process of risk-management, the objective being to block those risks that might be most business-critical in the sense of survival of the enterprise or public body, focusing upon those preventive actions that cost less than the assets they seek to safeguard. (5) There have been valiant attempts to integrate approaches and, (6) in opposition to all the foregoing, there is a notable body of criticism of risk assessments, risk mentalities and ‘risk society’. Drawing out core themes, Dorn concluded by outlining some implications for the development of policy-relevant strategic intelligence.

Finally, Henk van de Bunt gave a presentation entitled *Critical analysis of existing methods and reports on measurement of organised crime*, with the purpose of assessing the recent efforts by researchers and policy makers to measure the level and harm of organised crime (see section 2 for the full presentation).

A discussion ensued on the usefulness of measuring organised crime in general, and the ambition to create a common approach to measuring OC in Europe in particular. The influence of policy-making on academic research and the possible consequences thereof were also mentioned. The presentation of the last speaker led to a lively debate on the difficulties of measuring OC with due observance of academic standards. Van de Bunt’s contribution contained valuable as well as provocative remarks, which led to the decision to include a slightly edited version of his presentation in section 2 of this deliverable.

2. CRITICAL ANALYSIS OF EXISTING METHODS AND REPORTS ON MEASUREMENT OF ORGANISED CRIME (PAPER PRESENTED BY HENK VAN DE BUNT IN PANEL SESSION 4.3)

ABSTRACT

OC is high on the political agenda. There is an urgent need for the quantification of the risk of OC within the borders of the EU, as well as for the measurement of the harm caused by OC. Measuring organised crime is a very complicated task. In carrying out this difficult task researchers have to take into account two important lessons. Firstly, one should not believe in the adage that 'something is better than nothing'. Using obscure data could lead to gross falsehoods instead of getting us nearer to the truth. One should not be economical with the truth. Secondly, the differences between empirical research and risk assessments should not be blurred. If there is an urgent need for empirical knowledge on OC, then invest in improving empirical research.

My presentation is modest and short, but critical of the recent efforts by researchers and policy makers to measure the level and harm of organised crime.

In the context of the IKOC Project I have read many reports, books, and articles on organised crime; more specifically, on the level of OC and its damage to society. Interesting documents in this respect are the *Organised crime report 2004* (Council of Europe), annual reports of Europol and books/reports by Christopher Black and Tom van der Beken. Also relevant were several White Papers from the European Union and individual member states, in which the relevance of measuring OC is emphasized.

My reading led me to the following considerations, which should be instructive in the context of the IKOC Project.

A) Never underestimate the differences between policy documents and empirical research

Let me start with the ambitions and needs of policymakers. It is evident that the quantification of the volume and impact of organised crime is useful to policymakers, both at the national level and at the EU-level, for evaluating policies, and for getting public and political support for more resources in the battle against OC. Because of this need many policy documents use 'numbers' about the level of OC. Let me now focus on three examples to make my point.

My *first* example is the White paper (2004) by the Home Secretary, David Blunkett, *One Step Ahead*, in which a new strategy is sketched to defeat organised crime in the UK.

This strategy implies new ways of working, new powers such as provisions in order to encourage defendants to testify against co-defendants, the extension of a law in order to compel witnesses to produce documents and answer questions. It also announces the formation of a new Organised Crime agency.

Although it is said that there has been virtually no work anywhere in the world so far to measure the scale of organised crime and the harm it causes, it is simply stated as a *fact* that the losses and harm caused by all forms of organised crime may be up to 40 billion pounds a year. I admit: it is claimed in the White paper that this number is derived from preliminary data collected by the Home Office, which will be a reason for a future research project, the purpose of which is to assess the overall harm caused by organised crime

A *second* example of the high ambitions of policymakers is the Project by the Council of Europe: the Organised Crime Situation reports. The method used mainly consists of sending a detailed questionnaire to the member states. These reports analyse the activities, structure, resources, methods, geographical aspects and trends of the OC groups operating in the COE-states. However, the empirical basis is fragile, since there are

- no interviews or surveys with key persons;
- no analyses of police files.

Nevertheless, the annual reports arrive at conclusions about the number of OC groups. It is left open whether the higher number of groups reported over the years by some countries may reflect the increased attention

paid by law enforcement agencies to these groups and a trend towards the improved recording and analysis of the situation, or indeed may reflect a growth in the organised criminal phenomenon itself (COE 2002, p. 103).

Differences between countries could reflect different interpretations of the term *organised crime*; different levels of awareness and different levels of activities against OC could explain differences in the (reported) numbers of OC groups. On the one hand, these observations are made and acknowledged, on the other hand the conclusions are presented without any reservations. For example, in the most recent report it is said that the 2004 questionnaire shows an important shift in reporting: “hierarchically organised groups **now appear to be the exception**” (p. 39). That is without doubt a firm empirical statement. Thus, differences in reporting are simply presented as an empirical finding.

My *third* example are the EU Organised Crime Reports by Europol. Here again we find similar methodological limitations:

- Europol does not carry out any analysis of cases in the member states;
- There are no interviews or surveys with informed persons;
- It is fully dependant on the contributions of the individual states.

Nevertheless, the reports make definitive statements such as: “3000 criminal groups are active in the EU in 2002 (Europol 2003), or “4000 criminal groups are active in the EU in 2003” (Europol 2004).

Let me quote Europol (2004) “Increasing involvement of OC groups (...) although this increase may, in some cases, reflect a change in the methodology used by the member states” (p. 8). The methodology is only mentioned in passing. The report does not offer any kind of transparency concerning the methodology used. Who has counted 3000 (4000) criminal groups, and what was the basis of this statement?

The report makes many statements about the state of affairs of OC. For example: ‘Ethnic Albanian OC groups continue to be among the main threats to the EU (...) they are mainly involved in trafficking human beings and drugs smuggling. (...) Albanians are acting as intermediaries for Colombian OC groups engaged in international cocaine smuggling. They also export marihuana from Italy to the Netherlands’ (p. 14). Contrary to the Council of Europe-report it is said that powerful hierarchical groups continue to occupy positions within organised crime in the EU.

What is the actual status of this kind of reports? Evidently, they do not meet the regular academic standards. Do the authors of these reports pretend to meet these standards? The COE-report is not very explicit; it is simply suggestive. In a footnote it is mentioned that several academic researchers provided feedback on earlier drafts.

Although the empirical basis is weak and the scientific feasibility is unclear, firm statements seems to be very ‘attractive’. Even researchers could succumb to the temptation to use such data. Sometimes they are subsidized by policymakers and have been saddled with the difficult task to measure the level of organised crime within a short period of time. Owing to circumstances it could be tempting for researchers to make use of the obscure data and conclusions from these policy documents. The unintended consequence is that these data and conclusions are ‘validated’. By this kind of reification the obscure data obtain the character of ‘objective truths’ about OC.

In academic discussions it is sometimes argued that ‘something is better than nothing’. The argument is that it is justified to use obscure data if more reliable and valid data are missing. This point of view negates the possibility that obscure data could present gross falsehoods instead of bringing us nearer to the truth. The lesson to be drawn is never to be economical with the truth.

B) Never underestimate the differences between risk assessments and empirical research

Measuring organised crime is a very complicated task. How to count the number of groups and participants (given the fact that ‘groups’ are loosely structured)? How to determine and measure the impact of OC (given the fact that the types of damage caused by OC vary)? How to measure cross border activities? And how to handle the dark number of OC?

As a consequence of these difficulties, policymakers and academic researchers turned to the notion of risk and risk-assessment. Instead of empirical research on the phenomenon of OC the focus shifted to

determining the chance that OC will have a negative impact on specific sectors/institutions in society. This kind of risk analysis is based upon assumptions and aimed at forecasting. A key feature of risk assessment is that it is designed to provide a framework for identifying problems, and predicting the likelihood of their occurrence.

Recently, Tom Vander Beken developed the so-called Mavus methodology (Method for and Assessment of Vulnerability of Sectors). In 2000, after sketching the problems with measuring OC, he concluded: "One possible way around the problems posed by concerns with the accuracy or otherwise of hard measurement is to turn to the notion of risk" (p. 30). However valuable risk assessment can be, it should not be promoted as an alternative for empirical research on the measurement of OC. Vander Beken's recent books on OC and the vulnerability of the diamond industry (2004), as well as the transport sector and the music sector (2005), show that 'measuring' the vulnerability of economic sectors is not the same as empirical research on the interfaces between OC and these sectors. Risk assessments make use of empirical research but they are not an alternative way of measuring OC.

A recent example of the confusion (resulting from blurred differences between risk analysis and empirical research) is the Dutch Project on "Threat Analysis". This large-scale project, funded by the Dutch police, was carried out by a national staff department of the Dutch police. Based both on empirical evidence as well as on interviews with experts (the 'group room decisions' method) predictions were made regarding the threat of OC. Interestingly, in political discussions and in policy documents the estimated threats of OC to Dutch society are treated as empirical facts.

This kind of risk assessment has nothing to do with empirical research. If policymakers or academic researchers want to deepen their knowledge of OC, it would be better to stimulate empirical research instead of taking the detour of risk assessment (which implies collecting a great deal of information on the sector without any specific reference to crime). The risk assessment method is not an alternative for measuring OC. Measurement problems have to be tackled by improving empirical research. Back to the use of empirical sources, such as analysing police files, interviewing perpetrators or well-informed persons. The recent study by Laetitia Paoli, based on the extensive use of interrogations/confessions by *pentiti*, is a good example of empirical research on OC.

C) Conclusions

OC is high on the political agenda. My concern is that the quality of academic research will suffer from this kind of 'popularity'. The message is simple: if there is an urgent need for empirical knowledge on OC, then invest in improving empirical research. Sometimes, however, it would be better to acknowledge that some questions by policymakers cannot be answered with due observance of academic standards.

D) References

Council of Europe, *Organised crime situation report*, 2004.

Europol, *European Union organised crime report*, 2003.

Christopher Black et al, *Measuring Organised crime in Belgium*, Maklu/Antwerpen 2000.

Tom Vander Beken, *Organised crime and vulnerability of economic sectors*, Maklu/Antwerpen 2005.

ANNEX 13

DEVELOPMENT OF COMMON EU INDICATORS FOR MEASURING THE PROBABILITY OF OC ACTIVITIES

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Aretì Antoniou, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

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1. FOREWORD

This paper is the deliverable for WP 13 of Project IKOC – *Improving Knowledge on Organised Crime*. It develops common EU indicators for measuring the volume (i.e. frequency, likelihood) of the specific activities carried out by organised criminal groups identified in WPs 3 and 4 of the Project as the main OC activities.

The paper is organised as follows. Section 2 briefly presents the reason for adopting the present methodology for measuring OC probability and the necessary conditions for its future implementation. Section 3 presents the indicators of OC probability. In particular it presents the assumption linking each indicator to OC probability, the relevant literature supporting the link of each indicator to OC probability, and the modalities to be attributed to each indicator in order to measure it. In section 4 a graphical expression of the proposed methodology to measure the probability of OC activities is carried out. Is it intended for use referring to each OC activity identified in WPs 3 and 4. Finally in section 5 some conclusions are drawn.

This draft has been produced by the Università Cattolica del Sacro Cuore, leader of WP 13. This WP was directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Executive Project Manager of the Project. It was written by Aretì Antoniou, Ph.D. candidate at the Università Cattolica del Sacro Cuore, and Barbara Vettori. Aretì Antoniou wrote a first draft, in which the literature supporting the link of each indicator to OC probability was reviewed. The paper was then rewritten and finalised by Dr. Barbara Vettori. The following researchers of the Università Cattolica del Sacro Cuore also cooperated in producing this draft deliverable: Nicholas Ridley and Stefano Montrasio.

2. REASONS FOR ADOPTING THE PRESENT METHODOLOGY FOR MEASURING OC PROBABILITY AND NECESSARY PREREQUISITES FOR ITS FUTURE IMPLEMENTATION FOR COMPARATIVE PURPOSES

Before presenting the indicators of probability of OC activities developed in the framework of this paper (see section 3), it is first important to highlight the reasoning followed in their identification, as well as conditions necessary for its future implementation.

With reference to the *reasoning* followed in the identification of the indicators of OC probability herein identified, this is based on the findings of the deliverable of WP 11, which are briefly summarised here. First, the deliverable for WP 11 identified several criteria to be considered in the development of a common EU methodology to measure OC probability (and impact). These are as follows:

1. *separately identifying indicators of probability, on one hand, and of impact, on the other*. As pointed out in deliverable 10A of this project, the concept of (organised) crime risk can be defined as the result of the probability that an (organised) crime event, as a negative event, will occur and its consequent impact [$OC\ RISK = PROBABILITY\ of\ an\ OC\ event\ X\ its\ IMPACT$], the proposed methodology needs to identify, separately, indicators of probability, on one hand, and of impact, on the other;
2. *using existing and available data*: in order to promote the *feasibility* of the proposed methodology and its efficient implementation, the methodology will take advantage, as much as possible, of existing data on OC already collected by the majority of MSs (see deliverables 1 to 4). This is in order to a) promote the use of existing knowledge to the widest possible extent thereby b) minimising any waste of time and resources, due to the imposition on MSs of the burden of collecting new indicators. *The issue of feasibility will be specifically addressed by WPs 15 and 16 of the Study*;
3. *making the methodology compatible with current data collection procedures*: considering the importance of providing the European Commission with a methodology that is immediately and easily applicable, the proposed methodology should be easily incorporable into the current data collection procedures used by law enforcement agencies. This will avoid the risk of launching a methodology too removed from the reality of actual OC data collection procedures, which nobody would apply;
4. *developing innovation*: by critically evaluating the data on OC already collected by the majority of MSs (see deliverables 1 to 4) in the light of academic literature, the proposed methodology will a) not include those indicators, already collected by MSs whose efficacy in measuring OC has been criticised by

literature and, on the contrary, b) include indicators that have not yet been collected but which, according to literature, could eventually produce a more powerful description of OC and its activities;

5. *developing user-friendliness*: considering the wide geographical scope of application of the proposed methodology and its implementation by different institutions, the proposed methodology is intended to be as simple and understandable as possible.

On the basis of these criteria, the deliverable for WP 11 then went on to review two main methodologies relevant to the measurement of OC probability, assessing their relevant advantages and disadvantages. One of these methodologies is that suggested by Vander Beken et al. (2004:105–6) which uses OC activities as the unit of analysis. The other, proposed by Europol (2005), uses OC groups as the unit of analysis.

This review demonstrated that:

- *with reference to criterion n. 1 (separately identifying indicators of probability, on one hand, and of impact, on the other – as these are the two necessary components of any crime risk assessment exercise)*: Vander Beken et al.'s methodology meets this criterion. This is because impact can only be assessed by having OC activities as the unit of analysis and because, in order to adopt a methodologically correct approach, it is necessary to also consider the same unit of analysis in the assessment of OC probability, as the methodology by Vander Beken et al. does. However, Criterion 1 is not met by the methodology for assessing OC probability used by Europol, as its unit of analysis is the OC group;
- *with reference to criterion n. 2 (using existing and available data), n. 3 (making the methodology compatible with current data collection procedures) and n. 5 (developing user-friendliness)*: both Vander Beken et al.'s methodology and the one used by Europol were useful sources of inspiration for the methodology for assessing OC probability herein developed, as these have the potential for meeting or do actually meet criteria 2, 3 and 5 mentioned above. The methodology by Vander Beken et al. has the potential of meeting these criteria, as it has not been implemented yet, nor defined in detail. The methodology used by Europol, that has already been implemented, does actually meet the three above mentioned criteria, as it maximises the use of existing knowledge and expertise in national law enforcement agencies, with whom it has been agreed upon and who have up until now contributed to the production of the first OCTA.¹

This said, both the methodologies have been used as a source of inspiration for the current methodology, but only in as far as they were compatible with criterion n. 4 above (developing innovation), which involves the *critical evaluation of existing data on OC already collected by the majority of MSs in the light of academic literature* performed by the research team.

If both methodologies have been useful in the development of the indicators of OC probability. The Vander Beken et al. methodology has also been used as a starting point as far as the different categories under which to group the indicators were concerned. These were grouped in the Vander Beken et al. methodology, i.e. 1) characteristics of OC groups involved in a given crime; 2) frequency of a given offence; 3) law enforcement risk for a given crime; 4) opportunity structure for a given crime. Two out of these four categories – i.e. 1) characteristics of OC groups involved in a given crime and 3) law enforcement risk for a given crime – have been in fact been taken up again in the methodology herein developed. Category 2) above, i.e. frequency of a given offence has not been used as part of the methodology herein proposed. This is because this category is too comprehensive and alone expresses the entire concept of probability. Also, category 4) opportunity structure for a given crime has not been considered, as it would have impaired the user friendly nature of the proposed methodology.

Another important issue that needs clarification is the prerequisites necessary for the future implementation of the proposed methodology for comparative purposes in the EU.

The first necessary requirement for implementation of the present methodology for measuring OC probability is the existence, in a given MS, of a *separate data collection system on organised crime*. According to a recent report produced by Transcrime for the European Commission (Transcrime, 2005), this is the case in nine out

¹ All EU-Member States and the two Accession States provided their respective contributions, institutions at EU-level – such as Eurojust, Frontex, OLAF, ECB, EMCDDA, and a number of third parties – such as law enforcement partners in the US, Canada, Norway and Colombia as well as Interpol and SECI (Europol, 2006).

of the original fifteen member states. Without such a separate data collection system, the methodology herein proposed cannot be implemented as the data necessary for its application would be indistinguishable from general crime data.

The second necessary requirement, which aims at making possible the future implementation of the current methodology for comparative purposes (i.e. so as to reasonably enable a comparison of levels of probability and harm of specific OC activities across countries), is the existence of common definitions of OC related-criminal conduct (i.e. the Enfpol definition) whose risk is to be assessed, and of common criteria for the collection of related data. This paper sets the basis for this harmonisation as it proposes, for each indicator of OC probability, some guidelines to promote the uniform collection of data on each indicator.

3. THE IKOC METHODOLOGY FOR MEASURING THE PROBABILITY OF A GIVEN OC ACTIVITY

This section presents the methodology to assess the probability of a given OC activity. This section contains the general methodological approach adopted in the framework of the IKOC project. The next section (section 4) will then summarise it graphically.

As mentioned in the previous section, indicators are grouped into two categories, i.e. a) those regarding the characteristics of OC groups involved in a given crime (paragraph 3.1); and b) those regarding the law enforcement risk for a given crime (paragraph 3.2). For each indicator, the assumption linking the indicator to OC probability, together with the literature supporting the assumption, are made explicit. Furthermore, modalities are provided for the measurement of the indicator.

3.1. Indicators regarding the characteristics of OC groups involved in a given crime

This area includes the indicators related to the characteristics of the organised crime groups involved in the carrying out of the criminal event. The likelihood that a given crime occurring is linked to the 'evaluation of the seriousness and organisation' of the criminal groups involved. The more dangerous and well equipped the criminal groups involved in a crime, the more likely the crime will occur again (Transcrime, 2003; 2002). The indicators relevant to this category are:

3.1.1. Links/cooperation between OC groups

Assumption linking the indicator to OC probability:

The higher the level of cooperation between OC groups involved in a given crime, the higher the probability of its occurrence, especially at an international level.

Literature supporting the link of the indicator to OC probability:

The international dimension of OC can be defined as international cooperation, between non-indigenous² groups or between an indigenous³ and a non-indigenous group, or as international operations carried out directly by an OC group (Europol, 2006).

The 2003 EU OCSR reports a high degree of international cooperation between organised crime groups, especially between OC groups within the EU and the accession States, as well as with groups throughout the rest of the world (in countries such as Canada and the United States, China, Colombia, Iran, Morocco, Nigeria, Pakistan, Surinam, Turkey and Vietnam). For example, a common pattern amongst the rest of the EU is that both indigenous and foreign criminal groups are active in the trafficking of human beings. This sometimes means that indigenous groups form a type of joint venture with ethnic groups. The initial to middle stages of contacting, recruiting and facilitating transport are given to foreign groups and the middle to final phases of

² Within the scope of this categorisation, a non-indigenous OC group entails a criminal group dominated by members not having a nationality, origin or ethnicity of any MS.

³ Within the scope of this categorisation, an indigenous criminal group entails a criminal group dominated by members having the nationality, origin and ethnicity of one or more MS.

the process within the EU country, such as transport, accommodation and the sexual exploitation for profit, are dealt with by indigenous criminal groups (Europol, 2003; Vander Heijden, 1996; NCIS, 2002; Morisson, 2002). For example in Poland it was noted that organised crime groups exploit their international connections in committing both trafficking in human beings and smuggling of migrants (Fijnaut et al., 2004:481).

In relation to drug trafficking, investigations into criminal associations identified in Austria in 2003 revealed links to numerous other European and Extra-European countries in the cocaine market (Federal Ministry of the Interior, Criminal Intelligence Service Austria, 2003). While in currency counterfeiting, it is noted that it is becoming increasingly international in character, at times linking many continents together in criminal enterprises (Europol, 2002). The report on Organised Crime in Sweden for 2004 mentions that the main common factor within advanced organised crime, tends to be the need of the networks for an efficiently composed group of individuals rather than a common geographic or ethnic background among the members of the networks (NCID, 2004).

According to Europol (2006) the situation is even more complex when a non-indigenous OC group acts in agreement with more established indigenous OC groups. For example, Apulian criminal groups have been closely cooperating with Albanian criminals since the early 1990s, smuggling drugs, migrants and arms into Italy. To run their businesses more successfully or avoid Italian prosecution, several Apulian gangsters have also sojourned in Albania and the neighbouring region of Montenegro (Fijnaut et al., 2004:545).

In conclusion, the situation where an indigenous criminal group resorts to international operations through cooperation with non-indigenous groups is the greatest threat. This could be linked to troubling developments in the criminal environment where certain OC groups are able to exploit noticeable communities of reference or have the capability to shield themselves behind their international dimension (Europol, 2006).

Measuring the indicator:

The level of the links/cooperation between OC groups can be measured by looking at the annual percentage of reported OC offences of a given type involving cooperation between two or more groups (between both non-indigenous groups and between an indigenous and a non-indigenous group). Although the number of offences for which a conviction has resulted may provide a more reliable picture of crime (many reported crimes do result in the acquittal of the defendant), it has been chosen to rely on the number of reported offences. This is because, as it may take years to get a conviction and therefore the use of sentencing data would make it impossible to link the level of probability of a given OC activity in a given country to a given year.

This said, the modalities of this indicator could range from 1 (no cooperation) to 5 (high level of cooperation), where:

- 1 = 0–20% of annual reported OC offences of a given type involving cooperation between two or more groups
- 2 = 21% to 40% of annual reported OC offences of a given type involving cooperation between two or more groups
- 3 = 41% to 60% of annual reported OC offences of a given type involving cooperation between two or more groups
- 4 = 61% to 80% of annual reported OC offences of a given type involving cooperation between two or more groups
- 5 = 81% to 100% of annual reported OC offences of a given type involving cooperation between two or more groups

3.1.2. Geographic distribution of OC groups (or overseas routes)

Assumption linking the indicator to OC probability:

The more geographically distributed the OC groups involved in a given crime, the higher the probability of its occurrence, especially in the countries forming part of this geographical distribution.

Literature supporting the link of the indicator to OC probability:

This indicator could be considered as part of OC group attributes (Kitson, 2004, Vander Heijden, 1996). Criminal organisations with well tested routes and with personnel located in different countries along these routes will use their knowledge and experience to seize new market opportunities and engage in new criminal activities. Overseas research suggests that especially Asian organised groups use routes, means and methods, simultaneously for the smuggling of people and narcotics (Schloenhardt, 2003; Adamoli et al., 1998). For example, Colombian groups are said to rely heavily on overseas expatriate communities to operate in the trafficking of cocaine. The destination countries consider the cocaine trade as an ethnic phenomenon and entire Colombian communities are tarnished with a spoiled reputation (Zaitch, 2002).

Furthermore, criminal organisations which engage in the smuggling of migrants often plan the systematic exploitation of immigrants in the destination country (Schloenhardt, 2003; Adamoli et al., 1998). Poland, due to its geographical location between Germany to the west and Russian, Lithuania, Belarus and Ukraine to the east, is at the same time a destination and a transit country for thousands of undocumented migrants and victims of human trafficking from the former Soviet Union and Asian and African countries (Fijnaut et al., 2004:481).

In conclusion, countries that form part of a trafficking route in a given OC activity, as transit or destination countries have a higher probability of its occurrence than other countries. However, this indicator alone does not provide information on the actual level of probability of a given crime occurrence in a given country (origin, transit or destination), but also needs to be combined with other indicators such as the size of the market (demand and supply) and law enforcement efficiency (i.e. law enforcement risk through data on seizures) in each country (UNODC, 2005:168) that are developed below in this paper. This is because, all things being equal, reduced law enforcement successes against an OC activity in a given country may lead to increased trafficking flows (and seizures), in neighbouring countries. These countries would, in turn, be as or even more likely than before to identify that particular country as an origin or transit area.

Measuring the indicator:

The level of the geographic distribution of OC involved in a given crime can be measured by looking at the annual percentage of reported OC offences of a given type involving more than one country (both EU and non EU countries).

This said, the modalities of this indicator could range from 1 (no cooperation) to 5 (high level of cooperation), where:

- 1 = 0–20% of annual percentage of reported OC offences of a given type involving more than one country
- 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving more than one country
- 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving more than one country
- 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving more than one country
- 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving more than one country

3.1.3. Specialisation/Use of expert knowledge by OC groups

Assumption linking the indicator to OC probability:

The greater the specialisation/use of expert knowledge by the OC groups involved in a given crime, the greater their capacity to perpetrate the crime and the higher the probability of its occurrence.

Literature supporting the link of the indicator to the OC probability:

OC is becoming increasingly professional, relying on expert knowledge in an ever widening international and heterogeneous setting (Kitson, 2004). While some OC groups may recruit specialist facilities and individuals (such as trucks or drivers), others turn to OC groups who facilitate OC in case they are unable or reluctant to

do the specialist job themselves. Certain specialist services are in high demand and play a pivotal role in the workings of OC groups. These include individuals facilitating OC groups involved in drug trafficking who bring together buyers and sellers, and illegal immigration agents and sub-agents, who specialise in selecting routes, arranging transport, providing documentation or handling the migrants' needs on arrival (Europol, 2006).

Based in the above observation, 'specialisation' by OC groups could mean the following:

- the acquiring of specialist functions to improve OC activities, increase professionalism and decrease the chances of detection and prosecution by law enforcement;
- the provision of specialist services to more than one OC group (Europol, 2006).

With regard to the acquiring of specialist functions, OC groups often have a need for someone with specialist skills or know-how to facilitate their operations, such as chemists, accountants, financial experts, IT specialists, those with access to particular goods and services, such as firearms or false passports, or those willing to carry out specific tasks, such as murder or debt collection. As a result, they are able to quickly identify and adapt to market changes⁴ (Europol, 2004; Albanese, 2001; U.S. Government Interagency Working Group in Support and Pursuant to the President's International Crime Control Strategy, 2000). These specialists are either low-level, expendable individuals used on a one-off basis or periodically, while others are professional criminals who provide their services on a continuous basis (Europol, 2004; 2006; NCIS, 2003). For example, organised criminals involved in both smuggling and trafficking conspire with professionals who can assist them, including those in the legal profession (NCIS, 2003: 39). Legal expertise is used effectively by international criminals to protect themselves from investigations and prosecutions. Lawyers in their pay have used detailed knowledge of the law to manipulate the judicial system and to influence law enforcement legislation to protect criminal interests in countries around the world (U.S. Government Interagency Working Group in Support and Pursuant to the President's International Crime Control Strategy, 2000). Lawyers, legal advisors, notaries, auditors, accountants and tax consultants, facilitate organised crime groups by providing judicial and financial expertise and it is difficult to eliminate the contact between these legal professions and criminals, due to the 'indispensable functions' for professional criminals played by 'certain specialised persons or groups' (Thrasher, 1963:286; Fijnaut et al., 2004:25). In many cases professionals are not aware that their services are being used for criminal purposes. Despite this, however, there are cases of culpable involvement⁵.

With regard to the second, an increasing number of criminal networks have made the provision of specialist services their core business. They facilitate a range of OC groups with high-quality services otherwise unavailable because of, for instance, high development or investment costs. Specialisation in a particular niche area can provide an OC group with tools for expanding its activities into other crime areas which would benefit from that skill. For instance, OC groups specialised in document forgery are also sometimes greatly involved in illegal immigration, trafficking in human beings and Euro counterfeiting (Europol, 2006). These groups or individuals with particular useful skills offer their services to a number of different OC groups, enhancing in this way the expertise and sophistication of each group (Kitson, 2004). In the 80 cases that Kleemans et al. (2002) analysed in the Netherlands it was noted that in many cases the same individuals or groups often emerge as the main 'nodes' in networks, as several groups consistently use their illegal services. They repeatedly encountered the names of the same facilitators in different cases (Fijnaut et al., 2004:308). For instance, in drug trafficking, although most of the largest importers of heroin and cocaine tend to concentrate on one or the other type of drug, many drug traffickers appear largely unconcerned about the

⁴ Major drug smuggling and other international criminal groups use transportation specialists and legal experts to research commercial flows and to learn about tariff laws and administrative procedures in the world's major commercial ports. With such information, they are able to exploit international air, sea, and land shipping to move drugs, arms, other contraband, illegal aliens, and even money past customs and law enforcement officers. International criminal organizations use financial experts (some trained in the world's best business schools) to identify new money-laundering mechanisms, to manage investments, and to establish fronts that can be used as covers for smuggling and fraud schemes. This has allowed criminal groups to increasingly diversify their financial operations on a global scale (U.S. Government Interagency Working Group in Support and Pursuant to the President's International Crime Control Strategy, 2000).

⁵ For more information regarding the forms of culpable involvement of legal professionals, see Fijnaut et al. (1998) and Nelen et al. (2003).

different types of drugs they handle and, by inference, the different penalties they face should they be caught. Traffickers frequently move other commodities as well as cocaine or heroin, and often move multi-commodity loads from source to destination country. Shipments consisting of more than one drug are often found where specialist transporters are moving drugs for a number of customers (Europol, 2006). Generally, these providers by providing crucial services have an important function for several groups (Fijnaut et al., 2004:308).

Plywaczewski (1999:59) among the features that he identified as being typical of more sophisticated organised criminal groups in Poland, was their specialisation in particular crimes (Fijnaut et al., 2004:476). For example, in the trafficking of stolen vehicles, thefts are usually committed by criminal groups led by someone who is well informed about the rules governing imports and trade in cars in a given country, including the requirements concerning legal documentation for imports. Other members of such groups include the thieves, the transporters, those dealing with fencing and document forgers who arrange for vehicle documentation. There has been a considerable increase in the level of professionalism of this kind of car theft and the level of criminal specialisation of the perpetrators. Data provided by law enforcement agencies specialised in drug cases indicate the increasing level of professionalism also in the activity of manufacturers of amphetamines in Poland. Criminal groups are no longer satisfied with creating just one laboratory; they insist on creating a whole network of legal laboratories. These operate on a round-the-clock basis, since there is demand for the product and a reliable network of distributors. Criminal cases also indicate that amphetamine producers, who can be described as criminal entrepreneurs, manage their own distribution networks consisting of several couriers selling the drugs in Poland and smuggling them abroad (especially to Sweden, Germany and Great Britain). It seems that they manage the production of drugs in a very professional way and treat it just as they would any other form of economic activity. In one case, an entrepreneur who organised the production of amphetamines was using professional help and equipment and even researched literature on this topic. In another case, in September 2002, police raided an illegal laboratory while the producers were in the process of producing amphetamine sulphate. In this case five individuals were apprehended. One of them was the owner of a large building company specialised in building freeways and shopping malls and, along with the other arrestees, was a respectable businessman in his community. He was also the organiser of a whole illegal drug trafficking scheme, running a large network of domestic and foreign distributors (Komenda Główna Policji, 2003:22; Fijnaut et al., 2004:483).

OC groups will continue to exploit new market opportunities. Investigations and seizure statistics demonstrate the production and trafficking of a variety of 'designer' drugs and medicines, often circumventing legislation. As higher capacity production spreads across the EU, legitimate companies are likely to be exploited for the acquisition and subsequent criminal use of scheduled and non-scheduled chemicals, industrial equipment, specialist glassware and other materials (Europol, 2006).

Measuring the indicator:

The level of the geographic distribution of OC involved in a given crime can be measured by looking at the annual percentage of reported OC offences of a given type involving the participation of one or more specialists (of any type: e.g. chemists, accountants, financial experts, IT specialists etc., either recruited as part of the group on a stable basis or cooperating with its members occasionally, as external consultants eventually linked to other criminal groups).

This said, the modalities of this indicator can range from 1 (no specialisation/use of expert knowledge at all) to 5 (high level of specialisation/use of expert knowledge), where:

- 1 = 0–20% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists
- 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists
- 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists
- 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists

5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists

3.1.4. Intimidating power of OC groups by the use or threat of violence

Assumption linking the indicator to OC probability:

The greater the intimidating power of OC groups within and outside the criminal world, by the use or threat of violence, the more powerful and dangerous these OC groups become in committing the crime and therefore the higher the probability of its occurrence.

Literature supporting the link of the indicator to OC probability:

OC groups may use violence for several different reasons. Violence may be adopted as an offensive or defensive tactic, it may be planned or based on reaction, it may be extreme or limited to a necessary degree, and it may be carried out publicly or hidden (Europol, 2006).

The use (or threat) of violence is considered in terms of the three directions in which it may be directed. *Intra-group* violence is directed at members within the group in order to maintain discipline and the submission of the members to the group or organisation. *Inter-group* violence is directed by one group against another, typically, arising from territorial or cultural rivalry. *Extra-group* violence is directed at the victims outside the criminal fraternity, and it is therefore typical of criminal activity directed at persons or property (Vander Heijden, 1996; Europol, 2003; 2002; 2006).

According to the results of a study by Vander Heijden (1996), these dimensions were not maintained in all of the national reports where the use of violence was indicated. In addition, there was little use of violence by groups in three member states⁶.

In particular, intra-group violence was used to maintain discipline by groups in many countries, varying from approximately one fifth in one member state to all of the main groups in another country. For several foreign origin groups (Turkish, South American, Iranian and Chinese) operating in one member state the use of violence for internal discipline took precedence over violence directed at others within or outside the criminal world. Also in the Netherlands a greater number used violence within their own group than that number that used inter-group violence. Groups of domestic origin use violence for similar purposes. Italian groups are the most significant in this regard. More than 250 persons were killed by the main criminal organisations (Mafia, Camorra, 'Ndrangheta and organisations from Puglia) during 1995. Many were killed in intra-group violence as punishment for behaviour harmful to the organisation. The removal of key personnel by successful law enforcement operations caused internal conflict from which some deaths resulted. Edwards et al. (2003) also found in his study, that 37% of organised crime groups (OCGs) used violence for internal discipline during the period 1997–1999.

The use of inter-group violence can be found throughout the EU, and it seems that the calculated use of violence helps these groups to survive. However, extreme or spontaneous violence is more likely to be counter-productive, as it attracts the attention law enforcement, distracts the group from its core business activities and may result in group members being arrested or killed and assets lost. It is more likely that criminal groups will seek collaboration rather than to engage in violent competition (Europol, 2006).

The use of violence against persons or companies not belonging to the criminal world (extra-group violence) is sometimes an intrinsic feature of crimes such as extortion, exploitation of human beings and robbery. Other activities, such as illegal immigration or trafficking in human beings, can take place without using extreme violence; however, also in these cases the use of violence is endemic. Based on reputation or mere appearance, the threat of violence can also be exercised, especially in relation to individuals. A clear distinction must be made between the use of violence as an intrinsic part of a specific crime, and the planned use of violence by well-established OC groups to hinder law enforcement activities.. To consider certain nationalities as most threatening, simply because they use violence as part of their preferred criminal activity,

⁶ Also the CoE OCSR 2002 that briefly analysed the use of violence within organised crime groups in connection with the OC group structure and ethnical background, mentioning the fact that it seemed that the more sophisticated the structure, the more limited the use of violence, as in the case of OC groups in Estonia, and also mentioning that the use of violence was sometimes closely connected with the ethnical background of the OC members.

is problematic. However, certain areas are more violent than others, and so are certain OC groups or gangs, perhaps because of a violent group 'culture' (Europol, 2006).

According to Fijnaut et al. (2004:234) the use of violence has long been a characteristic feature of any form of organised crime. The gangs of the 17th and 18th century were feared because they frequently made use of violence in perpetrating their crimes but also employed violence with equal ease against those who were willing to help the authorities in the fight against them. It was only when gangs used exceptional levels of violence that victims and others were prepared to collaborate with the authorities, for example by providing information. Whether their cooperation proved successful obviously also depended on whether the authorities did or did not make a strong commitment to tackling serious crime head-on. In countries where this took place and where tough criminal justice was established, the gang system was substantially repressed.

In any case, recent empirical work into the United Kingdom's drug trade (Pearson and Hobbs, 2001) suggests that violence is relatively rare, and should be regarded as a resource to ensure contract compliance, principally as a means of ensuring that creditors do not default on debt. However, it is also acknowledged that illegal markets, are not purely economic systems, and that many of those featuring in the middle market drug dealing networks bring with them prior reputations for violent action (Hobbs, 1995). Furthermore, these reputations are often acquired through their involvement in non-instrumental criminal arenas. Overt violence, when it does occur, was best understood by Pearson and Hobbs (2001) as the result of market dysfunction and instability occurring when competitiveness is threatened by the breaking down of an established system of trust. Little evidence was found for the so-called 'turf-war'. Kidnap and torture, which often goes unreported, was regarded as a growing tendency, and a comparatively recent innovation that complements the established use of violence and intimidation. This activity was used to enforce contractual arrangements and in particular the payment of debt, and as an intimidatory device to reinforce a violent reputation. It also functioned as a form of extortion to extract funds from rival dealers. This latter form should be regarded as an alternative to robbery from individuals with a surfeit of readily available cash who are unable to turn to the police for assistance). However, there is a danger in exaggerating both rationality and instrumentality in drug markets. Such a view may inspire yet again traditional organised crime clichés and consequently the flexible, intricate relationships and constantly mutating nature of organised criminal networks could be ignored. When these webs of relationships are untangled, violence is often exposed as the expression of personal disputes and conflicts, as opposed to structural characteristics and aims. The articulation of macho status within many of the environments that overlap with illegal markets cannot be ignored, for organised crime is a social as well as economic system, and pervades both commercial and personal lives (Fijnaut et al., 2004).

To summarise, a major issue related to organised crime is the use of threats, intimidation and violence as enforcement tools. OC groups use some form of intimidation or physical violence in order to demonstrate power and maintain internal discipline by preventing disobedience, or against other groups for the elimination of competitive groups from the market, for debt collection and to facilitate the conduct of the organisation's criminal activities. Intimidation and violence are crucial instruments for resolving conflicts, silencing potential witnesses and eliminating business rivals and law enforcement agents who interfere with the criminal organisation's operations (Schloenhardt, 2003; Martin and Romano, 1992; Reuter, 1983; Savona et al., 1995; NCID, 2004; CoE, 2001; 2002; 2004). However, extreme or spontaneous violence is more likely to be counter-productive, since it attracts the attention of law enforcement and may increase the willingness of victims and others to collaborate with the authorities by exchanging information for protection. For this reason, to consider certain nationalities as most threatening, simply because they use more violence as part of their criminal activity is problematic. What appears to be threatening, though, is the increased intimidatory power of the OCGs within and outside the criminal world, due to the use, or even better threat of violence, rendering them this way more powerful and dangerous for the commission of criminal events.

Measuring the indicator:

The level of intimidatory power of OC groups within and outside the criminal world by the use or threat⁷ of violence can be measured by looking at the annual percentage of reported OC offences of a given type

⁷ The term 'threat' of violence indicates that the OCGs may not use violence at that time but still have intimidatory power due to past demonstrations of acts of violence. This is why in assessing the intimidatory power of the groups also their past use of violence by the OCGs should be considered.

involving use or threat of violence, both within and outside the criminal world. Violence is meant as any form of violence, both physical and psychological, and threat thereof.

This said, the modalities of this indicator could range from 1 (no intimidatory power at all) to 5 (high level of intimidatory power), where:

- 1 = 0–20% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world
- 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world
- 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world
- 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world
- 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world

3.1.5. Use of corruption by OC groups

Assumption linking the indicator to OC probability:

The higher the level of corruption used by the OC groups involved in a given crime, the higher the probability of its successful occurrence.

Literature supporting the link of the indicator to OC probability:

A concomitant of much organised crime is the corruption of public officials. It is essential to note that serious and profitable illicit activities – whether related to ancient sculpture, nuclear material, drugs, illegal aliens or prostitution – invariably rely at some point in time on the support of corrupt public officials. Corruption is a necessary condition for organised criminals to operate (Thrasher, 1963; Maltz, 1990; Vander Heijden, 1996; United Nations, Crime Prevention and Criminal Justice Division, 1997; NCIS, 2002; Europol, 2003). Therefore, the ability for OC groups to achieve the growth of their activities depends greatly on the relations it establishes with corrupt officials (Kitson, 2004; Shelley, 2001). Most organised crime groups have been enormously successful in their illegal ventures because they have successfully corrupted officials to the extent that it is no longer possible to distinguish between them (U.S. Government Interagency Working Group in Support and Pursuant to the President's International Crime Control Strategy, 2000).

Criminal groups in Europe are known to use influence or corruption in order to lower risks or gain opportunities in relation to their criminal activities. Lowering risks, or gaining opportunities, has to do with ensuring a safe environment for their activities – that is to remain undetected, to avoid investigation or prosecution, or even conviction. In other words the facilitation payments made by the OC groups to public officials have the objective of receiving preferential treatment for something the individual receiving the bribe is required to do by law, or to obtain services the individual receiving the bribe is prohibited from providing (Europol, 2006). As McWalters (1999) states it does not require a huge depth of intellect by a criminal businessman to realise that he can increase the profitability of his enterprise by corrupting those whose job it is to combat it. The costs of his bribery need not even reduce his profits as he can pass it on to those who utilise his services or buy his product.

The use of influence and corruption by OC groups can occur at different levels: from low-level official (e.g. police officers) to high-level politicians and government officials (Fijnaut et al., 2004:486; Europol, 2006).

A criminal group may attempt to corrupt low-level officials to create a safe environment to conduct their criminal activities by obtaining false identities and documents, advanced information about police activity, manipulation of official records, cause evidence to disappear and getting access to jury identities. When this relationship between OC groups and low-level officials becomes more regular and continuous (i.e. systematic) this provides OC groups with constant access to confidential information allowing them to maintain patterns of illegal activity and as well remain 'one step ahead' of the Police (United Nations Centre for International Crime Prevention, 2000).

Crime groups seek to corrupt high-level politicians and government officials for a variety of reasons, including to gain high-level protection for themselves and their activities, gain insider information about national-level law enforcement investigations and national economic planning, as well as to influence legislation or statutory regulations that could affect their interests (U.S. Government Interagency Working Group in Support and Pursuant to the President's International Crime Control Strategy, 2000; United Nations Centre for International Crime Prevention, 2000). For example, since the early 1990s Cosa Nostra and 'Ndragheta families have extracted a growing percentage of their income from entrepreneurial activities that depend on the exercise of regional political domination. They practice systematic extortion in their communities and, thanks to intimidation and collusion with corrupt politicians; they have fought to control the market for public works. Unlike other western forms of organised crime, the meaning (and danger) of Sicilian and Calabrian mafia associations are not limited to their involvement in illegal markets. Their peculiarity lies in their willingness to exercise political power and their interest in exercising sovereign control over the people in their communities (Fijnaut et al., 2004:277).

In fact the analysis carried out by Buscaglia et al. (2003) has confirmed a very strong level of association between organised crime and both low-level and high-level corruption (also called state capture). However, according to Europol (2006) this latter is clearly the more threatening to the EU as a whole, as it will often involve large sums of money and is more difficult to combat. A criminal group attempting to corrupt low-level officials to create a safe environment to conduct their criminal activities poses a less serious threat than the attempts to influence high-level law enforcement personnel, such as the judiciary and politicians. The latter can occur not only by paying money, but also by exchanging benefits of different kinds, which may be non-financial and is more difficult to combat by law enforcement. For this reason alone, it poses a considerable threat to the EU.

In addition, what further seems to be relevant in terms of the probability that an organised criminal event will occur successfully, is the degree of intensity in the use of corrupt officials by OCGs. Corruption appears in permutations and in degrees of intensity. Degrees of intensity vary from the occasional acceptance of bribes to systemic corruption where bribery is the accepted way of 'doing business' and the large-scale looting of a country's resources takes place. Thus corruption also manifests as personal and political corruption. Corruption increases if left unattended and once this has culminated in systemic corruption, it creates a bigger challenge to address (Langseth, 2000). Organised criminal groups have demonstrated their preference towards 'systemic' corruption designed to ensure the preservation of a congenial and low-risk home base or a comfortable environment in host countries. Such a method of operation may be characterised by widespread use of bribery and favours to ensure the malleability of key positions and agencies; political funding to ensure that politicians elected to office will be indebted to the criminal organizations; carefully targeted 'payoffs' to law enforcement personnel to provide intelligence; and the provision of financial incentives to members of the judiciary to ensure that the penalties for criminal activities are either not imposed or are modest. Indeed, systemic corruption is one of the ways in which criminal organizations develop a symbiotic relationship with the State (i.e. state capture). Obstruction of justice is an offence that may be used against officials who seek to hide or cover up such illegal activities by misdirecting investigations or destroying evidence. Such misconduct is often linked to the operation of illegal enterprises and markets – what is usually considered organised crime. The best-organised crimes are perpetrated discreetly, without risking scandals or public attention, and with the collaboration of officials. Whenever there is the suspicion of serious drug trafficking, arms trafficking or other smuggling operations on a grand scale, it can be expected that the collusion and illicit enrichment of some official will be found. In dealing with such practices, legal tools used against organised criminal groups, such as the Racketeer Influenced and Corrupt Organisations (RICO) statute in the United States of America, may prove useful in the punishment of corrupt officials (United Nations, Crime Prevention and Criminal Justice Division, 1997; United Nations Centre for International Crime Prevention, 2001).

In this context, five levels of infiltration of the public sector by organised crime can be identified that need to be addressed by policy makers, relevant to both the level and degree of intensity in the use of corrupt officials by organised crime groups. The first level involves sporadic acts of bribery or abuse of public office at low levels of government agencies by organised crime. The second level involves acts of corruption occurring on a frequent basis by having low-ranking state officials on the organised criminal payroll. The third level occurs when organised crime infiltrates the managerial domain of public agencies in an attempt,

for example, to influence the hiring of state personnel in order to favour the operations of criminal groups. The fourth level of infiltration compromises the heads of agencies responsible directly or indirectly for fighting organized crime-related activities (e.g. drug enforcement agencies) or may involve cases of agencies providing potential long-term benefits to a criminal group (e.g. customs). This fourth level represents an increased perniciousness with long-term negative effects on the capacity of the State to eradicate corruption and organised crime. Finally, the fifth level of infiltration by organized crime encompasses the capture of the State's policies by criminal groups who are then able to influence law making, law enforcement and judicial decisions themselves. This fifth type of state infiltration involves high-level officials such as senators, ministers or even presidents of countries usually compromised by organized criminal groups in order to influence policy-making. At this fifth level of infiltration, organized crime is involved in the campaign financing of politicians or through other more common types of extortion and family links to high-level officials. Such state capture represents the highest level of corruption in the public sector, which paves the way for the expansion and consolidation of transnational organised crime (United Nations Centre for International Crime Prevention, 2000; Buscaglia et al., 2003).

Measuring the indicator:

The level of corruption used by OC groups involved in a given crime can be measured by looking at the annual percentage of reported OC offences of a given type involving the use of corruption, where the term corruption is to be interpreted extensively and would range from the occasional acceptance of bribes to systemic corruption where bribery is the accepted way of 'doing business' and the large-scale looting of a country's resources takes place (Langseth, 2000).

This said, the modalities of this indicator could range from 1 (no corruption usage at all) to 5 (high level of corruption usage), where:

- 1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of corruption
- 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of corruption
- 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of corruption
- 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of corruption
- 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of corruption

3.1.6. Use of legitimate business structures⁸ by OC groups

Assumption linking the indicator to OC probability:

The greater the use of legitimate business structures by the OC groups involved in a given crime (to launder their ill-gotten proceeds or to conceal the illicit activity), the more economically powerful these OC groups become in committing the crime and therefore the higher the probability of its occurrence.

Literature supporting the link of the indicator to OC probability:

The use of commercial structures by OC to assist in their criminal activities is recognised as one of the key OC features and is occurring throughout the EU (Europol, 2005; Williams and Godson, 2003; Fiorentini and Peltzman, 1995). For example, in Belgium as stated by CTIF-CFI, '*the use of commercial structures serves to facilitate criminal activities or to assist in the establishment of (inter)national money laundering networks. By mixing legal and illegal activities, the most visible part of the fund flows are concealed and, in this way, organised crime can be offered effective protection*' (Financial Intelligence Processing Unit Annual Report, 2001).

Commercial structures may be used for a variety of reasons by OCGs. They are mainly used by OCGs to launder illicit proceeds, to cover and facilitate their illegal activities, to hinder criminal investigations, to gain profits in order to finance criminal activities or to conduct a legitimate business in an unlawful way (Europol, 2005; Williams and Godson, 2003; Fiorentini and Peltzman, 1995). The extent to which commercial structures are used may vary considerably by location, from 40% to approximately 80% (Vander Heijden, 1996). This

⁸ The terms 'legitimate business structures' and 'commercial structures' are used interchangeably to describe enterprises that are officially registered, e.g. legal companies or companies especially established for criminal purposes.

type of characteristic of OC groups was also used in the threat assessment model of the Australian Crime Commission (Kitson, 2004).

OC does not operate exclusively within a criminal underworld, but makes regular and widespread use of legal businesses to support and facilitate its criminal activities. OCGs employ different methods for controlling and influencing – at varying levels – legal business (Europol, 2006). It is possible to divide the use of legitimate business structures by OC into three main categories:

- the use of *pre-existing legal firms*, in which several employees cooperate unknowingly and unwillingly with organised criminals, that in this way facilitate them in their illegal endeavours (CoE, 2001; Europol, 2006);
- the use of companies with *mixed legal and illegal activity within the company*, where criminals collude with or coerce employees, or even managers, working for perfectly legal and trustworthy companies. Corruption or coercion can be also used to request the hiring as regular workers of members of the OC group, who will then facilitate the use of that business for illicit purposes (CoE, 2001; Europol, 2006);
- the *use of front companies*, including those offshore, which are almost devoid of any real commercial activity (CoE, 2001). Criminals set up and run the businesses themselves and in many instances, the chosen legal activity has a direct connection with the type of crime that specific OC group is involved in. This is the case of OC groups involved in illegal trafficking that run import–export or transport companies, or criminals involved in trafficking in human beings or facilitating illegal immigration working as travel agents, employment agents or impresarios. However, if their legal business is run to launder money or to give a legal facade to their illicit activities, criminals may engage in business created ad hoc with no relationship to their criminal sectors (Europol, 2006).

The three categories listed above are present, in varying degrees, in all countries where OC thrives. Italian organised crime groups show an interesting use of these structures, as they make use of all three forms of corporate abuse (CoE, 2001). According to Europol (2006), though, the last category is the most threatening, as a business set up and run by criminals has a significant social and economic impact. However, in terms of probability all three forms are of importance for OC groups in successfully carrying out their criminal activities.

Therefore business companies may have different roles in their relation with organised crime: as a victim, intermediary, accomplice or even offender (when there are exclusively front companies). The distinction between *victim* and the other roles mentioned may be hard to make (Bucquoye et al., 2005). Even if a business is victimized, the relationship with the offender may be full of ambiguity and contradiction, if for example the criminals involved are also clients of the company, who normally add to its profitability (Levi and Maguire, 2004).

To sum up, the use of commercial structures appears to be a *modus operandi* engaged in by OC groups operating within the legal market. Criminal enterprises seek to penetrate legitimate business by exploiting vulnerable points of entry into particular firms or industries, in order to protect their funds, to provide apparent legitimacy for wealth and, in a few cases, to provide an option for a transition to licit business or retirement from criminal activities (Williams and Godson, 2003; Fiorentini and Peltzman, 1995). However it should be pointed out, that with regard to the illegal market, licit business enterprises can also be excellent covers for various kinds of trafficking activities (Belgian Financial Intelligence Processing Unit Annual Report, 2001).

Measuring the indicator:

The level of the usage of legitimate business structures by the OC groups involved in a given crime can be measured by looking at the annual percentage of reported OC offences of a given type involving the use of legitimate business structures, where the term corruption is to be interpreted extensively and would include the use of pre-existing legal firms; the use of companies with mixed legal and illegal activity; the use of front companies, including those offshore, which are almost devoid of any real commercial activity (CoE, 2001).

This said, the modalities of this indicator could range from 1 (no use of legitimate business structures at all) to 5 (high level of legitimate business structures usage), where:

- 1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures
- 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures
- 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures
- 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures
- 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures

3.1.7. Use of Information and Communication Technology by OC groups

Assumption linking the indicator to OC probability:

The greater the use of Information and Communication Technology (henceforth ICT) by the OC groups involved in a given crime, the greater their capacity to perpetrate the crime and avoid law enforcement detection and therefore, the higher the probability of its occurrence.

Literature supporting the link of the indicator to OC probability:

Organised crime groups use IT tools to an increasing degree not only to commit their crimes, but also to enhance and facilitate systems of communication while often obscuring the identity of group members, affording criminals considerable security from law enforcement operations (Kitson, 2004; Europol, 2003; Albanese, 2001; U.S. Government Interagency Working Group in Support and Pursuant to the President's International Crime Control Strategy, 2000; Queensland Crime Commission, 1999; Morisson, 2002).

Recent technological developments have created a wide range of novel methods by which individuals may break the law. Technology not only facilitates the committing of traditional crimes in new ways (forgery, identification theft, drug trafficking, child pornography) but also the devising of entirely new types of crime such as cyberterrorism. One of the main fears regarding technology and crime is the much wider availability of contact, and thus the available pool of victims, which is possible through the use of recent telecommunication and internet technologies (Graycar et al., 2002; Cohen, 2001). The advantages the internet offers in terms of information and communication technology are extremely beneficial to OC. The underground cultures built around some of the high technology phenomena such as hacking and cracking are perfect for support, contacts, recruitment, advice and clients (Europol, 2006). Besides internet this was described to be particularly apparent also through the use of pre-paid telephone cards, the frequent exchange of mobile phones and the increased use of SMS text messaging systems (U.S. Government Interagency Working Group in Support and Pursuant to the President's International Crime Control Strategy, 2000; Europol, 2001; 2003).

The capacity to network globally benefits not only principled advocacy groups like Amnesty International, but anyone with a non-governmental agenda to pursue, including organised crime. Perhaps the most significant use of information technology is the growing capacity for money laundering, with large sums of money being laundered each year, ranging in several hundred billion dollars and camouflaged within the far larger set of legitimate transactions. Crime on this scale threatens political stability, as well as the ability to carry out macro-economic policy. Yet information technology promises to make money laundering much easier through potentially untraceable electronic transfers of electronic money (Higgott et al., 2000).

Another important aspect is that such technologies have indeed increased the global potential for communication and illegal networks of criminal activity, posing significant difficulties for the transnational policing of crime (Graycar et al., 2002; Cohen, 2001). Communication between OC groups and its members need to be either wholly secret or sufficiently difficult to penetrate in order to avoid giving law enforcement foreknowledge of what is planned or the ability to piece together evidence that a crime has been committed. OC groups by relying on fast and secure means of communication, such as e-mail, internet chat rooms and

instant messaging, combining speed of communication with encryption tools, achieve an unprecedented security for the data they store and exchange (Europol, 2006).

To sum up, advanced communication networks and in-depth knowledge of information technology enables OC groups to operate in a well-organised manner and at the same time to cover both legal and criminal activities. For this reason ICT will strongly influence OC, who will always aim to better exploit all possible uses in already existing criminal activities and in new unregulated sectors, while minimising the risk of being detected and punished (Europol, 2006; Savona, 2004).

Measuring the indicator:

The level of usage of legitimate business structures by the OC groups involved in a given crime can be measured by looking at the annual percentage of reported OC offences of a given type involving the use of ICT, either to perpetrate a crime or to avoid law enforcement detection.

This said, the modalities of this indicator could range from 1 (no use of ICT at all) to 5 (high level of ICT usage), where:

- 1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of ICT
- 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of ICT
- 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of ICT
- 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of ICT
- 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of ICT

3.2. Indicators regarding the law enforcement risk for a given crime

Referring to the indicators related to the risks for criminals committing the given event by taking into account the level of effort by law enforcement (Albanese, 2001), as the more effort focused on a specific crime, the less likely it is that that particular crime will be committed again (Transcrime, 2003; 2002). Savona (2004)⁹ stated that law enforcement risk refers to the sum of the probabilities of being identified, arrested, convicted and having one's assets confiscated. Therefore, according to this definition, indicators relative to the level of effort by law enforcement could be the following:

3.2.1. Probability of being convicted for a given crime

Assumption linking the indicator to OC probability:

The higher the probability of being convicted for a given crime, the lower the probability that the crime is committed.

Literature supporting the link of the indicator to OC probability:

Criminometric studies¹⁰ both correlation and cross section regression analyses, as a whole, indicate a negative association between crime and the probability of punishment (Nussim and Tabbach, 2005; Levy, 2002; Eide, 1994).¹¹ The result may be regarded as a rather firm corroboration of the deterrence explanation in the theory of rational behaviour: an increase in the probability of punishment will decrease the expected utility of criminal acts, and thereby the level of crime (Eide, 1994:156).¹²

⁹ Quoted in Kututwa N. & Kunaka C. (2001), *Practical Value of Legislation to Combat Organised Crime: A Southern African Perspective*, paper presented for the 2nd World Conference for the Investigation of Crime, Durban, 3–7 December 2001.

¹⁰ The term 'criminometric studies' is used to indicate those studies that used a model that 1) has a clear basis in criminological theory concerning which factors influence crime, 2) is expressed in a mathematical form and 3) is defined so that statistical theory can be used in empirical tests and estimations (Eide, 1994).

¹¹ For a detailed review of these empirical studies see for example Eide (1994), Levy (2002), Dahlbäck (2003).

¹² However doubts exist in relation to the deterrence effect of punishment variables. Some authors found that differences in punishment variables for one type of crime tend to have significant effects on other types of crime or trigger offenders to engage 'avoidance activities' that is costly activities that can reduce the probability of apprehension, conviction or punishment (Nussim and Tabbach, 2005; Eide, 1994). Although virtually all criminal legislation is pervaded by the belief

The first attempts to study crime as rational behaviour date back at least to Beccaria (1791) and Bentham (1864). Economics has produced a large amount of literature that examines the relationship between criminal enforcement and the compliance with laws – known as criminometric studies or Economics of Crime – which begins with Becker’s classic 1968 article, *Crime and Punishment: An Economic Approach*. Becker employs the utility maximization approach earlier developed by the philosopher Bentham and he considers that an individual, as a rational maximiser in a situation where an offence is an optional risk, will take into account the probability of being caught, and various costs and benefits associated with the act. Whether the offence will be committed or not, depends on the individual’s perception of these factors. The possibility that the individual’s beliefs about these factors are wrong does not ruin the model as a theory of *subjective* behaviour (Levy, 2002; Eide, 1994).

Formal sanctions may deter people from committing crimes. The possibility of punishment is an aspect of the environment that determines – in a probabilistic manner – the outcomes of particular courses of action.¹³ Information about sanctions may be obtained through personal experience, by contact with people having experience with the criminal justice system, through media and by the more general cultural surroundings (Eide, 1994). However, because criminals and potential criminals rarely have accurate information about the probabilities of arrest, conviction and imprisonment, their personal assessments of the expected punishments vary widely. Some overestimate their probability of success, while others underestimate it.¹⁴ Despite the element of subjectivity, if the (objectively measured) expected cost of crime to criminals declines, crime increases and vice versa. This theory is consistent with the perceptions of potential criminals and it is supported by considerable statistical evidence (NCPA, 2002).¹⁵ A Panel on Research on Deterrent and incapacitate Effects appointed by the Governing Board of the UN Research Council concluded that: ‘Taken as a whole, the reported evidence consistently finds a negative association between crime rates and the risk of apprehension, conviction or imprisonment’ (Blumstein et al., 1978).

Measuring the indicator:

The probability of being convicted for a given OC offence can be measured by looking at the annual ratio of people convicted for a given OC offence/number of people reported for a given OC offence. The higher this ratio, the higher the probability of being convicted for a given OC offence, and therefore the lower the probability of its occurrence.

This said, the modalities of this indicator could range from 1 (high ratio number of people reported for a given OC offence/number of people convicted for a given OC offence) to 5 (low ratio number of people reported for a given OC offence/number of people convicted for a given OC offence), where:

that punishment does have an abating effect on crime, neither theory nor empirical studies have resolved with certainty the question of whether or to which degree, punishment deters (Dahlbäck, 2003). Certainly, several empirical studies over the last 20 years confirm the general prevention hypothesis, but methodological problems cast doubt on results, and some criminologists are quite reluctant to believe in a significant deterrence effect of punishment at all (Levy, 2002). However, most scholars seem to agree that a complete lapse of the threat of punishment will be followed by a marked increase in crime. As far as moderate changes in the threat of punishment are concerned, however, the empirical basis for drawing definite conclusions about the effect on crime is disputed. The theoretical and empirical status of most other possible determinants of crime is also controversial (Eide, 1994).

¹³ For more information on the preventive effect of sanctions see for example Freedman (2004), Eide (1994), Gibbs (1975) and Hawkins and Zimring (1973).

¹⁴ One of the criticisms sometimes levelled against economics of crime literature is that criminals may not be aware of the likelihood of arrest/conviction or the extent of penalties. While there is some evidence that criminals are more informed than the general public about enforcement and penalties (Eide 1999), there may also be a tendency for individuals to think that they will not be caught or imprisoned (i.e., underestimate probabilities of harm and likelihood of being caught). Although economic applications are often couched in terms of actual probabilities of conviction and penalties, they can also be applied to perceived values of these variables (Levy, 2002). However, for example a survey of drug smugglers conducted by the Office of National Drug Control Policy (2001) found that no one would continue to offend with a 25/100 chance of conviction. Clearly, the prospect of conviction appears to provide a more powerful deterrent than arrest.

¹⁵ For more information see for example Office of National Drug Control Policy (2001), Horney and Marshall (1992) and Viscusi (1986).

1 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,81 to 1

2 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,61 to 0,80

3 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,41 to 0,60

4 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,21 to 0,40

5 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0 to 0,20

3.2.2. Probability of having the proceeds of a given crime confiscated

Assumption linking the indicator to the OC probability:

The higher the probability of having the proceeds of a given crime¹⁶, confiscated the lower the probability that the crime is committed.

Literature supporting the link of the indicator to OC probability:

The confiscation of the proceeds of a crime is seen as a key element in any modern strategy to fight organised crime. Such a measure satisfies the retributive principles that ‘crime should not pay’ and that ‘no-one should profit from an illegal act’, by removing unjust enrichment and restoring the legitimate distribution of wealth in society. It also reduces the attractiveness of crime by decreasing its expected monetary benefits which constitute the main motive for illegal activity, and thereby act as a deterrent (Vettori, 2006; Hawkins, 1999; Bell, 1999; Albrecht, 1998; Levi, 1997).¹⁷ By removing their working capital for investment in further criminal activities and infiltration of the legitimate economy, the probability of further commit such activities decreases.¹⁸

During the past few decades the revival of confiscation as a crime control strategy has been noted not only in Europe, but also worldwide.¹⁹ This was the consequence of widespread concern about the increased financial power of criminals and their ability to penetrate and corrupt the legitimate sphere by introducing dirty money into the legal system (Vettori, 2006; Pieth, 2002). This led to the, so called, ‘age of proceeds’ – initiated by the War on Drugs, which was launched in the United States in the 1980s and rapidly spread throughout the world (Pieth, 2002; Levi, 1997) – characterised by the awareness that monetary gain is one of the most important incentives for engaging in serious crimes, and that it provides criminals with the capital necessary to commit further offences and to infiltrate and corrupt the legitimate economy (Vettori, 2006; Gallant, 1999; Thornton, 1990).

¹⁶ The term proceeds of crime ‘confiscation’ can be defined as the permanent deprivation, by order of a court or some other competent authority, of any property (i.e. assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets) derived or obtained, directly or indirectly, through the commission of an offence. Seizure powers are normally available in order to secure the proceeds from crime and to prevent them from being dissipated before confiscation. Seizure can be defined as temporarily prohibiting the transfer, conversion, disposition or movement of property, or temporarily assuming custody or control of property, on the basis of an order issued by a court or a competent authority (Vettori, 2006).

¹⁷ However doubts about the effective capacity of confiscation to fulfil the various aims assigned to are expressed by various authors. Some noted that the confiscation of their proceeds may simply induce criminals to refine their concealment techniques instead of deterring them, while others maintain that criminals are motivated by factors other than profit and such a measure will only intensify their propensity to spend. For more details on the subject see, for example, Vettori (2006), Naylor (1999), Levi and Osofsky (1995).

¹⁸ In the U.S. in a study where the threat posed by specific terrorist groups was assessed (Katzman, 2005), considered, among other parameters, the response of the law enforcement and its effects, such as the freezing of assets of the group (e.g. arms, military advice) and finances, as well as members of the group detained or arrested around the world.

¹⁹ See for example Council of Europe (2001), Clarke (2001), Worrall (2001), Cassella (2001), Baldwin (2000), Naylor (1999), Ehlers (1999), Fisse (1992), Thornton (1990).

Therefore, economic sanctions against organised crime are an effective deterrent if they place a criminal organisation's assets out of its reach. As Shelley (2001) noted the ability to safeguard the proceeds of transnational criminal activity, tax evasion and corruption have served as significant incentives for the growth of money laundering. There is limited risk and few deterrents for the money launderers and the professionals who aid their activities and the limited seizures that do take place are merely 'one more cost of doing business'. The international efforts sponsored by the Organised for Economic Cooperation and Development (OECD) to limit offshore havens and to sanction countries that facilitate money laundering have so far failed to sharply curtail money laundering.

The problem is that after years of implementing such sanctions, there is a large difference between the amount of assets seized at the beginning of the criminal process, when criminals are prosecuted, and the amount finally confiscated when conviction is obtained. Investigative problems, investigation techniques and procedural issues such as the burden of proof, hamper the full effectiveness of this legislation (Transcrime, 2001).

However, these problems need to be addressed nationally and internationally, as increasing the amount of confiscated assets would improve the results of the international fight against organised crime (Vettori, 2006; Transcrime, 2001; Hawkins, 1999; Bell, 1999; Albrecht, 1998; Levi, 1997).

Measuring the indicator:

The probability of having the proceeds from a given OC offence confiscated can be measured by looking at the annual ratio value of confiscated assets for a given OC offence/value of seized assets for the given OC offence. The higher this ratio, the higher the probability of having the proceeds from a given OC offence confiscated, and therefore the lower the probability of its occurrence.

This said, the modalities of this indicator could range from 1 (high ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence) to 5 (low ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence), where:

Measuring the indicator:

- | |
|---|
| <p>1 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0 to 0,20</p> |
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4. SUMMING UP THE IKOC METHODOLOGY

The table below summarises the methodology developed in section 3, which is intended to be applied separately to each of the main activities carried out by OC groups identified in WPs 3 and 4, i.e. drug trafficking, trafficking in human beings, smuggling of immigrants, fraud, counterfeiting, tobacco smuggling, trafficking in stolen vehicles, trafficking in arms, money laundering and corruption.

TABLE 1. IKOC METHODOLOGY TO MEASURE THE PROBABILITY OF A GIVEN OC ACTIVITY

FACTORS RELEVANT TO MEASURE THE PROBABILITY OF A GIVEN OC ACTIVITY	INDICATORS OF PROBABILITY OF A GIVEN OC ACTIVITY	MODALITIES
Characteristics of OC groups	Links/cooperation between OC groups involved	a range from 1 to 5, where 1 = 0-20% of annual reported OC offences of a given type involving cooperation between two or more groups 2 = 21% to 40% of annual reported OC offences of a given type involving cooperation between two or more groups 3 = 41% to 60% of annual reported OC offences of a given type involving cooperation between two or more groups 4 = 61% to 80% of annual reported OC offences of a given type involving cooperation between two or more groups 5 = 81% to 100% of annual reported OC offences of a given type involving cooperation between two or more groups
	Geographic distribution of the OC groups involved (or overseas routes)	a range from 1 to 5, where 1 = 0-20% of annual percentage of reported OC offences of a given type involving more than one country 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving more than one country 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving more than one country 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving more than one country 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving more than one country

	Specialisation/Use of expert knowledge by OC groups involved	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists</p>
	Intimidatory power of OC groups involved by the use or threat of violence	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p>
	Use of corruption by OC groups involved	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of corruption</p>

	<p>Use of legitimate business structures by OC groups involved</p>	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p>
	<p>Use of Information and Communication Technology by OC groups involved</p>	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of ICT</p>
<p>Law enforcement risk</p>	<p>Probability of being convicted for the given OC activity</p>	<p>a range from 1 to 5, where</p> <p>1 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0 to 0,20</p>

	<p>Probability of having the proceeds of the given OC activity confiscated</p>	<p>a range from 1 to 5, where</p> <p>1 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0 to 0,20</p>
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ANNEX 14

DEVELOPMENT OF COMMON EU INDICATORS FOR MEASURING THE IMPACT OF OC ACTIVITIES

By:

- Pierre Kopp, Centre National de la Recherche Scientifique (*coordinated by*)
- Fabien Besson, Centre National de la Recherche Scientifique

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1. INTRODUCTION

This paper is the draft deliverable for WP 14 of Project IKOC – Improving Knowledge on Organised Crime. The objective of WP 14 was to create a methodology to calculate the impact of OC activities.

As the European definition of “organized crime” is extremely comprehensive (that committed by more than two persons), it seems reasonable to consider that the cost of crime committed by organized crime is equal to the cost of all crime. Such an approximation leads to an overestimation because some crimes are included (passionate murders) when they should not be. Nonetheless, it seems sensible to calculate the global cost of crime and then, if necessary, to attribute a part of the aggregate to criminal organization (defined more restrictively). For this purpose, we will exclude from our calculation crimes which are definitely not linked to criminal organisations (passionate murders, small burglaries, etc) and we will focus on the main offences which are the heart of the business of organised crime (fraud, counterfeit, etc.) As for identifying the crimes to which the methodology refers, these have been selected on the basis of the findings from the Project’s first deliverables, which identified principle OC activities (Counterfeiting, Drug trafficking, Fraud, Tobacco smuggling, Trafficking in stolen vehicles Trafficking in arms, Money Laundering and corruption, Smuggling of immigrants and trafficking in human beings).

Our purpose is not to calculate the cost of crime, but to assess the risk presented by organised crime. Herein lies a big difference. Cost measurement, from the policy maker’s point of view naturally leads to the concept of social cost, i.e. measuring the resources which are wasted because of the existence of organised crime. Evaluating the risks to society of organised crime comes under the heading of international comparison. It means describing the danger hovering over society of any organised criminal activity. Considering that, as pointed out in deliverable 10A for this project, the concept of (organised) crime risk can be defined as being the result of the probability that an (organised) criminal event, as a negative event, will occur and of its HARM [OC RISK= PROBABILITY of an OC event X its HARM]. Otherwise stated, in a given country, and for a given activity (for example car trafficking) there exists a probability (classed from 0 to 5) that the cars will be stolen and each theft produces societal damage (classed 0 to 5) .The result of these two variables (classed between 0 and 25) gives the country’s position, in light of criminal activity, on the risk scale. The fact that two countries can be characterised, for a given criminal activity, by the same level on the scale, with in one case a probability of 1 and a harm of 5 or vice versa, does not present a methodological problem. To begin with, it is logical to consider that a serious and infrequent phenomenon and a frequent but non serious phenomenon present the same risk. Secondly, the public decision maker possesses the index and can then adapt his choice to the exact nature of the situation, notably in extreme cases. In fact, we agree to consider that a threat of lesser seriousness but of extreme cost (terrorism) can lead to a same aggregated result as a frequent threat without real consequences.(car radio theft) and that such an identification in the rating indicates nothing of significance as far as the behaviour of a public policy is concerned. Wherein the importance of examining the index composition and not only the result. The present contribution is centred on the harm calculation method. The measurement technique we propose must be simple and compatible with data which can be collected by the police force. This method is likely to evolve as and when the data collection becomes homogenised amongst the union countries. We shall therefore precisely indicate the method to follow when the collection system is only slightly developed and the direction in which this should be improved.

The paper is organised as follows: Section 2 is a review of the literature. Section 3 presents the different strata of consequences imposed on society by organised crime. Section 4 discusses the social cost calculation method and concludes that it is not adapted to crime risk assessment. Section 5 proposes an original method and Section 6 discusses the conditions for its implementation.

This draft has been produced by the CNRS, leader of WP 14, directed by Pierre Kopp, Professor of Economics at the Pantheon–Sorbonne (Paris 1); written with Fabien Besson (Paris 1 Pantheon–Sorbonne); and revised by Dr. Barbara Vettori, Executive Project Manager of the Project. Nicholas Dorn gave precious help during many informal talks.

2. REVIEW OF THE LITERATURE

One of the main purposes of literature on crime economics, and more precisely organised crime, is to evaluate the impact of criminal activities on the society, mainly in terms of cost. In this perspective, one of the first difficulties in literature is to agree on a common and mutually accepted definition of organised crime. Indeed, as Richter-White (2003) pointed out, there is no universal definition of organised crime. Consequently, it is quite difficult to proceed with an accurate survey of the real impact of organised criminal activities because the research borders are not always clear. As Von Lampe (2002) stated, "the effects of organised crime are commonly lumped together in a non-differentiated concept of harm".

It is therefore not surprising to find that the many articles analysing organised criminal activity and its consequences are not homogeneous, either in their objectives, or in their objects or methodologies. However, nearly all of them try to assess the nature and extent of organised crime based on criminal offences; the aim generally being to estimate organised crime's final impact, and from an economic perspective, to quantify the costs associated with the phenomenon.

The question here is to define how the literature (academic and non-academic) takes the risk presented by organised crime into account and how it assesses this specific risk. Actually, in the perspective of our article, we have to question the concept of risk. This concept cannot be separated from the question of 1) the probability of crime occurrence and 2) the associated costs. Indeed, as we will see later, we assume that risk = (probability of occurrence of a crime) * (associated costs). The common point between these two factors is that we can relay both by attributing to each of them an economic value. One could think that probability is a random factor; however, the public policy maker can impact on this variable with the help of financial and human means he devotes to prevention of such criminal offences. Consequently, we can attribute economic values to both the factor "probability" and, obviously, to the factor "associated costs".

Starting from this assertion, we can now proceed to the most exhaustive possible review of crime literature, and more specifically, the question of the risk presented by organised crime. We will therefore essentially focus our attention on the evaluation of the total cost generated by organised criminal activity. Our ultimate goal is to provide some useful analytical tools enabling the public policymaker to assess this risk. Indeed, the public policy maker can be more or less sensitive to different types of costs, for personal or political motives. In this perspective, the objective of our survey is to establish a list of the types of cost which have been taken into account by literature.

The literature attempts to estimate the cost of criminal activities, usually in a specific geographical zone, which is understandable because of the difficulty of collecting common international data. Indeed, according to Lee and Thorns (2003), comparing results is very difficult because of different approaches and the coverage of crime and cost categories; the difficulty being even greater in an international perspective. Even if some UN surveys on data relating to expenditure in criminal justice systems exist, according to the authors these should be developed and improved by applying some accounting principles in order to achieve consistent international comparisons : Consequently, a certain number of studies tried to estimate the cost of organised criminal activity in a single country : (i) Australia (Collins and Lapsley [2002], John Walker Consulting Services [1995], Mayhew [2003a], [2003b], Vander Beken [1999], Walker [1997]) ; (ii) Canada (Brantingham and Easton [1998], Canadian Center on Substance Abuse [1996], Porteous [1998], Richter-White [2003]), (iii) Germany (Von Lampe [2002]) ; (iv) Italy (Censis [1992], Rey [1993]) ; (v) Switzerland (Godenzi and Yodanis [1999]) ; (vi) United Kingdom (Brand and Price [2000], Dubourg, Hamed and Thorns [2005]) ; (vii) United States (Anderson [1999], Cohen [1988], Cohen, Miller and Rossman [1994], Cohen, Miller and Wiersema [1996], Fishman, Rodenrys and Schink [1986], Maltz [1990], Shapiro [1999]). Once again, this non-international approach can be explained by the lack of harmonised universal methodologies for data collection and calculation of estimates. Consequently, when it occurs, international comparison must be used with caution. For example, in Mayhew's two studies ([2003a], [2003b]), the author argues that similarity in crime profiles authorises her to use UK data to estimate costs of crime even though she works on an Australian panel.

The quantified costs in the literature may be of very different types. The main costs are generally economic and financial ones (Brand and Price [2000], Census [1992], Godenzi and Yodanis [1999], John Walker

Consulting Services [1995], Pricewaterhouse [2003], Walker [1997]), the loss and transfer of resources (Mayhew [2003a]) ; the costs incurred consequent to crime (time off work, health care costs); the costs of anticipating crime (security measures) ; administrative costs, costs in response to crime (law enforcement costs) (Brand and Price [2000], Brantingham and Easton [1998], Canadian Center on Substance Abuse [1996], Cohen, Miller and Rossman [1994], Mayhew [2003b]) ; the tangible and intangible costs of drug consumption (Canadian Center on Substance Abuse [1996], Collins and Lapsley [2002]) ; the costs in terms of harm , which includes physical, emotional, intellectual, economic and political damage (Brand and Price [2000], Brantingham and Easton [1998], Maltz [1990], Vander Beken [1999], Von Lampe [2002]) ; the direct and indirect costs of organised crime in various activities and on a specific population segment, youth, as offenders and as victims (Richter–White [2003]) ; the fiscal costs in developing an estimate of income generated through the activities of criminal organisations (Fishman, Rodenrys and Schink [1986]) ; the tangible and intangible costs (Cohen, Miller and Rossman [1994], Cohen, Miller and Wiersema [1996], Von Lampe [2002]) pain, suffering and fear endured by victims of crime (Cohen [1988]), or reputation in the business area (PricewaterhouseCoopers [2003]) ; the costs of manipulation of institutional decisions (Von Lampe [2002]) ; the turnover of illegal activities (Census 1992), Rey [1993]).

In another respect, Porteous' (1998) study is perhaps one of the most exhaustive because it focuses on the total population (and not on a particular segment as in Richter–White [2003]) and on several activities wherein organised crime is active (money laundering, illicit drugs, environmental crime, selected contraband, economic crime, migrant trafficking, counterfeit products, and motor vehicle theft) and the quantified costs are of different natures (economic, social–political, violence, health and safety and environmental).

Despite all the attention literature gives to a rigorous and comprehensive evaluation of the impact of organised crime's activity, several problems still remain. We enumerate the main ones to help the reader understand the difficulties involved in this kind of analysis.

A first problem appears with the difficulty in providing an acceptable definition and a correct measure of economic and financial costs of organised crime's activities (PricewaterhouseCoopers [2003]). For example, estimating can underestimate the total cost. Data can be produced through interviews and is consequently based on perceptions and is therefore subjective.

One of the other difficulties apparent in the literature is the definition of the indirect costs (Walker [1997]) and their estimation because giving monetary value to psychological variables or variables of "feeling" is not an easy task. For instance, the emotional and physical stress caused by victimisation may have an impact on family life, on behaviour at work and so on, and these types of costs are almost impossible to quantify as underlined by Brantingham and Easton (1998). More generally, the logic of costing cannot be applicable to all components of crime. A value given to an "immaterial" offence may suffer from a subjective bias.

Moreover, to our knowledge, the literature had only a slight interest in the systemic costs , probably because they are not valuable (they reflect perceptions more than reality), even if Porteous' study (1998), and at a lower level Maltz's (1990) , is perhaps the one which is closest to this perspective due to the nature of the costs examined (for example, Porteous considers variables such as "impact on basic values of the society").

One of the other main problems encountered in the literature concerns data gathering. In many studies, data is not available (Von Lampe [2002]) or is missing; such as data on illegal immigration and fraud (Mayhew [2003a], [2003b]), money laundering (John Walker Consulting Services [1995]), property crime related to drugs (Canadian Center on Substance Abuse [1996]), the exact number of people employed by organised crime (Fishman, Rodenrys and Schink [1986], Rey [1993]), the effective turnover of organised criminal activity (Rey [2003]), or the exact number of crimes and/or estimated average value of crime (Census [1992]). In other respects, the use of existing data may create problems if it is inadequate, especially for estimating economic costs. Lastly, the data gathering method itself may cause problems through recourse to non–appropriate techniques because of the nature of the crime (Brand and Price [2000], Richter–White [2003]).

Finally, the methodology used to estimate cost may also generate some difficulties. For example, the human capital approach needs to predict the future value of different variables, but future is by nature uncertain and the future costs can therefore be too approximate to constitute useful arguments for the public decision maker. Moreover, random choice of a discount rate may in fine not be appropriate. More generally, a specific methodology is never neutral and obviously has repercussions on the final results. Indeed, many problems may occur in cost measurement, units of analysis, time frames and population inferences. Consequently, the

public decision maker needs to have all these potential problems in mind when he decides to implement a public policy to deal with organised criminal activity.

3. HARM OF CRIME

This section is devoted to proposing a method of measuring ‘harm of crime’ which will allow risk assessment. Firstly, we attempt to specify the nature of problems created for society by crime. (3.1)

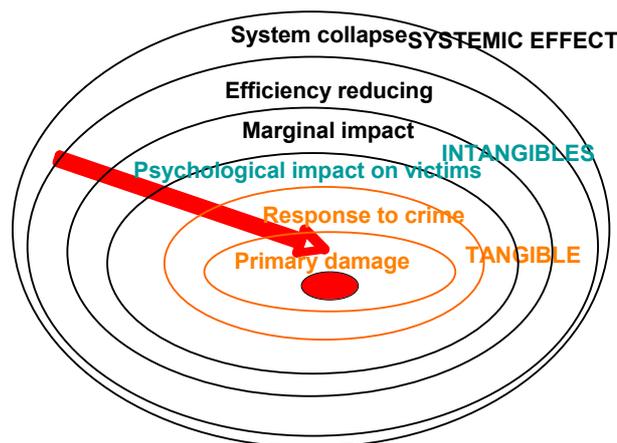
3.1. Tangible and intangible

Organised crime engenders a certain number of consequences for society.

Tangible consequences

Starting from the heart of the society (in red on graph 1), the first effect of organised crime is the “primary damage” caused to the various components of the society.

TABLE 1 – EFFECT OF ORGANIZED CRIME ON SOCIETY



The second effect is the “public and private response to crime”. Public agencies fight crime and public money is spent.

Insurance companies and private security agencies are also involved in crime prevention or compensation.

These first two effects give the “tangible consequences” of crime, and measure the value which is effectively spent by the various stakeholders in order to cope with the consequences of crime. One can discuss whether or not the cost of public response is included. In fact, if policy makers decide to devote more public money to crime prevention, the tangible consequences of crime increase. It could appear to be a vicious circle. Nonetheless, such a calculation is sound. If policy makers don’t devote money to fighting crime then the tangible consequences of crime do not increase more than the increase in cost for the victims, the systemic effect will merely increase. Conversely, if public authorities try to deal with the situation, the tangible consequences increase when the systemic effect decreases.

Intangible consequences

The intangible consequences (in blue on the graph) refer to the direct emotional and physical impact of a crime upon the victim’s well being –physical injuries, pain and suffering, psychological effects and worry are just a few. Intangible consequences do not refer to those costs which affect a victim indirectly through, for instance, ability to participate in the labour market, or costs which are born by others.

3.2. Systemic effects

The “systemic effects of crime” include effects of social destabilisation which crime inflicts on the society.

Some crimes and offences are labelled as such as they are morally condemned (drug consumption, sale of organs, prostitution, etc.) The cost of law violation cannot be calculated by adding perceived damages of each of the victims. In fact it is the society as a whole that is victim of the existence of prostitution or drug consumption. An individual, non consumer of drugs or a non customer of prostitution cannot quantify the damage he feels due to the existence of these phenomena. The customer or the consumer are not victims and cannot then express an opinion either. Cost evaluation cannot then pass by the summation of individual damage and must be operated directly at the level of the whole of society; this is why we talk about systemic cost.

However, we notice that a small portion of the actors in this type of crime are nevertheless victims (the prostitute), the damage of which she/he is victim is difficult to quantify, but depends more on the second category of cost, which we will study further on. Another portion of crimes and offences (corruption, terrorism, etc.) implicates society’s functioning (or its survival). A new evaluation of cost cannot proceed by the summation of individual costs.

The systemic part of crime corresponds to a form of collective “bad” analogy with the theory of public goods. These goods have two characteristics, indivisibility and non-excludability. This means that if a member of society suffers from the threat of terrorism, it is the whole of society that suffers from it. It is the same for corruption. We do not think that it is necessary to develop a theory of measurement of public “bads” which would constitute the symmetric of the theory of Samuelson (1954). Such a trail would consist of totalling individuals’ willingness to pay to avoid public bad. It would involve proceeding with complex inquiries (willingness to pay) to consider the disposition of individuals to pay to limit terrorism or corruption.

The systemic effect (in brown on graph 1) can be divided into three layers. The first can lead to a collapse of the system. This is clearly the case when corruption or violence reaches a certain level (non predictable, ex ante). Close to this level society is on an edge where any increase of the evil leads to a dramatic degradation of all social interaction. Terrorism provides an excellent example where society’s roots can be threatened by a very small but poisonous increase in this kind of activity.

The second layer of the systemic effect illustrates the case where society’s global efficiency is negatively affected by the increase in crime. This is clearly the case with racketeering and extortion which distort competition, narrow the markets and distance society from competitive efficiency. Such an effect can be reduced by strong public intervention which increases the accountable cost but can, in the short term, lead to global improvement.

The third layer illustrates marginal effects of crime on the society. Society can easily cope with this kind of threat by increasing public spending.

In conclusion it appears that organised crime affects society in several ways. Now we must evaluate the available methods which enable measurement of these consequences.

4. SOCIAL COST CALCULATION: A METHODOLOGICAL ASSESSMENT

A census of economic literature devoted to ‘organised crime’ provides numerous techniques for measuring its consequences. We do not intend here to deliver a literature review, but a synthesis, which illustrates how each type of measurement aims at enlightening a specific public policy question.

The easiest approach consists of trying to measure the percentage of GDP constituted by organised crime turnover. This way we see that the weight of organised crime in GDP generally does not exceed 1% in developed countries, where its activity is however considered to be major. In drug producing countries, turnover of organised crime in GDP is close to 5% (Columbia) and 50% in Afghanistan, which represents an unusual case, as much by its major poppy cultivation as by the disappearance of other economic activities because of war.

The proportion of organised crime in GDP is not a very interesting indicator. A large part of the noxiousness of organised crime is not simply monetary income it produces for its members, but also the amount of social cost it inflicts on society. It is for this reason that economical analysis recommends a more complete measurement of consequences of organised crime for the collectivity. The 'social cost' constitutes the aggregate, the measurement of which economists recommend in order to evaluate the amplitude of damage caused by a social phenomenon, whether it is an illness (cancer) or organised crime. We first present the social cost calculation method (4.1), then the questions which arise about calculation techniques (4.2) and lastly the limitations of the approach. (4.3).

4.1 Generalities

The social cost of crime describes the cost created for the collectivity by the existence of crime. Each time a crime is committed, a victim suffers harm while the author(s) materialize benefit. Police forces and the judicial system are mobilised to prevent the occurrence of crime and to repress the perpetrators. Insurance companies must reimburse the damage. Some victims will be absent from work, which creates productivity loss, and others have to face the costs of medical care. These consequences create costs, the sum of which constitutes the social cost of crime (Single et al. 2001). The social cost measures the amount of wealth lost as it was wasted by the existence of crime.

Social cost and public policy

At the heart of the notion of social cost we find the idea of a counterfactual scenario. The social cost of crime measures all wealth wasted in relation to a situation where no crime exists. The social cost of crime constitutes an externality, in other words the cost that the activities of some impose on the rest of the collectivity. This creates several problems.

In the case of drug consumption and trafficking, the price paid by the consumer does not enter into the social cost for two reasons: Firstly, because it is not an external cost, as the charge of the purchase of the drug is assumed by the consumers themselves. Secondly, the private cost is compensated by the utility the consumers derive from their purchase. The social cost measures only the negative consequences of the consumption and traffic of the drugs. We consider only that the private expenditure compensates the consumer's satisfaction. On the other hand; part of the negative consequences of drug consumption and traffic involves the consumer (illness, violence). These are not purely externalities as they do not concern non-consumers. We admit that they are "internalities" or non intentional consequences of consumption and traffic, which is why we class them in the social cost.

Economic theory recommends calculating the social cost of a phenomenon (cancer or drugs) in order to allocate an optimal budget to the agencies responsible for combating it. The idea being the following: one supplementary euro is allocated to the fight against cancer or drugs while the reduction in social cost engendered by the spending of this one supplementary euro is in fact superior to the value of this euro. Concretely, we must not spend one euro in an anti-crime programme if it reduces the social cost of crime by less than one euro.

We will see that economists do not recommend the suppression of crime or attaining the level zero of drug consumption. Public policy must minimise the social cost. Beyond that, it is more efficient to allocate public euros to the fight against other phenomena.

When public authorities have two instruments, concurrent or complementary, to fight a phenomenon (repression and healthcare, in the case of drugs), it is recommended to invest money in each of the two instruments to the point where the marginal benefit of these two instruments is equal to 1.

It is important to notice that the efficiency of each instrument depends generally upon the level of mobilisation of the other. For example, it is not efficient to mobilise more police in an area where there are no social workers and vice versa. There exists an optimal composition between repressive action and health care (in the case of drugs) where the marginal productivity of the two instruments is equal to the whole.

Social cost desegregation

A public policy can have complex effects on social cost. Taking the case of drugs, the consequence of a syringe exchange programme is reduction of social cost by decreasing the probability of HIV and CIV

contamination. Simultaneously, it is possible that access to syringes leads some to increase their drug consumption and the inconveniences that accompany that. The social cost increases then under the influence of the public policy. The final result is illustrated by the sum of the two effects (increase and decrease in social cost).

To facilitate taking the complex effects of a programme on social cost into account, it is judicious to work with a disaggregated form of this last. We take here MacCoun, Reuter and Schelling's (1996) solution, amended by Reuter and MacCoun (2001), and adopt a somewhat different notation. Taking the example of drugs and classing from i to n the different sources of externalities linked to drugs (HIV, violence, repression, etc.) and cumulative social cost SC , prevalence rate p , frequency of drug use f multiplied by the number of grams consumed, social damage caused by gram consumed x is:

$$SC = \sum_{i=1}^n X_i(p, f, x_i)$$

with:

SC : cumulative social cost

p : prevalence rate

f : frequency of drug use multiplied by the consumption in grams

x_i : social damage caused by gram consumed

This formula allows privileging the examination of contradictory modalities which determine the amplitude of social cost rather than focussing excessively on its level. It is thus possible to study each public policy from the angle of its consequences on prevalence (number of consumers), intensity (average consumption by user) and the number of externalities by unit consumed. The fact that the reduction in prevalence rate can be accompanied by a compensatory variation (in reverse order) of externalities by gram of drug consumed creating an increase in social cost appears then immediately.

4.2. Measurement techniques

The social cost of the whole of criminal activity has rarely been measured. Economists concentrated on calculating the social costs of certain aspects of criminality and particularly drug consumption and trafficking. The calculation of the social cost of drugs constitutes a classical exercise. It has been measured in numerous countries. This calculation allows determination of the amount of annual wealth produced which is wasted due to drugs. It indicates how much richer a society would be without drugs. The amount of social cost is very sensitive to calculation techniques; it thus supplies a simple indicator, the impact of which should not be over-evaluated

Monetary value

To calculate this, we add the present costs (monetary and non monetary) of the future consequences of drug consumption and traffic. Summarily, it consists of costs of care, public spending for repression, the value of human lives lost, and consequences on productivity. Using France as an example, Table 1 indicates that the main portion of social cost borne by the collectivity because of the existence of drugs is due to death and productivity loss (5) caused by illness (nearly 42% of the social cost). The cost of applying the laws (repression) (3) is also very great (21%).*

TABLE 2 – SOCIAL COST OF DRUGS, FRANCE, 2000

(IN MILLIONS OF EUROS AND IN %)

1. direct cost of care	723,32	25,61 %
2. direct costs for prevention and research	144,66	5,12 %
3. direct costs for application of laws	596,30	21,11 %
4. direct costs of loss of compulsory deductions	179,70	6,36 %
5. indirect costs of revenue and production loss	1 180,46	41,79 %
Social cost	2 824,43	
Net	2 500	
net in % of GDP		1,4 %

Source : Kopp et Fenoglio [2003].

The only difficulty in calculating direct costs of care for an illness or a phenomenon is knowing the fraction of observed costs, in a hospital for example, that should be attributed to a phenomenon. In the case of social cost for tobacco we need to know the proportion of lung cancers which should be attributed to tobacco and use this key to attach a fraction of total cost of care for lung cancer to tobacco. Epidemiology furnishes the tables of « attributable fraction » which makes the work easier. However things are sometimes complicated by the existence of co-morbidity. Some individuals in fact smoke and consume alcohol, which complicates the cost attribution for care for liver cancer due to one or the other of these two behaviours.

Direct prevention and research costs do not involve any particular difficulty as they imply collecting data on public spending. It is sometimes complicated to distinguish the public spending which is directly targeted at one problem or another. For example, to allocate part of public fundamental research costs for alcohol or tobacco is a bit complex but the stakes are slight as the sums considered are small as compared to other poles of social cost.

Measuring the cost of implementing laws means doing a census of public spending which is allocated to enforcing laws. The only recurring problem is usually to divide the police or justice's global budget into fractions, each corresponding to a specific function. The cost of the policeman who does his round in the street must thus be affected to a particular function (anti-drug fight, alcohol, drunken driving) which means being very familiar with the functional distribution of police tasks.

The direct costs of loss of compulsory deductions measure State revenue lost due to the death of individuals who consume drugs. The fact that an individual dies from an overdose improves the equilibrium of the pension and medical insurance systems, because this person has paid contributions but will not receive the benefits. This component of social cost indicates that premature death can have a positive effect on public spending but, on the other hand, deprives the collectivity of individuals, which translates into an increase in social cost and notably 'indirect costs of revenue and production loss'

The indirect costs of revenue and production loss measures the value of human life lost due to premature death of individuals and also productivity losses engendered by illness. Two techniques allow calculation of these losses. Firstly, the "human capital approach" considers the value of years of life lost due to premature death which is equal to the actualised value of flow of revenue an individual would have received between the date of his death and the date of his retirement. This technique attributes an even higher value to the life of a young person receiving high salary. Secondly, the willingness to pay technique attributes a value to human life based on interview. These interviews consist of asking people how much they would be prepared to pay to avoid a potentially fatal illness according to a given probability. The analysis of this type of information then enables deduction of the value individuals attribute to their life. As a general rule, the results obtained with the second method are greater than those obtained with the first.

Results

The following table indicates the amount of social cost of drugs as calculated in several countries

TABLE 3 – SOCIAL COSTS OF DRUGS (IN % OF GDP)

Study	Country	Year studied	Alcohol	Tobacco	Illicit drugs	Total costs in % of GDP ¹
Single et al. (1998)	Canada	1992	1.1%	1.4%	0.2%	2.7%
Rice et al. (1990)	USA	1980	1.7%	1.4%	1.1%	4.2%
N.I.D.A. (1998)	USA	1992	2%	–	1%	–
Collins & Laspley (1996)	Australia	1992	1%	2.4%	0.4%	3.8%
Fazey & Stevenson (1990)	UK	1988	–	–	0.4%	–
Institut Suisse (1990)	Switzerland	1988	–	–	0.2%	–
Jeanrenaud et al. (1998) ²	Switzerland	1995	–	2.7% (1.3%)	–	–
Rosa et al (1996)	France	1995	–	0.26%	–	–
Kopp et al (2004)	France	1997	1.4%	1.1%	0.16%	2.7%

Source : Kopp (2004)

1 The total cost includes all direct and indirect costs, as specified by the author of the study, unless otherwise indicated.

2 The Swiss Institute (1990) included all the intangible costs. The percentage without intangible costs is in brackets.

We do not recommend using these results in order to compare the situation between countries. In fact, each of these studies are within a common method framework (social cost calculation) but the different teams made choices corresponding either to theoretical inclinations (human capital approach versus willingness to pay approach, for example) or an imperious need to adapt to existing data.

4.3. Limitations of the social cost approach

Calculating the social cost of a phenomenon presents problems intrinsic to each study, and problems of comparison between results.

Scope of the study

The first difficulty of the method of social cost calculation is that the measurement's perimeter can vary from one team to another. The scope of social cost approach can be more or less broad. The main difference between studies lies in the inclusion of that which is generally referred to as 'intangible costs'.

A social phenomenon engenders a series of consequences which are negative for the society. On one side, some costs are tangible, meaning they correspond to the destruction of value, the measure of which can be given by the market. The simplest illustration, the destruction of a vehicle, is easily measured by its replacement value. More complex, but acceptable, the idea that human life has a value corresponding to the flow of revenue received by the individual is theoretically coherent. On the other hand, the same social phenomena bring pain and psychological suffering for which the market provides no substitute. These costs are called intangibles. Otherwise stated, the fact that an individual is imprisoned creates suffering for his relatives. This suffering cannot be mobilised in a more productive manner, but it will undeniably leave its mark on society's functioning. Intangible costs do not correspond to a resource which could be tangible if used otherwise. Some research teams have tried to measure them. For example, when we measure the social cost of tobacco, some people suggest including a monetary value (Kopp, 2006) which describes individual suffering of those who have lost relatives from an illness due to tobacco. The measurement of intangible costs is based on enquiry methods aimed at enabling individuals to provide a monetary evaluation of the pain they feel. Technically, these measurements are delicate to implement.

Sensitivity of results due to choice of method

Firstly, the final result of the social cost calculation depends crucially upon certain parameters, such as actualisation rate. Changing the actualisation rate of one point extensively modifies the social cost. The actualisation rate is fixed conventionally in certain countries (i.e. France). Other countries have chosen a value close to the long-term interest rate.

Secondly, the social cost measures the present cost of consequences occurring in the future of a phenomena of which the source is in the past. Concretely, someone becomes a drug addict in 1970 and suffers from illness until 2010 when he dies. In 2005, if we measure the social cost of the drug, we consider loss of wealth which intervenes in the years between 2005 and 2010. This is a calculation known as « prevalence based ».

Another approach, referred to as “incidence based” consists of measuring the present and future social cost of consequences of events in a given year. In terms of public policy this is the most interesting because it permits a two year comparison and enables us to see to what extent a present choice of public policy can affect the future situation. Such an approach permits testing the positive impact of a public policy on the society. Unfortunately, technically, such a measure is very complex to implement as it supposes that one has very precise data on future characteristics of populations observed today. This is why all social cost studies to this day are prevalence based, even though this approach is least satisfactory.

Thirdly, the measurement of indirect costs is fairly imprecise. It supposes being able to value a human life by one or another of two methods (willingness to pay or human capital approach). The method of human capital is the simplest. The inconvenience of this method is propagation of salary distortions due to the existence of less competitive markets into the heart of the social cost calculation. Normally, the salary should represent marginal individual productivity or the contribution to the creation of wealth. If a market is imperfect, the salary or the revenue of a category of person can be abusively high. For example, if the teaching of economics in France was done in English, the French speaking teachers would face new competition and salaries (all other things being equal) would go down. When we use a person’s revenue to calculate the value of his life, we integrate market distortions into the calculation. The alternative method ‘willingness to pay’ approach consists of asking the individuals how much they would be ready to pay to avoid being victim of a type of crime. The individuals are supposed to reveal the real price they allocate to their time. This method has the inconvenience of being heavy to implement. The interpretation of results is complex. The individuals must answer the question without considering their wealth constraints. The majority of individuals have however a tendency to limit the amount they announce to the level of their revenue, which distorts the calculation.

For all of these reasons, the calculation of social cost remains an evaluation method with economical consequences of an interesting social phenomenon, but the result of which depends acutely on choice of method which makes all international comparison impossible. This point must be amply emphasized: comparing social cost, for example of tobacco, between two countries makes no sense, as long as the results are sensitive to the choice of calculation. This is a major reason which prevents recommendation of the use of social cost as a starting point for a risk assessment method when one of the major objectives is to be able to carry out international comparison.

5. MEASURING THE O.C HARM

Organised crime creates different consequences for society from those of drug consumption and traffic. In the case of drugs, the major part of social cost derives from the consequences for consumers of their addiction. The most important poles of drug social cost are the value of human life of deceased consumers and the resulting productivity losses. The measure of drug social cost is easily done with a method issuing from health economics and created for measuring the cost of an illness. We know well that organised crime is a social phenomenon, the consequences of which are very different from those of drugs, essentially because the criminal actors are not the victims (as is the case for alcohol illness) of their activity.

5.1. Harm or cost

The objective of this text is not to measure the cost of consequences of organised crime, but the harm. What is the difference between these two notions? The cost is a notion borrowed from economics, the logic of which is to measure the quantity of resources used by an activity. We generally distinguish private costs, assumed by the agents organising the activity being considered, and the external cost, meaning the cost sustained by third parties. The sum of private cost and external cost gives the gross social cost. An activity can engender private benefits and external benefits, or give the net social cost, (when the cost is superior to the benefit).

In the case of organised crime, one must calculate, on the one hand, the benefits for the criminals and on the other, the cost for the collectivity thus producing the net social cost of organised crime. Such a measure,

faithful to the neutral approach of economists who are interested in the creation of wealth and not its distribution (Shavell et Polinsky, 2005) is not appropriate in our situation. We do not want to estimate the welfare function but to obtain a simple and easy to use instrument for the European Commission to assess the risk of organised crime.

We do not then propose to measure the social cost of crime, but the harm. The harm encompasses all costs which are possible to measure and are easily understood by the policy maker as such. This point merits discussion. The approach in terms of social cost recommends that the public decision maker choose policies which permit decreasing social cost. The public decision maker is often puzzled when economists indicate to him that a certain social cost takes into account the actualised value over thirty years of the life of an individual who dies today. The consequences in 30 years' time of a death today do not seem to warrant consideration in his present choices. When the public decision maker wants a synthetic opinion of risk created by a certain organised criminal activity, it seems to us that the calculation horizon can legitimately not exceed the year. This is why the harm is a measure which indicates the cost of consequences of a criminal activity, as perceived or evaluated, in the current year. The consideration of future consequences is then extremely simplified in relation to social cost calculation.

Harm then constitutes a concept which is less based in theory than is social cost, but is much more operational, a fortiori when it means using the results to measure risk. Remember that the ultimate pursued in our work is comparison between countries of risk presented by different organised crime activities. Remember also that in fine the harm inflicted by each of the activities of organised crime is classified from 0 to 5 and multiplied by a probability from 0 and 5 in order to have the product of both (risk).

Measuring the harm and not the social cost constitutes in our eyes a pragmatic choice which is justified by the objective pursued.

5.2. Calculation

It is possible to calculate the harm created by each organised criminal activity beginning with a certain quantity of current statistical data.

Tangible

“Tangible consequences” can be divided into two categories. The first summarises “primary damage from crime” and the second resumes the “cost of public response to crime.

Firstly, the “primary damage from crime” involves the direct cost of crime to actors in economic and social life. We measure the damage inflicted on companies and people before these have benefited from eventual compensatory transfer (insurance). The measurement is quantitative. We adopt an approach inspired by Law and Economics. Summarily, we consider that the courts are able to measure the cost of crime. They collect important information and should not have any particular bias in their manner of perceiving crime. All offences which imply compensation (civil law) are subject to an evaluation by the courts. This evaluation considers objective aspects of damage (value of merchandise) and also subjective aspects (sentimental loss, etc.) An optimal compensation is one where the individual becomes indifferent to a situation where the act has been committed and he receives compensation and that where it has not been committed. Only a reduced fraction of crimes and offences result in compensation. It is the case in criminal proceedings where the penal sanction is added to the obligation to pay damages and interest to the victim. The practice of damages and interest in a criminal proceeding is not yet very widespread. Numerous thefts and violence do not result in a procedure for compensatory sanctions in contrast to the ‘tort’ law.

On the other hand, some crimes and offences are subject to compensation of victims by insurance companies. We can discuss the fact of whether the amount awarded to the victims effectively compensates the damage. We can in any case think that this figure expresses the willingness to pay of the insured in function of their perception of the probability of being victim of a crime or an offence and the evaluation of the scale of damage. If the payments were systematically too low, we could think that the insured would cause the creation of other insurance companies with more generous payments.

The indemnities paid by the courts and the insurances seem to constitute a market value indicative of the damage caused by the different crimes.

Secondly, there is the cost of private and public response to crime. Basically, it is the sum of all public and private spending engaged in the fight against crime (police budget, judicial system spending, etc). It is not easy to arrive at a precise figure which exactly fits the scope of the phenomena we want to describe. Some judicial system spending is linked to family issues (divorces) and has nothing to do with crime. Nonetheless, in a broad acceptance, most of this public spending is devoted to prevention and fighting of what society describes as crime. After a few technical adjustments, it will be possible to provide a good estimation of the aggregate.

Public spending thus does not describe people's willingness to pay to fight crime, but the current level of this spending. It might be that people would be ready to pay less (or more) and that the politicians are unwilling to follow these desires.

Intangible

In practice, it is very difficult to measure these consequences in monetary terms. The absence of a market for such crimes means it is not possible to observe a market price directly, which is the conventional measure of the monetary value of a product or service. Instead, economists use various tools to try to estimate what would have been the market price if the intangible consequences were traded, or to estimate the implicit market price where crime reduction is traded in other markets (e.g. housing). The aim is to try to estimate how much money (other goods and services) people would be willing to give up to obtain the increase in well-being which would result from one case of a particular crime being prevented. The monetary estimates of intangible consequences of crime are not a direct measure of the absolute change in quality of life. They are merely estimates of what people would be willing to forego to reduce the risk of victimisation.

Concretely, studies in the academic world should be used when they exist, and we should press on when this is not the case. Such studies can only be carried out by central administrations when they dispose of a well developed department for economical studies. When it is impossible to attribute a value to intangibles, it is preferable not to give them. International comparison can then be carried out, either by excluding the intangibles in all countries, or by using an average value to complete missing country data.

Systemic

The societal harm (e.g. corruption of public officials) and the community harm (e.g. impairment of the business community by extortion/protection rackets, disintegration of neighbourhoods) or the economic harm (market distortion, lack of competition, barrier to market entry). The first stresses the harm that organised crime causes to governmental integrity and the social fabric of the nation, while the second refers to the disruption that organised crime causes to various aspects of a community, and the third, the consequences of organised criminal activity on economic life.

Contrary to tangible consequence, which is clearly a linear relation, where cost and effect on the society increases at the same rate, here, there is no longer a clear dose- effect relation. The pressure of crime can increase with almost no risk of system collapse. But at a certain "tipping point" a slight increase in crime can spoil the whole social equilibrium.

We recommend not including systemic consequences of organised crime in international risk comparison of organised criminal activity.

Indeed, the objective of risk assessment is the optimisation of public policies. Estimation of the costs of organised criminal activities enables us to make better-informed decisions about which policy measures are most worthwhile and cost-beneficial, by allowing meaningful comparisons of the costs and benefits offered by alternative crime reduction measures. They can help us to prioritise, focusing scarce resources on policies that have the greatest impact on harm caused by crime, rather than just the number of crimes. It is often the case that a few very costly offences may cause the most harm and it might be better to target these rather than a high number of low-cost offences.

The systemic risk cannot be combated 'per se'. Its level is the consequence of specific interaction between intensity of organised criminal activity, the country's history and the functioning of its institutions. In this sense there is no competition for public funds between policies which would be devoted to the struggle against the systemic aspects and the others. It is thus more logical to exclude the systemic aspects from our risk assessment as the finality of this last is to facilitate policy making.

5.3. Main crimes imputable to O.C

This sub section lists the main crimes imputable to O.C and divides them between the two categories of « tangible consequences» i.e. “primary damage” and “response to crime”.

Let us take the first case as a simulation. Courts award compensation to the company’s victim of counterfeiting. This compensation is, by assumption, a good proxy of the market value of the loss.

The breaking down of public spending between the various types of crime is not an easy task. Most police force activity is not specifically devoted to a type of crime. Police activity is very general; only a few squads target drugs or terrorism. Breaking down general public spending for police by the number of arrests (sentences) relies on the hypothesis that the cost of discovering all types of crime is the same. But the prerequisites for our methodology to function, both for probability and for harm, are that countries have separate data collection systems for OC.

The cost of correction is also difficult to establish. Most criminals face sentences for many counts of inculpation (fraud and violence or possession of weapons, and so on). Usually, one of the counts is the main one, and can be used as a key when breaking down public spending to be corrected by main offence.

Private spending is easier to compute. Private insurance companies can provide data on the evolution of their premiums and indicate the correlation to the rise in crime and compensation.

All the primary damage costs depend, in one way or another, on the national compensation pattern. Courts and insurance companies can be generous or not. In order to make some international comparisons it could be interesting to benchmark the various levels of compensation, amongst the countries. Applying a mean value to all countries will allow a (risky) comparison exercise, once the national amounts are put on a per capita basis. Such a comparison is particularly complex when legislation differs greatly from one country to another. On the other hand, it can be practical between two similar countries and for one specific type of crime.

TABLE 4. COUNTERFEITING HARM INDICATOR

ORGANIZED CRIMINAL ACTIVITY	TYPE OF CONSEQUENCES BY OC ACTIVITY	INDICATOR OF HARM	TYPE OF HARM
COUNTERFEITING	Loss of turnover (income, benefit) for the companies and their suppliers whose production has been counterfeited.	Range of compensation given by the courts (C _i) with i=[1...i...n].	Primary
	Loss of taxes, which would be paid by the legal business sector if its turnover included the illegal market share.	T=loss of taxes T= t.S with t, global tax rate applied on a representative variable of the business activity (S= sales)	
	Public expenditure for policing Cost of judicial system Cost of correctional institutions	PE : Amount of public expenditure CJ : Number of cases X prosecution cost CC: Number of prisoners X cost	Cost of public response

We then use the same methodology for the other activities of organised crime.

TABLE 5. DRUG TRAFFICKING

ORGANIZED CRIMINAL ACTIVITY	TYPE OF CONSEQUENCES OF OC ACTIVITY	INDICATOR OF HARM	TYPE OF HARM
DRUG TRAFFICKING	Unpaid income taxes (turnover) of the criminal activity	T=loss of taxes T= t.S with t, global tax rate applied on a representative variable of the commercial activity (S= sales)	Primary damage
	Public expenditure for policing	PE : Amount of public expenditure	Cost of public response
	Cost of judicial system	CJ : Number of cases X prosecution cost	
	Cost of correctional institutions	CC: Number of prisoners X cost	

The total accountable cost of counterfeiting is the sum of the primary damage of crime and the cost of public response.

TABLE 6. FRAUD'S HARM INDICATOR

ORGANIZED CRIME ACTIVITY	TYPE OF CONSEQUENCES OF OC ACTIVITY	INDICATOR OF HARM	TYPE OF HARM
FRAUD	Direct loss for the victims of fraud.	Average compensation given by the courts (C).	Primary damage
	Loss of taxes, which would be paid by the legal business sector if its turnover includes the illegal market share.	T=loss of taxes T= t.S with t, global tax rate applied on a representative variable of the commercial activity (S= sales)	
	Public expenditure for policing	PE: Amount of public expenditure	Cost of public response
Cost of judicial system	CJ: Number of cases X prosecution cost		
	Cost of correctional institutions	CC: Number of prisoners X cost	

Here a good indicator of the ratio of smuggled or counterfeit cigarettes is given by empirical research. Collecting empty packs of cigarettes in the main public places of a city or directly from a waste treatment plant gives a clear idea of the ratio.

TABLE 7. TOBACCO SMUGGLING'S HARM INDICATOR

ORGANIZED CRIMINAL ACTIVITY	TYPE OF CONSEQUENCES OF OC ACTIVITY	INDICATOR OF HARM	TYPE OF HARM
TOBACCO SMUGGLING	Direct loss for the victims of fraud.	Average compensation given by the courts (C).	Primary damage
	Unpaid taxes on the income/turnover of the criminal activity	T=loss of taxes T= t.S with t, global taxes rate applied on a representative variable of the business activity (S= sales)	
	Public expenditure for policing Cost of judicial system Cost of correctional institutions	PE: Amount of public expenditure CJ: Number of cases X prosecution cost CC: Number of prisoners X cost	Cost of public response

TABLE 8. TRAFFICKING IN STOLEN VEHICLES

ORGANIZED CRIME ACTIVITY	TYPE OF CONSEQUENCES OF OC ACTIVITY	INDICATOR OF HARM	TYPE OF HARM
TRAFFICKING IN STOLEN VEHICLES	Direct loss for the victims of fraud.	Average compensation awarded by the insurance companies (C). Number of prosecutions sorted by N_i level of I level compensation Increased insurance premiums for consumers	Primary damage
	Unpaid taxes on the income/turnover of the criminal activity	T=loss of taxes T= t.S with t, global taxes rate applied on a representative variable of the commercial activity (S= sales)	
	Public expenditure for policing Cost of judicial system Cost of correctional institutions	PE: Amount of public expenditure CJ: Number of cases X prosecution cost CC: Number of prisoners X cost	Cost of public response

TABLE 9. TRAFFICKING IN ARMS

ORGANIZED CRIMINAL ACTIVITY	TYPE OF CONSEQUENCES OF OC ACTIVITY	INDICATOR OF HARM	TYPE OF HARM
TRAFFICKING IN ARMS	Direct loss for the victims of fraud.		Primary damage
	Public expenditure for policing	PE: Amount of public expenditure	Cost of public response
	Cost of judicial system	CJ: Number of cases X prosecution cost	
Cost of correctional institutions	CC: Number of prisoners X cost		

TABLE 10. MONEY LAUNDERING AND CORRUPTION

ORGANIZED CRIMINAL ACTIVITY	TYPE OF CONSEQUENCES OF OC ACTIVITY	INDICATOR OF HARM	TYPE OF HARM
MONEY LAUNDERING, CORRUPTION.	Unpaid taxes on the income/turnover of the criminal activity		Primary damage
	Public expenditure for policing	PE: Amount of public expenditure	Cost of public response
	Cost of judicial system	CJ: Number of cases X prosecution cost	
Cost of correctional institutions	CC: Number of prisoners X cost		

TABLE 11. SMUGGLING OF IMMIGRANTS AND TRAFFICKING IN HUMAN BEINGS

ORGANIZED CRIMINAL ACTIVITY	TYPE OF CONSEQUENCES OF OC ACTIVITY	INDICATOR OF HARM	TYPE OF HARM
SMUGGLING OF IMMIGRANTS AND TRAFFICKING IN HUMAN BEINGS	Unpaid taxes on the income/turnover of the criminal activity		Primary damage
	Public expenditure for policing and cost of social services for refugee claimants	PE: Amount of public expenditure	Cost of public response
	Cost of judicial system	CJ: Number of cases X prosecution cost	
Cost of correctional institutions	CC: Number of prisoners X cost		

The approach we suggest is compatible with that carried out in certain countries, notably UK (Home office, 2005) although this remarkable study only concerns crime committed by individuals, excluding then crimes imputable to organised crime.

The harm of each activity should then be placed on a scale from 0 to 5. We will not detail here the procedure which is fairly simple and will be detailed at the time of implementation of our recommendations.

5.4. Remaining problems

This paper suggests calculating the cost of crime on a positive basis. The positive basis (as opposed to a normative one) gives an estimation of the current level of the harm of crime for the society. It does not give a market value of crime. The difference is due to market distortion. Payment made by insurance companies can be too low (or too high) if the market is not perfectly competitive. The level of public spending does not necessarily correspond to the level desired by the people, if political decisions are biased by the preferences of the elite. Such a positive calculation gives a good approximation of the sacrifice the society is effectively making to compensate the cost of crime to people and to prevent and fight against it. It does not clarify what this cost is if all individual preferences were perfectly respected by an efficient market.

Some overlapping remains problematic. In the year 2006, insurance companies refunded victims for crimes committed some years ago, when public spending was oriented to fighting the current trend of crime. Somehow our calculation is 'prevalence based'. It gives the cost of crime in year t , for crimes committed before t to t . If refunding occurs a long time after the crime is committed, the court might compensate for the inflation. Then the calculus is consistent. Past value is expressed in current money and added to current public spending. According to the margin of error of crime calculation, we think that inflation and actualisation must not be considered as being too serious a problem.

6. CONCLUSION

A good number of crimes are not discovered, and some are ignored and not specifically combated. Some traffic remains unknown, victims are not aware of their loss and don't claim anything. As crime remains hidden the magnitude of its harm is not caught by our methodology. In fact, we are probably calculating the harm of perceived crime. It is not a real problem because society needs to put a figure on the harm of crime to optimise the level of spending to fight it. As long as a crime is not perceived, there is no reason to devote public money to it. It is probably a little bit more complicated when people claim to be victims (shopkeepers) and the police don't want to register their complaint because of corruption. No public spending and no compensation lead to a level zero of crime when such a bizarre result is simply the result of a systemic dysfunction of the police force and of the political sphere.

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ANNEX 15

PRELIMINARY EXAMINATION OF FEASIBILITY OF THE METHODOLOGY IN RELATION TO OC GENERALLY

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Areti Antoniou, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

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1. FOREWORD

This paper is the deliverable for WP 15 of Project IKOC – *Improving Knowledge on Organised Crime*. It contains a preliminary examination of the feasibility of the common EU methodology for measurement of the probability and impact of specific organised criminal activities, as elaborated in WPs 13 and 14.

The paper is organised as follows: Section 2 presents the method used for testing different types of feasibility, as defined and adopted herein, of the proposed methodology for measuring the risk of a given OC activity across the EU member states. Section 3 presents the results regarding the feasibility of the IKOC methodology for measuring the probability of a given OC activity. Section 4 presents the results regarding the feasibility the IKOC methodology for measuring the impact of a given OC activity. In section 5 some conclusions are drawn. Finally, Annex 1 includes the questionnaire used to conduct the preliminary examination of the proposed methodology for measuring the risk of an OC activity.

This deliverable was developed by the Università Cattolica del Sacro Cuore, leader of WP 15. This WP was directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Executive Project Manager of the Project. It was written by Areti Antoniou, Ph.D. candidate at the Università Cattolica del Sacro Cuore, who wrote a first draft, and Barbara Vettori, who revised it.

2. HOW TO MAKE A PRELIMINARY EXAMINATION OF THE FEASIBILITY OF THE IKOC METHODOLOGY FOR MEASURING THE RISK OF A GIVEN OC ACTIVITY ACROSS THE EU MEMBER STATES

After two years work the IKOC project developed a methodology for measuring the risk of organised crime activities across EU Member States, by proposing common EU indicators for measuring the probability and impact of OC activities. The concept of (organised) crime risk is defined in the context of the Project as the product of the probability that an (organised) crime event, as a negative event, will happen, together with its impact. The resulting methodology has therefore two main components: 1) a set of indicators that measure the probability of a given OC activity across the EU member states (see deliverable for WP 13) and 2) a set of indicators for measuring the impact of a given OC activity (see deliverable for WP 14).

The purpose of WP 15 was to examine separately the feasibility of the two above-mentioned components of the IKOC methodology. Various types of feasibility were examined, namely:

- a) the **financial feasibility of the proposed methodology**, defined as the existence of sufficient funds available to implement the proposed methodology in a given country;
- b) the **organisational/operational feasibility of the proposed methodology**, defined as the possibility of integrating the proposed methodology with the existing national crime data collection system;
- c) the **political feasibility of the proposed methodology**, defined as the compatibility of the proposed methodology with the prevailing goals of each country's political system;
- d) the **legal feasibility of the proposed methodology**, defined as the compatibility of the proposed methodology with the laws and regulations in a given country.

We then drafted a questionnaire aimed at separately assessing the feasibility of the IKOC methodology for measuring 1) the probability and 2) the impact, of a given OC activity. This was then sent to experts working for law enforcement agencies specialised in the fight against organised crime in two selected countries, one of common law (UK) and another one of civil law (Belgium).

The results of this assessment exercise are in the next two paragraphs.

3. RESULTS OF PRELIMINARY EXAMINATION OF THE FEASIBILITY OF THE IKOC METHODOLOGY FOR MEASURING THE *PROBABILITY* OF A GIVEN OC ACTIVITY

This section presents the results of the preliminary examination of the feasibility of the IKOC methodology for measuring the probability of a given OC activity. In particular these results are presented for each of the different types of feasibility herein considered.

3.1. Financial feasibility

Both national experts thought that, as to existing funds available in their countries, it would be feasible to implement the proposed methodology to measure the probability of a given OC activity.

The reason for this is that the majority of the probability indicators proposed by the methodology could use existing and available data sources. That was the initial intention when choosing those indicators, as one of the selection criteria was indeed to take advantage, as much as possible, of data on OC already collected by the majority of MSs. Using this data minimises any waste of time and resources due to the imposition on MSs of the burden of collecting data for new indicators.

3.2. Organisational/operational feasibility

On integration of the proposed methodology for measuring the probability of a given OC activity with the existing national crime data collection system, the UK expert considered this feasible as once again there is existing data that can be used to measure the proposed feasibility indicators.

Indeed, the proposed methodology was intended to be as compatible as possible with the current data collection procedures used by law enforcement agencies, considering the importance of providing the European Commission with a methodology that is immediately and easily applicable.

3.3. Political feasibility

According to national experts the compatibility of the proposed methodology for measuring the probability of a given OC activity with the prevailing goals of each country's political system should not present any problems, even if according to the UK expert political choices can sometimes be unpredictable.

However, the development of the analysis of organised crime is mentioned in several political documents and initiatives are therefore constantly taken at national level, as also confirmed by the Belgian expert.

3.4. Legal feasibility

The compatibility of the proposed methodology for measuring the probability of a given OC activity with the laws and regulations in the selected countries does not appear to be a problem, according to the national experts. No legal barrier should exist, after some adaptation, for exchange of information between law enforcement and judicial authorities.

4. RESULTS OF PRELIMINARY EXAMINATION OF THE FEASIBILITY OF THE IKOC METHODOLOGY FOR MEASURING THE *IMPACT* OF A GIVEN OC ACTIVITY

This section presents the results of the preliminary examination of the feasibility of the IKOC methodology for measuring the impact of a given OC activity. Here too the results are presented for each of the types of feasibility considered.

4.1. Financial feasibility

In this case national experts considered that regarding the existing funds available to their countries, it would not be easy to implement the proposed methodology for measuring the impact of a given OC activity, as it would require data not currently collected by law enforcement agencies.

According to the Belgian expert there are organisational restrictions – mentioned in detail below – that would render financially very difficult to envisage the development of such an instrument to gather information.

However, the UK expert thought that the collection of new data required for the implementation of the proposed methodology for measuring the impact of a given OC activity, would not be very expensive in his country.

4.2. Organisational/operational feasibility

The possibility of integration, of the proposed methodology for measuring the impact of a given OC activity into the existing national crime data collection system, was questioned by both experts.

The reason for this was that the type of information required for measuring the impact indicators proposed by the methodology is not gathered currently by police. In particular, the UK expert commented that measuring the direct damage to victims of a given OC activity using compensation awards given by courts and insurance companies to the victims could meet serious difficulty as courts do not make this type of evaluation to determine the compensation for the victims and insurance companies do not distinguish between vehicles stolen by organised crime and other stolen vehicles. Even the police cannot make this distinction clearly.

He further commented that this type of evaluation requires an ad hoc analysis and should target first well-defined criminal markets with the consequence that it will never be an overall view but rather an ad hoc report, unless investment in a large quantity of analysis by many analysts should take place.

4.3. Political feasibility

The compatibility of the proposed methodology for measuring the impact of a given OC activity with the prevailing goals of each country's political system could not be evaluated with certainty by the national experts as political choices can be unpredictable.

4.4. Legal feasibility

The compatibility of the proposed methodology for measuring the impact of a given OC activity with the laws and regulations in the selected countries does not appear to be a particular problem, according to the UK national expert.

However, the Belgian expert left the question open as the legal feasibility of the proposed methodology for measuring the impact of a given OC activity in Belgium should be further checked regarding the exchange of information between private and public sector.

5. CONCLUSION

By conducting this preliminary examination of the feasibility of the IKOC methodology for measuring the risk of a given OC activity, it appears that particular problems do not exist in Belgium and in the UK in measuring the probability of a given OC activity.

On the contrary, both experts seriously questioned the feasibility of the methodology for measuring the impact of a given OC activity. As the impact indicators proposed by the IKOC methodology would require the collection of data not currently collected by law enforcement agencies, the experts found it very likely that the IKOC methodology would encounter mainly financial and organisational/operational constraints. However, this was only a preliminary examination of the possible constraints that the IKOC methodology might meet in a possible implementation in two European countries with differences in their legal systems.

Further and more detailed examination should be made, to shed more light on the problems that the IKOC methodology may come across in its implementation in all European countries, and to find some possible solutions, if any.

ANNEX 1: QUESTIONNAIRE

This Annex contains the questionnaire used in this WP for preliminary examination of the proposed methodology for measuring the risk of a given OC activity.

SECTION 1. TESTING THE FEASIBILITY OF THE PROPOSED METHODOLOGY FOR MEASURING THE PROBABILITY OF A GIVEN ORGANISED CRIME ACTIVITY

The aim of this section is to examine the feasibility of implementing the proposed methodology for measuring the probability of a given organised criminal activity in your country. The methodology is summarised in the table below.

	INDICATORS OF PROBABILITY OF A GIVEN OC ACTIVITY	MODALITIES
CHARACTERISTICS OF OC GROUPS	Links/cooperation between the OC groups involved	a range from 1 to 5, where 1 = 0–20% of annual reported OC offences of a given type involving cooperation between two or more groups 2 = 21% to 40% of annual reported OC offences of a given type involving cooperation between two or more groups 3 = 41% to 60% of annual reported OC offences of a given type involving cooperation between two or more groups 4 = 61% to 80% of annual reported OC offences of a given type involving cooperation between two or more groups 5 = 81% to 100% of annual reported OC offences of a given type involving cooperation between two or more groups
	Geographic distribution of the OC groups involved (or overseas routes)	a range from 1 to 5, where 1 = 0–20% of annual percentage of reported OC offences of a given type involving more than one country 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving more than one country 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving more than one country 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving more than one country 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving more than one country
	Specialisation/Use of expert knowledge by the OC groups involved	a range from 1 to 5, where 1 = 0–20% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists

Intimidatory power of the OC groups involved by the use or threat of violence	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p>
Use of corruption by the OC groups involved	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of corruption</p>
Use of legitimate business structures by the OC groups involved	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p>
Use of Information and Communication Technology by the OC groups involved	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of ICT</p>

LAW ENFORCEMENT RISK	Probability of conviction for a given OC activity	<p>a range from 1 to 5, where</p> <p>1 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0 to 0,20</p>
	Probability of having the proceeds of a given OC activity confiscated	<p>a range from 1 to 5, where</p> <p>1 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0 to 0,20</p>

1. On a scale from 1 to 5 (where 1=not at all feasible; 5= very feasible), in your opinion is the above methodology for measuring the probability of the occurrence of a given organised criminal activity feasible for implementation in your country from a a) financial, b) organisational/operational, c) political and d) legal point of view?

a) financial feasibility

1

2

3

4

5

Please justify briefly your answer below

b) organisational/operational feasibility

1

2

3

4

5

Please justify briefly your answer below

c) political feasibility

1

2

3

4

5

Please justify briefly your answer below

d) legal feasibility

1

2

3

4

5

Please justify briefly your answer below

SECTION 2. TESTING THE FEASIBILITY OF THE PROPOSED METHODOLOGY FOR MEASURING THE **IMPACT** OF A GIVEN ORGANISED CRIMINAL ACTIVITY

The aim of this section is to examine the feasibility of implementing the proposed methodology for measuring the impact of a given organised criminal activity in your country. The methodology is summarised in the table below.

	INDICATORS OF IMPACT OF A GIVEN OC ACTIVITY	MODALITIES
PRIMARY DAMAGE	Direct loss for the victims of the given OC activity (e.g. loss of turnover for the companies and their suppliers whose production has been counterfeited)	$Loss = \sum C_i$ With: i : number of cases with $i = [1...i...n]$ C_i : Range of compensation given by the courts [or ONLY IN THE CASE OF TRAFFICKING IN STOLEN VEHICLES] $Loss = \sum (IC_i + P_i)$ With: i : number of cases with $i = [1...i...n]$ IC_i : Increased insurance premiums for consumers P_i : Compensation awarded by the insurance companies
	Loss of taxes, which would have been paid by the legal business sector if its turnover included the illegal market share.	$T = \text{loss of taxes}$ $T = t * S$ with t , global tax rate applied on a representative variable of the business activity ($S = \text{sales}$)
COST OF PUBLIC RESPONSE	Public expenditure for policing	PE: Amount of public expenditure
	Cost of judicial system	CJ: Number of cases X prosecution cost
	Cost of correctional institutions	CC: Number of prisoners X cost

2. On a scale from 1 to 5 (where 1=not at all feasible; 5= very feasible), in your opinion is the above methodology for measuring the impact of a given organised criminal activity feasible for implementation in your country from a a) financial, b) organisational/operational, c) political and d) legal point of view?

a) financial feasibility

1

2

3

4

5

Please justify briefly your answer below

b) organisational/operational feasibility

1

2

3

4

5

Please justify briefly your answer below

c) political feasibility

1

2

3

4

5

Please justify briefly your answer below

d) legal feasibility

1

2

3

4

5

Please justify briefly your answer below

ANNEX 16

PILOT STUDY TO EXAMINE THE FEASIBILITY OF A METHODOLOGY FOR THE EU TO MEASURE THE PROBABILITY AND IMPACT OF ORGANISED CRIMINAL ACITIVITIES IN RELATION TO INTERNATIONAL FRAUD

By:

- Michael Levi, Cardiff University (*coordinated by*)
- Nicholas Dorn, Cardiff University

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Project IKOC – Improving Knowledge on Organised Crime to develop a
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SUMMARY

The general recommendations made in this work package are as follows.

- 1). Use private sector as well as public sector sources of information on the activities and impacts of criminals (including surveys of frauds against businesses and persons)
- 2). Help the EU to better interpret and utilise law enforcement data (including its uses for management in describing law enforcement activities)
- 3). Consult all relevant stakeholders about requirements and the value of outputs

The IKOC study, funded under the EU 6th RF, covers a wide variety of organised crime topics, coming to a focus on the question of how to define risk. The concept adopted in IKOC is not novel *per se*: OC risk is taken to be a *function* (a) of the probability of activities of OC taking place, and (b) of the impacts of those activities. As a formula, this can be expressed thus: risk of OC frauds = f (probability, impacts). What is novel, at least in some respects, is the manner in which it is suggested that probability and impacts be *operationalised*. This is the focus of this study, which looks at proposals made by the Savona et al team on probability (Work Package 13) and by the Kopp et al team on impacts (Work Package 14).

On probability, WP 13 suggests that the probability of criminal acts by OC should be constructed as f (a function of) OC group characteristics and Risk to OC due to enforcement, as estimated from some Member State law enforcement data and criminal justice data. Some elements of that approach fit moderately well with existing information systems. However, beside the question of 'fit', there are several other issues to be addressed. The posited relationships remain hypothetical; even if valid in a general manner, the relationship and the available data may not be consistent and robust enough to permit implications to be drawn about relative probabilities of crime types, about time trends, or about country comparisons. Furthermore, if the policy requirement is for estimates of crime probability based on data reported by law enforcement agencies, then there seems no reason not to use available data on reported frequency of crime events (rather than holding that back to compare against probability estimates, as WP 13 suggests). More fundamentally, all law enforcement data reflects agency priorities, targeting and resources, as much as or more than it does actual criminal activities.

IKOC WP 14 proposes that Impact of frauds by OC = f (direct tangible losses, direct intangible hurts, and some aspects of response costs where data are available), as estimated by a number of sources, including court awards. Some of the data called for by that approach are available in at least some MS. A paradox in WP 14 is that that data from court decisions may be of high quality (since they have been contested); however, in an economic crime context, they could only be scaled up to give general results if placed in the context of victimisation survey information from the public sector and from the private sector.

Can one arrive at an overall notion of risk (probabilities, impacts) by putting together the approaches of WP 13 and 14? It appears that the combination could represent law enforcement priorities and reporting (WP 13), *times* atypical crime impacts (WP 14). This report discusses some of the issues raised by that proposition – with attention to the question of who the stakeholders may be and what might be their reasonable expectations.

[End of summary]

1. CONCLUSIONS AND RECOMMENDATIONS

Acknowledging the multi-disciplinary, multi-agency context for this research

Following substantial work done by many research teams and individuals, including the 'IKOC' consortium, a broad concept of organised crime risk has been identified. The starting point is an understanding of that risk in terms of probability (cf frequency, actual occurrence) of a crime event, multiplied by impacts (seriousness, damage or harms). That approach echoes much of the already available literature (see WPs 13 and 14 and also Annex A below). In moving from theory to practices, the research seeks to blend together, or at least to take insights and methodologies from, different settings and traditions.

Historically, law enforcement agency reporting has focussed primarily on counting and characterising crime groups and/or crime events (external 'threat' perspective on 'them', the criminals). This approach is not designed to assess either probabilities/frequencies of crime events, or harms to victims. However, it is an important point of cooperation between MS (see Savona et al, WP 13; see especially the clear articulation of assumptions).

Criminological opportunity theories and research have explored the ways in which circumstances may 'open the door to crime' or alternatively to close it at least partially. There is general professional agreement that higher levels of opportunities for crime – and lower levels of deterrence by law enforcement – provide conditions in which crime flourishes. However, the available models and data do not constitute general crime indicators (or specific fraud indicators).

Victim-focussed approaches have raised questions about impacts/harms (harms, 'us') and have developed methods of measurement – both through surveys on behalf of the public sector, and by utilising data from economic crime surveys carried out by the private sector. Such methods are quite variable in their scope (although there is some pan-EU coverage): however the focus on victims gives *relatively* direct and hence robust coverage of both frequencies of frauds and of their impacts.

Economists have proposed approaches that value impacts absolutely where that is possible (eg, replacement value of lost goods or business). Where such valuation is not possible – because for example the issue is social or public goods, or community cohesion, or happiness – then an economist might simply ask what a person or commercial or government entity might be willing to pay to avoid the negative impact (Kopp et al, op cit).

Finally, risk specialists, banking and finance specialists and a wide range of professionals, concerned with governance and safeguarding institutions, have addressed these and other aspects of risk. The private sector is a major producer and consumer of such estimates. See Annex A.

The IKOC WP13+14 combined model

To varying degrees, the IKOC project as a whole draws from these traditions and sources – enforcement agency reporting, victim reports, economics (however, criminal opportunity elements present in the 2006 draft probability model were dropped in December of that year). The project tries to organise concepts and data within a criminological, policy-driven and practice-orientated perspective.

In short, according to IKOC WPs 13 and 14, risk, probability and impact are defined as follows. General model:

$$\text{Risk of OC frauds} = f(\text{probability, impacts})$$

Where:

Probability of frauds by OC = f (OC group characteristics, and Risk to OC due to enforcement) As estimated by MS law enforcement data, collated by Europol. (WP 13) ¹
--

And:

Impact of frauds by OC = f (direct tangible losses, direct intangible hurts, and some aspects of response costs where data are available) As estimated by a number of sources, including court awards. (WP 14)
--

The question for this paper is: how feasible might be the translation of these formulae into practice, and if they are translated into practice, how analytically sound and practically helpful would be the outputs that ensue? Summarising work carried out in the period 2005–6 (see following pages), we offer provisional, headline findings as follows.

	<u>Probability model</u> ⁽¹⁾	<u>Impact model</u> ⁽²⁾
<i>May be implemented in practice?</i>	Progressively	Progressively
<i>Validity of outputs in principle?</i>	Questionable	Partial answers.

(1). The proposal made by WP 13 concerning estimation of probability fits moderately with existing systems, anticipated enhancements and some thinking in law enforcement (see WP 13 and also WPs 1–4). However, considerable difficulty arises in relation to interpretation and validation of outputs. The posited relationships remain hypothetical; and may not be consistent or robust enough to permit valid trend and comparative statements of probability, especially given the elapsed time between offence occurrence and LEA awareness (and sometimes between it and victim awareness). Additionally, many of the data sources concern reported, not actual crime. If reported crime probabilities are required, there seems no reason not to use law enforcement data on reported frequency of crime events (rather than holding that back to compare against probability estimates made in a more circuitous manner).

(2). The proposal made in WP 14 in relation to impacts is quite complex. On the one hand, some of the data called for – for example on MS response costs – are available in part, although unbundling such costs can be very difficult. Other data sources mentioned in relation to ‘direct’ and ‘tangible’ costs – for example, court judgments and settlements by insurance companies – could be addressed, but would give partial information only. A paradox in WP 14 is that that data from court decisions may be of high quality (since the evidence has been contested): however, they could only be scaled up to give general results if placed in the context of victimisation survey information from the public and private sectors, which currently are only intermittently and partially available. Exploiting private sector sources – to the extent available – would complement public sector sources, improving validity regarding both probability and frequency of frauds and their impacts.

¹ A third probability term, Criminal Opportunities, had been proposed up until December 2006 but was then deleted, for reasons expressed in the deliverable for WP 13.

The following boxes summarise the issues for prospective implementers and stakeholders, looking also at the cogence of the two aspects together (probability and impacts).

Some problems summarised

(i) Problems with probability as conceptualised in WP 14

It is reasonable, in criminological terms, to suggest that more crime or fraud is likely when criminals are strongly positioned and when law enforcement offers little deterrence (including disruption as well as prosecution). For example, in a situation of criminal weaknesses and high risk from enforcement, there might well be a low level of criminal activity. Thus, if one had robust measures of those things, then perhaps one could predict levels of criminality from them – even to the extent of having enough confidence to make comparative statements (country A versus country B) or to describe trends over time. The problem is that we do not have robust measures of those things. The proposed scales refer to information that MS and enforcement agencies decide to collate – the scales are not scientifically validated. Even if they could be validated (by future research), it would remain the case that they would still refer to data that is *reported* at national and European levels. Reported data has an unknown, and quite possibly weak, relationship with the reality of actual activities. Greater harmonisation of reporting standards would not solve the conundrum of the reported–actual relationship. From an implementation point of view, the suggested solution may be possible in the medium term, but the information to be derived thereby could refer to reporting processes as much as (or more than) the underlying reality of crime in Europe.

(ii) Problems with impact as conceptualised in WP 13

It is reasonable, in economic terms, to say that the total impacts on society of crimes/frauds stem from their financial impacts, plus their broader social impacts, plus the costs imposed on society by the necessity for prevention and enforcement measures. Thus, if one had robust measures of those three things, then perhaps one could predict levels of criminality from them – even to the extent of having confidence in comparative statements (country A versus country B) or statements about trends over time. The problem is that we do not have robust measures of *any* of those three things. Costs might be well established in certain specific cases, through looking at court decisions in civil cases, or at settlement decisions by insurance companies (a small number of which might themselves be subject to challenge and court decisions). The problem is that, in themselves, such specific considerations do not give a means of extrapolating to the wider impacts of all crimes/frauds. Only asking victims directly would come close to giving an answer, through victim surveys (concerning impacts on individuals, companies and government). Such surveys may be undertaken and/or sponsored by state agencies or by the private sector. Building on such sources would provide aggregate impacts data, and also frequency data – however WP 13 disavows such sources on two grounds: they are patchy in their coverage; and they do not distinguish impacts of organised crime from other crime impacts.

The combination could represent
(i) law enforcement priorities and reporting, times
(ii) impacts of crimes of unknown typicality.

Recommendations

1). Use private sector as well as public sector sources (including surveys of frauds against businesses and persons)

Both the probability proposal (WP 13) and the impact proposal (WP 14) leave aside the possibility of utilising existing pan-EU victim fraud victimisation surveys (eg, PriceWaterhouseCoopers studies of crime against companies; plastic card issuer data, which however are inconsistently available; some member states' surveys of crimes against businesses and against persons, etc). The present authors suggest that exploiting private sector sources, developing them and applying them more widely, would complement public sector sources, improving validity regarding frequency of frauds and their impacts. It is suggested that further consideration be given to these sources – both as they exist, and as they might be further developed. Such a strategy would recognise that the private sector already provide some such data on a pan-EU basis. This could be built upon and collated, while not disregarding the weaknesses of those data.

2). Help the EU to better interpret and utilise law enforcement data (including its uses for management in describing law enforcement activities)

What then would be a scientific and management understanding of law enforcement agencies' reports on their units' sightings of, and their estimations and judgements on OC (as set out in the 'group characteristics' aspect of WP 13)? These measures reflect levels of targeting and of resource utilisation, in terms of surveillance activities, informant placement, covert operations, etc. Highly targeted areas of crime naturally generate *more* reports, and *more detailed* reports, than areas of crime that are targeted less strongly. Such data – no less than reports on arrests, etc – are very valuable in showing *in what directions* the law enforcement agencies are looking, what levels and types of *information-getting resources* they are utilising, what *types of risks* they are looking for, what *interventions* they are attempting, and so on. These actions yield perceptions and reports about patterns of criminal organisation and techniques, which are shaped as much by the looking (police), as by the looked-at (criminals). Such management information on police and other operational/intelligence activities is very valuable to MS and the EU in ensuring that highly-prioritised areas of crime are being strongly targeted.

3). Consult all relevant stakeholders about requirements and the value of outputs

Taking advantage of the IKOC/AOC meeting with colleagues on 20 October 2006, the present authors called for further discussion of who are the potential stakeholders in, as well as implementers of, the proposed information systems and outputs. We understand that DG-JLS sees a stakeholder analysis as integral to plans for improving strategic information: we happily concur. A *provisional* listing is given in section 2 overleaf and in the footnote immediately below.² If stakeholders can be identified with greater clarity, then they can be asked about the purposes for which they need information. From that, the EU could be clearer about the types of information required, the standards implied, and the best way of fulfilling requirements. Until such time as the key stakeholders take a closer interest in the requirements for strategic crime information and better define the intended uses thereof, many of the paradoxes noted in this report are likely to persist. It will require a closer and critical engagement between policy makers and academics in order to allocate resources sensibly.

² Chiefs of police. Europol. Enforcement agencies in MS. Ministries in MS overseeing national enforcement agencies; overseeing the courts, and those commissioning victimisation surveys. Private sector: insurance firms; possibly audit and law firms doing pan-EU business fraud surveys; large private survey firms. Policy makers and policy networks at EU & MS levels. Council of Ministers. EC DG-JLS, DG-Enterprise & DG-Research. Eurostat. Private sector generally, trying to avoid victimisation, as represented in Fraud Forums. Those concerned with privacy and data protection. The public, via media & NGOs. The academic community.

2. INTRODUCTION & METHODS

Task and context

This feasibility study engages with questions of the feasibility of two proposals, (i) for assessing the probably of frauds by organised crime groups in Europe, as set out Work Package 13 in the IKOC project and, (ii) for assessing the impacts thereof, as set out in WP 14. The concept is that risk can be understood in terms of the combination of probability and impacts. Information for policy makers thus engages with both questions. The question is: how feasible are the methods for providing that information that have been developed within the IKOC project?

The present work package proceeds more or less in parallel with some other WPs. For example, WP 15 looks at the feasibility of the approach in relation to organised crime *generally* (not fraud specifically), examining political, organisational and financial feasibility of the methodology, by means of a questionnaire sent to national experts. *We do not attempt to duplicate the work of WP 15.* Meanwhile, WP 17 addresses the question of the 'Practical and policy implications related to the balance between the fight against organised crime and the need to respect civil liberties', and so is expected to refer to WPs 13–16 to some extent.

Approach planned and in practice: a radical re-think became necessary

The IKOC Project Proposal (as revised) anticipated that WP16 would test the methods developed by WPs 13 and 14 through the following process, and over the time period 30 April to 31 August 2006:

- identify area[s] of international fraud most feasible
- refine WP 13's approach (UCSC) to measuring volume/frequency/likelihood (henceforth referred to as 'probability', in line with WP 13)
- refine WP 14's approach (CNRS) to measuring impacts/harms
- select case studies, define methodology for each case study
- carry out case study/ies
- write long-ish technical report(s) and shorter deliverable. [See Annex below for fuller description, from Project Proposal.]

The assumption at IKOC project main planning stage (2004) had been that the risk model would be such as to allow an exploration of feasibility in respect of data, held by private sector entities, on reported thefts of plastic cards and related losses. This could have been a possible methodology, since virtually all the relevant thefts, misuses and losses become known to card issuers.

However, such an approach to the methodology for a feasibility study is in principle not applicable in relation to the eventual proposals of WP 13, which concern law enforcement agency reports to Europol on the forms of organisation/networking taken by OC. This has little to do with card issuers or their data. Nor do the card issuers collate the information called for by WP 14 on impacts. Thus, a radical re-think was therefore required in 2006, in order to address the question of feasibility.

Also, there were several contingencies in terms of timing. The two WPs describing the proposed methods for probability and for impact respectively became available later than anticipated, on 30 October and 4 August 2006 respectively. Given a final project seminar with partners from within IKOC and other colleagues on 12 December 2006, the amount of feasibility work was curtailed. The timing allowed more work on the impacts proposals than on probability proposals.

Fortunately, it had been agreed during 2005 that, given the work required for WP 16, work should commence early. This occurred, resulting in background work throughout 2005 and the first nine months of 2006, with presentations to project partners and to the Commission on several occasions from early 2006 onwards. The

current feasibility report updates that work, fine-tuning it in the light of the details of 2006 deliverables for WPs 13 and 14.

What is a feasibility study?

Leaving aside for the moment the detailed content of the two proposals, from the point of view of a feasibility study we need to ask – what is a feasibility study?

Essentially, a feasibility study concerns itself with whether a proposed line of action can be taken – necessary conditions, facilitating and impeding factors or contingencies, risks to the process, etc.

It is taken as axiomatic that, in a multi-level governance and cross-pillar environment, like that implied by anti-fraud policy and prevention in the EU, it is necessary for a feasibility study to consider the ‘stakes’ that are likely to be held by a wide variety of stakeholders, including but not exclusively, the most immediate implementers.

One possible sequencing of feasibility tasks follows.

- The first step is to identify and delineate (a) the proposed implementing agencies and (b) the relevant set of stakeholders. We attempt this below – for discussion.
- The second step is to make initial enquiries as to the levels of support-in-principle of the proposed implementing agencies, and of the wider stakeholders, for the proposed action. We assume that some of this is covered in WP 15.
- A third stage is to look for ‘political banana skins’, particularly those aspects of present or emerging conditions that may cause stakeholders: to be slow in coming to an initial view (not uncommon in complex decision-making environments); to change their minds; to seek amendments to the proposal; to demand it in a shorter or longer time-frame, etc. Some of this is discussed below.
- The final, most detailed step is focus on the capacity, capability and readiness-in-practice of the implementing agencies.³ This would involve quite involve detailed enquires in 25 MS (and sometimes in more than one agency per MS), as well as in Europol, and also in the private sector – IT specialists, organisational managers, procurement sections, the private sector, etc. This would be much too detailed and specific a task for IKOC.

In the case of the two (linked but distinct) proposals whose feasibility is to be assessed in respect of OC fraud probability and impacts, and in response to the first step mentioned above, the principal implementing agencies and the stakeholder (stated or implied) appear to be as follows.

³ Focussing upon this phase, four areas may be reviewed – Economic, Technical, Schedule and Organisational. Economic Feasibility involves questions such as whether the firm can afford to build the system, whether its benefits should substantially exceed its costs, and whether the project has higher priority than other projects that might use the same resources. Technical Feasibility – involves questions such as whether the technology needed for the system exists, how difficult it will be to build, and whether the firm has enough experience using that technology. Schedule Feasibility involves questions such as how much time is available to build the new system, when it can be built (i.e. during holidays), interference with normal business operation, etc. Organisational Feasibility involves questions such as whether the system has enough support to be implemented successfully, whether it brings an excessive amount of change, and whether the organisation is changing too rapidly to absorb it.

<u>First step.</u> Identifying:	Info on <i>probability</i> of OC frauds, as required by WP 13	Info on <i>impacts</i> of OC frauds, as required by WP 14
Implementers	<ul style="list-style-type: none"> ■ Europol ■ Enforcement agencies in MS ■ Ministries in MS overseeing national enforcement agencies <p>(Not the private sector, in the case that WP 13 does not rely on any private sector sources)</p>	<ul style="list-style-type: none"> ■ Europol ■ Enforcement agencies in MS ■ Ministries in MS overseeing the courts, and those commissioning victimisation surveys ■ Private sector: insurance firms; possibly audit and law firms doing pan-EU business fraud surveys large private survey firms.
Stakeholders	<ul style="list-style-type: none"> ■ Policy makers and policy networks at EU & MS levels. Council of Ministers. EC DG-JLS, DG-Enterprise & DG-Research. Eurostat. ■ Chiefs of police. Intelligence specialists ■ Private sector generally, trying to avoid victimisation ■ Those concerned with privacy and data protection ■ The public, via media & NGOs ■ The academic community. 	

This is just an initial listing, it might be that further consideration and discussion would identify others.

What is possible within the constraints?

In practice, only some of the above is possible in the present study. Given the timings, detailed feasibility work on WPs 13 and 14, involving consultations with potential ‘implementers’ in the public and/or private sectors, was not a practical possibility. It would have taken several months to have adequately addressed the implementation questions implied.

However, three sources of inspiration for a quick-and-dirty piloting of the second step present themselves, specifically and only insofar as the research community is concerned. These opportunities are that:

- The present authors can interrogate the methods proposed and examine their assumptions, placing them against alternatives. This is attempted below, in a preliminary manner.
- It was anticipated that colleagues (including Europol and the AOC team) attending the seminar on 12 December would add some views.
- Once the work is published, or at least shared with colleagues, the possibly would open for wider feedback.

Acknowledgment of feedback on August 2006 draft

A previous and partial version of this document, mostly consisting of section 3 on impacts, was sent to those designated as involved in WP16 – UCSC, Europol, IFPI, and Telecom Italia SpA (to which list we added CNRS). A request was made for comments during September 2006, the aim being to finalise the deliverable prior to the project’s final working seminar in Brussels.

The following remarks were gratefully received from IFPI (summary follows):

- IFPI have previously prepared and given data to IKOC but this is not used in the WP 13 and WP 14 methodologies. [Comment: this is an issue for possible discussion/explanation.]
- Pointed out that many serious fraud cases are carried out by individuals rather than by OC. [Comment: the present authors echo this observation.]
- Said that, in the texts seen, insufficient attention is paid to crime victim surveys. [Comment: the present authors echo this observation.]
- Concerning costs of responses, remarked that LEA costs on international fraud are very low. [Comment: if true, may reflect levels of prioritisation.]

- Wondered if full consideration has been given to regulatory compliance costs [Comment: see the present authors' discussion of response costs, including systemic risk-avoidance costs, in section 4 below.]
- Remarkd on the difficulty of delineating frauds from other crimes.

As noted above, publication will facilitate wider feedback and critical discussion.

3. FEASIBILITY OF THE PROPOSAL ON PROBABILITY

Proposal of WP 13

The proposal on OC probability suggests making estimates of probability by reference to characteristics of OC groups and law enforcement pressures; and suggests checking that probability estimate against (law enforcement) reports of frequency of such frauds.

In summary, using the convention *f* to indicate that something is a function of other things, the WP 14 team propose (December 2006 version) that:

Probability of frauds by OC = *f*(OC group characteristics and Law enforcement risk)

'Characteristics of OC groups' are described as a function of the following:

- Links/cooperation between OC groups involved in fraud,
- Geographic distribution of the OC groups involved (or overseas routes),
- Specialisation/Use of expert knowledge by OC groups involved,
- Intimidating power of OC groups involved by the use or threat of violence,
- Use of corruption by OC groups involved,
- Use of legitimate business structures by OC groups involved,
- Use of Information and Communication Technology by OC groups involved.

Those elements are fairly close to data requested by Europol as part of the OCSA process.⁴

'Law enforcement risk' (meaning risk to OC due to enforcement) is described as being a function of the following:

- 'Probability of being convicted for fraud' and
- 'Probability of having confiscated the proceeds of fraud'

Frequency (as reported) held back as a check on probability (as constructed)

It is worth underlining that what is proposed by WP 13 is not the measurement of frequency of reported OC frauds. Frequency (as reported) is kept back, to serve as a checking, comparison or validation point for the estimation of probability that would be constructed as described above. The Transcrime paper says that:

This is because the category [frequency] is too comprehensive and expresses, alone, the entire concept of probability. For this reason, this paper suggests the use of this category as a check of the reliability of the findings from the application of the proposed methodology [...]. (WP 13, p 2)

Other work by our Italian colleagues has noted – as indeed have many other observers – the difficulty of interpreting frequency data as supplied to Europol. For example, on rapid increases reported year-on-year, the following point is made.

This increase is the result, on the one hand, of an alarming rise in the number of people involved in organised criminal groups (Europol, 2002). On the other, however, it is likely to be the product of

⁴ The proposal draws upon the work earlier in the IKOC project of Transcrime on work packages 1 to 4, which the following was stated: "3.1 The European Union Organised Crime Situation Report. The primary aim of the European Union Organised Crime Situation Reports (henceforth EU OCSRs) is to obtain and disseminate qualitative (and also quantitative) information about organised crime (OC) in the EU with a focus on its cross-border manifestations. The OC groups' variables collected by the EU OCSR are: – Origin of the OC groups; – Composition of the OC groups; – Structure of the OC groups; – Links/cooperation between OC groups; – Use (or threat) of violence; – Use of corruption/undue influence; – Use of Information Technology (IT). Transcrime, IKOC WP1, p X

increased awareness in the Member States of the importance of collecting data on organised crime and of the consequent refinement of and changes in the methodology used by the Member States (Europol, 2003: 8). What is certain, however, is that even the more recent figures only give “a clue to the true situation where the figures are much higher” (Europol, 2002).⁵

Concerning not dissimilar reports to the Council of Europe, Transcrime considers that:

findings have to be interpreted with caution. As the COE itself admits, the reliability of the data and comparability of the various countries are hampered by a variety of factors:

- the different interpretation of the term ‘organised crime’ by different Member States. As the COE noted “some countries report that they know of a given number of ‘major’ or ‘main’ groups, while others say they have no knowledge of groups that would fulfil the Council of Europe criteria but report on numbers of less structured and permanent groups” (Council of Europe, 2002: 103);
- the different level of awareness on and sophistication of efforts against the organised crime phenomenon, which certainly impact on its reporting, although it is likely that this is at least in part correlated to the real size and seriousness of the problem.⁶

Also,

there are still great disparities in the quality and quantity of data contained in the national contributions to the EU OCSR and COE OCSR, which in turn reflect disparities in the quality and quantity of data collected at national level. This can be explained by the different interpretations given to the terms ‘organised criminal groups’ and ‘organised criminal member’, and by the different counting rules and data collection systems used. But the intrinsic difficulty still remains of correctly interpreting these quantitative pieces of information, influenced as they are by the geographically and chronologically variable extent of law enforcement efforts against the phenomenon.⁷

Nevertheless, regarding the proposed methodology on probability, the Transcrime team takes the same position as Europol, that the sources involved can be improved, and uses the present research as one of several ways of pushing for such improvement. In terms of feasibility, this specific concept, and the question of its reception by stakeholders – including the wider scientific community – may constitute a risk to the process.

The commitment to enforcement agency reporting systems

The Transcrime paper explains its primacy assumptions in the following terms.

The first necessary requirement for implementation of the present methodology for measuring the OC probability is the existence, in a given MS, of a separate data collection system on organised crime. According to a recent report produced by Transcrime for the European Commission (Transcrime, 2005), this is the case in nine out of the original fifteen member states. Without such a separate data collection system, the methodology herein proposed could not be implemented as the data necessary for its application could not be distinguished from the general crime data.

The second necessary requirement, which aims at making it possible the future implementation of the current methodology for comparative purposes (i.e. so as to reasonably enable a comparison of levels of probability and harm of specific OC activities across countries), is the existence of common definitions of the OC related-criminal conducts whose risk is to be assessed, and of common criteria

⁵ WP2, p 4

⁶ WP 2, p 6

⁷ WP2, p 11

for the collection of related data. This paper sets the basis for this harmonisation as it proposes, for each indicator of OC probability, guidelines for promoting the uniform collection of data on each indicator.

Background: comparison of probability models of 2005 and 2006

From the following tabular comparison, it may be seen that work done by UCSC on probability modelling between mid-2005 and late 2006 resulted in some fine-tuning of detail. The overall concept remained mostly stable, focusing on law enforcement reports and criminal justice statistics. The LEA aspects still concern reported characteristics of criminal organisations. The criminal justice data still is intended to model the extent to which law enforcement and the courts pose further risks to those criminal organisations that already have suffered arrests or seizures of assets. However, the previously included modelling of criminal opportunities was dropped from the probability mechanism in late 2006.

Probability modelling of frauds, as described in 2005 and 2006 work (WP 11 and WP 13)

<u>Probability model as of December 2005</u>	<u>Probability model as of December 2006</u>
<p><i>'Characteristics of OC groups'</i>, described as a function of the following: Number and type of experts used, Type of IT tools used and extent of usage, Type of structure of OC groups involved, Level of links/cooperation between OC groups, Number of OC groups involved, Number of participants in the OC groups involved, Level of violence within the OC groups involved, Geographic distribution of the OC groups involved.</p> <p><i>'Frequency of OC offences'</i> Number of offences</p> <p><i>'Law enforcement risk'</i> (meaning risk to OC due to enforcement) described as being a function of the following: Ratio people reported/people convicted for fraud, Average length of prison sentence for fraud, Ratio assets seized/assets confiscated.</p> <p><i>'Opportunity structure'</i>, a function of: Loopholes in legislation, Level of corruption, Use of commercial/business structures.</p>	<p><i>'Characteristics of OC groups'</i>, described as a function of the following: Links/cooperation between OC groups involved in fraud, Geographic distribution of the OC groups involved (or overseas routes), Specialisation/Use of expert knowledge by OC groups involved, Intimidating power of OC groups involved by the use or threat of violence, Use of corruption by OC groups involved, Use of legitimate business structures by OC groups involved, Use of Information and Communication Technology by OC groups involved.</p> <p>[Frequency deleted in Oct 2006 model]</p> <p><i>'Law enforcement risk'</i> (meaning risk to OC due to enforcement) described as being a function of the following: Probability of being convicted for fraud (against a baseline or those arrested), Probability of having confiscated the proceeds of fraud (against a baseline of assets seized).</p> <p>[<i>'Opportunity structure'</i> deleted in Oct 2006 model]</p>

Possible 'banana skins' – framework for feasibility enquiries with stakeholders

The preliminary observations of the present authors are as follows – some issues that could constitute banana skins.

Banana skin A: reported versus actual probability

At first glance, the estimates of probability produced would seem to have as much (or possibly more) to do with enforcement agencies' reporting activities, as with OC groups' activities. The proposal implies that probability/frequency of *reported* frauds, rather than actual frauds, constitutes the information required. In WP 13, the focus on reported OC frauds is justified in the following terms: the information-collection and analysis method is explicitly designed to use, as far as possible, "existing data on OC already collected by the majority of MS", and so to be "easily incorporable in the current data collection procedures of law enforcement agencies". It dovetails with Europol's requests for MS to harmonise their reports to give information on OC groups' characteristics (OC links, flexibility, their IT capabilities, etc).

Banana skin B: activities of OC groups only?

Readers will have noted the focus on probability of frauds *by OC groups*. This is because of Europol's competencies are circumscribed (by and large) by crime that is defined as organised in terms of the EU definition. The proposed model also underlines the case for those MS who have not yet set up a specialised OC reporting centre to do so, as WP 13 notes. As far as the proposed counting mechanism on the 'probability' side is concerned, 'non OC' frauds are not required by the proposal, indeed data on them would have to be excluded. One issue here is that, following guidelines, MS agencies increasingly designate crime groups and activities as OC, meaning that trend information is driven by reporting behaviour. The increasing use (and subsequent trivialisation) of this reporting category clearly poses problems of interpretation and no result could be directly 'read off' from the 'data'.

Banana skin C: 'probability' as distinct from 'frequency'; both as 'reported'

What could be the value of estimating 'probability' separately from 'frequency'? It is implied in WP 13, rather than stated, that if the second estimate were to support the first, then all would be well. If the second seemed to have a loose or no relationship with the first (eg, when viewed comparatively between countries), then further work would be needed on one or both estimation methods. In any case, that is to say for both probability and frequency, the data set to be used would be based on EU member state reports to Europol. However, neither probability nor frequency estimations produced in the suggested manner would correspond to actual numbers of fraud acts by the entities considered by MS raters to be OC; rather the estimates would refer to groups that (i) became known to MS and, (ii) were reported by them as OC to Europol. It is generally accepted that not all active crime groups are known to enforcement agencies. So, there seems to be a premise that reported crime info is, or in principle can be made, 'good enough',⁸ without recourse to external reference points.

Banana skin D: 'law enforcement risk' may refer mostly to unsophisticated criminals

Turning briefly to feasibility in relation to operationalising 'law enforcement risk' (see table above), it appears from WP 13 (as revised) that probability of conviction refers to probability of conviction against a baseline of those 'reported' (which might, depending on the context, mean detected, arrested or charged). It does refer to the ratio of reported for a criminal act to those involved in all criminal acts. This is because operationalising the latter ration would require access to actual crime data or estimates thereof, the nearest thing to which available is victimisation data, towards which WP 13 is not favourable (for reasons stated).

Likewise, on risk to criminal proceeds, WP 13 essentially calls for a ratio to be constructed of confiscated assets in relation to assets seized (not in relation to all criminal proceeds).

Thus, these approaches may leave out of the probability calculation the smartest criminals, whose organisations potentially may be quite prolific offenders – who often are able to escape apprehension (or at least their principals may), and whose proceeds relatively rarely may be seized.

In other words, in reflecting post-arrest and post-seizure outcomes (and ignoring risk of arrest and risk of financial seizure) the WP 13 may furnish a better perspective upon risks to amateurish criminals, who more often come into the criminal justice systems, than upon the more professional ones who relatively rarely suffer from such risks. This fits poorly with an insistence on focusing on OC rather than non-OC

Banana skin E: unhelpful positive feedback loop

⁸ The premise here could either be that the relationship between actual and reported OC groups is close or at least stable or becoming close and stable (so making it possible to consider MS reports as proxies for actual numbers of OC groups); or alternately that the policy interest is primarily in the reporting activity, rather than in the activity of OC groups).

In the methodologies of WP 13 and WP 14, the inclusion of correlates of existing responses against crime means that a positive feedback cycle is built into any both these model. Apparently high levels of 'risk', constructed by the combined probability-times-impacts model, concerning specific types of criminality, countries and time periods, are likely to reflect, in part at least, those areas in which the greater attention already has been paid by LEAs.⁹ It is by no means clear that such a build-in positive feedback cycle is required.

Banana skin F: external validation issues

In WP 13, the possibility of improvement of business and general population victimisation studies is mentioned,¹⁰ however not very favourably. WP 13 states that external points of reference from the private sector – such as business or other fraud victimisation surveys¹¹ are inapplicable because of partial coverage, and because they do not differentiate between perpetrators who are 'OC' and those who are not. It is assumed that only enforcement agencies can differentiate between types of perpetrators.¹² For this reason, the WP's proposed method of counting probability of OC frauds concerns primarily public sector sources and, within that, law enforcement data. This makes cross-validation difficult and loses potential value from the private sector.

⁹ Law enforcement reporting inevitably reflects targeting and resource-allocation, etc, and so does the conversion rate of assets seized to those confiscated, thus provided the positive feedback loop in respect of probability. In respect of impacts, the positive feedback loop is ensured by the inclusion in the formula of response costs.

¹⁰ The draft of WP 13 referred (at p 46) to well-known methodological tactics, such as construction of a 'multiplier' between the survey-estimated number of crimes in a given period and the number recorded by the police. It these need surveys of victims (of fraud, in the case under consideration here, and "Without state-of-the-art pan-European victimisation surveys, the European Commission might encounter serious political difficulties in asserting that the 'true' rate of corruption or economic crime was n times greater than that member state's own data implied."

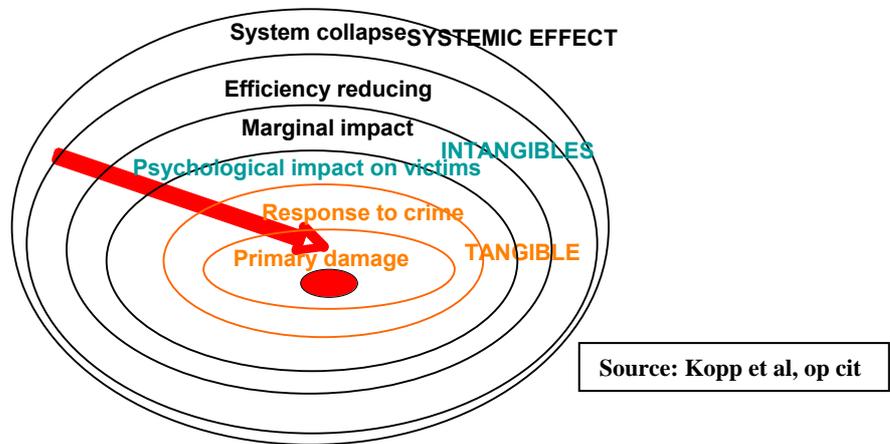
¹¹ For crime against businesses, PriceWaterhouseCoopers reports by-country; an overview is given by Bussmann and Werle, 2006, 'Addressing crime in companies: first findings from a global survey of economic crime', *British Journal of Criminology*, 46, pp 1128-1144. On corruption, see Control Risks and Simmonds and Simmonds, 2006, International business attitudes to corruption – survey, pp 24, London: Control Risks and Simmonds and Simmonds, http://www.crg.com/pdf/corruption_survey_2006_V3.pdf.

¹² That latter assumption is broadly correct, however as far as major frauds against business are concerned, existing pan-EU economic crime surveys do enquire about identification of victims, and could possibly be fine-tuned to ask if they corresponded to OC definitions.

4. FEASIBILITY OF THE PROPOSAL ON IMPACTS

Tangible, intangible and systemic harms: exposition

A model of all possible forms of harm arising from crime, as summarised by Kopp et al (IKOC deliverable WP 14) is represented by the following graphic from Kopp et al.



The diagram above offers a global vision of the various conceptions of impacts of crime, with the primary damage hitting individuals or specific entities, who may suffer psychological ('intangible') impacts as well as financial ('tangible') ones. The wider impacts, rippling out from the point of primary impact, may or may not take systemic forms - which might be merely marginal ('a blip'), or more considerable (efficiency reducing) or, in extremis (and rarely) very grave, leading to collapse of particular institutions or systems (markets, democracy, etc).

With regard to the arrow in the diagram, it should be borne in mind that many frauds are 'inside jobs', involving staff, managers or owners or enterprises, rather than being outsiders. In that case, if they damage others and possibly endanger systems, the direction of the arrow is reversed.

Details of Kopp's discussion of this vision and of his suggestions about operationalising the model can be found in the team's document (op cit). In short, on direct costs, they say as follows.

"Tangible consequences" can be divided into two categories.

The first summarises the "primary damage of crime" [...] We adopt an approach inspired by Law and Economics. [...] The indemnities paid by the courts and the insurances seem to constitute a market value indicative of the damage caused by the different crimes.¹³

Intangible. In practice, it is very difficult to measure these consequences in monetary terms. ... When it is impossible to attribute a value to intangibles, it is preferable not to give them. [Nevertheless] All offences which imply compensation (civil law) are subject to an evaluation by the courts. This evaluation considers objective aspects of damage (value of merchandise) and also subjective (sentimental loss, etc.). [Also] some of the crimes and offences are subject to compensation of victims by insurance companies. [So] indemnities paid by the courts and the insurances seem to constitute a market value indicative of the damage caused by the different crime.

¹³ At one point in their document, Kopp et al. also say that 'the measurement technique we propose must be simple and compatible with data which can be collected by the police force'. However, that would be incompatible with their main conclusion concerning court and insurance-based estimations. (Check back with authors).

On response costs, Kopp et al say:

The breaking down of public spending between the various types of crime is not an easy task. Most police force activity is not specifically devoted to a type of crime [and] the prerequisites for our methodology to function, both for probability and for harm, are that countries have separate data collection systems for OC. The cost of correction is also difficult to establish. [Nevertheless one approach would be:] Number of cases X prosecution cost [and] Number of prisoners X cost.

On systemic:

The systemic effect [see diagram] can be divided into three layers. The first can lead to a collapse of the system. This is clearly the case when corruption or violence reaches a certain level (non predictable, *ex ante*). Close to this level society is on an edge where any increase of the evil leads to a dramatic degradation of all social interaction. Terrorism provides an excellent example where society's roots can be threatened by a very small but poisonous increase in this kind of activity. The second layer of the systemic effect illustrates the case where society's global efficiency is negatively affected by the increase in crime. This is clearly the case with racketeering and extortion which distort competition, narrow the markets and distance society from competitive efficiency. Such an effect can be reduced by strong public intervention which increases the accountable cost but can in the short term lead to global improvement. The third layer illustrates marginal effects of crime on the society. Society can easily cope with this kind of threat by increasing public spending.

And on the dynamics of and the measurement of systemic costs:

Contrary to tangible consequences, which is clearly a linear relation, where cost and effect on the society increases at the same rate, here there is no longer a clear dose-effect relation. The pressure of crime can increase with almost no risk of system collapse. But at a certain "tipping point" a slight increase in crime can spoil the whole social equilibrium. We recommend not including systemic consequences of organised crime in international risk comparison of organised criminal activity. [...] The systemic risk cannot be combated 'per se' its level is the consequence of specific interaction between intensity of organised criminal activity, the country's history and the functioning of its institutions. In this sense there is no competition for public funds between policies which would be devoted to the struggle against the systemic aspects and the others. It is thus more logical to exclude the systemic aspects from our risk assessment as the finality of this last is to facilitate policy making.

In other words, and summarising, in order to devise estimates or indicators of seriousness of impacts (not the probabilities thereof), Kopp et al favour a two-prong approach, measuring (a) the financial compensation awarded by insurance companies and/or the courts (which in principle might cover direct tangible losses and direct intangible hurts), plus (b) some aspects of costs of responding to organised crime, where available.

Discussion of impact model

The Kopp approach bases its perspective and recommendations on certain assumptions about the purposes of harm indicators in European Union policy making. These assumptions are:

- That policy makers need information on all types of harms that stem from various aspects of organised crime, in order to rationally allocate resources where they can most effectively reduce harms of greatest concern.
- That 'the ultimate [objective] pursued in our work is the comparison between countries of risk presented by different organised criminal activities'.

- In terms of which types of harm should be included in an index of harms, Kopp et al favour restricting measurement to those types of harm that can be ‘combated per se’. It is in relation to these harms, or rather to their reduction, that there is ‘competition for public funds between policies’.

The first point above seems relatively non-contentious, noting however the implication that harm data (or indicators) alone cannot steer public policy or resource allocation – one also needs to know the (relative, marginal) cost-effectiveness of available anti-OC measures, be they specific enforcement modes, or specific prevention measures or broader society/governance approaches. Indeed the question of cost-effectiveness may be more important than the question of harms of OC, from a strictly economic viewpoint. In the real world however, policies and resource allocation may also have symbolic importance. *In summary, harm indicators are more realistically viewed as inputs into a wider requirement, rather than singular drivers of policy.*

The second bullet point above, country comparisons, is not something that can be settled definitively here. On the one hand, comparisons may be interest from the point of view of being of the ‘dependent variable’ in an analysis of the causes of various in crime-harm internationally. Closer to EU policy purposes, an understanding of differences in criminal impacts on different Member States might be useful material in policy discussion of where extra preventative or enforcement resources most urgently could be applied *by the EU*. On the other hand, different MS might have quite different views about priorities internally and be willing to invest at different levels of absolute and relative harm.

On the other hand, pan-EU (aggregate) indicators of harm might be better adapted to policy discussions on new legal instruments or priorities for competition between all the relevant agencies. *In summary, depending on what EU policy purposes are foreseen for harm indicators, so the requirement for country comparisons or a pan-EU overview might vary.*

Finally, on the assumptions made by Kopp et al, a ready welcome should be given to the third bulleted proposition: yes, real policy concerns should drive research and information-collation. On these grounds, if a general policy or a specific measure aimed at harm type A is capable of equally and predictably reducing harms types B and C, then one need only measure either A, B or C (pragmatically, the easiest to measure).

However, it is by no means established whether different dimensions of harm (tangible direct, tangible indirect, systemic, response costs) are either correlated at all, or are affected equally by measures directed at any one of them. That proposition could be no more than a tentative hypothesis – to be tested some time in the future, when and if harm indicators could be made robust enough. Indeed, one possibility, as Kopp et al themselves observe, is that there may be no ‘linear relation’ between systemic and other costs. Rather, for systemic harms, there may a ‘tipping point’, occasionally triggered by factors that may be unrelated to policies/activities aiming at reducing tangible impacts. *In summary, it may be safest to assume that policy-makers would be interested in all aspects of harm, especially since research has yet to be able to predict a reduction in one sort of harm on the basis of observation of a reduction of another sort. The question is, how could such harms be represented in a way that might be understood by and found relevant by policy makers?*

International fraud: *tangible, direct harms – methods and data available – feasibility*

Scale of relative harms of crime, provisional: direct costs				
5	4	3	2	1

As required by the project proposal to the European Commission (extract at Annex B), the focus here is on international fraud. Having said that, the potential scope of international fraud is very broad indeed. As put by one of the present authors, it runs from “campaign finance and the geo-politics of oil and anti-Communism/ ‘fundamentalism’, at one extreme, to technological factors such as the introduction in Europe

of Chip and Pin to neutralise the skimming of data from the magnetic stripes on our credit and debit cards, at the other” (Levi, forthcoming in Oxford Handbook of Criminology, 2007). For practical purposes, some degree of focus is needed for a feasibility study. The focus chosen here is international frauds against companies and markets.

As noted above, Kopp et al favour a two-prong approach, measuring (a) the financial compensation awarded by insurance companies and/or the courts (which in principle might cover direct tangible losses and direct intangible hurts), plus (b) some aspects of costs of responding to organised crime, where available.

The literature and professional experience would suggest that, in addition to insurance and the courts, other sources of information on seriousness or harmfulness of impacts would include the following losses as reported to the authorities (by value of loss); anonymous surveys in which corporate entities or companies report losses. Audits are also another source of loss information (see Annex A).

Another technique is gap analysis, for example estimations by private or public bodies of gap between, on the one hand, the sales or incomes or tax revenues that they would expect and, on the other hand, actual receipts. This gives no information on how frauds may be bunched into few large frauds or many small ones, however it gives an overall impression of what is under discussion here – the total volume – and that aggregate figure could be compared with calculations aiming to sum all impacts * probabilities.

In fact it seems possible to construct a hierarchy of sources/methods for calculating direct losses, as follows, according to the rigour with which a source/method *checks* statements about losses.

Direct cost estimation methods – frauds – a range of possible methods

→ Nearer the top of the list: relatively rigorous, contested examinations of impact (but concerning few instances)

← Nearer the bottom of list: looser estimates, untested, non-transparent (but many more reports)

Methods based on reporting specific cases:

- Court adjudications: most rigorously tested, since often strongly contested between the parties (may draw on a wide variety of forms of evidence).
- Audits of the accounts of public and private entities, where one duty is to comment on internal controls. Another duty is to report fraud losses – by cross-checking figures against each other.
- Insurance companies' decisions, addressed to particular cases, but with less attention to detail, and a tendency to minimise pay-out (to minimise costs to the insurance companies).
- Losses directly reported to the authorities, where the estimate of loss is the victim's and may be unchecked: millions.
- Anonymous surveys, eg business surveys of losses due to frauds, where the estimations of loss are those made by the reporting companies, without however any reasons to exaggerate or minimise (unless there are reasons related to internal politics of the firm)

Σ aggregates:

Gap analyses (where possible), based on comparisons of expected and actual state of finances. Rather like audit-based estimates, but for a whole sector.

These results should triangulate with results of all methods of reporting specific cases (see left).

Victimisation surveys – of corporates and of the general population or sub-sets of it – report forms of harm that specific victims notice, recall and see as sufficiently important (and non-stigmatising) to report. Fear of being victimised may also be covered. Surveys of economic crime include, for example, the PriceWaterhouseCoopers 2005 Global Economic Crime Survey and other surveys and studies of losses; and general population surveys that ask victims about the impacts of economic crimes, for example the British Crime Survey and Commercial Victimisation Survey, and the International Crime Victimisation Survey.

It is noteworthy that business crime surveys appear to be coming of age, in the sense that increasingly they *interpret* their sources, rather than automatically deriving the worst news possible. For example, the Economic Crime Survey 2005 global report by PriceWaterhouseCoopers¹⁴ indicates that, whilst companies in 2005 reported more frauds than they did in 2003, the same companies believed that the prevalence of fraud (ie, including undiscovered and unreported instances) was lower in 2005 than in 2003. This belief was based on consideration of the stronger internal controls brought in, especially by larger companies, in recent years. The indications (though not verified independently) are that a higher proportion of economic crimes are being uncovered than hitherto. Needless to say, there remain problems with some of these sources, notably the tendencies for many businesses to under-report on 'insider' frauds, and/or to over-estimate losses from external perpetrators.¹⁵ There are also methodological difficulties arising from the fact that (even excluding

¹⁴ PriceWaterhouseCoopers, November 29, p 2 of pp 36, http://www.pwcglobal.com/gx/eng/cfr/gecs/PwC_2005_global_crimesurvey.pdf

¹⁵ For example, in relation to counterfeiting, some victims report losses according to full sale price of the items concerned, ignoring that fact that the number of counterfeit sales reflects reduced pricing and that the same number of full price sales certainly would not have been achieved. Nevertheless there are also serious reputational issues where customers purchase, say, fake pharmaceutical products believing they are genuine and then become ill or die.

undetected frauds) different parts of organisations may not be aware of what other parts 'know'. Nevertheless, victim reporting gives some leverage on aggregate levels of harms. From these perspectives, crimes could be seen as particularly serious if corporate and/or individual victims report losses that are serious in their own terms (in relation to their means, turnover or assets).

Top of the range of direct tangible costs?

One of the presumed purposes of rating impacts of frauds would be to compare impacts from various types of criminal: fraud, trafficking, terrorism, etc. Defining the circumstances in which the top rating (5) for impacts may be merited is perhaps rather problematical. Looking at the events in New York in September 2001, and at insurance payouts (as recommended by Kopp et al, op cit), the estimates of pay-outs are very large but also very variable.

Estimated losses from WTC range from \$30 billion at the bottom end to \$75 billion at the top end. So an average estimate might be in the order of \$50 billion of which analysts predict some 60% will be picked up by the reinsurance industry. AON, estimates that reinsurers have lost \$200 billion in the 18 months since 9/11. The point of restating these numbers with which I am sure you are all familiar [...] is to illustrate the huge dispersion of estimates which are bandied around about the reinsurance industry. And yet as risk passes from risk-averse individuals, corporations and governments to insurance companies and on to reinsurance companies, each of whom presumably has the appetite for assuming some element of the risk, the quantum and locations of losses that emerge from this risk transfer are barely known.¹⁶

This variability somewhat undercuts the possibilities of using insurance pay-out data as an indicator of direct losses. It suggests that such data may need to be supplemented by other sources/methods.

Subsequent to these pay-outs, and in the light of the re-rating of risk that ensued, insurance costs soared. As a result, the industry as a whole has recovered losses experienced on 11th September (as it tends to do after every disaster, bad years being balanced by good) – even though some providers at least temporarily withdrew from the market¹⁷ and hence some of the new profits accrued to other, widely dispersed risk-purchasers. On balance, the industry does not suffer from major disasters, quite the reverse. Needless to say, such longer-term benefits do not accrue to the corporate and individual victims of major disasters, who (or whose surviving relatives) receive, at best, the sums insured. Be that \$30 billion or \$200 billion, such an order of magnitude might be taken to define the top of the range for specific acts of criminality/terrorism.

Middle and lower range impacts?

What them might be rated at 2, 3 or 4 on a five point impact scale? Here it is helpful refer to European research on collapses of companies, due to (or at least following, and partly due to) fraud against the companies by insiders and/or outsiders).

Management fraud is a dominant factor in major European business failure cases. This factor was relevant in over 50% of our sample cases and the bullfrog type of business failure was the dominant type of business failure in our study (37%). This type of business failure is closely related to the adverse role of a dominant manager or owner within a company whose engagements in fraudulent or unethical behaviour are unchallenged within the company and eventually result in disastrous consequences for the company. In most of these cases, the company apparently lacks a structure in

¹⁶ Tiner, John (Managing Director, Financial Services Authority), 2003, Limits of insurability, speech to International Underwriters Association of London, Church House, Westminster, 13 May, <http://www.fsa.gov.uk/Pages/Library/Communication/Speeches/2003/sp128.shtml>

¹⁷ General Accounting Office, 2001, Terrorism Insurance: Alternative Programs for Protecting Insurance Consumers, Washington: US Govt General Accounting Office.

which a dominant manager/owner is adequately monitored and corrected for taking any illegitimate or fraudulent actions. This might be partly due to ineffective corporate governance mechanisms.¹⁸

Indeed:

A significant category of business failures are related to fraudulent or unethical behaviour by company managers or employees. This category [category 4] in the authors' schema] accounts for most of the high profile business failure cases of the last quarter of a century. For the vast majority of cases in category 4 the business failure is closely related to harmful, fraudulent or unethical actions by individuals or groups. For a limited number of cases in category 4, the illegal or unethical actions of the full management board (as opposed to a single dominant manager) have caused the business failure. In two cases, a lack of control regarding employees has resulted in business failure.¹⁹

In the study cited above, a business failure is defined as a situation that meets at least one of the following two criteria: formal bankruptcy as a result of which the failing company ceases to exist in its current form; a drop in market share value by more than 50% over a period of one month, indicating a situation of severe distress.

With reference to fraud and its impacts upon major European companies, the present authors propose adopting such a definition – or some fine-tuned version thereof, following discussion with research partners – as an intermittent point on a severity scale of tangible impacts of frauds against companies.

That is to say, such a fraud impact might be rated as a 3 or 4 or possibly 5, depending on (for example):

- whether as a result of the fraud the company concerned was wiped out (Barings Bank, reduced to the market value of £1): rate as 3 or 4?
- whether it collapsed, but appreciable assets were available to be salvaged: rate as 2 or 3?
- whether its trading, turnover or share price was severely disrupted (falling by 50%), even if it may have recovered thereafter: rate as 1 or 2?

Moving from exceptional events to routine ones, one may consider internet frauds. Here – noting that here the intention is explore the range of values of frauds reported, not to confirm their accuracy – estimates for the US range from around 2% of all internet-based transactions being fraudulent in some way (not necessarily indicating loss equivalent to the whole value of the transaction, since in some cases a service or product may be delivered but be substandard in quality), to a reported high for the US of just over 6% of online transactions by number, and 4% of total online transaction amounts (the later estimates being given by a purveyor of internet security solutions²⁰). All such estimates should be treated with caution, however the order of magnitude is of interest here: we are not talking about 50% of amounts being fraudulent, or about 0.5%. The point for purposes of scaling is that around the 5% level would appear to be bearable for at least some companies in the market: they take time to reduce the losses but they do neither do nothing nor go out of business. (There are many estimates of other types of fraud.²¹)

¹⁸ Bollen, L, Mertens, G, Meuwissen, R, van Raak, J and Schelleman, C, 2005, Classification and Analysis of Major European Business Failures, study commissioned by the European Contact Group, October, p 9 of pp 65, Maastricht/Rotterdam: Maastricht Accounting, Auditing and Information Management Research Center (MARC) of University Maastricht and RSM Erasmus University, <http://www.integriteitoverheid.nl/contents/library/28/classificationandanalysisofmajoreuropeانبusinessfailures-fraudeoorzaakbedrijfsproblemenokt.2005.pdf>

¹⁹ Ibid p 8. See that report for examples and detail.

²⁰ Verisign, 2003, Internet Security Briefing, October, p 7 of pp 9, California: Verisign, <http://www.verisign.com/static/005572.pdf>

²¹ For example, collated by the UK's FSA: Fraud against the private sector: • In 1999, this cost firms £1.5bn per year – equivalent to £25 for every adult and child in Britain. [Source: National Economic Research Association Study for the Home Office]. Fraud against the financial sector: • By 2004 the financial services sector is now losing some £11bn per year from economic crime (fraud, money laundering etc). [Source: RSMI Robson Rhodes Economic Crime Survey 2004]. Plastic card fraud: • Losses of £479mn in 2003–04, up from £97mn in 1994. Almost a 500% increase over ten years. • Total card fraud rose by 18% in the 12 months to June 2004. • There is a fraudulent transaction

If the intention is to rate frauds on a scale, and if the scale chosen might have five points, then fraud levels of 2 to 5% of transactions might be a point 1, or at most 2, on a five point scale: clearly undesirable, and meriting action, but not the end of the world.

Thus we begin to see the possibility of rating fraud impacts on a scale of 1–5 referring to crime/terrorism impacts, with the financial impacts of 2001 being point 5, major company collapses and serious downturns being in between. The fine-tuning of such possibilities might need to involve a panel of, or discussions by, policy-makers – a point to be returned to in more general terms.

Intangible costs: converting reputational costs to financial costs

As noted above and elsewhere, such costs may be hard to establish – especially when dispersed through the emotional/social experiences of many individuals (the classic focus for much work on intangible costs, see for example Brand et al and other sources cited by Savona et al op cit and by Kopp et al op cit). However, when it comes to corporate bodies, especially those which are valued in the market place on a daily basis through share prices, then the reputational harms that may be suffered – and the 'cultural' set-backs experienced by those working inside firms as well as the reservations of trading partners, customers and the market at large – may be reflected in share and/or bond prices, either in the spot market or in futures markets. For an example, consider the fall in share prices of British Petroleum in the autumn of 2006, as it emerged not only that there had been relatively minor oil spill in its Arctic sphere of operations but also that corrosion in its American piping system was a long-running saga – replete with allegations that the company had been more interested in identifying and suppressing potential whistle-blowers, than in dealing with the alleged problems (Financial Times, 9 August 2006, page 1). The fraud issue here would be falsification (omissions, at least) of technical reports, occurring somewhere between local operational technicians and managers, provincial regulators, and international head office. BP's share price fell during the period of disclosure. Similarly, major disasters such as the Challenger Spaceship blow-up, the Herald of Free Enterprise sinking, the loss of reputation and hence value in auditors Arthur Anderson, all these situations and more could be combed for guidelines on how reputational loss is reflected in financial value. Some work has been done in the law and economics tradition.²² Furthermore, share price falls may be experienced by firms which are in some manner related to the firm in question, or purchase key services from it, such as audit services: 'bad news' and uncertainty over the possibility of more to come potentially tars many who are very indirectly linked with the 'point of impact' of the fraud.²³

What could be the level of such losses? Karpoff et al report,

Our point estimate of the reputational penalty is twelve *times* the sum of all penalties imposed through legal and regulatory processes. This evidence belies a widespread view that financial misrepresentation is disciplined lightly.²⁴

If that estimate is of the right order of magnitude, then certain indirect costs would, in some circumstances, very much exceed awards by courts (the focus for the methodology suggested by Kopp et al op cit).

every eight seconds. [Source: Association for Payment Clearing Services (APACS)]. Insurance: • 3.7% of all insurance premiums result from fraud losses. • Fraudulent motor and household claims cost £20mn per week. [Source: Association of British Insurers (ABI)]. Source: FSA, 2003, op cit p 3. A meta-review for the UK only is currently being completed by Levi and Morgan Harris Burrows.

²² Jonathan M. Karpoff, John R. Lott, 1993, The Reputational Penalty Firms Bear from Committing Criminal Fraud, Jr. *Journal of Law and Economics*, vol. 36, no. 2, Oct., pp. 757–802

²³ Asthana, Sharad, Balsam, Steven and Krishnan, Jagan, "Audit Firm Reputation and Client Stock Price Reactions: Evidence from the Enron Experience" (June 2003). Available at SSRN: <http://ssrn.com/abstract=320327>

²⁴ Jonathan M. Karpoff, D. Scott Lee, Gerald S. Martin, 2004, The Cost of Cooking the Books, December 17, p 1 of pp 37, Seattle: CFO Forum at the University of Washington Business School, http://depts.washington.edu/cfoforum/Cost_of_Cooking_3-9.pdf

Others suggest that serious reputational losses – think Union Carbide, Exxon Valdez – may be reflected by a fall in share price of up to two thirds.²⁵ In reflecting on such estimates, it needs to be borne in mind that they do not refer to direct costs of the incidents concerned, but are some amalgam of those losses plus (sometimes greater) financial losses due to reputational damage. The issues are complicated by the possibility that, in some cases, the working of markets results in higher profits after reputational damaging events: for example an international increase in oil prices, due to British Petroleum’s 2006 Alaska pipe shutdown, increased the profits of the company, according to industry analysts. Thus reputation losses due to fraud or other events are not always correlated with direct (financial) outturns.

What these (admittedly scattered) bits of evidence suggest is (i) reputational/social harms may sometimes equal or exceed by a wide margin direct costs, including costs levied by regulators or courts; (ii) the two may not always be positively correlated; (iii) thus it may be necessary to try to track both forms of damage, rather than relying on either one to represent the other; (iv) however measures for ‘scaling’ reputational (and other ‘social’) losses are not well developed.

Tangible, indirect costs – responses by public and private sectors – feasibility

Scale of relative harms of crime, provisional: indirect costs				
5	4	3	2	1

Here the measurement issues are well known. Kopp et al cite sources and summarise some practical difficulties of measurement, mentioning public and private sector responses. In line with the discussion of those authors, we take it that there is an assumption that, in principle, expenditures of activities undertaken as antifraud and other anti-crime responses could be compared and contrasted.

If so, one possibility would be for the amounts to be expressed as a proportion of the overall budget of an entity, or of GNP (in a single year as Kopp et al suggest, or over a multi-year period that might be time-lagged, for reasons mentioned above). So, purely for illustration at this stage, the points 1 to 5 on such a scale could represent, let us say, up to 1%, 2%, 3%, 4% and 5% or more of GNP.

In fact, that would not be too far away from what some governments have spent in order to resolve serious problems in banking systems.

What is the [indirect, in our terms] impact of a banking crisis? First, the financial cost of fixing an insolvent banking system is high, and that cost is ultimately borne by the taxpayer. For example, in Australia's banking crisis of 1989–1992, the IMF estimates the cost of rescuing state-owned banks to be nearly 2% of GDP. In Mexico, the overall cost of several programs to support the banking system is estimated (in present value) at 6.5% of GDP. Currently in Japan, the government has announced an intention to spend as much as 30 trillion yen, 6% of GDP, to support its banking system. For Finland, Chile, and Argentina, the IMF estimated the fiscal impact of banking crises to have been between 4% and 8% of GDP. Finally, in the United States, resolution of the S&L crisis is estimated to have cost \$150 billion, approximately 3% of GDP in 1990. ²⁶ and for S&L see also ²⁷

²⁵ Zyglidopoulos, S.; Phillips, N., 1999, 'Responding to Reputational Crises: A Stakeholder Perspective', *Corporate Reputation Review*, Volume 2, Number 4, pp. 333–350(18), Palgrave Macmillan, <http://www.ingentaconnect.com/content/pal/crr/1999/00000002/00000004/art00004>

²⁶ Ferguson, Governor Roger W. Jr., 1998, Are Banks Safe for the World and Is the World Safe for Banks? Speech before the Urban Bankers Coalition, Inc., New York, April 16 Speeches of Federal Reserve Board Members, Washington, DC: Federal Reserve Board, <http://www.federalreserve.gov/Boarddocs/speeches/1998/19980416.htm>

²⁷ Caprio, 2003, Gerard and Klingebiel, Daniela, *Episodes of systemic and borderline financial crises*. January, World Bank; cited in FSA 2003 op cit.

The S&L (Savings and Loans) crisis in the US was fraud-related. If these percentages of GNP relate to the most serious contemporary costs of cleaning up problems, then perhaps they provide us with some comparison points for the costs of government responses to other instances of organised crime and to fraud.

However, a number of problematic issues remain, some about the practicability of identifying financial amounts, others more of principle insofar as it proves difficult to relate security expenditure as being 'response' to specific frauds.

In relation to the public sector, some of the practical issues revolve around separation out of the proportion of state expenditures that relate specifically to (international) frauds; one would also add expenditures by regional and international bodies. Fraud specifically, by comparison with other areas such drug trafficking, attracts only a small proportion of activities and total expenditures of regulators, enforcement agencies, prosecutors, courts and prisons (noting that few fraudsters go to prison). Where there are specialist anti-fraud agencies and programmes, these may be costable, however the proportion of total anti-fraud responses represented by specialised agencies may be a fixed cost, either as between one aspect of fraud to another, or from country to country.

There are similar issues in relation to private sector expenditure, with the additional difficulty that, if they are made at all, estimations may be made for specific purposes -- such as, in relation to counterfeiting, emphasising the losses experienced and supporting demands for tighter policies or more public sector assistance.

Summarising, the figures are quite malleable. This difficulty should be kept in proportion, for two reasons. All the other aspects of fraud discussed here also present difficulties of estimations. The objective is not to measure their absolute financial cost but rather to assess them in terms of position on a seriousness scale -- which in principle might mean seriousness in relation to the costs of responses to other aspects of 'organised' crime (and/or it might mean wider policy costs).

In short, estimates of response costs would be sought in terms of relativities or comparisons (more than that, less than the other). The question here -- as for other aspects of harm -- is how to represent these relativities, either qualitatively and/or (as Kopp et al suggest) on a 1-5 scale.

This raises some questions of whether a specific response cost can be associated with every negative impact of fraud. For example, do responses (and hence response costs) arise in relation to particular (specific, individual) -- or as a reaction to impressions that public and private sector decision-makers (response cost allocators) might form in relation what they perceive in aggregate (how much fraud is hurting the business)? From what we know about the way businesses and public organisation function, they set budgets in advance -- sometimes three or more years in advance in the case of the public sector -- so anti-fraud expenditure may have nothing to do with fraud impacts in the period in which the action is taken. Also, organisations set budgets for a number of reasons, of which fraud loss-minimisation is only one -- reputational management may high on the list. Being seen to be a victim to even quite modest frauds may make some organisations look rather incompetent, the implication drawn by the market that, if the firm could not stop frauds, might they also be not so good at other aspects of their business? Conversely, if the impacts of frauds remain largely unknown to outsiders -- even to most company insiders -- then the 'shrinkage' may be tolerated and bear no relationship to allocation of preventive/investigative responses.

There are many other reasons for doubting that all organisations have a response cost for every known fraud/impact.

1. There could be circumstances when there will be no relationship at all: take for example a hypothetical (although not impossible) company in which and against which there are no frauds, partly because the

company has a policy of spending a certain amount on anti-fraud prevention and investigation resources and has managed to communicate the impression that malefactors would be caught.

2. Alternatively, take a company in which there is no anti-fraud expenditure at all (none that is labelled or can be identified as such) and that suffers ongoing and considerable frauds, which are tolerated as a cost of doing business.
3. More commonly, where there are some known fraud impacts and some responses, the relationship between the two primarily may be driven by exogenous factors – such as public exposure and bad publicity, the arrival of new managers who take a different view on these matters, or comments by auditors, regulators or enforcement.
4. Finally, there are usual but highly significant circumstances when the impact of a fraud is so great as to put a company out of business (see examples of companies and banks, discussed above) – giving rise to a situation in which perhaps an entity *should* have invested resources to prevention of frauds, but did *not* do so (either because the entity did not conceptualise the relevant risk, or else because the owner or responsible manager was the fraudster).

In none of the above cases could response costs be connected to specific fraud or even to the aggregate of frauds – even where it might be feasible to break anti-fraud expenditure out of broader budget headings, such as statutory compliance expenditures, audit, board level-led good governance initiatives, security department or function, personnel function, press office, general management, etc. (See Kopp et al, *op cit*, on the embeddedness of such costs within public sector institutions; the same goes for the private sector).

In summary, it begins to look as if anti-fraud response costs (i) can be estimated only very roughly, due to the difficulty of unbundling those costs, (ii) can more likely be estimated in relation to aggregate known direct losses (tangible and intangible) than in relation to specific frauds, (iii) may differ radically from sector to sector, and from firm to firm (there is no reason to expect manufacturing industry to have the same anti-fraud spending as banking, or for small firms to have the same as large firms) and, (iv) may on occasion not exist (due, for example, to managerial insouciance or to corporate collapse after fraud). Accepting these limitations, any available estimations should be treated with due caution.

Costs of action against systemic harms – an aspect of response costs

“There are three elements to our risk identification: • First, our framework for assessing financial institutions is designed to identify the material risks being incurred by individual firms and how these translate into risks to our objectives. • Second, some risks may extend beyond the firm-specific and relate to an industry sector or a large group of consumers. We examine potential risks falling under this heading through project work. This serves to subject topical issues to closer scrutiny. • Third, we aim to assess, within a single framework, the wider environmental [meaning systemic] risks that affect our objectives [...]”²⁸

Clearly systemic risks, and thus ways of conceptualising their potential severity, are of concern to regulators. In this sector we explore systemic risks and interventions by regulators and others to reduce such risks, moving on to the costs of such interventions, when fraud is involved.

To summarise, it is suggested that the costs of such actions may be seen as representing the ‘top end’ of response costs. We are not concerned with an estimation of systemic *costs per se* (eg, costs of market inefficiencies, disruption, contagion, etc): only with the costs of responses entered into by authorities (sometimes in concert with the private sector) when the authorities estimate that the costs to them of such action are merited. For example, the US authorities intervened in the Savings and Loans affair (where fraud

²⁸ Financial Services Authority, 2003, Reasonable expectations: regulation in a non-zero failure world, p 29 of pp 43, London: FSA, http://www.fsa.gov.uk/pubs/other/regulation_non-zero.pdf

was involved), because the systemic, 'knock-on' consequences of not doing so were seen as unacceptable. The costs of that intervention have been estimated as around 3% of GNP. Since that figure seems amongst the highest known for such interventions, that proportion of GNP might be taken as defining the top of a scale.

First, what is systemic risk?

By systemic risk, we mean the risk that failure of one counterparty to a transaction will trigger failure of other counterparties: A cannot pay B, who then cannot pay C, and so on. The FER [Financial Economists Roundtable] believes that systemic risk of a cascading nature that would jeopardize financial institutions is now small, but we recognize the inherent difficulty in drawing any firm conclusion in this regard. [...] On occasion, liquidity in particular markets can be temporarily frozen as a result of hedge-fund activity. However, since the Long Term Capital Management (LTCM) episode in 1998, many hedge funds have become more cautious in their choice of counterparties and no single hedge fund is as large relative to the market as LTCM was at the time. Moreover, bank regulators now monitor the credit and counterparty exposure of financial institutions to hedge funds much more carefully.²⁹

At the heart of the concept is the notion of "contagion," a particularly strong propagation of failures from one institution, market or system to another. Especially nowadays the way in which large-value payment and securities settlement systems are set up as well as the behaviour of asset prices in increasingly larger financial markets can play an important role in the way shocks may propagate through the financial system.³⁰

What triggers such situations?

Contagion on interbank markets can occur in at least three types of situations: (i) when aggregate liquidity is insufficient, (ii) when market expectations create "spillovers" and (iii) when the collapse of a bank induces a domino effect. [...] Without the interlinkages between banks operating in different regions, the financial crisis would not spread between regions. "Spillovers" through market expectations represent a second potential channel for contagion. For example, bank runs may occur when depositors observe other customers withdrawing their funds from the bank. The depositors not facing liquidity shocks may then decide to withdraw too, in the fear that they will ultimately be unable to recover their deposits [...] A third source of contagion is the domino effect itself. The failure of one individual bank may initiate a domino effect if the non-repayment of interbank obligations by the failing bank jeopardises the ability of its creditor banks to meet their obligations to their (interbank) creditors. Contagion occurs then "mechanically" through the direct interlinkages between banks.³¹

The circumstances in which (ii) above happens – spillovers between, correlations between and magnification of problems – has become better understood in recent years.

Two major themes have emerged from August 1998: the importance of liquidity and leverage, and the capriciousness of correlations among instruments and portfolios that were thought to be uncorrelated. [...] The more illiquid the portfolio, the larger the price impact of a forced liquidation, which erodes the fund's risk capital that much more quickly. Now if many funds face the same "death spiral" at a given point in time, i.e., if they become more highly correlated during times of distress,

²⁹ Financial Economists Roundtable, 2005, Statement of the Financial Economists Roundtable on Hedge Funds, meeting at Stanford on November 3, Chicago: Loyola University, <http://www.luc.edu/orgs/finroundtable/HedgeFundStatement.htm>

³⁰ De Bandt, O and Hartmann, P, 1998, What Is Systemic Risk Today?, paper by staff of the European Central Bank at the conference on risk measurement and systemic risk, November 16–17, Tokyo: Bank of Japan, p 38 of pp 37–83, <http://www.imes.boj.or.jp/cbrc/cbrc-02.pdf>

³¹ Degryse, H and Nguyen, G, 2004, Interbank Exposures: an empirical examination of systemic risk in the Belgian banking system, pp 4 & 5 of pp 64, Stockholm: Riksbank, http://www.riksbank.se/upload/Dokument_riksbank/Kat_foa/Degryse_%20Nguyen.pdf

and if those funds are obligors of the a small number of major financial institutions, then a market event like August 1998 can cascade quickly into a global financial crisis. This is systemic risk.³²

Whilst early work portrayed systemic risk in quite narrow terms – technical problems of bank liquidity leading to disruption to trading, collapse in confidence, etc – recent work broadens the concept to take in a much wider set of disturbances, including fraud. History gives examples of systemic harms and, by looking at regulators’ comments, one can begin to construct a yardstick against which the impacts of frauds might be judged. For example,

[FSA former chairman] Howard Davies discussed the regulatory response to the South Sea Bubble scandal in a speech in March 2003. His view was that 'The combined effect of the bubble itself, and the resultant legislation, led to a reaction against joint stock companies that lasted for over 100 years, putting back the development of one of the most powerful motors of economic growth and wealth creation.' These comments were made in the context of equity market bubbles rather than financial–crime related, but perhaps the recent uncertainties in the equity market caused by financial misreporting could have a similar effect.³³

Chan et al summarise a number of studies on fraud, providing detailed accounts of six of history's most egregious cases. A study of over 100 liquidated hedge funds concludes that half of all failures could be attributed to operational risk alone, of which fraud is one example. “The most common operational issues related to hedge fund losses have been misrepresentation of fund investments, misappropriation of investor funds, unauthorized trading, and inadequate resources” (Feffer and Kundro, 2003, p 5).³⁴ A presentation on behalf of the Bank for International Settlements puts it like this, referring to international fraud:

The consensus view... is that systemic disturbances are now more likely than in the past to erupt outside the international banking system and to spread through market linkages rather than lending relationships. [...] The concept of systemic risk has thus been broadened along several dimensions: (1) it has come to explicitly include non–banks along with banks; (2) the concept has moved beyond traditional lending to include all sorts of financial activities and resulting exposures, including exposures to operational and reputational risks; while (3) the focus is now firmly on interdependencies between market participants as well as their exposures to common risk factors, including institutions’ reliance on core parts of market infrastructure [...] the system’s “plumbing”. Let me give you one example: the recent troubles at Refco, an important futures broker. The dust has not yet settled, making an in–depth analysis difficult. However, it seems that the discovery of a serious case of accounting–related fraud at one of its subsidiaries, while relatively minor in absolute terms, has in practice led to the collapse of that company. While big, Refco was probably not big enough to matter in any systemic sense, and its crucial futures brokerage continued to be operational. But the events surrounding its demise offer a taste of how the proverbial “flap of a butterfly’s wing” could cause repercussions throughout the financial system by affecting parts of the market infrastructure.³⁵

³² Chan, N, Getmansky, M, Haas, S and Lo, A, Systemic Risk and Hedge Funds, draft: August 1, paper prepared for the NBER Conference on the Risks of Financial Institutions, pp 1–2 of p 95, Mass: MIT, <http://web.mit.edu/alo/www/Papers/systemic2.pdf>

³³ Robinson, Philip, 2004, Financial Crime and the City, speech, 19 July, London FSA, <http://www.fsa.gov.uk/Pages/Library/Communication/Speeches/2004/SP191.shtml>

³⁴ Chan et al op cit p 15. Kramer, D., 2001, Hedge Fund Disasters: Avoiding the Next Catastrophe, Alternative Investment Quarterly 1, also available under the same title at Schulte Roth & Zabel LLP, New York, 3 pp, <http://www.srz.com/files/Article-Oct2002-HedgeFundDisasters.pdf>. Feffer, S. and C. Kundro, 2003, “Understanding and Mitigating Operational Risk in Hedge Fund Investments”, unpublished working paper, The Capital Markets Company Ltd.

³⁵ Icard, A, 2005, Risk measurement and systemic risk, speech by the Deputy General Manager of the Bank for International Settlements, at the Fourth Joint Central Bank Research Conference on Risk Measurement and Systemic Risk, European Central Bank, Frankfurt, 8 November, <http://www.bis.org/speeches/sp051108.htm>

As the Refco example and many others illustrate, not all major frauds give rise to appreciable systemic risks, in the sense of market collapse (although there may be efficiency reductions in the short run).

In the affair of the fall of Barings Bank (reduced in market value to £1 and bought by ING Bank), the Bank of England perceived serious systemic risk that merited intervention to assist the markets. However, such risk was not seen as arising in relation to BCCI, where there was little risk of contagion. This may be because whilst Barings was heavily involved in interbank markets, BCCI was not – meaning that only its own creditors were hit, not the banking system. Nor was BCCI of such a nature that its collapse might have led to a dramatic loss of confidence in more mainstream financial institutions or financial products.

When, as in the case of BCCI, fraud occurs in a global corporate structure, insolvency procedures are likely to take even longer given the formidable coordination issues that must be dealt with. Nonetheless, fraud is less likely to be associated with systemic crises than other causes of bank failure because it tends to be idiosyncratic. It can destroy one institution, but unless a large number of other institutions have large exposures to that institution, it is unlikely to weaken the banking system. This was particularly clear in the case of BCCI. While the collapse of BCCI was very hard on its creditors, its involvement in interbank markets was so limited that it had virtually no impact on the rest of the financial system. The same cannot be said of Barings. In contrast to BCCI, Barings was heavily involved in interbank markets and traded actively (more actively than its managers realized) on international exchanges. If the fraud at Barings had been as complex and pervasive as at BCCI, the bankruptcy administrators might not have found a buyer who was willing to take on most of its assets and liabilities and Barings would have been subjected to the same lengthy insolvency proceedings that were applied to BCCI. We saw, in the brief interval before a buyer was found, what the consequences might have been. If the stays are imposed on counterparties and creditors of the bank for a lengthy period, an integral part of conventional bankruptcy proceedings, it can have very damaging spillover impacts, especially when applied to financial instruments that are actively traded in global markets.

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In the industrial and energy sectors, certain frauds leading to environmental spoiling might pay a part in reducing market efficiency, or even in arriving at a “tippling”, to use the term of Kopp et al op cit. Serious release of pollutants such as oil (Exxon Valdez; BP), the agricultural sector and food chains, chemicals (Bhopal), radioactivity (Chernobyl), heat or gaseous matter (carbon trading) may, in some cases, be related to frauds in internal monitoring and external reporting. Serious enough occurrences lead to shutting down of systems, causing outages, shortages, price hikes and market imbalances and inefficiencies. Depending on how these situations are responded to – denial, slowness, over-reaction, compensations which bring forward further problems, systemic interactions? – and depending on the background situation at the time, a critical point could be approached. Arguably, such dangers should be rated at least as highly as market dysfunctions and financial harms.

Expressed in terms of ‘catastrophic’ risk, broadly similar ideas can be found in the field of anti-terrorism policy. Although here perhaps the underlying concept is at its most opaque – making up in terms of drama (‘catastrophe’) what it may lack in analytical precision – the themes are similar to those found in discussions of systemic market risk and irreversible environmental risk. These concern the possibility of contagion between one event and others, such as (for example) a terrorist action leading to breach of dam containing millions of gallons of water, inundation of areas of industry and population, disruption of power supplies and communications, and consequent economic and political changes that be both severe and difficult to reverse. Similar concerns have been articulated in relation to attacks on radioactive waste which is stockpiled at power stations and elsewhere and (controversially) may be vulnerable to airplane crash or (more mundanely)

³⁶ Richard J. Herring, 2005, BCCI & Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure, pp 35, Penn: Wharton Financial Institutions Center, <http://fic.wharton.upenn.edu/fic/papers/05/0518.pdf>, also published as ‘BCCI & Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure’, in Bank Resolutions and Financial Stability, edited by Doug Evanoff and George Kaufman, 2005, pp. 321–345.

accident in transit from site to site. Such concerns may seem far from fraud, however as far as consequences are concerned they serve a useful function in providing a 'top of the scale' reference point in discussions of seriousness.

The question of systemic (contagious, domino, catastrophic) risk as it may arise in relation to economic crime can be summarised. First, as Kopp et al observe, there may be no 'linear relation' between systemic and other costs, instead there may be systemic 'tipping points'. The nature and even the existence of such tipping points are very controversial in the literature, making the measurement of costs of systemic risks rather hazardous. Most frauds and economic crime events turn out to threaten more than they ultimately deliver in terms of systemic risks. As noted above, the Refco debacle provoked a sharp intake of breath in the international financial community and much coverage in the news media. However, within a few days, it had mutated into a 'buying opportunity'. Good financial assets, which had been reputationally damaged, were bought cheap. Thinking back to the financially more serious situation in which Barings Bank found itself, a similar opportunity was seized by ING Bank. Many other scandals have caused a change in management but not a change in ownership.³⁷ Throughout Europe, the authorities discover one fraud after another, the cumulative effect of which might be expected to damage market confidence: however that 'tipping point' seems not to be arrived at. It may be when institutions, regulation, rules and accepted forms of conduct are already damaged, that the potential for systemic damage is more than theoretical. (The recognition that systemic harm must be a *relative* concept – with more robust systems shrugging off harms that prove serious, irreversible and catastrophic for more fragile institutions – provides a parallel to the recognition that harms against specific victims must be measured relative to their resources.) Finally, systemic costs of fraud could be derived from estimations of costs of direct fraud impacts because, as Kopp et al observe, there may be no 'linear relation' between systemic and other costs, instead there may be systemic 'tipping points'. In summary, it would be a brave research team that tried to measure costs of systemic risks, of frauds or of any other causal events.

On the other hand, if there is an interest in response costs, then the costs of those responses undertaken to reduce systemic risks may be recognised in that context. As the literature cited illustrates, there have been some instances in which authorities have intended to avoid systemic collapse, these responses have been costed, and they may be represented as a proportion of GNP (or on some other basis). The costs of such actions may be seen as representing the 'top end' of response costs.

In the current political climate no company is 'too big to fail', if the 'fall-out' can be contained and the market is seen as having the capacity to recover (even to be strengthened). However, if authorities/regulators perceive a risk of serious contagion, potentially not just within the sector concerned (e.g., banking) but also across sectors, they intervene. It is with those costs (as distinct from their justifiability³⁸) that this project is concerned.

Provisional application to international fraud against companies and markets

From a perspective of an appreciation of the literature reviewed, including the work of Kopp et al, and bearing in mind the many research issues that are not settled, it is still possible to move towards a workable method, applicable to international frauds.

The Kopp 'bulls eye' diagram summarises the practical implications of the sections above. Direct damage could manifest itself as many widespread but individually petty harms: examples – a bank making many

³⁷ De Jong, A, DeJong, D, Mertens, G and Roosenboom, P, 2005, Royal Ahold: A Failure of Corporate Governance, ECGI – Finance Working Paper No. 67/2005, February, p 4 of pp 55, http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID663504_code254274.pdf?abstractid=663504&mirid=3

³⁸ Some researchers might wish to cost the underlying systemic risk that is averted by such actions, on the basis that the market price of avoidance of the risk is established by the willingness to pay – and thereby estimate a systemic aspect of the direct cost of frauds – however that is not approach taken in this paper.

thousands of unjustified but small charges to its corporate customers; a counterfeiter, manufacturing and distributing millions of packets of fake cigarettes; alleged 'click frauds', through which revenues for online advertising may be over-valued. (See triangle A above.) At the other extreme, there may be a few 'big hits': examples – Barings Bank (market value £1 after Nick Leeson had had been allowed too free hand), BCCI (more a criminal enterprise than a victim), Arthur Anderson (disintegrated as a global firm after admitting to shredding documents, though its corporate conviction was later quashed by the Supreme Court), Parmalat (where its creditors may be victims), etc. Somewhere in the middle are frauds which occur in their thousands (rather than millions), each of which has a significant value (as distinct from being either devastating or individually trivial).

In respect of response costs – as discussed above, covering routine and everyday preventive activities, specific responses to identifiable or suspected criminal acts and their impacts, and exceptional interventions to roll back the possibility of contagion and systemic collapse – a rough outline has been developed.

Taking indirect alongside direct:

Scale of relative harms of crime, provisional: <i>needs policy makers' inputs</i>					
	5	4	3	2	1
'Direct'					
'Indirect'					

Kopp et al point to the possibility of utilising a five-point scale for probability (frequency of events), as well as for impact seriousness. That would imply a scale up to 25 (5 * 5).

The Kopp team go on to point out that policy makers might be interested not only in the headline 'score' (the product of seriousness and probability) but also in how it is made up. Indeed, it would be widely acknowledged that a very large number of events of trifling seriousness would not have the same policy meaning – or salience – as one or two events of the high seriousness (example: petty crime versus Parmalat), or as one event of top seriousness. This is partly because media publicity affects political and regulatory responses, and is stimulated by large, visible effects³⁹.

In this sense, 5 times 1 may not mean the same as 1 times 5. In the view of the present authors, if a 'headline' figure is to be represented, it is likely to be widely cited by policy makers and the media. It is therefore essential to consider what such headline 'datum' might mean. One possibility is that the "meaning added" by such multiplication might sometimes be negative, in other cases uncertain. Perhaps this aspect of the work remains methodologically the most fragile aspect and politically hazardous of all those aspects reported here.

³⁹ Though sometimes, relatively modest individual losses by poor victims can have powerful media and political effects: an example would be the collapse of the Farepak Christmas food hamper firm in 2006. See, more generally, M. Levi (2006) 'The media construction of financial white-collar crimes', *Brit. J. Criminology*.

6. QUESTIONS APPLICABLE TO THE MECHANISM AS A WHOLE

Can 'seriousness' ('harm') replace 'organised crime'?

Without some way of dealing with the question of 'organised' crime, any data collection method or systems could flounder on definitional reefs. Happily, however, in recent years, EU bodies and meetings increasingly have articulated the broader and more flexible notion of '*serious and organised crime*' (SOC). This has certain advantages. It acknowledges seriousness as a leading concern, which suit present purposes. It widens attention from the historical, obstinate, either/or dyad of organised/non-organised crime; 'organised' aspects can be acknowledged as part of any EU strategic crime information system, rather than as a sentry at the entrance, keeping out all data that cannot prove its 'organised' provenance. SOC offers a graduated concept, into which the dyadic distinction of organised/non-organised can be absorbed.

The authors suggest that, in the present context, the question of 'organisation' of crime is important in relation to understanding the upper end of impact/seriousness/harm, both in terms of systemic harms (extent of corruption, subversion of institutions and/or weakening or democracy, and in terms of serious specific harms (in the business context, Arhold, BPI, etc). These are big 'bads', to which attention has turned in the past few decades, as regional European and indeed international political and market developments have breached the previous boundary between specialised criminal justice responses limited to the 'domestic' sphere, and responses that are global in terms both of geography and sectoral competencies (globalism, administrative cooperation, public-private co-working, etc [refs]. This being the case, the harm concept offers an overarching framework, into which the vexed question of 'organised' crime [versus other sorts] may be absorbed for purposes of strategic intelligence, policy-formulation and resource-allocation.⁴⁰ That is the approach proposed, defended and applied here.

This does not mean that the approach developed here ignores concerns or arguments about 'organised' versus other crime (eg, 'volume' crimes, although that distinction itself is hard to maintain when professional criminals manage forms of crime that hits many targets, sometimes repeatedly). The claim advanced here is that, if customers for the research and/or participants in the research consortium are desirous of information that may be said to characterise 'organised' crime as a distinct entity, then that information may be derived from the results of this work on seriousness of impacts of crimes, including systemic harms.

In summary on this point, aggregate (strategic) estimates of seriousness, in terms of systemic (political) harm, is one of several outputs of the model – instead of than good quality 'organised/non-organised' crime-group information or estimates being required as an input in order to make the model function. This could make sense from a forward-looking, policy point of view, as we briefly discuss.

Policy, legal, tactical, scientific issues

The concern with 'organised' crime was originally driven by a sense that it was more harmful than other, non-'organised' crime – and so should be specifically policed and more strongly sanctioned. Nowadays, however, policy makers are coming round to the view that prevention, crime-proofing and protection of assets may be at least as important as prosecution; preventive perspectives shift the emphasis from the 'perpetrators' to victims and to non-conspiring facilitators, from combating potential threat to reducing actual harms.

⁴⁰ It is not denied that police agencies may find useful a concept of the 'organised-ness' of some criminals. For example, some criminals, individual, grouped or networked, may be more resistant to law enforcement than other criminals and, on that count, may require different and possibly more robust counter-measures. [Thanks to HvdB & HN for raising this point, Dec 2005]. That, however, is exactly the point of the systemic element of the harm model described in these pages. We think it makes sense for courts to have available enhanced sentences for 'organised', 'aggravated' or similarly-defined offences, where these exist in the Member States, though these terms may need clarification.

In legal terms, 'organised' crime was first and foremost a reference to aggravating factors that may justify stronger sentencing of offenders, proportionate to the greater harms seen to be caused.

In policing terms, 'organised' has served as sort of shorthand for tactical priority, or for 'difficult to police' or 'threatening'. However enforcement data systems have had considerable difficulty in operationalising 'organised' crime statistics, which remain highly fluid and manipulable. It is doubtful that a dyadic categorisation of crime groups captures the diversity and characteristics in sufficient depth for police, regulatory agencies or policy makers.

In scientific terms, definitional issues around 'organised' crime have proved a morass, a 'black hole' into which some fall, sadly never to return. From each of these perspectives – policy, legal, tactical, scientific – the dyadic structure of 'organised' and other crimes may have passed its sell-by date.

Accordingly, consideration might be given to an alternative analytical approach, one that starts with and privileges impacts/harms (against 'us'), rather than threats (by 'them'). Such an approach could absorb the vexed (and we suggest not or at least longer helpful) distinction between 'organised' and other crime. This approach could involve the absorption of 'organised'/other dyadic distinction into a more graduated dimension of impact/harm, namely systemic harms, that impact on the capacities of institutions and agencies including upon law enforcement.

It would be beyond the brief of the current work package to expand further on this possibility. Nevertheless, the query should be underlined, possibly to be taken up when thinking about future work that could be policy-relevant.

Time lag between harm and discovery

There are a number of issues that would need to be considered here. First, there is the question of which time period the policy maker might be interested in, in principle. Here, Kopp et al (op cit) refer to the harms that arise in the same year as the criminal activity that give rise to them.

When the public decision maker wants a synthetic opinion of risk created by a certain organised crime activity, it seems to us that the calculation horizon can legitimately not exceed the year. This is why the harm is a measure which indicates the cost of consequences of a criminal activity, as perceived or evaluated, in the current year. The consideration of future consequences is then extremely simplified in relation to social cost calculation.

If the assumption is accepted that policy has no interest in harms that has its impacts in a later time period, then any forms of international frauds whose effects were spread over subsequent years would be underestimated in a harm index or description. One thinks, for example, of procurement frauds, where the harmful impacts (loss of value etc) might arise in the years in which the deliverables are expected, or in which additional payments might be necessary because of elevated prices or a need to rectify faulty or absent deliverables. One might also ask about other frauds, for example would the harmful impacts of counterfeiting (eg, possible loss of sales incomes of the copyright holder, or cheating of the brand) always arise – or rather, could observers able to quantify it – within the year in which counterfeits are manufactured? It is by no means clear that that would be the case. Consider the situation concerning BCCI:

The nearly eight years of litigation required to complete the RICO proceedings is an indication of the complexity of resolving a bank that has experienced massive, widespread fraud. The RICO proceeding was highly unusual in that the criminal defendants, represented by the Liquidators, invested significant resources in assisting the US in identifying and realizing forfeitable assets that included not only bank deposits, but also real estate and undeveloped land. As a result of these efforts the list of forfeited property was amended six times from 1992 to 1998 to include substantial

additional assets. Judge Green decided 175 claims against the forfeiture, including objections from liquidators of BCCI branches, depositors, commercial banks whose wire transfers of funds were interrupted by the closures,¹⁷ trade creditors and tort claimants against BCCI such as the Republic of Panama and employees who claimed to have been stigmatized. RICO charges were also brought against the sovereigns of Abu Dhabi, who had formally taken control of BCCI in 1990 and were record shareholders of First American, as well as six individuals.⁴¹

Second, any approach to harm would have to deal with paradoxes around changes in levels or intensity or effectiveness of enforcement. For example, in a situation in which corruption and frauds hitherto have been institutionalised and normalised – and so fraudsters have been well-defended against LEAs – then damage would be done quite silently. Up to that point, one certainly would not have many ‘cases’, in the sense of there being publicly available information on investigations and subsequent actions (‘known cases’), and so little evidence of harmful impacts. Therefore data collated might not provide a very good guide to the underlying situation. Then, if enforcement improved or intensified, cases would be generated, hitherto-hidden problems would become public, there a corresponding wave of business and public awareness and indignation, not mention stronger checks on invertors etc – all of which could add yet more evidence of fraud impacts to which attention has not previously been directed.

Such considerations throw some doubt on the question of whether an approach to impacts occurring within the year of the causative criminal event could capture the reality of harmful impacts, particular in a changing situation (movements up or down in frauds; movements up or down in awareness and/or enforcement). *One possible implication could be that a time period longer than one year would be useful.*

Absolute measures, country comparisons, or direction of change?

This is a question about the use or uses to which the proposed indicators are to be put.

Different uses imply different measures. For example, in a policy context of need for calculating some measures of restitution, or calculating the proportionality of proposed new policy measures, absolute measures might be wanted. In the context of allocating resources from a central pool – for example, allocating resources to those states or regions or localities most harmed – it might be that comparative ranking (not interval ratio) measures would be enough (comparative measures would certainly be easier to produce than absolute ones, if indeed the latter are possible at all). However, if the policy use for the data is to identify changes in levels of harm (improvement or worsening), then in order to reinforce or compensate for such changes, then neither absolute nor comparative measures would be appropriate.

Logically, the use or purpose should be clearly specified before one begins to develop measures. So, it would be highly desirable for the policy uses (purposes) to be defined by the EU, so that measures that are fit for purpose could be offered.

Lack of clarity over purposes to which ‘indicators’ might be out raises difficulties for any attempt to operationalise concepts of harm. The present authors, lacking information on the intended purposes, see no immediate and practical alternative to falling back on examining what may be most feasible in terms of available models and data, then seeing which if any policy purposes could be served by such models.

More discussion is needed on purposes and that discussion must involve policy makers (since it their purposes that are at issue, not researchers’).

⁴¹ Herring, R, 2005, BCCI & Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure, paper 05-18, Penn: Wharton, Financial Institution Centre, <http://fic.wharton.upenn.edu/fic/papers/05/0518.pdf>, pp 35, also forthcoming in Doug Evanoff and George Kaufman (eds), 2005, Bank Resolutions and Financial Stability, pp 321-345, London: World Scientific Publishing (UK) Ltd.

7. CLOSING REMARKS ON RISK CONCEPTS AND MEASUREMENT

Why it matters

A concern with risk is a highly visible theme running through late modern society. As one critical voice puts it:

“Crises and disasters have been important pressures for change in risk management and risk regulation: the collapse of the Maxwell empire initiated the UK corporate governance reforms which turned organisations ‘inside out’, and the focus on internal control systems is being taken to a further extreme by the Sarbanes–Oxley Act; problems at Shell in the 1990s effectively gave birth to reputational management, and operational risk took off in the wake of the collapse of Barings bank; there has been a surge of interest in business continuity and organisational resilience and now terrorism risk management is high on the public agenda. Governments are also adopting explicit risk management frameworks as a response to poorly managed large projects.”⁴²

In order for risks to be managed, they have to be represented somehow – if not ‘measured’ (a very slippery concept, when it come to socially and politically constructed ideas about seriousness and so on), then rated, ordered, compared, contrasted.

The IKOC project attempts the task of operationalising ideas on seriousness and probability of criminal activities. In the pages above, some preliminary judgments about feasibility of WP 13 and WP 14 approaches have been attempted. For reasons of time, the most developed part of our feasibility work has been concerned with exploring how to rate severity of impacts in relation to various aspects of international frauds – seen against the background of impacts of other types of crime, including terrorism.

Public sector and private sector data explored

As noted above, available methods for assessing serious fraud impacts include the following: Court adjudications; audits of the accounts of public and private entities; Insurance companies’ decisions; victims’ reports to the authorities; sample surveys, e.g. business surveys; gap analyses (eg, tax receipts expected versus received); and market mechanisms, eg companies liquidated/share prices (after frauds).

Of these, court adjudications are most rigorously tested, since often strongly contested between the parties. On these grounds, adjudications may be the most rigorously tested approach to estimating of some specific (judicable) losses, in relation to those cases that come to court and are not settled by the parties before judgement is given.⁴³

However, legal proceedings necessarily draw upon a range of pre-existing forms of evidence, including some of all of those mentioned here.

Therefore, in analytical terms, courts have to be regarded as a means of challenging estimates and claims (and a small proportion thereof), not a free-standing method for generating estimates.

⁴² Power, M, 2004, *The Risk Management of Everything: rethinking the politics of uncertainty*, London: DEMOS, pp 43 and 44 of pp 74, <http://www.demos.co.uk/files/riskmanagementofeverything.pdf>

⁴³ Only civil (tort etc) judgments are relevant here, not criminal or administrative prosecutions. On the latter, some judgments (even provisional judgments, prior to appeal) may themselves be the proximate cause of some company down-turns, rather than being the measure of the losses incurred in the alleged wrong-doing. Take, for example, auditor Arthur Anderson, accused of shredding documents relating to Enron. In this case millions of dollars were wiped off the market value of the auditor (see below for discussion of the market mechanism) and the firm subsequently was dissolved. There was no proportionate relationship between the alleged acts, either at Enron or Anderson, and the eventual loss to the latter.

Other methodologies are less rigorously tested but they do involve mechanisms for generating estimates. *All the following methodologies are discussed in more detail in Annex A below.* Audit-based estimates of losses are generally less contested, however they generally involve some cross-checking of figures against each other. Insurance companies' decisions may have a tendency to minimise pay-outs – on the other hand, it may sometimes be cheaper to settle some unmerited or mildly exaggerated claims. Losses directly reported to the authorities, where the estimate of loss is the victim's, may be unchecked by the authorities (that is say, the claims may simply be recorded). Such reports may sometimes be exaggerated (if the purpose is to obtain a payout from insurance); on the other hand, many losses are not reported – we do not know if there is a tendency for low-cost losses to be under-reported (which would make sense). In brief, it is not possible to say whether the 'real' level of loss is higher or lower than reported losses. Anonymous surveys, eg business surveys of losses due to frauds, rely upon estimations of loss made by the reporting companies and it would be very rare for anyone to check whether the reports were either genuine or comprehensive.

Turning to existing practices of governments and regulators, it is known that gap analyses play a major part in estimated losses to the state. *See annex A.* Gap analyses are based on comparisons of expected and actual state of finances. They can be constructed for some type of frauds (eg, VAT frauds, where tax receipts or claims for refunds can be compared with market information such as known sales of goods such as mobile telephones or cigarettes). Such global estimates are as good as the underlying data. The figures they generate are the total losses, without a breakdown to individual impacts (or their frequencies). This may not matter, if the end objective is estimate overall losses. Whether the losses are due to fraud or simply to 'irregularities' including poor credit management may not always be known.

Finally, as illustrated in this paper in sections above, there is a market mechanism for establishing the wider impacts of some frauds (those big enough to move share prices, debt ratings or other market indicators of value). These methods have not been widely discussed within the European criminological community. However, they would seem to be of considerable interest to the companies concerned, their trading partners, banks and other lenders, and current and potential shareholders (all of whom would be concerned about tangible or even intangible impacts of frauds on market profile and values of companies). Regulators are also concerned in cases of widespread management failure and/or fraud (including insider trading), since regulators continuously have to monitor and to assess whether their intervention may be merited to maintain an orderly market and avoid shocks and contagion, as well as to ensure 'market integrity' either objectively or in terms of public confidence.

Yet neither the criminological literature generally, nor the IKOC mechanism specifically, seem to connect very strongly to such real-world circumstances.

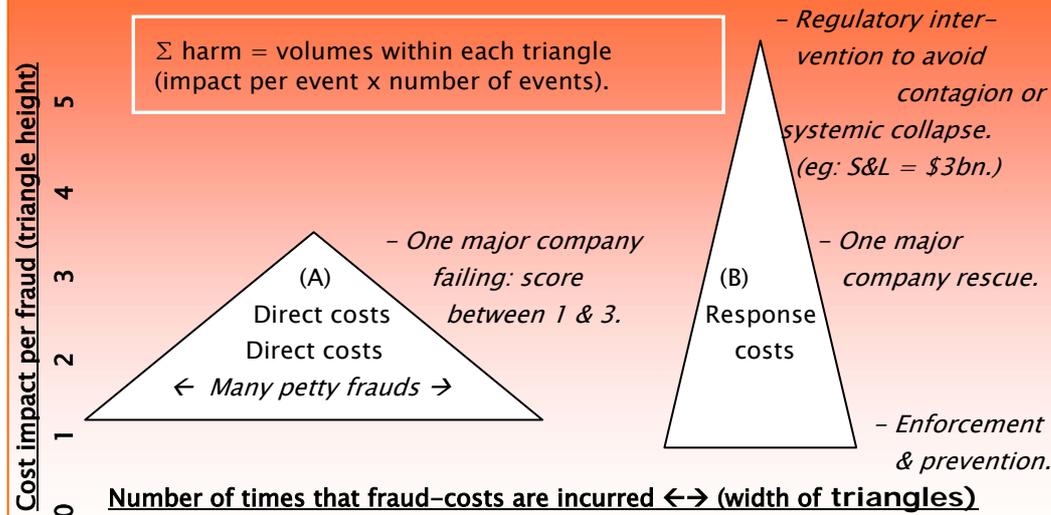
In particular, there is a gap between police-orientated research on the one hand, and the everyday work and concerns of regulators and other risk-estimators on the other hand. Annex A below looks further at these issues.

Towards an integrated perspective

In conclusion (for the present), on the basis of work done 2004–6 in Work Package 16, the following seem to be fair conclusions.

First, in future work, one starting point might be to give consideration to formulating probability and impacts within the same framework of concepts and representation (rather than as separate bodies of work). This might ease some of the issues involved in fitting the two ideas together – and in presenting them to wider audiences. See the illustration below for one approach to representing these issues for presentation to policy makers.

Representation of fraud costs and their aggregate



How far have we travelled towards such an approach? The present authors suggest (see above) that Kopp et al's *courts+insurance* route to estimation of direct tangible impacts of frauds (WP 14) could not stand alone; it needs to be supplemented with some or all of the other methodologies mentioned in the pages above and/or those following.

In similar vein, the Savona et al mechanism on probability (WP 13) seems unduly indirect and potentially insufficiently robust, if what is required for policy purposes is an estimate of the number of harmful impacts, in order to steer proportionate responses.

The 'organised crime' component remains both a conundrum and quite controversial. Kopp et al frankly admit the difficulties of distinguishing between costs that are due respectively to organised and non-organised crime, but they do not take a view on the utility of making this distinction. Savona et al start from the supposition that a separate OC output is essential; their method would in fact be incapable of generating probability estimates of activities by non-OC. The present authors have underlined the practical disadvantages and have queried whether there is a continuing need – in forward policy terms – to restrict risk estimations to those that can be attributed to OC actors. At the joint seminar at EC DG–Research in December 2006, there was discussion about the possibilities of using systems and data for OC–only, for non-OC and/or for all–crime estimates.

Given the questions about information requirements that have arisen from this work (alongside the more technical issues), the authors have formulated some quite general recommendations, which may be found near the beginning of this report. Annex A, in the following pages, reports on background work for this Work Package.

Michael Levi & Nicholas Dorn, Cardiff University, December 2006

ANNEXES

A – Background paper

B – Research requirement

ANNEX A. IKOC WP 16 Background Paper (based on work 2004–6)

From risk assessment to risk reduction, strategic concept for Strategic Intelligence drawing upon LEA, audit, regulator & corporate sources.).

Summary

The current widening at a policy level of the notion of internal security – linking it with external security, transparency in the financial affairs of public and private sector bodies, good functioning of markets, and reduction of business and political risks – implies a ‘strategic concept’ of organised and cross-border crime, cooperation and intelligence. This paper takes up various approaches to ‘risk’, differentiating between ‘risk assessment’ (description) and ‘risk reduction’ (action). First, some dimensions of international fraud and of the difficulties in producing meaningful information about them are described: some types of fraud are much easier to gather information on than others. Second, approaches to risk are outlined. Lastly, implications are drawn. Aspects of the discussion are taken up in draft deliverable 16 of the IKOC project, August 2006 {above}. A version of this paper was presented in the context of the IKOC project to the European Criminology Conference, Krakow, 2005

Four analytic traditions are reviewed. [1] European law enforcement agency organised crime threat assessment methodology has been influenced by its ‘older brother’ of international and defence threat assessments, which evolved from assessments of nuclear and missile capabilities and intentions, potential for proliferation, ‘failed states’, terrorism and now organised crime. In its plainest form, this approach says *risk = probability of adverse events (sometimes called threat), plus or x severity or harmfulness of impacts*. In the classical approach, calculating the ‘probability’ part of this equation involves making judgements about ‘intent’ (‘desire’ × ‘confidence’, and about ‘capability’ (‘resources’ × ‘knowledge’) [see IKOC project & other papers & main text below]. Furthermore there are conceptually and practically unresolved issues around impact severity. It is not surprising that LEAs struggle to apply such an approach.

[2] Auditors, somewhat by contrast, focus less on external threats and more on sources of value and investment that are *internal* to the public or private bodies being audited. They check for shortcomings in management and financial controls, in corporate cultures and in day-to-day operations that might open up vulnerabilities to attack (whether originating from inside or outside). The auditing model may be summarised as *risk = vulnerability of internal assets (even if no-one is known to be targeting/threatening those assets), plus or x the values of those assets*. Risk assessments of auditors are rather easier than those of LEAs, partly because auditors focus on specific economic entities or at least on delineated financial programmes, within which they can assess specific cultures, control systems, etc. This facilitates relatively tight assessments of risks.

Two other approaches are primarily orientated towards sources of risk that are currently emerging or might do over the next few years, and the mitigation of such risks. Of these, [3] regulatory bodies, supervisors, consultants and social scientists typically scan vulnerabilities in markets and other environments, including those that would favour fraud, other serious economic crime and/or terrorism. Sometimes the concern here is

not so much with individual events that might be serious or fatal for particular entities but rather with systemic risk that might damage the whole. Several models are outlined in this connection including 'T11', 'A2E' and [other?]. Typically these approaches involve balancing incentives to non-compliance (including lack of knowledge of rule, or their complexity or perceived onerous nature) against the deterrence provided by those rules. In their simplest form: *risk = regulatory burden, minus (or divided by) sanction likelihood and impacts*. The emphasis here is more upon compliance by those regulated than on the actions of third parties/criminals.

[4] In the business or corporate approach, risk assessment *per se* is less of interest than risk-reduction, taking place within an active and continuous process of risk-management. The objective is to block those risks that might be most business-critical in the sense of survival of the enterprise or public body, focussing primarily upon those preventive actions that cost less than the assets they seek to safeguard. Here, *cost-effectiveness (proportionality, merit) of specific risk reduction activities = potential for reducing values of assets exposed to risk (so that loss of them is made more tolerable) + potential for reducing their exposure or vulnerability (so that fewer are lost)*. From this perspective, some large or even catastrophic risks may be either impossible to forestall, or the effective counter-measures may be so expensive, that action is not cost effective, and so those remaining risks may be accepted.

PURPOSE AND PARAMETERS

The purpose of this paper is to underpin the IKOC project WP16 task of assessing the feasibility of measurement – or rather, estimation – of serious economic crime activities and their impacts in relation to selected aspects of international fraud, with the end purpose in mind of informing policy and resource-allocation within the freedom security and justice and other policy areas of the European Union.⁴⁴ This initial section of the paper sketches out the scope of international frauds, differentiates between fields of fraud in terms of availability of information, and introduces some general technical themes in estimation, from disciplinary fields including criminology, audit risk analysis, business studies, law enforcement practice and 'borrowings' between these fields. Four foci for assessment are described: external threat, internal risk, past experience and future possibilities. Middle sections of the paper examine some issues in operationalising the approaches described, applying a wide variety of fraud-related data. A conclusion makes suggestions about the utility, for public policy and private interests, of fraud data and models as they exist and about their future development in the context of the European Union.

VARIETIES OF FRAUDS AND DIFFERENTIAL AVAILABILITY OF INFORMATION ON THEM

First then a few introductory words about the scope of international frauds and about the structural and cultural conditions that variously produce and hide the basic information about it. The purpose of this paper is certainly not to give an substantive review of a complex field – indeed there is a considerable literature on the many facets of this important subject REFS – but rather to sketch a picture of the dynamics and various of fraud that may be helpful in contextualising and introducing a discussion of estimation methods.

⁴⁴ The IKOC project aims in general terms to improve knowledge about organised crime in Europe. Work Packages 13–16 of the project develop and test out methods of measuring (i) volume/frequency/likelihood and (ii) impacts/harms of OC activities. Whilst a parallel WP, 15, uses a questionnaire approach to gather views on the general feasibility of such approaches, WP 16 conducts a case study or case studies to explore feasibility of measurement methods in relation to international fraud. (Extracts from the project proposal are given in the Temporary Annex below.) The work here involves surveying the area of international fraud to identify suitable area(s) for case study; refining the WP13/UCSC approach to estimation of volume/frequency/likelihood) and the WP14/CNRS approach to estimation of impacts/harms; applying the methods in one or more case studies; and drawing whatever conclusions may be possible for the methodology on the basis of this experience. The authors added the possibility of looking at alternative estimation approaches, following a survey (February–May 2005) of literature on economic crime and risk assessment approaches, incorporated herein.

Drawing upon one practical anti-fraud guide,⁴⁵ frauds involves a variety of relationships between offenders and victims: crimes by individuals of higher status against consumers, clients, investors or other stakeholders, for example the looting of a bank or building society; misrepresentation of the quality of goods; employee fraud against employers, for example payroll fraud or falsifying expense claims; crimes by small businesses against consumers and employees, such as selling counterfeit goods as genuine; crimes by persistent offenders/opportunists against financial institutions, for example using lost and stolen credit card and cheque frauds; crimes by individuals of various status against government and (last but not least) crimes by professional criminals against the public and/or private sectors.⁴⁶ Each of these can be international in their scope.

Those committing such frauds vary in their degree of intent and planning. For example:

1. *Pre-planned* fraudsters, who start out from the beginning intending to commit fraud. (These can be short-term players, like many who use stolen credit cards or bogus social security claimants; or can be longer-term, like bankruptcy fraudsters and those who execute complex laundering schemes.)
2. *Intermediate* fraudsters, who start off honest but turn to fraud when times get hard ...
3. *Slippery-slope* fraudsters, who simply carry on trading even when, objectively, they are not in a position to pay their debts. This can apply to ordinary traders or to major businesspeople.⁴⁷

In substantive terms, the range of frauds, international and other, is considerable. For present purposes, where we are scanning the field as a whole, it is not considered useful to refer to national legislation or definitions, which vary. In practice, there is reasonable consensus on what counts as fraud, large-scale theft or looting or similar wrong-doing, which is of concern to a number of international, European and national regulators and agencies. In relation to fraud against business, the surveys of PricewaterhouseCoopers give a flavour of the scope of frauds.

Fraud/Economic Crime. The intentional use of deceit to deprive another of money, property or a legal right.

Asset misappropriation. The theft of company assets (including monetary assets/cash or supplies and equipment) by company directors, others (inc. embezzlement by employees) in fiduciary positions or an employee for their own benefit.

Financial misrepresentation. Company accounts are altered or presented in such a way that they do not reflect the true value or financial activities of the company.

Corruption & Bribery. Typically, the unlawful use of an official position to gain an advantage in contravention of duty. This can involve the (inc. racketeering & extortion) promise of an economic benefit or other favour, the use of intimidation or blackmail. It can also refer to the acceptance of such inducements.

Money Laundering. Actions intended to legitimise the proceeds of crime by disguising their true origin.

Cybercrime. The illegal access to a computer or computer network to cause damage or theft (e.g. hacking, virus attacks, denial of service, electronic theft of proprietary information).

Industrial espionage & information brokerage. The acquiring of trade secrets or company information by secretive and illegal means and/or the selling of these secrets or information to interested parties.

Product Piracy/Counterfeiting

The illegal copying and/or distribution of fake branded goods in breach of patent or copyright. This also includes the creation of false currency notes & coins with the intention of passing them off as genuine.⁴⁸

⁴⁵ CIMA Fraud and Risk Management Working Group, 2001, *Fraud risk management – a guide to good practice*, London: Chartered Institute of Management Accountants, pp 53. <http://www.iaa.org.au/pdf/June2004CIMAFraudRiskManagement.pdf>

⁴⁶ *Ibid* p 1.

⁴⁷ *Ibid* p 3.

The opportunities for fraud may be driven by market and technical developments (eg, globalisation, new markets, interne), by policy and regulatory developments (eg, application of market competition principles to areas which were previously somewhat exempt, such as national energy utilities, cross-border services including financial services, EU defence procurement). The ways in which such opportunities are taken up and result in actual frauds is generally taken to be influenced by the access of social groups to those opportunities, their competences and motivations, and by the constraints that may be offered by potential fraud victims, specialist gatekeepers, private security, regulators and enforcement bodies (and perhaps also in some cases by competing fraudsters).

Turning to the structural and cultural conditions necessary for good quality information on fraud and for reasonably accurate estimation of levels of fraud, practical experience and the specialist literature both suggest that information on frauds depends, firstly, on its visibility to those who are in a position to report it and, secondly, on the inclination or disinclination to report. Visibility is at least partly shaped by types of fraud, as PricewaterhouseCoopers report:

With asset misappropriation and, product piracy, the perceived prevalence and actual incidence are very similar. This is likely to be due to their greater visibility: lost assets can be counted, counterfeit products seen in the market. However, with both financial misrepresentation and corruption & bribery, the perceived prevalence is much higher than the reported incidences.⁴⁹

Additionally, both visibility of frauds and inclination to report then are shaped by powerful social processes of economic competition (which motivates much whistle-blowing), negotiation (when settlements involve agreement to release only limited information on an alleged fraud), victim self-preservation (including keeping quiet so as to safeguard reputation or keeping quiet because of fear of loss future business or physical intimidation), and collusion (when the apparently defrauded party calculates that they may have something positively to gain from the fraud, even though they did not plan it).

For example, starting with some of the most problematic cases in terms of lack of reporting:

- Information on frauds may be most difficult to access in the case of ambivalent and sometimes collusionary responses to some frauds – for example, hurried and sloppy procurement processes, hand-outs and kick-backs, when these are compatible with market or political advantage; ‘insider’ enrichment by state officials⁵⁰ or by private sector managers, where it may be less embarrassing to hush things up than to ‘wash dirty linen in public’; or evasion of international sanctions that is tolerated because it provides support for political allies. In some cases, important institutions such as national export guarantee agencies and international development banks may be tolerant of corruption, bribery and ‘skimming’.⁵¹ The information problem here is that denial can be strong. However, after political disagreements, business failures or whistle-blowing may have opened up an issue, then audit may become an information source on such matters.⁵²

⁴⁸ Crime Survey 2003, Zurich: PricewaterhouseCoopers, p 19 of pp 24.

http://www.pwcglobal.com/ch/ger/ins-sol/publ/cfr/download/pwc_global_ecocrimesurvey_2003_e.pdf [Text in square brackets is present authors’ commentary.]

⁴⁹ PricewaterhouseCoopers, 2003, Economic Crime Survey 2003, Zurich: PricewaterhouseCoopers, p 7 of pp 24,

http://www.pwcglobal.com/ch/ger/ins-sol/publ/cfr/download/pwc_global_ecocrimesurvey_2003_e.pdf

⁵⁰ Leyendecker, H, 2003, Case study: oversized incinerator burns up Cologne’s cash, in Transparency International, (ed.), Global corruption report 2005: corruption in construction and post-conflict reconstruction, London: Pluto Press, pp 51–54.

⁵¹ Hawley, S, 2005, Financing corruption? The role of multilateral development banks and export guarantee agencies, in Transparency International, op cit, pp 55–70 and other chapters therein.

⁵² See for example the variety of audits cited in Iraq Revenue Watch, 2004, Audits find more irregularities and mismanagement of Iraq’s revenues, New York: Iraq Revenue Watch, briefing 9, December, 8 pages, <http://www.iraqrevenuewatch.org/reports/120604.pdf>.

- Information may be moderately difficult to compile in relation to those frauds in which ‘outsiders’ defraud victims (for example the EU, state services or the private sector), threatening their financial results or reputations, and there is no over-riding cultural need to protect insiders – yet where a balance has to be struck between the costs of such frauds and the costs (financial and political) of detecting and reporting them. The information problem here is that suspicions may not be recorded in durable forms, let alone reported to authorities. For companies, confidential surveys of the experiences of senior executives represent compensating information sources,⁵³ although there is no real equivalent for the public sector.
- Information is less difficult to access, yet often challenging to assess, when it arises as allegations by aggrieved or indignant third parties, either market competitors or insiders who act as whistle-blowers. Even if in Europe fraud-reporters may not be rewarded by sharing in the proceeds of civil recoveries of fraud, as they are in the United States, still there can be commercial, emotional or political rewards for blowing the whistle. The information problem here is how to ‘scale up’ to the level of ‘actual’ frauds. This entails estimating what proportion of all ‘actual’ frauds may be represented by allegations.⁵⁴
- Information is relatively easily available in cases when all parties other than the fraudster have motivation to report and ease of reporting that exceed the costs risked by not doing so. So for example credit card frauds lead to high level of reporting, since it is only mildly inconvenient to report, whilst the costs of not doing so might be very high. The information problem here is that this is just one sector and there are no clear relations between this sector and others, so the information is hardly generalisable.

Summarising, the widely varying structural and cultural conditions in which frauds take place means that the quality of information available on different types of frauds varies markedly. Availability of fraud information can be presented as lying along a dimension, ranging from highly defended (least available) information on frauds, through a centre ground, to relatively highly available (least defended) information. Hence the issues involved in characterising, estimating and/or ‘counting’ frauds and their impacts are by no means ‘purely’ technical; these difficulties have structural origins.

FRAUD ESTIMATION SYSTEMS AND MODELS

In introducing technical aspects of fraud (and other risk) estimation methods, we may summarise by saying that the literature describes two broad approaches. These are: (a) analysis of threatening aspects of the environment (externally-facing, “threat” analysis); (b) analysis of the financial and broader social investments of entities or social groups that may be vulnerable (internally-facing, “risk” analysis).⁵⁵ In terms of temporal

⁵³ See for example PriceWaterhouseCoopers, 200x, Economic crime survey 2003, Global report [there are also regional versions], 24 pages, <http://www.pwc.com/extweb/insights.nsf/docid/662DCF05C90F69E680256D6E0052125A>.

This asks about large companies’ experiences of ‘Fraud/Economic Crime’, defined as ‘The intentional use of deceit to deprive another of money, property or a legal right’. The most commonly mentioned problem was Asset misappropriation – theft of company assets including monetary assets/cash or supplies and equipment) by company directors, others (inc. embezzlement by employees) in fiduciary positions or an employee for their own benefit. Other problems were financial misrepresentation, corruption & bribery; money laundering; cybercrime [excluding misappropriations in which the use of electronic equipment was incidental]; industrial espionage & information brokerage; product piracy/counterfeiting copyright.

⁵⁴ The problems both of overestimates (false positives) and of underestimates arise quite acutely here: even if some allegations are false, some other frauds remain unreported.

⁵⁵ On linguistic aspects, some sources use these terms ‘threat assessment’ and ‘risk assessment’ more or less interchangeably, whilst others insist that then two phases refer to quite different concepts and practices. Most commonly, however, ‘threat assessment’ is taken to refer to external conditions that are felt to be threatening in a broad sense – whilst ‘risk’ generally refers to the vulnerability of public or private goods towards which the ‘threat’ is pointed. As one commentator puts it, ‘The difference between the risk and the threat lies on the point of reference. When we examine the risk we do not really examine the causes, we are only interested [in] the way that our system will react and how to better defend against it.’ (Vidalis, S, Jones, A, Blyth, A and Thomas, P, no date, Assessing Cyber-Threats in the information environment, Pontypridd: School of Computing, University of Glamorgan, pp 15–16.

focus, either of these approaches can (i) observe the recent past, or (ii) look at what might be going wrong currently or might go wrong in the near future.

This gives rise to the possibility of a two-by-two typology of estimation methods.

Broad approaches to assessment?	<i>Look outwards at 'others', environments and risks there</i>	<i>Looking inwards at 'us', our values, investments and vulnerabilities</i>
<i>Past & recent trends</i>	[1] LEA threat assessments based on past data on their adversaries	[2] Auditor fraud risk assessments of organisations' systems & cultures
<i>Present + immediate futures</i>	[3] Regulators' perspectives on markets, regulated bodies, professions	[4] Business & public entities' own fraud risk assessments

By distinguishing between approaches, we are by no means 'splitting hairs'. In principle, the choice of estimation method can have considerable implications for the conclusions that can be generated for policy and for resource-allocation.

Consider for instance the following general form of type 1 assessments: *number (or frequency) of fraud events x impacts (or harms) of each = aggregate measure of fraud problems*.⁵⁶ If this model were to be used to drive and direct future resource-allocation, then resources would follow (perceived, reported, counted and/or targeted) external problems. A practical implication, if this model alone were to drive the prioritisation of problems for policy attention and for resourcing of control efforts, could be that action against those fraud problems that are most difficult to count (ie, where information is most heavily defended) would be resourced to a lesser extent than those problems that are more amenable to reporting and data collection. The long-term consequence might be that those forms of fraud that in the past had been visible could become even less so.

By contrast, consider the following general form of type 2 assessments: *value of investments at risk x vulnerability of each = relative risks*. If this model were to be used to drive and direct future resource-allocation, then protective resources would be applied to safeguarding those resources that are most valued (eg, in terms of shareholder value, or in terms of insurers, or other stakeholders) and that could be at risk to internal or external fraudsters.

To what extent might it be practical to move towards a unified model of some kind? Simply agglomerating different approaches and technical systems, each one having its own practical difficulties, might not increase the quality of the conjoint output. The complexity of the gestalt might increase to the point when not only the customers for the conjoint output, but also the assessors themselves, could no longer either understand or explain how their outputs have been arrived at. (This indeed may be the stage that some assessors are at already, and be a problem with which anti-terrorists intelligence systems are currently grappling.)

Furthermore, there are structural and psychological limitations, both within public and private sectors, which make such 'blending' difficult. Several aspects of public sector law enforcement agencies – their tasking against external 'threats', their need to generate performance data on successes against known threats, the existence of legacy information systems and entrenched habits of working – tend to make the agencies more conservative and past-orientated than they might like. It would not be helpful if agencies were to feel obliged

<http://www.comp.glam.ac.uk/staff/svidalis/Technical%20Reports/Assessing%20Cyber-Threats%20in%20IS.doc>. Or, as the present authors observe, 'threat' is about 'them' and 'risk' is about 'us'.

⁵⁶ This is the IKOC model. NB, language: Ghent & Milan would express it as: Threat x Impacts = Risk.

to (mis)represent their risk assessments in an effort to appear more comprehensive and powerful than they in fact they were.

Such difficulties may lead one back to the separate models, each of which is quite complex and challenging in its own terms, each demanding specific types of input information and generating the type of outputs that it is capable of doing. Comparing and contrasting the different types of outputs would allow some degree of transparency, challenge and checking and, in the present authors' view, may offer the most feasible approach at the present juncture.

ILLUSTRATING THE METHODOLOGIES

We introduce each of the four approaches, together with what would be involved in application of each of them to selected areas of international fraud. At the end of the paper we will return to the question of whether one may 'blend' or 'contrast' the different approaches.

Model 1: law enforcement assessment of external threats

Common threat assessments are the best basis for common actions. This requires improved sharing of intelligence among Member States and with partners.⁵⁷

So says the European Union, referring to the received wisdom in external security policy that also structures contemporary development of assessments methodologies in internal security. Our task here is not to try to assess the quality of 'threat assessment' models as applied by law enforcement agencies in European settings, but rather to identify a sufficiently stable methodological and conceptual 'core' within this approach, in order to understand how it may be applied to international frauds.⁵⁸ The broad approach will be quite familiar to many readers, as will some intractable problems with its inputs, methods and outputs. Each country has its own approach to reporting on organised crime, even though there is a broadly shared (and increasingly convergent) approach to threat assessment. For example

The methodology employed for the threat assessment is the UK standard (used in the 1999 National Criminal Intelligence Service report) where classification as an organised crime group must satisfy four criteria. These are that the group must contain at least three people, the criminal activity is prolonged or indefinite, the criminals in the group are motivated by profit or power, and that serious criminal offences are being committed. This definition of an organised criminal group clearly covers a wide range of activities and groups of disparate size.⁵⁹

At the European level, attempts are made to compare and indeed combine the outputs from national criminal intelligence systems, not without difficulty. Nationally-generated data and judgements are passed to Europol, who have the difficult role of making a meta-synthesis, in the form of ad-hoc sectoral threat assessments and an Organised Crime Situation Report, which is acceptable to all data providers and to European governments.

An important introductory and interpretative point about such 'threat assessment' is that it is relatively *rarely* that one finds the term 'threat assessment' being used in its normal English-language sense, meaning that someone has really *threatened* someone: "send a million euros by Friday or we'll mess up your on-line

⁵⁷ Solana, J, 2004, A secure Europe in better world: European Security Strategy (as adopted by the Council on 12th December 2003), p 12 of pp 15, Brussels: Council, <http://ue.eu.int/uedocs/cmsUpload/78367.pdf>

⁵⁸ The perspective referred to is that of the IKOC project, as agreed with the European Commission. There might be other perspectives, equally interesting, but insofar we refer to them in the following pages it will only be in passing.

⁵⁹ Northern Ireland Office's Organised Crime Task Force, 2001, Strategy 2001-2, The need for a strategic approach, Northern Ireland Office, p 8 of pp 13, <http://www.nio.gov.uk/conf.pdf>

financial services”, for example, or “bring in a verdict of innocent or your family will suffer”. The following extract from a New Zealand Police document illustrates this normal, restrictive notion of threat:

Threats – The Threat Assessment Unit investigates threats against police staff, judges and court staff and other investigative agency staff. They respond to counter-terrorist threats or situations. The unit also collects and analyses potential threats to New Zealand and visiting government politicians and officials.⁶⁰

That is one of the exceptions.⁶¹ Extortion and other manipulations form only a small part of the business of economic crime and an assessment that focussed exclusively on threats made would exclude most of what is commonly understood to be of interest. In the main, OC rarely makes threats, indeed most OC activities are done in a discreet, even evasive manner, for very good reasons. REF

Accordingly, most ‘threat assessments’ are not about threats that are made, but about the wide gamut of crime problems that have been experienced by law enforcement agencies. This is the basis, for example of Europol’s annual Organised Crime Reports, which from 2004 onwards is evolving into a Threat Assessment.⁶² Even so, the language is not entirely stable, as the following extracts from the 2004 report illustrate. There is a shifting back and forth from a use of ‘threat’ to mean crime problems in general in some places in the text and then, sometimes within the same page and paragraph, to mean ‘to threaten’ persons:

p 8. Albanian OC is considered an increasing threat to the Member States.

p 9. The threat posed by these Chinese OC groups is significant and increasing.

p 12. The OC groups involved are also known to threaten the victims’ families in case their victims are not obedient.

p 12. The proliferation of commercial pay-per-view websites is an increasing threat.

p 12. Extortion cases are closely related to a wide range of crimes and can be associated with the threat of violence.

p 26. Criminal networks trafficking drugs, are using violence and threats as a mean to a bigger extend than previously.

p. 26. The modus operandi is marked by brutal well-planned operations, where sensitive information has been gathered by threat and/or the use of corruption.⁶³

The overuse of ‘threat’ language may be regarded as one instance of a tendency for terminological instability, ambiguity and inflation in this area. Simple words take on multiple meanings, thereby becoming richer in terms of capacity to mobilise emotional and practical resources to counter the aforesaid threats, but poorer in descriptive and interpretative terms.

This looseness extends equally to the description of the methodology of reporting:

⁶⁰ New Zealand Police, Criminal Investigation Branch, International organised crime.

http://www.police.govt.nz/service/cib/international_crime.php.

⁶¹ The US-based business security interest group ASIS International defines ‘threat’, in a potentially ambiguous manner, as ‘an intent of damage or injury; an indication of something impending’, suggesting it could cover both intended threats and, more broadly, unwanted events. ASIS International Guidelines Commission, 2003, general security risk assessment guideline, Virginia: ASIS International, p6 of pp 26. www.asisonline.org/guidelines/guidelinesgsra.pdf. The same source defines risk in terms of ‘possibility of loss resulting from a threat, security incident, or event’, *ibid* p 5. On that (definitional) basis, ASIS see risk as probability and threat as a sign of risk. In later pages of the guidelines they go on to muddle these terms.

⁶² Europol, 2004, 2004 European Union Organised Crime Report OPEN VERSION – December 2004, The Hague: Europol, pp 28.

⁶³ Europol, *op cit*, extracts from pages indicated.

The Organised Crime Report (OCR) is an annual publication, which for the first time was published in 1993. Since this time, the production mechanism of the report has changed considerably [...Yet] The strength of this report is the fact that it has been written on an agreed methodology over more than a decade now.⁶⁴

With such evident ambiguities and inconsistencies not ironed out of the introductory pages of a presentational text, doubts must remain about underlying processes and outputs. What, exactly, is it that Europol reports represent? Fortunately, other extracts from the Europol report do give a hint of what 'threat' is. For example:

Certain factors play a major role in determining which OC groups pose the greatest threat. Aspects such as impenetrable group membership, increasing internationalisation, the level of establishment which certain groups have reached in today's transnational licit or illicit markets, and the extent of their penetration into legal economies through the hotel, banking or transportation sectors, for example, are fundamental.⁶⁵

It seems possible that what is being assessed in threat assessments is the degree of difficulty that law enforcement agencies experience in relation to certain aspects of criminality. The 'threat' may be partly to their own capabilities and sensibilities. That would make some sense of the interminable and much-criticised tendency in Europol reports (and in some of the national reports on which they draw upon) to cast organised criminality and the threat it represents in terms of nationalities (see extracts above and indeed throughout Europol reports from any year). It is widely accepted that most law enforcement agencies are staffed in such a way as to make cultural understanding of and infiltration of national minority groups rather difficult – and hence assessment and indeed disruption of their activities equally difficult. At a practical level, that makes such groups very frustrating for law enforcement agencies. Changes in global and market environments also present challenges to policing, as the Europol 2004 report itself points out.⁶⁶ To the extent to which such observations may be merited, a 'threat assessment' might be re-cast as an assessment of one's own points of incapacity or – to use a business term – lack of, or limits, to one's competitive advantage.

Proponents of threat assessments sometimes (and justifiably) make reference to an allied field that is seen as an older brother of criminal threat assessment – defence (military) threat assessment. For example, police officer-turned academic Jerry Ratcliffe compares criminal law enforcement unfavourably with defence intelligence:

defence managers are educated to interpret and appreciate intelligence early in their careers, whilst the use of crime analysis and intelligence is still relatively new to law enforcement. A police operational commander is far less likely to have been trained to appreciate and act upon a complex intelligence or crime analysis report than his military counterpart. It is not a truism that what is good for defence intelligence is good for law enforcement intelligence.⁶⁷

Elsewhere in the volume edited by Ratcliffe, Australian customs officer Russell Bond refers to threat in the following terms: 'An historical question posed in this way might be: What is the threat to German signal security (object), posed by Allied attempts to break the Enigma cipher code (agent)?'⁶⁸ Bond outlines the defence-influenced model of assessment, in which 'threat' means 'possible adverse event... that could cause harm. Therefore any possible event that can cause harm is a threat. The 'level' of the threat is the estimation of the likelihood that the adverse event will occur'.⁶⁹

⁶⁴ Ibid p 6.

⁶⁵ Ibid p 8.

⁶⁶ Ibid (see preceding extract from report)

⁶⁷ Ratcliffe, J, 2004, the structure of strategic thinking, in Ratcliffe, J, ed., 2004, Strategic thinking in criminal intelligence, New South Wales: Federation Press, p 7.

⁶⁸ Bond, R, 2004, Method and issues in risk and threat assessment, in Ratcliffe, ed, op cit, p 121.

⁶⁹ Ibid p 120.

A full analysis of the historical development of defence intelligence and its entry into criminal intelligence is beyond the scope of this paper. Suffice it to say that, following the European war referred to by Bond (above), successive triggers to threat assessment were the US–USSR ballistic missile race, subsequent concerns about biological weapons and counter-measures, concerns around domestic terrorism in some European countries (notably the UK, Germany, Italy and Spain) in the post-war period, and international terrorism from the 1990s onwards. Military and security doctrine and language have developed through these historical shifts but the underlying concepts of threat and of threat assessment (or analysis) have remained fairly stable. The conceptual merging of international threats and organised crime threats progressed through roughly three stages – during the Cold War period, threats posed by Italian and other ‘mafia’; in the aftermath of the break-up of communism, concerns over foreign corruption and international crime within and radiating outwards from weak and/or ‘rogue’ states, including some on the immediate borders of the EU; finally, particularly post 2001, terrorism and its possible links with organised crime (or at least its use of similar methods and infrastructure to that of organised crime).

These trends may have had as their epicentre the United States but, as will be shown, they go wider and EU security policy has become a key driver. A US international crime control strategy was announced in 1998.⁷⁰ Reflecting the fusion of external and internal concerns, by 2000 an international threat assessment on international crime had been drawn together by a US interagency working group,⁷¹ involving the Central Intelligence Agency, the Federal Bureau of Investigation, the Drug Enforcement Administration, the US Customs Service, the US Secret Service, the Financial Crimes Enforcement Network; the National Drug Intelligence Center, the Departments of State, the Treasury, Justice, and Transportation, the Office of National Drug Control Policy and the National Security Council. The 2000 report described global changes favouring crime and impeding crime control, growing geographical reach and operational sophistication of crime groups, involvement of ‘insurgent, paramilitary, and extremist groups’, corruption and institutional shortcomings,⁷² and a range of international crimes ‘affecting US interests’. These included terrorism, drug trafficking, alien smuggling, trafficking in women and children, environmental crimes, sanctions violations, illicit technology transfers and smuggling of materials, weapons of mass destruction, arms trafficking, trafficking in precious gems, piracy, non-drug contraband smuggling, intellectual property rights violations, foreign economic espionage, foreign corrupt business practices, counterfeiting, financial fraud, high-tech crime and money laundering.⁷³ The US report went on to describe criminality in geographical and national terms.⁷⁴ In other words, overall, it covered the broad environment for crime, some crime markets and specific settings/national groups.

All of this might perhaps, in a calmer world, have remained marginal to European crime agencies, at least as far as domestic ‘threats’ were perceived. However, as perceptive commentators have noted:

Then the Iraq crisis happened. The absence of a shared threat assessment was an important reason why EU countries ended up so divided. Each country first formed its own national viewpoint, and only then engaged in half-hearted attempts to form a common stance with its European neighbours. EU leaders realised that, based on this dynamic, EU foreign policy would never succeed. A new clause was quickly inserted into the Constitution, stipulating that the EU should work out a coherent vision

⁷⁰ A brief history of the institutional response – and of its limitations in terms of performance management – may be found in GAO, 2001, International crime control: sustained executive-level coordination of federal response needed, GAO-01-629, August, see page 2 of 107. <http://www.gao.gov/new.items/d01629.pdf>

⁷¹ US Government interagency working group, 2000, International Crime Threat Assessment, <http://clinton4.nara.gov/WH/EOP/NSC/html/documents/pub45270/pub45270index.html>

⁷² Ibid, chapter 1.

⁷³ Ibid, chapter 2.

⁷⁴ Ibid, chapter 3.

of its strategic objectives. Concretely, leaders tasked Javier Solana with drawing up an EU security strategy.⁷⁵

The subsequent development of EU foreign policy came to provide a 'bridge' between (i) the international security situation after 2001 onwards, (ii) EU enlargement to its east and, (iii) action on organised crime and terrorism. The boundaries between anti-crime policy and action within the EU and outside it, which had become more permeable in the 1990s, became even more fluid, with police being deployed in external security situations and defence-related methodologies being taken up by a range of agencies within the EU.⁷⁶ In summary, in EU policy terms, the internal/external division has almost completely melted, as far as policy is concerned. Solana's statements on the *European Security Strategy* position large-scale organised crime within the wider theatre:

... the real merit of the European Security Strategy [...] is, in a way, the European Union's 'strategic identity card': a global player, vigilant as regards both terrorism and the proliferation of WMDs, and more traditional sources of instability – regional conflicts, the break-up of states, large-scale organised crime – especially as these different types of threat fuel one another in many parts of the worlds.⁷⁷

Within this context:

Sharing of Intelligence

The Secretary General /High Representative was mandated to report on the creation of an intelligence capacity on all aspects of the terrorist threat within the General Secretariat of the Council (SITCEN). [...] The Council will now ask SG/HR Solana to implement such arrangements as soon as possible and to keep this question under constant review and to report on progress made at the December 2004 European Council.⁷⁸

In 2004 the Council of the EU notes agreed that external (second pillar) and internal (third pillar) security assessments would be merged, building on work focussed around EU High Representative for the Common Foreign and Security Policy Javier Solana: 'the compilation of Country Threat Assessments to be used by Second and Third Pillar formations in the development of policy. [...] Further work will be taken forward in the context of the HR/SG Solana's report on the development of an intelligence capacity within the Council'.⁷⁹

The implications for current developments in European law enforcement criminal intelligence assessment can now be spelt out. Threat assessment utilises two principle dimensions – 'threat' (probability) and 'harm' (impact if event occurs). Broadly, this is the nomenclature for and model of assessment currently being advanced for the future development of the strategic intelligence work of Europol:

Intelligence requirements

The OCR [Europol Organised Crime Report] is developing from a descriptive situation report into an evaluat[ed] Threat Assessment. Although this development is not finalised it has to be realised that an additional dimension in the perspective of how to report on OC needs to be considered: the actual

⁷⁵ Everts, S and Keohane, D, no date, *The European Convention and EU Foreign Policy: Learning from Failure*, p 176 of pp 167–186, London: Centre for European Reform. www.cer.org.uk/pdf/everts_keohane_survival.pdf

⁷⁶ There are divergent views about the desirability of all this, amongst academics as amongst other groups; our point is that it is fact and is relevant to understanding how law enforcement agencies think about and compile assessments.

⁷⁷ Solana, J, 2004, Preface, in Gnesotto, N (ed), *EU Security and Defence Policy: the first five years (1999–2004)*, Paris: Institute for Security Studies, p 6 of pp 298.

⁷⁸ EU Presidency, 2004, Report to the European Council on the implementation of the Declaration on combating terrorism, 10009/04, LIMITE, JAI 184, ECOFIN 201, TRANS 217, RELEX 223, p 7 of pp 10, 1 June, Brussels: Council of the European Union

⁷⁹ The Council, EU Plan of Action on Combating Terrorism, 10586/04, LIMITE, JAI 237, ECOFIN 225, TRANS 242, RELEX 291 [etc], 15 June, , Brussels: The Council, pp 76, <http://www.um.dk/NR/rdonlyres/BCE09042-A511-4A9A-8FED-4D323E6FA315/0/EUPlanofActiononCombatingTerrorism.doc>

harm of OC activities and its economic impact. Therefore it should be considered to also create a measurement to operationalise the actual harm potential of OC activities, as the harm level will also influence the setting of priorities at a European level.⁸⁰

According to this view, described as having currency within EU circles,⁸¹ the overall risk posed by organised crime (and hence the level of priority for preventative and control action) would be assessed in the light not only of (i) 'threats', understood as the likelihood, probabilities or frequencies of activities of organised crime, also (ii) the impacts or harms of those activities.

Scholarly literature defines (organised) crime risk as the result of the probability that an (organised) crime event, as a negative event, will happen (threat) and of its impact (or harm). This can be translated into the following formula (Queensland Crime Commission, 1999; Black et al., 2000; Transcrime, 2002):

$$\text{(ORGANISED) CRIME RISK} = \text{PROBABILITY (threat)} \times \text{IMPACT (harm)}.82$$

In principle, risk, the conjunction of the two dimensions may be represented in a variety of ways, for example products in a 3 by 3 table.⁸³

		HARM		
		High	Medium	Low
THREAT	High	Extreme	Medium	Medium
	Medium	Medium	Medium	Negligible
	Low	Medium	Negligible	Negligible

In practice, however, there are complexities and difficulties in measuring both the probability/threat component and the impacts/harm component.

For example, analytically, according to the threat assessment literature, the concept 'likelihood of threat' is seen as being made of the two further components, 'intent' and 'capability'. Each of these is further broken down as follows: 'desire × confidence = intent', and 'resources × knowledge = capability'.⁸⁴ This means that, in order to know threat, one must first know 'intent', 'capability', 'desire' and 'confidence'. Whilst these concepts have a strong historical pedigree in the world from which they are derived, there are difficulties in any arena in estimating another party's intent, understood as their 'desire' and their 'confidence'. These are mental constructs that an analysts all too often may do little better than guess at, on the basis of fragmentary and unconfirmed reports provided by sometimes self-serving and/or client-pleasing informants.⁸⁵ Even the apparently technical task of estimating an opponent's 'capability' (their 'resources' and their 'knowledge',

⁸⁰ Ibid p 16.

⁸¹ Savona, E, Zoffi, P, Russell, L, 2005, Review of organised crime risk assessment models, draft deliverable for WP 10A of Project IKOC – Improving knowledge on organised crime to develop a common European approach, February, p 17, Milan: Università Cattolica del Sacro Cuore. [IKOC project website]

⁸² Ibid, p2.

⁸³ CHECK Bond ??? Ibid p 121.

⁸⁴ See for example [former] Queensland Crime Commission (QCC) and the Queensland Police Service (QPS), 1999, Project Krystal: a strategic assessment of organised crime in Queensland, Brisbane, June. For a www-assessable update, 'written in a similar vein to the 1999 project Krystal report', see Crime and Misconduct Commission, 2004, Organised Crime Markets in Queensland: a strategic assessment, Crime Bulletin Series, number 6, September, Brisbane: Queensland Crime and Misconduct Commission, ISSN: 1442-5815, pp 48. http://www.cmc.qld.gov.au/library/CMCWEBSITE/CrimeBulletin_06_OrganisedCrimeMarketsinQld.pdf. See also US Department of Defence Dictionary of military terms, Threat analysis, Joint Doctrine Branch, Joint Electronic Library: 'A threat analysis will review the factors of a terrorist group's existence, capability, intentions, history, and targeting, as well as the security environment within which friendly forces operate.'

⁸⁵ Der Spiegel Online, 2005, Intelligence services: "That came from us", 5 April, <http://service.spiegel.de/cache/international/spiegel/0,1518,294118,00.html>

according to standard threat assessments methodology) involves difficulties that are vividly illustrated by recent events.⁸⁶

There is an additional layer of complexity in relation to estimating the 'confidence' of an opponent. In defense intelligence, 'confidence' (and hence 'intent') is taken as being related in part to the opponent's susceptibility to, or fear of, possible retaliation – a concept which, in criminological anti-fraud study terms, would correspond to a potential fraudster's level of concern about criminal law enforcement, regulatory and administrative measures and/or other potential adverse consequences. So it would appear that, within the 'threat' formulation, the analyst is required to make an estimation of the opponent's estimation of effectiveness and possible impacts of control measures. The requirement in intellectual and emotional terms is that the analyst be capable of knowing not only what the opponent thinks or feels about him or herself – but also what the opponent thinks or feels about law enforcement and other constraints – and the analyst comes to judgments on these matters in ways that are undistorted by any unmerited presumptions, by policy positions or by unintended (and possibly unconscious) psychological projections.

The problem is that the less one really knows about an opponent, the greater the tendency to guess, embellish, project and catch at straws in the wind.⁸⁷ Leading authorities acknowledged the difficulties facing analysis. For example former US Deputy Secretary of Defense Wolfowitz has referred to "a phenomenon in intelligence work, that people who are pursuing a certain hypothesis will see certain facts that others won't, and not see other facts that others will. [...] The lens through which you're looking for facts affects what you are looking for."⁸⁸ The analytic task is rendered all the more complex by the realization that 'foreign adversaries seek to [...] manipulate and distort the facts and reality presented to United States policy-makers by manipulating the intelligence we gather, and by conducting covert influence operations [...].'⁸⁹ Similar difficulties arise in 'ordinary' law enforcement against organised crime, with implications for the conduct, difficulty and quality of threat assessment exercises.

In short, it becomes clear that operationalising the 'threat' (probability) part of the formula, 'risk = threat x harm' involves a series of further questions, each of which is challenging.

Another set of conceptual and practical challenges lurk within the concept of harm (impacts). The 2000 US international crime strategy (already cited above) described *inter alia* the following harms – many of which are at the heart of anti-fraud concerns.

Increasing crime and societal problems. The activities of organized crime groups undermine societal values, lead to increased crime rates, and raise social expenditures. [...] *Corrupting public officials.* [...] criminal groups [...] use their leverage to protect their illicit operations from public scrutiny and law enforcement pressure; to push for legislative and administrative regulations favourable to their criminal business interests; and to gain insider access and information to government economic strategy and plans that give them an unfair advantage over legitimate business competitors. *Compromising the integrity of democratic institutions.* [...] Criminal influence in the legal system may short-circuit law enforcement investigations, preempt prosecutions, prevent convictions, or preclude long sentences. Damage to the integrity of democratic political and judicial institutions undermines their credibility and erodes public support for democracy. *Penetrating the legitimate economy.* [...]

⁸⁶ Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, 2005, Report to the President of the United States, Washington, 31 March, pp 618, http://www.wmd.gov/report/wmd_report.pdf

⁸⁷ *Ibid.*

⁸⁸ Cited in Levin, C, 2004, Report of an Inquiry into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship by Senator Carl Levin (D-MI) Ranking Member, Senate Armed Services Committee, October 21, Washington: Senator Levin's office, pp 46. http://www.fas.org/irp/congress/2004_rpt/102104levin.pdf

Original attribution Threats abs responses: a CIA rival; Pentagon Sets Up Intelligence Unit," Schmitt, E and Shanker, T, The New York Times, October 24, section A, page 1, column 5.

⁸⁹ Office of the National Counterintelligence Executive, 2005, National Counterintelligence strategy of the United States, Washington 1 of 22. <http://www.fas.org/irp/ops/ci/cistrategy.pdf>

Business enterprises influenced or controlled by criminal groups also put them in position to "steal" legitimate government and business revenue. Moreover, companies controlled by organized crime frequently create cost overruns or demand kickbacks in sectors such as public works projects. *Damaging the credibility of banking and financial institutions*. [...] If the financial system is closely integrated into global financial markets, the risk of contagion – the crisis spreading to other countries – increases. *Undermining support for democratic and free market reforms*. [...] Rising crime and societal problems intensify public disillusionment. Loss of faith in a newly democratic government's ability to cope with the power and influence of criminal networks and corrupt officials may result in stronger political support for antidemocratic hardliners.

One might debate such a listing of 'harms' but, in the round, it seems as relevant to European anti-fraud concerns as, unfortunately, it would be difficult to operationalise. It is beyond the scope of the present paper to review all attempts to define harms. REFS However, one point that would appear relatively uncontroversial in the risk literature is that, by preference, harms need to be defined not simply in financial terms but also in other, *social* terms – as illustrated in the US extract above. Some influential commentators go to observe that such social terms need to be constructed by a range of stakeholders,⁹⁰ not just by policy-makers, subject experts and scientists. The implications of that view have yet fully to be worked through by governments, even if they are being explored.⁹¹ Who are the relevant stakeholders or how their interests or assessments might be represented or constructed is an open question.⁹² For present purposes, it is clear that, whilst one might seek to rate and compare the harmful outcomes or impacts of international frauds and/or other organised crimes by asking experts or analysts to give judgements or ratings, a diversity of conclusions might be arrived at by panels which are differently constituted or directed, and which take into consideration different dimensions of harm.⁹³

In other words, establishing the 'harm' (impact) dimension of law enforcement risk assessments seems no easier than establishing the 'threat' (probability) dimension.

Whilst attempts will now be made to populate this approach with fraud data, it will be clear to the reader that organised crime law enforcement risk/threat/harm assessments remain at a difficult stage of development. This is true for the EU, just as for the US, in relation to which the General Accounting Office has somewhat plaintively observed that

During our review, we found that no progress has been made towards establishing the performance measurement system described in the International Crime Control Strategy. According to a National Security Council (NSC) official, the set of performance measures envisioned under the strategy was never implemented. Rather, the decision to devise and implement performance measures was left up to the individual departments and their components... Furthermore, despite the potential benefits, there has been no governmentwide effort by NSC or others to consolidate information from agencies'

⁹⁰ Slovac, P, 1999, Trust, Emotion, Sex, Politics, and Science: Surveying the Risk-Assessment Battlefield, *Risk Analysis*, **19** (4), August, pp 689–701.

<http://www.springerlink.com/app/home/contribution.asp?wasp=04191324c5a240909eeac9538155e857&referrer=parent&backto=issue,14,19;journal,3,8;linkingpublicationresults,1:112113,1>

⁹¹ Glicksman, B, 2004, Improving Government Risk Management and Appraisal of Risk to the Public, paper given at Society for Risk Analysis, Calif: Palm Springs, 5–8 December, pp 26. This and related papers available via http://www.sra.org/events_2004_meeting.php

⁹² The present authors would like to mention the possibility that threats experienced by law enforcers – 'impenetrable group membership' of OC, etc (see above) – could enter into the discussion in an explicit manner. After all, law enforcers are stakeholders, alongside other groups, and there seems no *a priori* reason why their concerns should not be *directly* recognised, *alongside* the concerns of other stakeholders. That would be better than law enforcers' feelings of inadequacy in relation to certain types of criminal groups entering into the analysis in a non-transparent manner.

⁹³ The task of valuing a resource and damage to it is slightly easier when the principal stakeholders are slightly more social compact or similar, as may be the case in some commercial entities: see later section on auditing approaches to risk assessment.

[...] plans into a single plan measuring the government's overall results on international crime control.⁹⁴

Rounding up on the possible strands in the Europol reporting process, the inputs include regional/national operational reports, intelligence from informants and undercover operations, and information exchange between agencies. The process of making sense of the medley of data and impressions thus produced is done by analysts and their managers, whose work is shaped by the defence model of threat assessment – or at least that is the approach being advocated for the future reports of Europol. Intelligence outputs are mediated by enforcement staffs' appreciation of dynamic, difficult-to-police and indeed threatening aspects of global change, market innovation and socially-distant groups.

In this context, risk assessments for policy purposes might do any of the following:

- present numbers of known or suspected criminal events (the legacy approach, externally and past-focussed)
- seek to multiply numbers of such events by the harms/threats they inflict/arouse, including threats felt by law enforcement agencies (the approach some see appropriate for Europol in the future)
- or estimate aggregate impacts of harms without going through the preliminary stage of counting events (a stakeholder-centred approach).

In its simplest form, the model is –

Relative risks or threats [*or however the problem to be controlled might be expressed*] = number or likelihood of problematic events of a certain type x the level of harms typically caused by that type of event.

And:

Aggregate of all risks or threats = number or likelihood of all problematic events x their harms.

Model 2: audit assessment of internal risks

Instead of looking to external threats, as law enforcement approaches traditionally have done, auditing looks primarily at internal areas of risk, with a view to closing them off to any threat (whether internally or externally generated).

There are two broad forms of fraud risk of concern to auditors: firstly, various forms of theft, whether by people inside a public or private sector organisations, or outsiders, or insiders and outsiders working together; secondly, and increasingly acknowledged, financial manipulations aimed at maintaining the appearance of strong and steady (smooth) financial performance. On the latter:

Managed earnings have many different names. Among them are income smoothing, cooking the books, and disclosure management [...] “a purposeful intervention in the external financial reporting process, with the intent of obtaining some private gain.” The ways that companies usually cook their books include recording revenues too soon, recording bogus revenues, boosting income with one time gains, shifting expenses and income forward and backward, failure to disclose liabilities and changing estimates such as bad debts, litigation costs, capital asset lives, and pension assumptions.⁹⁵

⁹⁴ GAO, op cit, p 83–4.

⁹⁵ Davin, T, 2001, The Line between Managed Earnings and Fraud, Massachusetts: Bridgewater State College, page 1 of 8. <http://webhost.bridgew.edu/af/managed%20earnings.pdf>

In the following paragraphs the general auditing approach is briefly outlined; some applications in a European context by the Court of Auditors,⁹⁶ by national audit bodies across the EU, and by commercial audit firms with pan-European reach are mentioned; and some data adduced from these sources on international frauds in the European context.

Clearly, as a profession, auditors are alert to the possibilities of fraud and, in recent years, have become yet more sensitised to the possibility of it (and to the danger it poses to auditors themselves if they do not spot it). The specialist auditing literature on how (mostly north American but also some European) auditors carry out their work in relation to fraud detection suggests that auditors perceive the majority of their clients as having at least one of a number of possible pressures towards fraud.⁹⁷ 'Conditions that may lead to fraud are present in a large majority of (Big 5 audit firms') normal clients'.⁹⁸ There is also evidence that, whilst auditors in practice do take their perceptions of such fraud pressures into account in designing and planning the audit processes to be brought both bear on their clients, they do so in diverse, rather than formulaic ways.⁹⁹

As far as state audits are concerned, European audit standards derive from (legally non-binding) international agreements between some national (supreme) audit authorities, which have been elaborated at European level and are operationalised in a variety of ways depending on the specific purpose of specific audits and on national/local traditions.¹⁰⁰ One central principle and one key methodological distinction can be mentioned in overview. The key principle is audit independence. The methodological distinction is between, on the one hand, involvement of auditors in pre-checking all expenditure before release and, on the other hand, selective checking after the event. As the International Organization of Supreme Audit Institutions (INTOSAI) puts it,

'(3) Pre-audit by a Supreme Audit Institution has the advantage of being able to prevent damage before it occurs, but has the disadvantage of creating an excessive amount of work and of blurring responsibilities under public law. Post-audit by a Supreme Audit Institution highlights the responsibility of those accountable; it may lead to compensation for the damage caused and may prevent breaches from recurring. (4) The legal situation and the conditions and requirements of each country determine whether a Supreme Audit Institution carries out pre-audit. Post-audit is an indispensable task of every Supreme Audit Institution regardless of whether or not it also carries out pre-audits.'¹⁰¹

Although there are variations in the extents to which national (supreme) audit authorities concern themselves with pre- and post-audits,¹⁰² in the European Union generally there is a emphasis upon post-audits, reflecting their relatively focussed nature, lower costs, the greater audit independence involved and scope for cooperation with fraud investigators where appropriate. In planning such audits, the aim is to identify and focus as tightly and economically as possible on those issues most likely to be 'material' (materiality depends upon how sensitive the users of the accounts would be to error or irregularity, for example would they find financial error or irregularity to be acceptable if not greater than 1% of sums concerned?), whilst keeping the enquiry both broad and intensive enough to minimise the risk the audit might miss errors and irregularities

⁹⁶ Court of Auditors, 2000, Court audit policies and standards, 2nd edition, Luxembourg: European Court of Auditors, May, 12 pages.

http://www.eca.eu.int/audit_approach/policies/docs/caps_en.pdf

⁹⁷ Graham, L and Bedard, J, 2003, Fraud Risk and Audit Planning, *International Journal of Auditing*, 7 (1), pp 55–70, see especially pp 60–05.

⁹⁸ *Ibid*, p 65.

⁹⁹ *Ibid* pp 66–67.

¹⁰⁰ Contact Committee of Presidents of the SAIs of the European Union, Ad hoc Group on Auditing Standards, 1999, *European Implementing Guidelines for the INTOSAI Auditing Standards*, pp 188, see especially para 6, page 4,

http://www.eca.eu.int/audit_approach/guidelines/docs/intosai_en.pdf

¹⁰¹ INTOSAI, 1998, *The Lima Declaration of Guidelines on Auditing Precepts*, The International Organization of Supreme Audit Institutions, section 2, articles 3 & 4, http://www.intosai.org/Level2/2_LIMADe.html

¹⁰² National Audit Office, 1996, *State Audit in the European Union*, London: NAO, pp 260, paperback book. See also the Second edition, 2005.

(‘audit risk’).¹⁰³ The more demanding that users or customers for audit information may be – and also the more adverse that they (and the auditors themselves) may be to audit risk – then the more work will be involved in the audit.

After establishing the desired levels of materiality and audit risk, the main audit procedures are evaluation of internal control and tests of control, audit sampling, and analytical procedures.¹⁰⁴ Internal controls cover all the policies and procedures conceived and put in place by an entity’s management to ensure economical, efficient and effective achievement of the entity’s objectives, adherence to external and internal rules, safeguarding of assets including information, prevention and detection of fraud and error and quality of financial and management information.¹⁰⁵ After looking at written policies, technical systems and cultural understandings related to internal controls, tests of control would normally be undertaken, following through between 30 and 100 transactions selected to represent the variety of activities of the entity or program being audited.¹⁰⁶ ‘Audit sampling’ is the means by which representative transactions are selected, in order to follow them through in detail. Typically, the auditor needs to develop notions of categories of transaction and relative frequency of each in order to draw samples. By contrast, ‘analytical procedures’ are apparently technical but actually quite commonsensical exercises in which the auditor tries to rise above the detail by making some broad ‘back of envelop’ calculations (predictions), then checking to see if such calculations roughly tally with headline figures in the system being audited (mismatches then provoke intensive study).¹⁰⁷

The international orthodoxy is that the more that it can be established that an entity or program being audited has strong systems of internal control and that these work well in practice (as confirmed by some tests of internal controls) then the less will be the need to sample large numbers of transactions.¹⁰⁸ For example, after experimentation with various approaches in reducing Value Added Tax fraud by small traders, the UK authorities developed a system in which VAT-assessment staff, working in teams at local level, ‘sift’ and select firms to be audited on the basis of initial site visits to traders, preliminary interviews and a check of available records.¹⁰⁹ Those firms that appear to present a higher risk are passed on for formal audit – whilst those who appear not to present such high risk are generally not VAT-audited in any given year (fewer than 5% of small traders). Such an approach, it is claimed, has increased revenue capture by focusing audit resources on higher risk traders. Similar ‘risk based’ approaches may be used to selectively target audit resources within large programmes, for example EU audit, paying less attention to what on the face of things look like relatively well managed sectors and programmes, and focussing on areas in which financial management appears less robust.

Nevertheless, looking to recent international experiences, there are unresolved issues such ‘risk based’ approaches to auditing, at least when it comes to audit of large and sophisticated economic entities. The following extended quote from a US commentator makes the point quite well.

The recent wave of corporate fraud is raising a harsh question about the auditors who review and bless companies’ financial results: How could they have missed all the wrongdoing? One little-discussed answer: a big change in the way audits are performed. [...] A 2001 brochure by KPMG LLP, which claims to have pioneered the risk-based audit during the early 1990s, explained the difference between the old and new ways. Under a traditional “bottom up” audit, “the auditor gains assurance by

¹⁰³ Contact Committee, op cit, Annexes pp 21–27 on materiality and audit risk.

¹⁰⁴ Ibid pp 30–36.

¹⁰⁵ Ibid p 39.

¹⁰⁶ Ibid pp 45–46.

¹⁰⁷ Ibid pp 86–97.

¹⁰⁸ The authors comment that this orthodoxy holds up better in circumstances when higher management is not only robust but also honest than in some systemic cases of orchestrated fraud, when systems may function ‘well’ to the detriment of auditors’ ability to spot problems on the basis of the reduced sampling they may carry out in such circumstances. It is then that the ‘softer’ side auditing including attention to culture becomes more important.

¹⁰⁹ Comptroller and Auditor General, National Audit Office, 1999, HM Customs and Excise: Improving VAT Assurance, London: Stationary Office, HC 15 Session 1999–00, 24 November, pp 61.

examining all of the component parts of the financial statements, ensuring that the transactions recorded are complete and accurate." By comparison, under the "top down" risk-based audit methodology, auditors focus "less on the details of individual transactions" and use their knowledge of a company's business and organization "to identify risks that could affect the financial statements and to target audit effort in those areas." One question that Andersen auditors routinely asked WorldCom management was whether they had made any "top side" adjustments -- meaning unusual accounting entries in a company's general ledger that are recorded after the books for a given quarter had closed. Each year, from 1999 through 2002, WorldCom management told the auditors they hadn't. [...] Had the auditors dug into specific journal entries -- the debits and credits that are the initial entries of transactions or events into a company's accounting systems -- they would have seen hundreds of huge entries of suspiciously round numbers that had no supporting documentation. The sole documentation for one \$239 million journal entry, recorded after the close of the 1999 fourth quarter, was a sticky note bearing the number "\$239,000,000," according to the WorldCom audit committee's report. Sometimes the "top side" adjustments boosted earnings by reversing liabilities. Other times they reclassified ordinary expenses as assets, which delayed recognition of costs. Other unsupported journal entries included one for precisely \$334 million in July 2000, three weeks after the second quarter's books were closed. Another was for exactly \$560 million in July 2001. Andersen signed its last audit report for WorldCom in March 2002, saying the numbers were clean. Three months later, WorldCom announced that top executives, including its former chief financial officer, had improperly classified billions of dollars of ordinary expenses as assets. The final tally of fraudulent profits hit \$10.6 billion. WorldCom filed for Chapter 11 organization in June 2002, marking the largest bankruptcy in U.S. history.¹¹⁰

The danger is that, if and as auditors chase 'small fry' who trigger risk based criteria for closer audit, smooth operators may be able to deflect exposure of bigger fraud risks. Certain audit procedures - particularly a degree of *randomisation* in audit enquiries - are designed to compensate for such risk.¹¹¹ However these seem not to have been 100% successful in recent international scandals (possibly because of the long-lasting and close relations between some private sector auditors and their clients, although that is a contentious area). It is possible that the flexibility that may be the mark of a good auditor in one audit situation may be his or her downfall in another.

Another limitations of the audit approach to assessing fraud risk is that audit methods may check a firm's systems and transactions and may find them 'clean' without any realisation that the cultural and contractual conditions which they are embedded as to structurally and routinely defraud customers.

During 1992 several companies such as Sears were cited for unfair practices involving the delivery of services. [...] The internal auditors and the external auditors did not uncover these fraudulent acts. [...] Historically, service writers and mechanics work for low wages supplemented by a commission for services rendered. In other words, the more work they sold or performed, the more they earned. [...] Yet, the existing guidelines for planning an audit, assessing risk and evaluating internal controls would not capture this characteristic. [...] Application of the historical model for fraud detection to the Sears case would probably focus on the controls over inventory parts, recording of sales,

¹¹⁰ Weil, J, 2004, Behind wave of corporate fraud: a change in how auditors work. 'Risk based' model narrowed focus of their procedures, leaving room for trouble, Wall Street Journal, March 25, page A1, <http://www.latrobefinancialmanagement.com/Research/Accounting/Behind%20Wave%20of%20Corporate%20Fraud%20A%20Change%20in%20How.pdf>

¹¹¹ European Court of Auditors, Special report number 13/98 concerning the audit of the use of risk analysis techniques in customs control and the clearance of goods accompanied by the replies of the Commission (pursuant to Article 188c(4), second subparagraph, of the EC Treaty), Official Journal of the European Communities, (98/C 375/02), p 9 in pp 3-16.

collection of cash and payroll. The conventional audit would not have uncovered the repair scandal.¹¹²

As the same authors, say, 'auditors noted that the internal controls were operating effectively, yet the client managed to perpetrate a major misstatement [...] auditors often became too comfortable with the control environment, without consideration for the overall corporate environment'.¹¹³

As regards the application of audit principles and practices in the context of expenditure and revenue-raising by and behalf of the European Union, it should be recognised at the onset that some quite basic problems exist. Although the auditing profession internationally has (at least until recently) been accorded a reasonably high level of respect, and although the European Court of Auditors sits at the apex of a systems of national auditing institutions, the Court's own studies make it clear that auditors are some way away from being able to formulate a clear and concise view of European organised crime and fraud risks. (The present authors know of no methodology for comparing the quality of strategic intelligence obtained from European policing systems and European audit systems; if such a methodology were available then it would be interesting to explore a hypothesis that audit outputs are hardly any more enlightening than European policing outputs on these subjects.)

One thing that can be said with certainty is that – given the complex, multi-level and branching money flows and also the variety of modes of internal and external audit at the various levels – the system as a whole (if is sensible to speak of it as a whole) is neither designed for nor capable of the prevention of all EU irregularities or frauds. There is considerable and continuing *vagueness about the objectives of audit* at different levels (eg, recipients, subcontractors, contractors, program managers, local, regional, national and EU-level purchasers).¹¹⁴ As the Court of Auditors puts it:

The current internal control frameworks over the different budgetary areas have evolved in a piecemeal fashion, at different times, and with little evidence of coordination by the [European] Commission. There is no clearly established strategy leading to overall or specific objectives for the various systems (e.g. what they are intended to achieve), which makes it difficult to establish systems to the required quality, define the level of resources required, judge the results they give and provide a baseline for subsequent audit. For example, without clear objectives it could be interpreted that the purpose of internal control systems is to guarantee or assure the complete legality and regularity of all transactions. This is unrealistic, due to the disproportionate cost of undertaking detailed on-the-spot checks imposed by the nature of the expenditure (e.g. information provided by the beneficiary) and the large number of geographically dispersed payments.¹¹⁵

Whilst complete elimination of irregularities and frauds would never be possible, the Court of Auditors proposes that such problems could be brought within 'acceptable limits'¹¹⁶ if a 'single audit' model could be adopted by all European Institutions and Member State bodies concerned with managing EU funds. The Court's work to date indicates only the very broad outlines of such a model. One implication of the Court's views is that meanwhile, in the present situation, the problems associated with non-standardisation of audit approaches at the various levels and in the sectors of concern to the Court are not really within 'acceptable limits'.

¹¹² Glover, H and Aono, J 1995, Changing the model for prevention and detection of fraud, *Managerial Auditing Journal* (MCB University Press Limited, 0268–6902), Vol. 10 (5) June, p 5 of pp. 3–9.

<http://www.ingentaconnect.com/search/expand?pub=infobike://mcb/051/1995/00000010/00000005/art00001>

¹¹³ Glover & Aono, p 8.

¹¹⁴ Court of Auditors, 2004, Opinion number 2/2004 of the Court of Auditors of the European Communities on the 'single audit' model (and a proposal for a Community internal control framework) (2004/C 107/01), Luxembourg: European Court of Auditors, pp 20, http://www.eca.eu.int/audit_reports/opinions/docs/2004/04_02en.pdf, see especially para 11, p 5 and those following.

¹¹⁵ *Ibid* p 6.

¹¹⁶ *Ibid* p 2.

Fitting international frauds data to the 'risk-reduction' model

The Chartered Institute of Management Accountants describes a model¹¹⁷ in which impact (severity of harm) and likelihood (probability) and of risks are superficially similar to the law enforcement model described above. However, in the CIMA approach—as in auditing approaches to risk assessment generally – both impact and severity are calculated with reference to the assets and systems (internal state, at risk) of the organisation being audited, rather than its environment (external, threatening).

Impact

The assessment of the potential impact of a particular risk may be complicated by the fact that a range of possible outcomes may exist or that the risk may occur a number of times in a given period of time. Such complications should be anticipated and a consistent approach adopted which, for example, may seek to estimate a worst case scenario over, say, a twelve-month time period. [And] The assessment of the impact of the risk should not simply take account of the financial impact but should also consider the organisation's viability and reputation, and recognise the political and commercial sensitivities involved. The analysis should either be qualitative or quantitative, and should be consistent to allow comparisons. The qualitative approach usually involves grading risks in high, medium and low categories.

Likelihood of occurrence

The likelihood of a risk occurring should be assessed on a gross, a net and a target basis. The gross basis assesses the inherent likelihood of the event occurring in the absence of any processes which the organisation may have in place to reduce that likelihood. The net basis assesses the likelihood, taking into account current conditions and processes to mitigate the chance of the event occurring. The target likelihood of a risk occurring reflects the risk appetite of the organisation. Where the net likelihood and the target likelihood for a particular risk differ, this would indicate the need to alter the risk profile accordingly.¹¹⁸

CIMA refers to the need for fraud risk reviews (assessments) to be conducted by people who know the market well, and to look at vulnerabilities to internal corruption as well as external appropriation.¹¹⁹

Model 3: Regulators' perspectives on markets, regulated bodies and professions

From the 1990s onwards, there has been healthy debate about regulation that, alongside the political arguments for less regulation (from market liberals) or for more or at least continuing regulation (from those concerned with social and economic protection), has focused on what make for effective regulation. As the OECD puts it:

In recent years, governments have increased their efforts to examine how they can achieve policy objectives more cost-effectively through better regulation or different mixes of policy tools. The OECD published in 1993 a report on "Improving Regulatory Compliance: Strategies and Practical Applications in OECD Countries," that opened the OECD's discussion of the issue. This new report is an overview of emerging issues for regulatory compliance, and focuses on assessing the level of compliance with regulations by target groups, and possible explanations for why compliance levels are low or high. Explanations for the level of (non-) compliance fall into three categories:

- The degree to which the target group knows of and comprehends the rules.

¹¹⁷ CIMA, op cit.

¹¹⁸ Ibid, p 7.

¹¹⁹ Ibid, p 8.

- □The degree to which the target group is willing to comply – either because of economic incentives, positive attitudes arising from a sense of good citizenship, acceptance of the policy goals, or pressure from enforcement activities.
- The degree to which the target group is able to comply with the rules. Government actions to promote regulatory compliance must take each of these into consideration.¹²⁰

The debate on governance and on effective regulation has stimulated interest within public agencies and academia.¹²¹ The ‘hot’ policy topics driving discussion have included environmental concerns, health and safety, corruption (particularly in the context of multinational firms operating ‘abroad’), frauds and other aspects of economic crime and, increasingly during the 2000s, Regulatory Impact Assessments REFS. Some few authors have concluded that ‘that there is no essential difference between the regulation and policing and that ‘the analysis of contemporary policing would be improved by viewing it as part of a spectrum of regulation’.¹²² Whatever the merits of the view that policing is a specific aspect of regulation, it remains that regulation (and its intended objects, effective compliance) has much broader boundaries than policing (and crime). As these boundaries expand, so (by definition) do the possibilities for non-compliance.

As the technicality and complexity of regulation increases, so does the possibility for less scrupulous players to find loopholes specific rules and engage in “creative compliance”. This is a problem in tax compliance where professional advisors may act as avoidance entrepreneurs. [...] Compliance rates are lower when regulation does not fit well with existing market practices or is not supported by cultural norms and civic institutions [...] if a rule cuts across existing culture and fails to build support through education, market incentives, or linkage with institutions of civil society, then it is unlikely to be effective at eliciting compliance. [...] Prior consultation with target group failed or never happened. Failures of consultation with target populations may cause regulatory failures because regulators may not find out about factors falling into the categories described above, or because lack of adequate consultation may fail to secure target group support for the proposed regulation. For example, without adequate consultation, regulators may not be able to identify unanticipated costs of compliance, lack of regulatory clarity, or clashes between regulatory requirements and existing cultural/market practices. [...] Failure to monitor. A rule that is on the books, but not monitored is unlikely to elicit compliance. Random inspections among the target group have the effect of making people and enterprises that are normally law-abiding constantly aware of the existence of enforcement activities and tend to reduce the likelihood of future non-compliance. However, monitoring that is not rigorous enough or not targeted at high-risk areas is less likely to be effective.¹²³

Problems with deterrence may arise from target resentment at forms of regulator enforcement perceived as unfair, a typically low likelihood of detection and, in that context, the problem that a fine that is high enough to deter may cause unacceptably high economic damage. Non-compliance may therefore become widespread.¹²⁴

Our objective in this section is not to engage with the full panoply of issues in regulation but rather to outline some models that have been proposed for assessing compliance – and its converse, risk of non-compliance – and to explore their application to international frauds and data thereon. These models, typically involving indirect estimation of non-compliance risks, have evolved because of the difficulty of direct measurement:

¹²⁰ OECD, 2000, Reducing the risk of policy failure: challenges for regulatory compliance (contributors Parker, C, Kuuttiniemi, K, Klaasen, B and Hill, J, for PUMA, the OECD’s Public Management Committee on regulatory reform), Paris: Organisation for Economic Co-operation and Development, p 7 of pp 91. <http://www.oecd.org/dataoecd/48/54/1910833.pdf>

¹²¹ Ayres, I. & Braithwaite, J. (1992), *Responsive Regulation: Transcending the Deregulation Debate*, Oxford University Press, New York, p. 35.

¹²² Gill, Peter, G, 2002, Policing and Regulation: What is the Difference? *Social Legal Studies*, 11, pp 523–546.

¹²³ *Ibid*, various extracts, pp 17–19.

¹²⁴ *Ibid*, pp 19–20.

Reliable data on compliance trends over time are difficult to collect for a number of reasons. First, existing statistics on regulatory actions such as enforcement and inspections are an inadequate basis for drawing conclusions about compliance trends. [...] A second reason is that regulatory inflation (growth in amount of regulation) and regulatory instability (changes in regulation) make it extremely difficult to draw conclusions about compliance trends over time. Actions or behaviours that were legal at one time become illegal at another so that the compliance goal post is continuously moving. [...] Third, governments and regulators also face a host of technical and methodological problems with measuring regulatory impacts or effects. The time lag between rules and results can be significant. Impact measures are problem specific and therefore difficult to aggregate into overall compliance trends. Causality is usually impossible to prove and to desegregate from the effects of other factors (such as general economic conditions). The difficulty of measuring things that did not happen makes it particularly difficult to measure the impacts of regulations that prohibit or are aimed at preventing undesirable events.¹²⁵

Three models are worthy of special note: Netherlands T11 model, the A2E model and the MARC project model.

The Netherlands Table of Eleven (T11) key determinants of compliance¹²⁶ present eleven aspects of the regulated environment and entities, within the three broad categories -- entities' predisposition to comply with regulatory authorities (T11 strands 1–4, and possibly also 5); the likelihood that non-compliance will come to attention of regulators or of other market players (6–9); and likelihood and severity of sanctions in the event of discovery. It is not absolutely clear from the material available in English language whether the model presents strands 6–9 and 10–11 in terms of the regulator's perceptions or those of regulated entities. In any case, the aim of this model is to arrive at 'numerical scores' for each of the eleven stands, wither through expert judgments or by research with target groups. The result would be a 'strength/weakness analysis/evaluation of expected compliance'.¹²⁷ The strengths and weaknesses of the model itself are still a matter for debate and there is no suggestion that score derived from it have general utility outside the areas in which it has been critically applied.

<i>T11 model of compliance factors</i>	Questions (with minor re-wording, for original see source ¹²⁸)	<i>Ratings</i>
T1. Knowledge of rules:	– are target group familiar with laws and regulation, [how do they view] clarity/quality	Numerical score:
T2. Cost-benefit considerations	– [perceived?] advantages and disadvantages resulting from violating or observing regulation.	Numerical score:
T3. Level of acceptance	– extent to which the target group (generally) accepts policy, laws, and regulations.	Numerical score:
T4. Normative commitment	– general disposition/willingness of target group to comply with laws and regulations.	Numerical score:
T5. Informal control	– possibility that non-compliant behaviour will be detected and disapproved of by third parties and sanctioned by them	Numerical score:
T6. Informal report probability	– possibility that an offence may come to light other than during an official investigation and may be officially reported (whistle blowing).	Numerical score:
T7. Control probability	– likelihood of being subject to an administrative (paper) or substantive (physical) audit/inspection by official authorities.	Numerical score:

¹²⁵ OECD, 2000 op cit??? p 49.

¹²⁶ *Source:* Dick Ruimschotel, Compliance Methodology Consultants, Amsterdam and But Klaasen, Ministry of Justice, The Hague. Cited in OECD, op cit, p 46.

¹²⁷ OECD op cit p 46.

¹²⁸ Dick Ruimschotel, op cit. See also CMC, Compliance Methodology Consultants, Amsterdam, <http://t11.net/index.htm>.

T8. Detection probability	– possibility of detection of an offence during an administrative audit or substantive investigation by official authorities.	Numerical score:
T9. Selectivity	– chance of control and detection as a result of risk analysis and targeting of firms, persons or areas	Numerical score:
T10. Sanction probability	– possibility of a sanction being imposed if an offence has been detected through controls and criminal investigation.	Numerical score:
T11. Sanction severity	– severity and type of sanction and associated adverse effects <i>e.g.</i> loss of respect and reputation.	Numerical score:

It is notable in the T11 model that about half the proposed elements refer to aspects of the general relationship between regulated entities (targets) and regulators. This points up the underlying proposition that regulation cannot effectively be imposed without some degree of acceptance of its legitimacy. The same assumption underpins the A2E ('from A to E') model,¹²⁹ which has been used to explore the restoration of a compliance ethic within the Czech financial sector. In doing so, it is important to determine the dependency of compliance on unrelated external factors. Strands A, B and C of the A2E model refer to similar areas as T11's first four strands.

<i>A2E compliance factors</i>	<i>Questions</i>	<i>Ratings</i>
Authority	– are the rule maker, rule-making processes, and rules themselves accepted?	High / Med / Low?
Behaviour	– existing tendencies (ie, what people would do by inclination)?	High / Med / Low?
Controls	– does supervision and enforcement activity deter in principle?	High / Med / Low?
Distortions	– do compliance systems actually function in practice?	High / Med / Low?
External events	– do contingencies impact on compliance?	High / Med / Low?

The two strands on distortions and external events in the A2E model refer to the practical working of compliance in terms of its own procedures and in terms of extraneous (environmental) events. Likewise the T11 model refers to the likelihood that regulatory inspection would detect non-compliance and to what the consequences then might be.

Additionally, T11 refers, in T5 and T6, to possible influences of competitors, customers and other market (or media?) players, whose perception of non-compliance by others might lead to informal market or social sanctions and/or to whistle-blowing. That difference between the two models might possibly be related to the different contexts in which they were developed, the Netherlands (T11) being a historically open society – one in which market pressures and competitive behaviours are well established and in which whistle-blowing (informing to state agencies) is relatively accepted – compared with the Czech Republic (A2E). Indeed, the roles of other market players may be broader than indicated by either of the aforesaid models, in the light of some examples given in the literature.

International regulators of intentional oil pollution at sea found that setting an outcome standard (limits on the amount of oil to be discharged at sea) completely failed to elicit adequate compliance levels because it relied on the deterrent threat of inspection discovering non-compliance and punishment. Non-compliance was extremely difficult to monitor on the open seas. Instead an international regime that mandated a certain type of technology for the design of ship ballast made intentional oil pollution more difficult and was much more successful. In this case, monitoring adoption of the defined technology was much easier than monitoring oil pollution at sea. Ship builders and classification societies accepted the new regime and acted as third-party enforcers, or gatekeepers, by not building and not insuring ships without the mandated technology (segregated

¹²⁹ Source: John Howell, Compliance Chain Ltd Consultants, United Kingdom. Cited in OECD, op cit, p 48. Currently John Howell and Co. Ltd., website www.JH-Co.com.

ballast tanks). The regulatory regime created practical obstacles to non-compliance, using deterrence as a backup, and relied on non-state actors, on whom the operators are dependent and who have no economic interest in avoiding the costs of regulation, to monitor compliance.¹³⁰

The MARC model, developed in 2004–6 specifically to capture crime risks posed by new legislation and regulation in the European Union, is set out in the main text above (before this annex)

Regulatory models and some fraud data

In retrospect, it appears that WorldCom used this asymmetry of information to exaggerate the value of its stock by overstating the growth in Internet traffic volumes. WorldCom's misrepresentation of that growth encouraged excessive investment in long-distance capacity. AT&T Labs reported in 2001 that rival telecommunications carriers made investment decisions in reliance on WorldCom's faulty projections[...] Some industry analysts attribute much of the enormous decline in market capitalization in the telecommunications sector to WorldCom's misconduct.⁵² The Eastern Management Group found that [...] a significant percentage of the \$90 billion invested by carriers in the long-haul industry was misallocated because of WorldCom's false projections.¹³¹

In retrospect, it appears that WorldCom used this asymmetry of information to exaggerate the value of its stock by overstating the growth in Internet traffic volumes. WorldCom's misrepresentation of that growth encouraged excessive investment in long-distance capacity. AT&T Labs reported in 2001 that rival telecommunications carriers made investment decisions in reliance on WorldCom's faulty projections. [...] Some industry analysts attribute much of the enormous decline in market capitalization in the telecommunications sector to WorldCom's misconduct. The Eastern Management Group found that: 'At the time, the returns from the long haul data market seemed almost beyond estimation due to repeated claims of (then market leader) UUNET (later WorldCom) executives that 'Internet traffic was doubling every 90 to 100 days—an assumption that drove much of the overbuilding and proved to be wildly exaggerated. The Eastern Management Group also determined that a significant percentage of the \$90 billion invested by carriers in the long-haul industry was misallocated because of WorldCom's false projections'.¹³²

The negative cumulative abnormal returns experienced by AT&T and Sprint around the date that WorldCom first revealed its accounting problems amounted to \$2.5 billion in losses in market capitalizations (equal to \$49.2 billion * -5.0%). The negative cumulative abnormal returns experienced by telecommunications equipment manufacturers around the same date amounted to \$5.3 billion in losses in market capitalizations (equal to \$127.4 billion * -4.2%). In other words, event study analysis indicates that WorldCom's accounting fraud destroyed at least \$7.8 billion of shareholder wealth in other American telecommunication companies. P 235

However:

There may have been some winners in the ENRON affair. If sixty billion dollars were lost by Enron investors then this amount was went somewhere. Sidak¹³³ suggests that beneficiaries included employees of all foreign and domestic Enron units, auditors (Andersen), investors who sold their

¹³⁰ OECD op cit p 20.

¹³¹ Sidak, J, 2003, The Failure of Good Intentions: The WorldCom Fraud and the Collapse of American Telecommunications after Deregulation, Yale Journal on Regulation, Vol. 20, pp 207–267, cited at p 228. Available as pp 61 pdf from http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID335180_code021001500.pdf?abstractid=335180&mirid=1

¹³² Sidak p 230.

¹³³ Vinod, Hrishikesh D., "Winners and Losers in Multiple Failures at Enron and Some Policy Changes" (April 9, 2002). http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID300542_code020213140.pdf?abstractid=300542&mirid=1

Enron stock soon for a profit – ‘This is characteristic of a Ponzi scheme. Highlands Capital Management, with ties to Harvard University, bet that Enron stock would fall and profited to the tune of over \$50 million.’¹³⁴ – members of the board of directors of Enron and its affiliates, investment bankers, their lawyers and accounting firms, political campaigns and individuals – ‘President Bush, members of investigative committee, Attorney General John Ashcroft, [...] \$52,000 to UK Labour party politicians’ – and Cayman Islands and similar tax haven, with some scores of ‘phantom’ businesses were registered in Netherlands for reasons related to tax.¹³⁵

Model 4: businesses’ and public entities’ own risk assessment in the context of the cost-reduction process

"Holding business managers accountable and changing the security staff's role from enforcement to service has been a major paradigm shift for the entire company." Security manager at a major equipment manufacturer¹³⁶

This section discusses business models of risk assessment, whether applied with the public or private sector. Business approaches to risk assessment include elements of law enforcement assessments (especially since many security staff have law enforcement or related backgrounds, see Levi & Dorn IKOC WP7 and MARC WP4) and also elements of the auditing approach to risk discussed above. Having said that, business approaches are closer to the auditing approach described on the previous pages than they are to law enforcement approaches, insofar as business risk assessments are highly concerned with internal sources of risk (or vulnerability). Risk reduction is seen as a dynamic (and continuing) process in which counter-measures are developed in response to the identification of risks – but only insofar as available counter-measures are seen as being worthwhile.

According to leading authorities,¹³⁷ the following process usually occurs: 1) identify assets and risks facing them (for examples, see first column above), 2) attempt to assess the likelihood¹³⁸ of such losses if no action is taken, 3) specify scale of possible losses, 4) attempt to assess the impacts of such losses – their ‘criticality’ in business terms (eg, fatal, highly disrupting, routine problem, etc), 5) identify options for reducing such risks, 6) assess the feasibility (practicability) of such counter-measures, 7) carry out a cost benefit analysis.¹³⁹ Law enforcement threat assessments and audit risk assessments are likely to be drawn upon at various points in this process.

ASIS states that assets are people and property in the broad sense:¹⁴⁰ ‘physical property such as real estate, land and buildings, facilities; tangible property such as cash, precious metals, and stones; dangerous instruments (e.g., explosive materials, weapons, etc.); high theft items (e.g., drugs, securities, cash, etc.); as well as almost anything that can be stolen, damaged, or otherwise adversely affected by a risk event. Property also includes the “goodwill” or reputation of an enterprise that could be harmed by a loss risk event. For example, the ability of an enterprise to attract customers could be adversely affected by a reputation as being unsafe or crime ridden. The third subset of property is information. Information includes proprietary data, such as trade secrets, marketing plans, business expansion plans, plant closings, confidential personal information about employees, customer lists, and other data that if stolen, altered, or destroyed could cause

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Cited in GAO, 1998, Executive Guide: Information Security Management, Learning From Leading Organizations, Washington: United States General Accounting Office, Accounting and Information Management Division, p 27 of 69
<http://www.cio.gov/archive/ai9868.pdf>

¹³⁷ ASIS International Guidelines Commission, op cit. +++

¹³⁸ Qualitative judgements of likelihood may be made in the first instance and then, in an intermediate step, these may be converted roughly into qualitative terms on the basis that “virtually Certain” might be assigned a numerical probability of 0.85, “highly probable” might be assigned 0.65, “moderately probable” 0.50 and “less probable” 0.20. (ASIS, op cit, page 21). Finally, for those risks looking most critical, focussed work might be undertaken to fine-tune probabilities.

¹³⁹ Closely modelled on ASIS, op cit.

¹⁴⁰ ASIS, p 11–12.

harm to the organization.' When thinking about probability of risks, features of the environments can be considered, such as the physical, social environment and political environments; historical experience; internal procedures and safeguards; and criminal state-of-art.¹⁴¹

Risk assessment and risk management is not always handled centrally in an organisation. Central decisions may give more focussed accountability to the board and other stakeholders, but decisions that are shared – in a structured manner – produce stronger 'ownership' by managers and staff who know particular areas of work, hence may improve the quality of assessments. In a study of management of information security, the US General Accounting Office reports:

The financial services corporation [in a GAO case study] had implemented procedures for documenting business managers' decisions to deviate from organizationwide policies and standards. In order to deviate from a "mandatory policy," the business unit prepared a letter explaining the reason for the deviation and recognizing the related risk. Both the business unit executive and the central security group manager signed the letter to acknowledge their agreement to the necessity of the policy deviation. Deviations from less rigid "standards" were handled similarly, although the letter could be signed by the business unit executive, alone, and did not require the central security group's approval, though it was generally received. In all cases, the central security group discussed the information security implications of the deviation with the appropriate executive and signed-off only when it was satisfied that the executives fully understood the risk associated with the deviation. However, the ultimate decision on whether a deviation from policies or standards was appropriate was usually left to the business unit.¹⁴²

The overall business risk assessment process – looking at risk and at possible counter-measures and assessing the value of the latter – is illustrated in the following diagram. This has been developed by the authors on the basis of a variety of business sources. Some hypothetical quantifications of risk and counter-measures are illustrated here. However, in many risk assessments, qualitative judgements are preferred, for reasons to be discussed below.

¹⁴¹ Ibid, p 17.

¹⁴² GAO 1998, page 25

Overview of business risk assessment (quantitative) as a balancing of risk and counter-measures							
<i>Risks?</i>				<i>Counter-measures?</i>			<i>Assessment</i>
	Likelihood ^R (per annum)	Costs ^R (euros millions & other)	Criticality ^R = Likelihood ^R x Costs ^R	Reduction ^C of criticality in each year	Costs ^C per annum of reduction	Value ^C = Reduction in criticality x Cost	Does Value ^C exceed Criticality ^R ?
<i>Example 1:</i> Large audit misrepresentation	0.1	10 million + reputational	1	50%	0.5 million	0.25	Yes – from shareholder view, action worthwhile
<i>Example 2:</i> External theft of IPR	1	2	2	?	?	?	Difficult to assess
<i>Example 3:</i> Repeated thefts, staff collusion	10	0.1	1	30%	0.25 million	0.750	Finely balanced ¹⁴³

When the chosen method involves quantification, *criticality of risk* is assessed by multiplying likelihood of each risks by each cost; *value of countermeasures* is assessed by estimating their efficacy in reducing risks (eg, by 50%?) and multiplying that by the cost of the counter-measures; finally one identifies those areas in which risk, especially the more critical ones, can be reduced by counter-measures that cost less than the risks themselves. In theory, a business will take action wherever a counter-measure costs less than the risk it displaces. In reality however some risks, even those that could be highly business-critical to the extent of being fatal to the business were they to occur, may be discounted (counter-measures not taken) because the counter-measures would reduce profits or growth by an extent judged to be too great.

However – and notably for our present purposes – for business purposes of risk-containment, it may be found that quantification within risk assessment is unnecessary. The GAO offers a case study and commentary.

A major electric utility company has developed an efficient and disciplined process for ensuring that information security-related risks to business operations are considered and documented. [...] During the session, the group brainstorms to identify potential threats, vulnerabilities, and resultant negative impacts on data integrity, confidentiality, and availability. Then, they analyze the effects of such impacts on business operations and broadly categorize the risks as major or minor. The group does not usually attempt to obtain or develop specific numbers for threat likelihood or annual loss estimates unless the data for determining such factors are readily available. Instead, they rely on their general knowledge of threats and vulnerabilities obtained from national incident response centers, professional associations and literature, and their own experience. They believe that additional efforts to develop precisely quantified risks are not cost-effective because (1) such estimates take an inordinate amount of time and effort to identify and verify or develop, (2) the risk documentation becomes too voluminous to be of practical use, and (3) specific loss estimates are generally not needed to determine if a control is needed.¹⁴⁴

One possible implication of that could be that the people best placed to make risk assessments – staff and managers in the business units and sections concerned – may be least interested in doing so in a quantitative manner.

¹⁴³ These illustrative examples do not take into account the possibility of ‘multiplier’ effects such as the creation of a culture in which repeated thefts are tolerated (or at least lead to action short of criminal prosecution) if there is not a system in place for catching and reacting publicly to the majority of thefts: “we got way with it that time, so next...”.

¹⁴⁴ GAO op cit p 28,

Although all of the organizations placed emphasis on understanding risks, none attempted to precisely quantify them, noting that few quantified data are available on the likelihood of an incident occurring or on the amount of damage that is likely to result from a particular type of incident. Such data are not available because many losses are never discovered and others are never reported, even within the organizations where they occurred. In addition, there are limited data on the full costs of damage caused by security weaknesses and on the operational costs of specific control techniques. Further, due to fast-paced changes in technology and factors such as the tools available to would-be intruders, the value of applying data collected in past years to the current environment is questionable. As a result, it is difficult, if not impossible, to precisely compare the cost of controls with the risk of loss in order to determine which controls are the most cost-effective.¹⁴⁵

This rather drives a horse and carriage through the possibility of quantification of risk in terms of its likelihood or severity. If those nearest the business issues and thus best placed to make such estimates typically decline to do so on the grounds of realism, then the ability of more observers to quantify must be thrown into question. Comparative ratings may therefore be more feasible than the quantitative approach illustrated above. As for those concerned with their own immediate business requirements:

[T]he organizations that were the most satisfied with their risk assessment procedures were those that had defined a relatively simple process that could be adapted to various organizational units and involved a mix of individuals with knowledge of business operations and technical aspects of the organization's systems and security controls. The manufacturing company had developed an automated checklist that asked business managers and relevant staff in individual units a series of questions that prompted them to consider the impact of security controls, or a lack thereof, on their unit's operations. The results of the analysis were reported in a letter to senior management that stated the business unit's compliance with the security policy, planned actions to become compliant, or willingness to accept the risk. The results were also reported to the internal auditors, who used them as a basis for reviewing the business unit's success in implementing the controls that the unit's managers had determined were needed. Through the reporting procedure, the business managers took responsibility for either tolerating or mitigating security risks associated with their operations.¹⁴⁶

To summarise, risk assessments in the business tradition are dynamic and action-orientated aspects of the broader process of management for business risk reduction. A typical approach is given by the formula, *risk reduction = reducing likelihood of occurrence*, especially for those risks whose impacts are deemed least acceptable to stakeholders. The business approach is, in other words, a process rather than a calculation.

Each of these approaches to risk information – law enforcement, regulatory, auditing, business – provides valuable information. One day the EU may wish to maximise quality and value by placing these sources alongside each other.

¹⁴⁵ Ibid p 25.

¹⁴⁶ GAO 1998 p 24.

ANNEX B. Research requirement: extracts from Project Proposal

Overview

WP 16 tests out the measures of OC developed by WPs 13 (frequency, likelihood, volume of OC activities) and 14 (harms thereof); and is parallel to WP 15 (questionnaire-based study of the feasibility of the measures in political, organisational and financial terms). WP 16:

- identify area[s] of international fraud most feasible
- refine WP 13's approach (UCSC) to measuring volume/frequency/likelihood.
- refine WP 14's approach (CNRS) to measuring impacts/harms
- select case studies, define methodology for each case study
- carry out case study/ies
- write long-ish technical report(s) and shorter deliverable. [See below for fuller description, from Project Proposal, but it's not set in stone.]

From the Project Proposal. Details of WPs 13–16

WP 13 (UCSC, Nov–Dec05), together with WP 14 & 15, addresses Project Objective 5: to develop an EU common methodology for measuring the volume and impact of organised criminal activities, and to preliminarily examine its feasibility. This WP focuses specifically on volume i.e. frequency, likelihood. There are three possible approaches to measuring and or estimating major crimes:

- (i) in very favourable circumstances – i.e. where all those concerned are effected by the existence of OC or by its activities and are aware of it; where the victims make a complaint or report of some kind; where this complaint or report is investigated, recorded and categorised; or where the resulting data is quality-assured, shared, not lost or duplicated. Under these circumstances, it is possible to begin to speak of the actual measurement of the volumes or frequency of particular criminal acts. When these conditions are not well met on a local, national or European level, then it may still be possible to estimate the volumes/frequency, on one of two bases:
 - (ii) by having good data on some localities, and by scaling that up to approximate national and European situations; or
 - (iii) having data from sources other than the complainant (for example, from perpetrators, or informants, or experts) and trying to 'triangulate' (reconcile) that information with partial information of type (i);
- (iv) sometimes it is possible to try to combine approaches (ii) and (iii).

WP 14 (CNRS, Sept–Dec05) addresses Project Objective 5: to develop a common methodology for the EU to measure the amount and impact of organised criminal activities, and to preliminarily examine its feasibility. This WP looks at impact (harm) measurement. The WP distinguishes between:

- developing appropriate and comparative indicators of harms/impacts in relation to OC activities where the harms/impacts are mostly financial and
- developing appropriate and comparative indicators of harms/impacts in relation to OC activities where the harms/impacts are not only financial but also are psychological/social/political. Both approaches are pursued in this WP.

WP 15 (UCSG, Dec05–March06) begins to look at feasibility of the approach put together in WPs 13 & 14. Description of work – The feasibility (political, organisational and financial) of the methodology elaborated in WPs 13 and 14 will be assessed by means of a questionnaire sent to national experts.

WP 16 (Cardiff, Dec06–March06) makes a more detailed examination of the feasibility of the common methodology for the EU to measure the amount and impacts of organised criminal activities, in relation to one aspect of crime, i.e. international fraud. A pilot study. Steps:

- identify the area of international fraud in which the pilot study would be most feasible, given resources and data. Provisionally, payment card frauds have been identified as an area of EU-wide activity where good data are available;
- refine the approach to testing the 'amount' aspect of the common methodology developed earlier in the Project. The main data used would be payment card data held by the card industry, which is not susceptible to police reporting problems to the same extent as are other types of fraud that are less centrally located. WP 16 will review rates of fraud against issuers and merchants in various jurisdictions and circumstances. Additionally, the ways in which they might be affected by feeder variables will be assessed;
- refine the approach to testing the impacts of the common methodology developed earlier. The approach depends on how impacts are expressed in the common methodology (i.e. purely financial terms, or also in social/political and other non-monetary terms such as social anxiety experienced by victims of identity theft). If the impacts are expressed solely in financial terms, then the Pilot Study will be relatively easy, since available data includes financial losses (although associated loss of time and investigation costs may be harder to quantify). If the approach of the common methodology also seeks to bring in non-monetary aspects of impacts, then a broader approach will also have to be developed;
- through discussions with the co-operating partners in the private and public sectors, possible case studies will be reviewed;
- agree on criteria for the selection of the case studies (such criteria may include demonstrating a range of issues that are deemed important - for example, the difficulty of inferring the level of organisation of crimes, the crimes prevalence and/or incidence using victim data. The feasibility of a case study using the resources available and lack of legal problems in reporting will also be taken into consideration);
- in parallel, define a methodology for each case study, and delineate the outputs of each case study in terms of internal technical reports, for example, 5,000-10,000 words.

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ANNEX 17

PRACTICAL AND POLICY IMPLICATIONS: THE BALANCE BETWEEN THE FIGHT AGAINST ORGANISED CRIME AND THE NEED TO RESPECT CIVIL LIBERTIES.

By:

- Henk van de Bunt, Vrije Universiteit Amsterdam
- Hans Nelen, Vrije Universiteit Amsterdam
- Bas ter Luun, Vrije Universiteit Amsterdam

DELIVERABLE FOR WP 17 OF:

Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach



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1. FOREWORD

This Work Package addresses objective 7: to compile and highlight the practical and policy implications that emerged from the project as a whole, with attention paid to the balance between the fight against organised crime and civil liberties, in particular privacy. The IKOC common European approach to organised crime raises an ethical issue regarding the balance between the necessity for in-depth knowledge about organised crime and the respect for the lives and liberties of individual civilians which are the core of our societies. This means finding a balance between gathering and analysing information in order to obtain 'insider knowledge' about organised crime and some critical issues regarding individual citizens' civil liberties, such as data access, data retention rules, ethical standards and other guiding principles.

Before we address this subject, we will start with a more general outline of the way society is currently dealing with crime, civil liberties and the common European approach to organised crime. We will then discuss some of the practical and policy implications of the project in the light of civil liberties and privacy in particular.

The draft concerning workpackage 17 of the IKOC project has been produced by the Vrije Universiteit Amsterdam and directed by Henk van de Bunt and Hans Nelen. Dina Siegel coordinated and consulted whilst undertaking research and writing the text. Research and writing has been executed by criminologists and researchers Sylvia de Blank and Bas ter Luun.

2. CONTEMPORARY CRIME CONTROL AND CIVIL LIBERTIES IN EUROPE

2.1 *The Culture of Control*

The new attitude towards (organised) crime is not something that came out of the blue. In contemporary Europe we live in a so-called 'risk society', on a technological frontier which absolutely no one completely understands and which generates a diversity of possible outcomes (Giddens, 1999: 3). In this type of society the future is insecure. This is valued both positively, as it expands individual choice, as well as negatively, because we do not really know how to value and assess risks. Some of these risks, the *manufactured* risks, originate out of human development which creates new risk-environments with no predecessors to experience from (Giddens, 1999: 4). Because it is not clear what creates a risk, questions of liability are difficult to answer. An important notion of risk in the risk society is the aspiration to control; more particularly, to be in control of our future (Giddens, 1999). Risk is always about security and crime in particular is such a risk in our daily lives.

Garland (2001) states in his book 'The culture of control' that the past thirty years have seen a radical change in crime policies in Britain and America. He assumes that other late-modern societies experienced a similar transformation, because late-modernity prompted political and cultural adaptations that alter the way societies think and act in relation to crime (Garland, 2001: 7). In short, the transformation from a welfare-state towards a more liberal and neo-conservative oriented society resulted in the decline of the rehabilitative ideal and the re-emergence of repression and the expansion of prevention strategies.

Governments realised high crime rates had become a normal social fact of life and acknowledged the limitations of the criminal justice system in answering to public demands for security. The sovereign state failed to deliver adequate levels of security and this predicament led to two new patterns of action, a *sovereign-state strategy*, stressing enhanced control and expressive punishment, and an *adaptive strategy* focusing on prevention and partnerships. The latter is based on the premise that crime is a routine risk that can be calculated and avoided by identifying criminal opportunities and developing preventive measures (Garland, 2001: 140, 128). The aim of this strategy is not to eliminate crime, but to control it by minimizing its risk (Van Swaaningen, 2004: 13).

One important feature of this strategy is the *responsibilisation* approach. Crime is viewed as a societal problem and the whole community is mobilised. The primary goal of this approach is to spread responsibility across agencies, organisations and individuals that operate outside the traditional field of criminal justice

(Garland, 2001: 124–126). Consequently, a variety of new players have entered the ‘crime control–field’, like public agencies, regulatory bodies, intelligence agencies, private security companies and private businesses.

In the post–9/11 era security has become even more of an issue. The terrorist threat accelerated the developments which already applied to crime control. There is an emphasis on prevention of terrorism and simultaneously a fierce repression of known terrorists. Paradoxically, the preventive risk–management which requires classification, registration and identification (Van Gunsteren, 2004: 81) can violate civil liberties at the same time (Liberatore, 2005: 4). Anxious citizens are willing to give up some of their rights and freedoms in exchange for protection and the early detection of a terrorist threat (Spaans, 2002: 7–8). However, in the slipstream of new measures to combat terrorism, measures to fight organised crime were also implemented, since both are often seen as forms of serious crime and sometimes even as overlapping forms of crime.

2.2 Civil liberties

In 1950, the European Convention of Rome for the protection of Human Rights and Fundamental Freedoms (ECHR) was established. This convention mainly consists of classical rights that protect civilians against the power of the state in order to guarantee fundamental freedoms (Van Dooren, 2002). Although codified, these liberties and rights are dynamic concepts and their meaning differs across time and space. For example, ethics on civil liberties are generally seen differently in times of emergency. Moreover, new technological developments raise ethical and conceptual questions about civil liberties.

In our case this can be explained by examining the notion of privacy. The concept of privacy is multi–faceted, dynamic and continuously changing but has as its core non–interference with the personal life sphere (Blok, Vedder, 2000: 5). A number of developments contribute to the dynamics of privacy. Firstly, the changed proportions between the public and private sectors in most Western societies. This development has raised fundamental questions, especially about the processing of data. Secondly, globalisation and Europeanisation enlarge the diversity of notions and ideas on privacy applicable to activities which were formerly national or regional. Thirdly, formal rules and legislation influence the meaning of concepts like privacy (Blok, Vedder, 2000: 5).

Under circumstances when national security or public order is threatened, restrictions on the right to non–interference in personal life can be justified.¹ Two sets of problems arise with regard to the justification of restrictions to privacy. The first concerns prevention and pre–emption as key values within contemporary crime control. The second can be found in the dynamic nature of the concept itself. If the notion of privacy differs from one European context to another, the thoughts on justified restrictions are likely to differ too. This turns out to be problematic when activities on a regional, national and European level are intertwined.

Notions on the justification for infringements on civil liberties can also vary across time. Nowadays, there seems to be a call towards a reassertion of the state and the provision of adequate levels of security (Garland, 2001: 140, 128). Protection by the state gains precedence over protection against the state. In such a climate measures which restrict privacy are more likely to be justified. Moreover, new (information) technologies change the ideas on the concept of privacy. The amount of data that can be processed has grown explosively whilst ‘data mining’ techniques enable its analysis. Questions on how these technologies restrict a civil liberty such as privacy and when this would be justified are difficult to answer with great certainty.

Restricted civil liberties can be seen as the immaterial costs of an anti–Organised Crime measure. Just as money is the core of our economic system, civil liberties and human rights are principle to our justice and democratic system. The cost–effectiveness of anti–OC measures can be expressed in monetary terms as well as in terms of civil liberties. When we pay attention to the balance between the fight against organised crime and civil liberties the following outline can be drawn.

¹ Article 8.2 European Convention on Human Rights: ‘There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well–being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.’

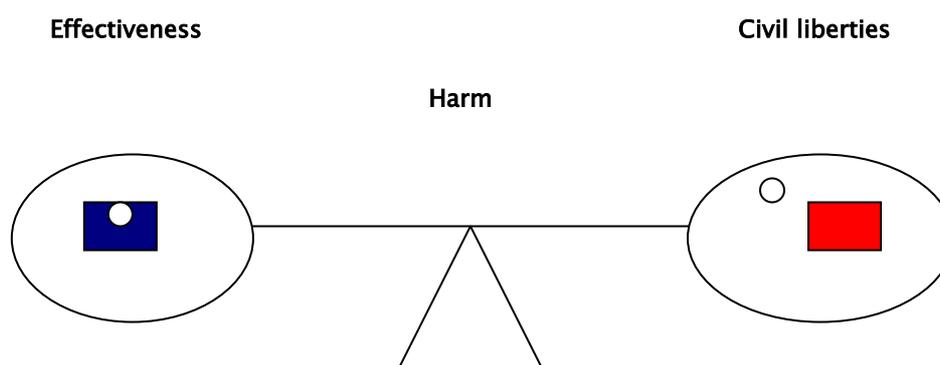


Figure 1. The balance between effectiveness and civil liberties.

The oval on the left side of the outline indicates the extent to which a measure against organised crime proves to be effective. The blue square within the oval designates empirically proven effectiveness. The oval on the right side of the scheme indicates the extent to which civil liberties are being infringed. The red square within the oval designates core civil liberties. The triangle in the middle indicates the amount of harm caused by organised crime. Effectiveness and civil liberties are balanced in relation to harm.

For example, a strategy against organised crime empirically proves to be effective and can be assigned a place in the blue square. The extent to which the strategy infringes on civil liberties is tested as well and does not infringe with core civil liberties which are marked in the red square. This means the strategy is rightfully balanced because it proves to be effective to a greater extent than it proves to be infringing on civil liberties. In contrast, when a strategy restricts these civil liberties which can be assigned to the area within the red square and does not prove or cannot be proven effective, then the strategy would be disproportionate and out of balance. Furthermore, the greater the amount of harm, the greater the extent to which civil liberties could be restricted. In turn, this restriction demands a certain/greater level of effectiveness.

Importantly, the specific nature of harm is relevant in striking a balance between effectiveness and civil liberties. In WP 14 three levels of consequences or effects were outlined: systemic effects, intangible and tangible effects. Interventions on these different levels impact the balancing between effectiveness and civil liberties. Firstly, tangible consequences² of organised crime, consisting of direct costs and the costs of 'public and private response to crime', can best be measured and expressed in economic terms. Measurement is important when balancing the consequences of an anti-OC strategy (avoidance of harm) with its effects on civil liberties and fundamental freedoms. Secondly, intangible effects like sentimental loss are subjective and are difficult to measure in monetary terms.³ This makes measuring the effectiveness of these measures a difficult task as well. Consequently, balancing between effectiveness and civil liberties will be problematic. Thirdly, in work package 14, a distinction was made between different systemic effects.⁴ These effects consist of marginal effects on society, efficiency reducing effects and system collapse. Although difficult to measure these effects have implications for civil liberties. On the systemic level the most severe harm would be system collapse. So, tight restrictions on civil liberties would be feasible in relation to strategies which have proven to be effective in avoiding system collapse.

² 'Tangible consequences' can be divided into two categories. The first summarises the 'primary damage of crime' caused to the various components of society. The second effect is the 'public and private response to crime'. Public agencies fight and public money is spent. WP 14, page 8.

³ The intangible consequences refer to the direct emotional and physical impact of a crime upon the victim's well-being. WP 14, page 8

⁴ Damage affecting the whole of the society. WP 14, page 8.

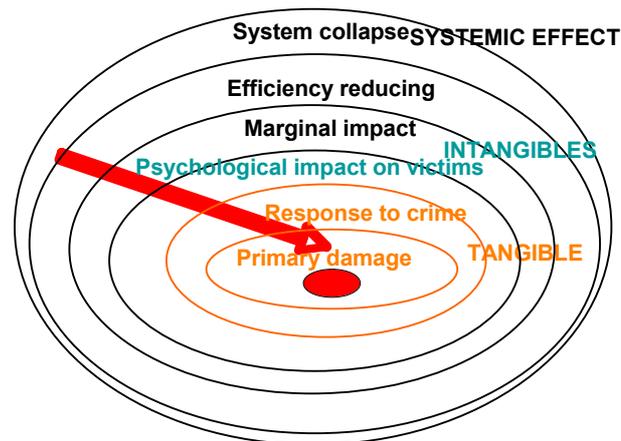


Figure 2. Effect of organised crime on society

However, the schemes outlined in this section are not so straightforward. Variables of harm, effectiveness, and civil liberties are difficult to measure, and equally difficult to translate into policy and practice. These critical aspects arising from a (IKOC) common European approach towards organised crime will be addressed in the next part.

3. CRITICAL ASPECTS

From the early 1990s onwards, the European Union (EU) has tried to tackle the threat posed by organised crime. The policies proposed in this area are mainly of a preventive nature and build upon partnerships between law-enforcement agencies, public administration, private companies, the scientific community and society. Improving Knowledge on Organised Crime fits in this policy line, aiming as it does to provide a knowledge base to concrete measures against organised crime.

Crucial questions concerning this ambition are to what extent the manifestations of organised crime (including the risks it poses and the harm it does) can be precisely known, and whether or not the effects of preventive measures taken against this phenomenon can be assessed realistically. We will start by outlining the problems determining the scope of the intervention stemming from a preventive approach, and subsequently examine the reality and feasibility of evidence-based measures.

3.1 Scope and aim of intervention

Organised crime is intertwined with the legitimate world because it uses the same legitimate services and opportunities as their legal counterparts. As a consequence, crime prevention (which for example invades privacy) aims at excluding criminal organisations from legitimate environments by addressing these opportunities. This aim firstly raises the question of how to separate the criminals from the law-abiding citizens (van der Schoot, 2006: 223). Secondly, the scope of preventive measures has to be determined. In other words, choices have to be made about which opportunity structures and legitimate environments are to be included in the preventive measure.

First, addressing the latter question, it can be determined that organised crime prevention is by nature unspecific and thereby has a large scope. Because criminal opportunities can be broadly found in the legitimate environment, preventive measures tend to cover them as much as possible. Preventive measures against organised crime often imply restrictions on privacy (van der Schoot, 2006: 224) and raise the dilemma between effectively fighting crime (capture as many targets as possible) and the upholding of civil

liberties (privacy of law-abiding citizens). Because of this inclusion, the liberties of broad categories of individuals might be restricted to catch a small number of perpetrators (Van der Schoot, 249). Another negative effect can be the stigmatisation of economic sectors addressed by organised crime prevention (Huisman, et al., 2005: 97).

The unspecific nature of preventive measures can also cause so-called net-widening. Net-widening can be described as the expansion of the scope of a measure with the result of it being used in situations it was not designed for (de Hert, Huisman, et al., 2005: 99). If these measures are applied to harmful acts other than organised crime, the infringement of civil liberties can become disproportionate.

To counteract net-widening, all measures should be supported by a clear policy theory (van der Schoot, 2006: 95) and be purpose-specific. In other words, it should take away harm specifically caused by organised crime. It can be argued that especially intangible and systemic effects are difficult to assess. This makes precise intervention in order to undo this specific harm a disputable task. Particularly because preventive measures aim at the stage before any harm is done. In the desire to capture as many targets as possible, broadly defined aims can have a net-widening effect and extend beyond 'real' organised crime (Levi, 2004: 824). This leaves anti-organised crime strategies prone to addressing other harmful acts without paying attention to proportionality and necessity.

Secondly, the question of how to separate the 'good guys' from the 'bad guys' and determining the aim of the measure raise a subsequent issue. Indicators of organised crime serve this purpose. Yet empirical research indicates there is still little insight in the dynamic, hidden, and complex phenomenon of organised crime (Van der Schoot, 2006: 223). Consequently, interventions aiming at crime and criminals could be based on debatable indicators and make 'the good suffer from the bad' (van der Schoot, 2006: 249).

Moreover, prevention holds harnessing the legitimate environment from occurrences which have not yet displayed themselves. This implies the prediction of future criminal activity to which preventive measures can be attuned (van der Schoot, 2006: 247). Ideally, the policymaker has to be sure the crime and the consequent harm would have occurred if the measure was not applied. Especially because preventive measures can result in the stigmatisation of economic sectors and the restriction of privacy (van der Schoot, 2006: 247).

In order to assist policymakers in solving the difficulties they encounter in making decisions, the method of risk analyses has been developed. In turn, the outcomes of risk-analyses indicate the scope and aim of the measures. To analyse the amount of risk, the threat of organised crime and the vulnerability of the legitimate environment have to be calculated. This seems not an easy task. Establishing reliability and validity of the assessments (especially in a European context) is and can be hindered by interpretation, subjectivity, unreliable data-sources, etc. (Van Duyne & Van Dijck, 2005: 30, 2-3). Keeping these defects in mind, one might question the possibility of objectively assessing the amount of risk.

The IKOC project has developed a common European instrument for measuring the risk of organised crime (OC RISK = PROBABILITY of an OC event X its IMPACT). Indicators of probability have been developed and are based on law-enforcement data from the Member-States and scientific literature on organised crime. Although this is a methodological advancement, results have to be handled prudently. Scientifically there is still little insight in the phenomenon of organised crime (van der Schoot, 2006: 223) and law-enforcement data can be distorted by varying definitions, priorities, competencies, etc.

Indicators of probability have to be determined precisely and objectively because they can have an impact on civil liberties when they are used in policy-making. Policy addressing the cooperation of between OC-groups and their geographic distribution could demand exchange of personal data between the Member-States and Third countries and restrictions on the free-movement of people. The specialisation and use of expert knowledge by OC-groups could lead to the surveillance of specific professional groups. These indicators have to be precise and objective otherwise restrictions on civil liberties cannot be justified.

In the next section we will see that the effectiveness of the preventive measure is difficult to determine, even though it is a prerequisite for balancing effectiveness and civil liberties in the fight against organised crime.

3.2 Proven effectiveness

Interventions in order to reduce or prevent organised crime and its tangible, intangible and systemic effects are often controversial. They may interfere with civil liberties while their effectiveness is difficult to evaluate. Empirical research on organised crime and the measures taken is often missing (Fijnaut & Paoli, 2004: 1039, 1041). In this section, we continue arguing that strategies addressing organised crime should prove effective, in other words, be supported by empirical data and a strong policy theory (van der Schoot, 2006: 247). If measures are not effective (and do not reduce harm), there is no justification for the infringement of civil liberties.

An illustration of a strategy with a thin and questionable knowledge base is the surveillance of the legal professions. Because their secrecy privileges could facilitate money laundering, the 2001 Money Laundering Directive obliged legal professionals to report suspicious transactions (Nelen, Lankhorst, 2004: 179).⁵ This decision was based on two developments which increased the vulnerability of these professionals to organised crime. First of all, the supervision of financial institutions made criminal entrepreneurs shift to the legal professions (Di Nicola, Zoffi, 2004: 213). Secondly, due to commercialisation, the tasks of the legal professions widened and can now also comprise financial advice. Thus it seems the legal professional group forms a legitimate environment 'at risk' of facilitating organised crime.

The 2001 Directive seeks a balance between maintaining confidentiality and the report obligation (Nelen, Lankhorst, 2004: 182). This mainly concerns financial advice. Legal advice with regard to judicial proceedings remains subject to professional secrecy.⁶ Still, the principle of confidentiality, which aims to guarantee a fair trial (article 6 ECHR), and the trust relationship between lawyer and client is put under pressure.

Indeed, legal professionals claim that limiting this privilege is out of proportion with the incidental involvement in money laundering (Van der Schoot, 2006: 93). Several authors also point to the fact that lawyers do not appear to be involved in money laundering to any great extent (Lankhorst, Nelen, 2004: 183), but that there is a potential risk they could become involved (Di Nicola, Zoffi, 2004: 211). The policy choice to put the legal professions under scrutiny and thereby cause an infringement on civil liberties is made upon a risk assessment and not on mere facts. Does the presence of risk, in the absence of evidence, suffice to sacrifice the privilege of non-disclosure?

It seems difficult to establish proven effectiveness with regard to measures against organised crime. The importance of a sound knowledge base reflects itself in the fact that a lack of effectiveness would leave the infringement of civil liberties without a cause. Moreover, determining the effects of preventive measures is difficult by definition, since the criminal activity has not yet taken place. The invisibility of organised crime makes this even more difficult. Consequently, we can only speculate on the possible effects (Huisman, et al., 2005: 96–99). In other words, the impact of actions taken to combat organised crime is difficult to support with empirical data (Levi, Maguire, 2004: 404).

This leaves policymakers with the dilemma to set up strategies interfering with civil liberties which cannot be proven effective. On the other hand, the impossibility of generating satisfactory data does not mean that there is no crime problem to be fought. In this case indicators have to be as precise and theoretically as well as empirically grounded as possible (Levi, Maguire, 2004: 405).

The IKOC project seeks to provide a common European instrument with a knowledge base. In this section we have seen that knowledge on organised crime is vital to determining the effectiveness of a measure. Moreover, knowledge on the phenomenon is important when assessing its consequences: in our case, harm to society.

⁵ With the disclosure of information to governmental authorities the right to privacy (article 8 ECHR) of the client can also be infringed.

⁶ Unless the legal counsellor is taking part in money laundering activities, the legal advice is provided for money laundering purposes, or the lawyer knows that the client is seeking legal advice for money laundering purposes (Directive 2001/97/EC).

3.3 Determining harm and civil liberties

An important question in the development of a common European approach to measure the risk of organised crime (RISK= PROBABILITY of an OC event X its HARM) is how to impact harm. The costs of organised crime can influence the balance between civil liberties and the effective reduction of it. We assume that the greater the negative impact of organised crime on different components of society, the more civil liberties could be restricted. The various direct and indirect losses generated by organised crime have to be rated. These losses are divided into three types of effects, namely tangible, intangible and systemic effects.

First of all, tangible effects involve the primary damage and the response to organised crime. They can be determined by measuring the value which is effectively spent by the various stakeholders (Kopp, Besson, 2006: 8). This type of harm can be measured relatively precise and objective and can therefore be used with certainty in assessing risk and in balancing the fight against organised crime and the need to respect civil liberties.

Secondly, intangible effects are those costs which refer to the direct emotional and physical impact of a crime upon a victim's well being (Kopp, Besson, 2006: 8). With regard to organised crime these costs are hard to determine. Therefore this type of harm should not be used in a common European instrument to assess risk of organised crime.

Thirdly, systemic effects include all forms of social destabilisation inflicted on society by organised crime (Kopp, Besson, 2006: 8). Society as a whole can be affected by organised crime as a result of illegal drug imports and the consequent social costs of drug consumption, or as a result of the disrupting effects on the legal economy caused by the illegal turnover of organised crime. According to WP 14, it does not seem logical to include systemic effects in the variable of harm. Its level is a consequence of specific interaction between OC activity, the country's history and the functioning of its institutions (Kopp, Besson, 2006: 19). What is left as measurable and relevant to European policy and users of the IKOC instrument is 'primary damage' and the 'response to crime' as tangible effects. The inclusion, as part of the IKOC instrument, of intangible and systemic effects would result in a risk assessment which is based on subjective and imprecise accounts. However, a restriction of civil liberties by anti-OC policy based solely on subjective and imprecise accounts is hard to justify. Thus, only tangible effects seem to be relevant in measuring the risk of crime.

3.4 Contextual differences

The aim of the IKOC project is to develop an instrument which is applicable in different European contexts by determining a set of common indicators for measuring the volume and impact of organised crime. However, another dilemma arising from a common European approach is posed by the contextual differences between different European settings. Significant differences between legal and administrative systems and regulations in the various European countries make a uniform policy (common indicators) towards organised crime difficult. (Fijnaut, Paoli, 2004: 1037). Taking the specific and contextual legal and administrative systems and judicial practices to control crime into account is central to a common European (knowledge based) approach to organised crime.⁷ The extent to which civil liberties are being restricted can differ according to context.

Firstly, as described in WP2, the variation in nature and volume of organised crime itself differs from one European context to another. Policies should fit the level of threat, harm and risk organised crime poses. Measures deriving from the common European approach should prove their effectiveness in each context separately, especially because measures taken against organised crime are likely to tighten or increase investigative powers (Fijnaut, Paoli, 2004: 1038). To achieve a balance between effectiveness and citizens' rights, a knowledge-based approach should take the national, local or contextual organised crime situation into account.

Secondly, the perception of organised crime and the importance attached to combating this phenomenon differ from one European context to another. In 1997, the term organised crime represented different phenomena in various European contexts (den Boer, 2001: 260). Presently, a common understanding is still

⁷ Commission of the European Communities (2001), *'Commission staff working paper, joint report from Commission services and Europol'*, Brussels, 13-03-2001, p19.

lacking and knowledge on organised crime is fragmented and multi-faceted (van Duijne, van Dijck, 2005). Our goal is to develop a common understanding by creating a European instrument to measure the amount of risk organised crime poses. To avoid infringements on civil liberties, a common European instrument should pay attention to the different perceptions of organised crime in various European contexts. Taking into account national variables (apart from core variables) and qualitative analyses and descriptions, it should be feasible to adjust certain measures to their specific national environments. (van Duijne, van Dijck, 2005). In-depth knowledge on organised crime and its perception allows us insight into the effects on civil liberties in those specific contexts.

The contextual dilemma can be illustrated by analysing the policy implication of the 'administrative approach towards organised crime'. The administrative approach aims at tackling organised crime at the local level and assumes that organised crime groups use (local) government subsidies and licenses to infiltrate legal markets. An administrative approach, accordingly, consists of two sets of measures. (1) Measures aiming at the integrity of civil servants and the prevention of corruption and (2) measures aiming at preventing criminal groups from using the legal infrastructure (Beemer, Berg, van Doorn, 2004: 3). Some concrete manifestations of these measures are new cooperative and data-sharing structures between the police, the justice system and the tax services; cooperation with private partners; the screening of potential clients; and the refusal of licenses and subsidies (Beemer, Berg, van Doorn, 2004: 3). The administrative approach requires infringement of civil liberties by public sector agencies.

Most European states exclusively rely on criminal law in their fight against organised crime. In these settings an administrative approach is undesirable, since these countries are still in the process of building up the internal integrity of their local and national governments (Beemer, Berg, van Doorn, 2004: 4). Moreover, especially in southern member states, there is a lack of trust in local administration to handle crime issues, (Beemer, Berg, van Doorn, 2004: 9).

Integrity is a precondition for the second set of measures aimed at preventing criminal groups of using the legal infrastructure. To achieve this goal, sensitive information is being used. So, implementing these measures in an environment of governance without fully developed public integrity could increase the chance of abuse and the infringement on civil liberties.

Furthermore, the rules and regulations in relation to vital procedures of the measure can differ from one legal setting to another. The administrative approach requires the sharing of sensitive information between different governmental agencies and private actors. In Estonia, for example, data is accessible to a variety of persons and institutions, like government agencies, employers and notaries (for the verification of the data concerning persons applying for an official act). In this Estonian setting, however, it is not clear to what extent such information exchange is in accordance with data protection rules (Council of Europe, 2003: 15). With the implementation of common European measures attention has to be paid to local legal and administrative circumstances, because neglecting these circumstances (and not making adaptations) can result in infringement of civil liberties.

3.5 Accountability and legitimacy

The next dilemma concerns the effectiveness (perceived or real) of crime control strategies and their legitimacy and accountability. Measures are legitimate when they can be foreseen and are open to democratic and judicial review. In this section we reflect upon legitimacy as a dilemma arising from a common European approach towards organised crime. The importance of information and the exchange of it within a European and multi-agency environment are, in our view, central to this issue. Moreover, in the line of the IKOC project attention is being paid to public-private cooperation.

Multi-agency partnerships

Multi-agency partnerships can be described as strategic partnerships among public agencies. In an era in which the emphasis is on reducing the opportunities of crime, all kinds of information (for example crime context information) can be useful. To gain in-depth knowledge on organised crime, for example as a basis for preventive strategies or threat analyses, information from multiple sources is essential. The application of

the model 'intelligence led policing' (ILP) in combination with multi-agency partnerships suits this approach.⁸ Although it seems a more precise and effective instrument, the model can put pressure on the *accountability and legitimacy* of law-enforcement (den Boer, 2002: 151).

Information from various governmental sources such as the police, judicial and immigration services, as well as intelligence services can be applied. In this intelligence-led policing model the traditional separation between especially police services and intelligence services is put under pressure. In this situation police services are more likely to use 'soft' intelligence information in their (preventive) efforts against (organised) crime (De Hert, et. al., 2005). Accountability for the information used by law enforcement within these multi-agency partnerships decreases since the different participants are not equally subject to judicial and democratic review.

European cooperation

The past decades have seen a development towards increased European cooperation in the fight against (organised) crime. We find examples in the European arrest warrant, the development of Europol and the 'Hague' programme. All these arrangements bring (organised crime) control on a European level and have increased the handling of sensitive information. Because this information exchange can infringe on the privacy of individuals, guidelines have to be in place to ensure legitimacy (de Hert, 2006: 4). (1) Sharing is only possible for law-enforcement purposes, (2) the receiving party can only use the data for the same purposes for which it was gathered by the sending party, (3) the general principle of efficiency in state administration and practice.

Tension between in-depth knowledge of organised crime and civil liberties can occur when the aforementioned rules cannot be accounted for. Within the current (European) framework it is difficult to separate the individual actions of the cooperating European authorities. Thereby the actions of those different authorities cannot be judged on their own. This makes it difficult to pinpoint a breach and the authority responsible for it (Hoek, Luchtman, 2005: 14). Moreover, the various authorities in different European countries apply different rules and practices in gathering information. Still this information crosses internal borders and is being used in other settings. Consequently, problems with legitimacy and foresee ability arise.

Public-private and private-private partnerships

In the contemporary approach towards (organised) crime in Europe private actors are increasingly made responsible by public agencies (Garland, 2001: 124-126). Moreover, private actors themselves are more and more involved in the reduction and prevention of organised crime (Terpstra, 2005: 1). The IKOC project fits into this development by reviewing the private sector's current approach to security and crime prevention and by examining how closer cooperation between the public and private sectors can be established. Importantly, our task is to review the role of civil liberties in this new configuration of crime control.

Firstly, questions of legitimacy of restrictions on civil liberties can arise in the collaboration between public and private actors. Although private actors have been made responsible to contribute to the prevention of organised crime, they do not have similar interests and do not apply the constitutional and legal safeguards in the same manner (Terpstra, 2005: 14). As we have seen with regard to information bureaus and companies' own initiatives, data are being gathered and shared unchecked. This information and other information kept by private actors, which was not gathered for law-enforcement purposes, is then shared with public agencies (Terpstra, 2005: 7). Vice versa it is known that private actors use public sources to enhance their information position in the prevention of organised crime. It can be concluded that possible restrictions on civil liberties in public-private partnerships, concerning in particular the exchange of information, go unchecked and thereby cause a lack of legitimacy.

Secondly, private actors like companies and sector organisations engage autonomously in strategies which focus on the preconditions of crime reduction and on the prevention of organised crime. Within these

⁸ Intelligence led policing can be defined as a collection of investigation techniques in which data is gathered, analysed, linked and ordered to allow pro-active and preventive action. Due to the interaction of information, like on crime-context, and communication technologies risk models can be created and risk-posing individuals and their networks can be identified (Levi, Wall, 2004: 199).

strategies data-exchange among private companies is one of the methods employed. So-called black listings as a result of the assessment of the trustworthiness of clients and principles, illustrate this development. These lists are compiled to prevent dubious clients from doing business (Terpstra, 2005: 6). The sharing of this data among private actors can have infringements on privacy and exclusion of economic activity as a result.

An example are the so-called information bureaus. Under the heading 'know your customer' information bureaus collect and process 'sensitive' data on subjects such as persons or companies in order to supply these data to any paying third party. These data always have an error margin, especially because they have to be provided cheap and fast. The information bureaus do not take responsibility for this error-margin by including a disclaimer in their contracts. Furthermore, the client is often obligated to confidentiality with regard to the information provided and in particular towards the subject of investigation. Frequently these data are collected without the knowledge of the person or company involved. Without being checked or scrutinized these information bureaus can have far reaching consequences, such as exclusion from social or commercial traffic (Kabel, 2000: 320-321).

Thirdly, a private security industry has emerged (as we have seen earlier in this project). Due to considerable staff movements employees in this security industry have informal ties with employees and agencies in the public sector. In these 'old boys networks' there is a risk that sensitive information is being shared which cannot be accounted for. According to observers, the bending of rules on sharing information is widely acknowledged. This is more likely when formal public-private cooperation fails or information is needed at short notice.⁹ Thus, a lack of formal rules and practices can cause unchecked information flows in (preventive) efforts against organised crime.

4. CONCLUSIONS

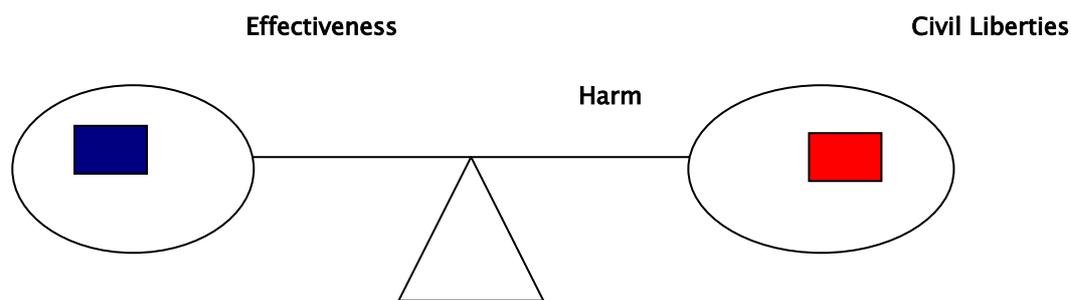
Within the framework of work package 17, our aim was *to compile and highlight the practical and policy implications that emerged from the project as a whole, with attention paid to the balance between the fight against organised crime and civil liberties, in particular privacy.*

Distinguishing features of the contemporary culture of crime control are the focus on risk, prevention and the responsabilisation of non-state actors. The IKOC project fits in this culture by stressing the importance of a policy instrument to assess risk, building knowledge for prevention and examining the role of private actors.

In the first part of this work package a *pair of scales* was presented, illuminating the balance between the effective fight against organised crime and civil liberties. Aspects of effectiveness, harm and civil liberties in relation to the fight against organised are multi-interpretatable and difficult to pinpoint. The concept of civil liberties for example is dynamic and varies across time and space, pending - amongst other things - on the perceived harm of organised crime in society. In general, it can be stated that the greater the amount of harm, the greater extent to which civil liberties may be infringed upon.

⁹ Levi, Dorn (2004), The private security industry and its possible role/contribution in the development of a common European approach to organised crime: would less but better quality cooperation be helpful?, *Improving Knowledge on Organised Crime - project*, work package 7. p. 15:

'When resource constraints and short-term crises make it difficult for one side to persuade his agency to enter into formal cooperation, informal cooperation plays its role. This may be achieved by individuals in enforcement agencies making a database search or other enquiry on behalf of the private security sector colleague, and simply transmitting the result by phone'.



Another central premise that lies at the root of the scheme, is that the more a strategy to fight and prevent organised crime tends to infringe on one of the ‘hard core’ civil liberties – represented by the shading part in the right oval – the stronger the empirical basis should be that this strategy actually is effective. If not, the strategy may be disproportionate and out of balance. A number of critical aspects and dilemmas have been discussed in this respect.

First, the ambition to gain in-depth knowledge of organised crime for the control of this phenomenon can cause inclusion of broad categories of individuals. Preventive measures in particular require attention because they focus on criminal opportunities and often lack clear targets. These measures aim at the stage before the crime has occurred. Importantly, these actions have to be precise and exact because they can infringe on civil liberties such as privacy. However, civil liberties are better observed when measures are *purpose specific* and are supported by well founded indicators of organised crime. In addition, a plausible and well explicated policy theory, as well as clearly described targets and purposes are needed in order to prevent net-widening.

Second, as preventive measures *anticipate* on crime, their actual effectiveness often remains unclear. Reliable conclusions on causality between measure and effect require experimental research designs or statistical analysis. As criminal entrepreneurs generally try to hide the illegal nature of their business, these methodological requirements cannot be met when evaluating the effects of measures on organised crime. Thus, the effectiveness of preventive measures is difficult to assess due to a lack of supportive empirical data.

Third, in regard to the measurement of harm it can be concluded that for balancing civil liberties objectively we should only measure the tangible effects of an OC event. Intangible and systemic effects cannot be measured objectively (while tangible effects can) and should thereby not be taken into consideration.

Fourth, different contextual contexts within Europe have an impact on both the effectiveness, harm and civil liberties. When developing a common European approach, these contextual differences have to be taken into account. Not all measures fit within the national or local context, due to differences in the nature and extent of organised crime. Due to this variation, impacts on harm also differ. These differences influence the balance between civil liberties and effectiveness. What we need is more in-depth, empirically funded, knowledge on organised crime in various situational contexts, rather than trying to predict – by solely using risk assessment tools – how organised crime will develop throughout Europe.

Finally, the rise of new alliances in contemporary crime control designed to offer more knowledge on organised crime can restrict civil liberties. Public-private partnerships can lead to diffusion of responsibility and hence a lack of accountability. Particularly since private actors have different interests this can cause restrictions on civil liberties. Measures taken by private actors and even preventive measures taken by public actors sometimes lack a clear legal framework and can interfere with civil liberties. New data sharing and analysis techniques applied by law enforcement and other public authorities can lead to a lack of accountability. Judicial review is an important remedy to ensure human rights and civil liberties.

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ANNEX 18

FINAL WORKING SEMINAR TO PRESENT AND DISCUSS THE RESULTS OF THE RESEARCH

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Aretì Antoniou, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

DELIVERABLE FOR WP 18 OF:

Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach



A Project financed by the European Commission – DG Research
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and coordinated by:



in partnership with:



and in-cooperation with:



MARCH 2007

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1. FOREWORD

This paper is the deliverable for WP 18 of Project IKOC – *Improving Knowledge on Organised Crime*. WP 18 consisted of a working seminar with representatives from the public and the private sectors, as well as from the academia, selected from both the original 15 Member States and the new ones, aiming at presenting and discussing the results from the Project.

This working seminar took the form of the IKOC/AOC “Knowledge on Crime in the EU”, where the IKOC consortium presented the results from the Project jointly with the consortium of Project AOC, another funded by the European Commission under the Sixth Framework Programme of the European Commission and coordinated by Tilburg University (The Netherlands). The conference took place in Brussels, at the premises of DG Research, on 12 December 2006.

The idea of a joint presentation of the results from the two Projects was brought about because both studies, from different angles and employing different methodologies, dealt with the issue of measuring organised crime in the EU and aimed at the formulation of recommendations to improve data collection and to enable better use of the knowledge potential of current organised crime.

The Joint Conference aimed at providing interested policy makers of EU and national institutions, national law enforcement agencies, academia and the private sector with a common methodology to be used for assessing and comparing the risk of organised criminal activities across the EU Member States. During the Joint Conference, members of the IKOC and AOC consortia presented the results of the two projects, following this agenda:

In particular, the participants affiliated with IKOC presented:

- the background knowledge necessary to develop the common EU methodology to measure the risk of organised criminal activities proposed in the framework of the IKOC Project: speech by Ernesto U. Savona (Università Cattolica del Sacro Cuore di Milano and Transcrime) on *IKOC starting point: existing data sources on organised crime in Europe*, based on deliverables for WPs 1 to 4 of the Project;
- the common EU methodology to measure the probability of organised criminal activities developed in the framework of the Project: speech by Ernesto U. Savona and Barbara Vettori (Università Cattolica del Sacro Cuore di Milano and Transcrime) on *The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: proposing common EU indicators for measuring the probability of OC activities across the EU Member States*, based on the deliverable for WP 13 of the Project;
- the common EU methodology to measure the impact of organised criminal activities developed in the framework of the Project: speech by Pierre Kopp (CNRS) on *The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: proposing common EU indicators for measuring the impact of OC activities across the EU Member States*, based on deliverable for WP 14 of the Project;
- the results from a pilot study testing the feasibility of the common EU methodology to measure the risk of organised criminal activities developed in the framework of the Project: speech by Nicholas Dorn (Cardiff University) on *Examining the feasibility of the IKOC methodology in relation to international fraud: a pilot study*, based on the deliverable for WP 16 of the Project;
- the practical and policy implications from the common EU methodology to measure the risk of organised criminal activities developed in the framework of the Project: speech by Henk van de Bunt and Bas ter Luun (Vrije Universiteit Amsterdam) on *Discussing the practical and policy implications from the IKOC methodology: the balance between the fight against organised crime and the need to respect civil liberties*, based on the deliverable for WP 17 of the Project.

In addition to the members of the two research teams, the working seminar was attended by policy makers and representatives of national law enforcement agencies (for the full list of participants see Appendix 2).

This paper that summarises the discussion that took place within the Joint Conference, has been produced by Università Cattolica del Sacro Cuore, leader of WP 18. In particular, it has been written by Barbara Vettori, Executive Project Manager of the Project, with the collaboration of Areti Antoniou, Ph.D. candidate at the Università Cattolica del Sacro Cuore.

2. SUMMARY OF THE IKOC SPEECHES GIVEN AT THE IKOC/AOC JOINT CONFERENCE “KNOWLEDGE ON CRIME IN THE EU” (BRUSSELS, 09.01.2006), AND OF THE DISCUSSION THEREOF

2.1 Summary of the welcome addresses session

Mrs. Angela Liberatore and Mr. Ian Perry of DG Research of the European Commission opened the Joint Conference. They remarked that these two projects have been financed under the Sixth Framework Program of the European Commission and that both try to improve our knowledge and methods for collecting data on OC. They both expressed their hope that the results of the projects are of quite direct use for the European Commission and, more generally, for the relevant EU and national stakeholders.

Mr. Richard Troy of DG JLS of the European Commission took up this point by giving a presentation on the users of EU statistics.

2.2 Summary of session 1

Session one of the conference then opened, chaired by Mrs. Angela Liberatore. It included two speeches (see Appendix 1). For project IKOC, the coordinator Ernesto U. Savona gave a speech illustrating *IKOC starting point: existing data sources on organised crime in Europe*. In particular, he presented the results from WPs 1 to 4 of the Project, devoted to the review of qualitative and quantitative data on organised criminal groups and activities collected at the EU and MS level, with particular attention devoted to the limitations currently hampering the comparability and reliability of OC data in the EU. This was in fact the background knowledge necessary to develop the common EU methodology to measure the risk of organised criminal activities proposed in the framework of the IKOC Project.

His presentation was followed by a presentation on Project AOC by the coordinator Petrus C. van Duyne dealing with *The bad state of an impossible art: assessing organised crime threats*, where the bad state of OC definition and assessment was remarked upon, and the need for a knowledge based approach aimed at assessing the organisation of crime, rather than organised crime. He also remarked upon the importance of the direct observation of the phenomenon to be analysed, juxtaposed to interpretations far from reality.

A question & answers session then followed. Amongst others, the following issues were discussed. Henk Van de Bunt asked Petrus van Duyne how it is possible to observe without interpreting. Even in direct observation you need interpretation. He also asked him what he meant by direct observation. He replied that it is about closing the gap between before and later interpretation. Maarten Van Dijck added that we should teach LEAs to observe criminal phenomena as objectively as possible, as current practices involve too much interpretation. Klaus von Lampe added that one of the first empirical studies carried out in Germany show that LEAs avoided the word OC. The most interesting finding was how they perceived the structure of offenders and supports Hank's point that you will always have different points of reference. But we want them to see more the subjects than generic concepts. Dorn raised the issue that it would be important to understand what kind of OC assessment is needed at EU level, in order to give more precise answers. One of the law enforcement representatives attending the meeting agreed that it may be frustrating to implement a new system of data collection without clearly understanding what was wanted.

Petrus Van Duyne added that most police officers haven't seen a criminal file for years.

Savona said that our goal should be to compare OC risk across the EU. In his opinion this is possible, with some limitations. The questions we should answer are: using which indicators and how? How is LEAs.

Van de Bunt suggested comparing activities on which reliable info are available (e.g. money laundering, based on data from FIUs). UK officers said that OC assessment can never be an exact science, but rather serious judgments based on reliable information.

Liberatore summed up the session by questioning: what can be compared? Also, do we need this comparison at EU level? Yes, as transnational crime is an EU level problem that goes across borders and requires EU action. Richard Troy added that we need this EU action to enhance collaboration between LEAs. But we also need to be able to identify best practices and share experiences. This is the objective of the Action Plan.

2.3 Summary of session 2

Session two of the conference opened, chaired by Henk van de Bunt. It included three speeches (two for IKOC and one for AOC).

The first speech for the IKOC project, given by Ernesto U. Savona and Barbara Vettori, aimed at presenting *The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: proposing common EU indicators for measuring the probability of OC activities across the EU Member States*. Savona introduced the concept of OC risk as used in the context of the IKOC project, where the term has been intended as the result of the probability of occurrence of a given OC activity multiplied by its harm. Barbara Vettori then presented all the indicators of probability of a given OC activity selected in the framework of the project, and explained the rationale behind their choice.

The second speech for the IKOC project, given by Pierre Kopp, was on *The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: proposing common EU indicators for measuring the impact of OC activities across the EU Member States*.

One presented the IKOC methodology for measuring the risk of OC activities, the approach developed in the framework of project AOC was presented by Klaus von Lampe, who gave a speech on *The New Common Approach to assessing organised crime: an outline*.

Some questions followed to understand some points of the methodology. Van Duyné then asked whether the formula has already been applied or not. Kopp responded that it has not yet been applied. Liberatore posed Klaus von Lampe some questions relating to the operationalisation of the concept used in the NECA approach formulated in AOC project.

The chairman Henk Van de Bunt summed up the session by noting that the two approaches are completely different. How could they possibly be integrated? Tom vander Beken said that in his opinion we could take advantage of both approaches. Both in fact need good data.

2.4 Summary of session 3

Session three of the conference then opened, chaired by Tom Vander Beken. It included two speeches (one for IKOC and one – with three different speakers – for AOC).

Regarding the IKOC project, Nicholas Dorn gave the speech *Examining the feasibility of the IKOC methodology in relation to international fraud: a pilot study*. He presented the results of a pilot study examining the feasibility of the IKOC methodology in relation to a specific criminal activity, i.e. international fraud. He examined separately the feasibility of the indicators of probability and harm developed in the framework of the IKOC project, whose implementation is based on law enforcement data sources. He finally discussed what he called ‘the path not taken’, which would involve the use of pan-EU data from victims, in addition to police and court data. He made two recommendations: 1) use private sector as well as public sector sources (including surveys of fraud against businesses and persons); 2) help the EU to better interpret and utilise law enforcement data (including its use for management in describing law enforcement activities).

Perry remarked that it may be interesting to do cross comparisons between data collected by the private and public sector and that to try to see the same thing from different perspectives is an obvious thing to do, as it would be encouraging if you arrive at the same conclusions. Vander Beken noted that we have to be careful as cross checking between the private and public sector may be problematic.

The AOC team then presented the results from a case study applying the AOC approach to the contraband of cigarettes. Three speakers, i.e. Maarten van Dijck, Annelies Balcaen and Anna Markina gave a speech on *The Contraband Cigarette Market: a case study of organized criminal activity within the EU*, each one focusing on his/her country (Netherlands, Belgium and Estonia).

A discussion followed. In particular, Dorn asked 'what is the relation between the AOC methodology and the case studies'? De Bunt asked how the cases were selected, and noted that in the end, even if you avoided the complicated issue of definition of organized crime, you used it. Petrus Van Duyne said that they had to test the NECA proposal to see if it was user-friendly. Maarten van Dijck added that the AOC approach applies to any crime, not only to organized crime.

2.5 Summary of session 4

Session four of the conference then opened, chaired by Nicholas Dorn. It included two speeches (one for IKOC and one for AOC).

Regarding the IKOC project, Henk van de Bunt and Bas ter Luun gave a speech on *Discussing the practical and policy implications from the IKOC methodology: the balance between the fight against organized crime and the need to respect civil liberties*. They reflected upon the concepts 'civil rights' and 'effectiveness of crime prevention measures' and the balance thereof; they noted, however, that the balance between the fight against organized crime and the need to respect civil liberties is not really an issue that fits the remit of the IKOC project.

This was followed by an AOC speech by Petrus C. van Duyne and Klaus von Lampe on *Discussing the practical and policy implications of The New Common Approach: the balance between what is desired and what is practically feasible*.

Dorn summed up the findings from the session. Perry added that he believes that the two approaches are complementary. At some stage projects should move more towards implementation, eventually with other funding possibilities.

Troy added that both of the programs have a strong relevance in terms of policy definition. Kopp's approach was also interesting and he also believes that there is a dialogue between the two projects.

Liberatore suggested a presentation of the two projects to the expert group.

APPENDIX 1. BROCHURE OF IKOC/AOC JOINT CONFERENCE



IKOC Improving Knowledge on Organised Crime

Despite forceful demand for a sound knowledge-based common European approach to combating organised crime, research on the matter is highly fragmented.

The intention of the IKOC Project is to piece the fragments together and to introduce value added by elaborating a common, feasible and user-friendly EU methodology to collect organised crime data and to measure the risk of organised criminal activities. This is defined as the result of the probability that an organised crime event, as a negative event, will happen and of its impact.

This workshop will provide an occasion to present and discuss the methodology produced. The implementation of this methodology will make it possible to compare the level of risk for each of the main organised criminal activities across the EU countries, thus orienting policy makers and law enforcement in evaluating the effectiveness of crime prevention and reduction policies and in allocating resources aimed at preventing and combating organised crime.

Further information can be found on the IKOC dedicated website: <http://ikoc.uniccatt.it>

ASSESSING ORGANISED CRIME

AOC Assessing Organised Crime

The object of the AOC project is to provide EU Member States and EU institutions with a format for standardising both the collection and use of data on organised crime. Concentrating upon the trafficking in untaxed cigarettes in the European Union as the focus for a pilot study, the project aims to increase the reliability, validity and comparability of data, and to develop a methodology for the assessment of organised crime.

The project critically reviews existing approaches to the assessment of organised crime by drawing on the academic and non-academic literature on organised crime, the participants' own expertise and invited external expertise.

The methodology is tested in a case study of the cigarette black market in the European Union, more specifically in the 'northern trade belt' stretching East to West from the Baltic states, over Germany, across the Benelux countries and to the United Kingdom. In addition to testing the feasibility of the proposed methodology, the pilot study will generate new data and provide a tentative picture of the trafficking in contraband cigarettes.

Further information can be found on the AOC dedicated website: <http://www.assessingorganisedcrime.net>

IKOC/AOC Joint Conference

12 December 2006, Brussels, Belgium

Towards a better understanding of organised crime: a tale of two projects

In the summer of 2004 two independent research projects, both funded by the European Commission under Framework Programme 6, separately set out to investigate how knowledge on organised crime is obtained within the European Union. These projects, respectively named *Improving Knowledge on Organised Crime* (IKOC) and *Assessing Organised Crime* (AOC), aimed at the formulation of recommendations to improve data collection and to enable better use of the knowledge potential of current organised crime. Now, approximately two and a half years later both the IKOC and the AOC projects run to an end. During this Joint Conference participants of both projects will present their final results and engage into discussion about a better future for the assessment of organised crime.

Aim of the Joint Conference

The Joint Conference aims at providing interested policy makers of EU and national institutions, national law enforcement agencies, academia and the private sector with a common methodology to be used for assessing and comparing the risk of organised criminal activities across the EU Member States. During the Joint Conference, members of the IKOC and AOC consortia will present the results of the two projects. The participants affiliated with IKOC will particularly pay attention to the common EU methodology to measure the risk of organised criminal activities developed in its framework. During the AOC presentations a design for a new common European approach for the assessment of organised crime will be unfolded.

To whom is it addressed?

The Joint Conference is of interest to EU and Member States' policy-makers, officials of national law enforcement agencies charged with the collection and analysis of data on organised crime and representatives from the private sector. Members from the academia could have a scientific and professional interest in participating in the Joint Conference.

IKOC Consortium Partners

- Università Cattolica del Sacro Cuore di Milano
- Cardiff University
- Università degli Studi di Trento - Transcrime
- Centre National de la Recherche Scientifique
- Vrije Universiteit Amsterdam
- Europol
- International Federation of Phonographic Industries
- Telecom Italia S.p.A.

AOC Consortium Partners

- Tilburg University
- Ghent University - IRCP
- Freie Universität Berlin
- Durham University
- University of Tartu
- London School of Economics and Political Science

IKOC and AOC are funded by the European Commission under the Sixth Framework Programme 'Integrating and Strengthening the European Research Area'



IKOC / AOC Joint Conference

Knowledge on crime in the EU

Joint presentation of the results of two research projects investigating organised crime assessment in the EU

12 December 2006, Brussels, Belgium



ASSESSING ORGANISED CRIME

Welcome addresses

09:00

Angela Liberatore
Principal Administrator with the EC, DG Research

Ian Perry
Principal Administrator with the EC, DG Research

Richard Troy
EC, DG Justice, Freedom and Security

Session 1 chair: Anna Markina

09:30

Ernesto U. Savona
Università Cattolica del Sacro Cuore di Milano and Transcrime (ITA), IKOC coordinator
IKOC starting point: existing data sources on organised crime in Europe

10:00

Petrus C. van Duyne
Tilburg University (NLD), AOC coordinator
The (bad) state of a difficult art. The necessity of a New Common Approach

10:30 Q&A and discussion

10:50 Coffee break

Session 2 chair: Henk van de Bunt

11:00

Ernesto U. Savona and Barbara Vettori
Università Cattolica del Sacro Cuore di Milano and Transcrime (ITA)
The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: Proposing common EU indicators for measuring the probability of OC activities across the EU Member States

11:15

Pierre Kopp
ONRS, Paris (FRA)
The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: Proposing common EU indicators for measuring the impact of OC activities across the EU Member States

11:30

Klaus von Lampe
Freie Universität Berlin (GER)
The New Common Approach to assessing organised crime: an outline

12:00 Q&A and discussion

12:20 Lunch break

Session 3 chair: Tom Vander Beken

14:00

Nicholas Dorn
Cardiff University (UK)
Examining the feasibility of the IKOC methodology in relation to international fraud: a pilot study

14:30

Maarten van Dijck, Annelies Balcaen and Anna Markina
Tilburg University (NLD), Ghent University (BEL), University of Tartu (EST)
The Contraband Cigarette Market: A case study of organised criminal activity within the EU

15:00 Q&A and discussion

15:20 Coffee break

Session 4 chair: Nicholas Dorn

15:30

Henk van de Bunt and Bas ter Luun
Vrije Universiteit Amsterdam (NLD)
Discussing the practical and policy implications from the IKOC methodology: the balance between the fight against organised crime and the need to respect civil liberties

16:00

Petrus C. van Duyne and Klaus von Lampe
Tilburg University (NLD), Freie Universität Berlin (GER)
Discussing the practical and policy implications of the New Common Approach: the balance between what is desired and what is practically feasible

16:30 Q&A and discussion

17:00 Closing of the conference

Location of the conference

European Commission DG Research
Room 1F
Square de Meeûs 8
1049 Brussels
Belgium

If you want to attend this conference, please send an e-mail either to:

- Barbara Vettori: barbara.vettori@unicatt.it
- Maarten van Dijck: mvdiijck@uvt.nl

APPENDIX 2. LIST OF PARTICIPANTS

#	full_name	affiliation	country
1.	Aretì Antoniou	Università Cattolica di Milano	Italy
2.	Annelies Balcaen	Ghent University	Belgium
3.	Mark Baynham	SOCA	United Kingdom
4.	Tom Vander Beeken	Ghent University	Belgium
5.	Martin Boberg	Landeskriminalamt	Germany
6.	Henk van de Bunt	Vrije Universiteit	Netherlands
7.	Stijn Van Daele	Ghent University	Belgium
8.	Maarten van Dijck	Tilburg University	Nederland
9.	Nicholas Dorn	Cardiff University	United Kingdom
10.	Cynthia Van Driess	Federal Government	Belgium
11.	Petrus C. van Duyn	Tilburg University	Netherlands
12.	Anita Fraj-Milczar	Polish National Police	Poland
13.	B.J. Ketelaar	National Police Agency	The Netherlands
14.	Peter Klerks	Dutch Police Academy	Netherlands
15.	Pierre Kopp	CNRS	France
16.	Klaus von Lampe	Freie Universität	Germany
17.	Angela Liberatore	European Commission	Belgium
18.	Bas van der Luun	Vrije Universiteit	Netherlands
19.	Anna Markina	University of Tartu	Estonia
20.	Marc Paternotte	Federal Police Belgium	Belgium
21.	Ian Perry	European Commission	Belgium
22.	Ernesto U. Savona	Università Cattolica di Milano	Italy
23.	Dina Siegel	Vrije Universiteit	Netherlands
24.	Richard Troy	European Commission	EU
25.	Barbara Vettori	Università Cattolica di Milano	Italy
26.	Anton Weenink	Dutch National Police	Netherlands
27.	Kenny Wright	IFPI	United Kingdom

APPENDIX 3. PPT DISCUSSED IN BRUSSELS, IN ORDER OF PRESENTATION

<p>Contents:</p> <ul style="list-style-type: none"> - The IKOC consortium - Background - Goal - Why review the data on organised crime in the EU member states? - Data sources - Data on OC groups - Data on OC activities - Limitations of the data collected 	<p align="center">IKOC STARTING POINT: EXISTING DATA SOURCES ON ORGANISED CRIME IN EUROPE</p> <p><i>A presentation by</i> ERNESTO U. SAVONA <i>for</i> IKOC/AOC Joint Conference "Knowledge on crime in the EU"</p> <p align="center">Brussels, 12 December 2006</p>	<p>Contents:</p> <p>The IKOC consortium</p> <ul style="list-style-type: none"> - Background - Goal - Why review the data on organised crime in the EU member states? - Data sources - Data on OC groups - Data on OC activities - Limitations of the data collected 	<p align="center">THE IKOC CONSORTIUM</p> <ol style="list-style-type: none"> 1. Università Cattolica del Sacro Cuore (Italy) – <i>Coordinator</i> 2. Cardiff University (United Kingdom) 3. Transcrime, Joint Research Centre on Transnational Crime, Università di Trento – Università Cattolica del Sacro Cuore (Italy) 4. Centre National de la Recherche Scientifique (France) 5. Vrije Universiteit Amsterdam (The Netherlands) 6. Europol 7. International Federation of Phonographic Industries (IFPI) 8. Telecom Italia S.p.A.
<p>Contents:</p> <ul style="list-style-type: none"> - The IKOC consortium - Background - Background - Goal - Why review the data on organised crime in the EU member states? - Data sources - Data on OC groups - Data on OC activities - Limitations of the data collected 	<p align="center">BACKGROUND</p> <p>Despite a strong demand for a sound knowledge-based common European approach to combat organised crime, <i>research on the matter is highly fragmented.</i></p> <p>The intention of the IKOC Project was to piece the fragments together and to introduce added value by <i>elaborating a methodology to measure the probability and impact of organised criminal activities.</i></p> <p>The implementation of <i>such a methodology could orient policymakers and law enforcement</i> in evaluating the effectiveness of crime prevention and reduction policies and in allocating resources aimed at preventing and combating organised crime.</p>	<p>Contents:</p> <ul style="list-style-type: none"> - The IKOC consortium - Background - Goal - Why review the data on organised crime in the EU member states? - Data sources - Data on OC groups - Data on OC activities - Limitations of the data collected 	<p align="center">GOAL</p> <p>The Goal of the Project was twofold:</p> <ol style="list-style-type: none"> 1) to update knowledge on organised crime, with specific regards to 1) the organised criminal groups operating in EU Member States, and 2) the activities they carry out in both legal and illegal markets and their related <i>modi operandi</i>; 2) to develop a common EU methodology to assess the risk of specific OC activities, where the term 'risk' is defined as follows: <div style="text-align: center;"> <p>OC RISK = OC PROBABILITY X OC IMPACT</p> </div>
<p>Contents:</p> <ul style="list-style-type: none"> - The IKOC consortium - Background - Goal - Why review the data on organised crime in the MSs? - Data sources - Data on OC groups - Data on OC activities - Limitations of the data collected 	<p align="center">WHY REVIEW AND COMPARE THE DATA ON ORGANISED CRIME IN THE MSS?</p> <p>To update knowledge on organised crime-groups and activities in legal and illegal markets, in order to create a soundly based knowledge by dealing with the asymmetries of the data collected on organised crime and at the same time</p> <div style="text-align: center;"> <p>permitting the construction of a common methodology for measuring OC risk at a European level</p> </div>	<p>Contents:</p> <ul style="list-style-type: none"> - The IKOC consortium - Background - Goal - Why review the data on organised crime in the EU member states? - Data sources - Data sources - Data on OC activities - Limitations of the data collected 	<p align="center">DATA SOURCES</p> <p>Data on OC are collected at a European level by the:</p> <ul style="list-style-type: none"> ✓ <i>European Union Organised Crime Situation Report (EU OCSR)</i> ✓ <i>Council of Europe Organised Crime Situation Report (CoE OCSR)</i> <p>Data on OC are collected at a national level by:</p> <ul style="list-style-type: none"> ✓ <i>National law enforcement agencies</i>
<p>Contents:</p> <ul style="list-style-type: none"> - The IKOC consortium - Background - Goal - Why review the data on organised crime in the EU member states? - Data sources - Data on OC groups - Data sources on OC groups - Limitations of the data collected 	<p align="center">DATA ON OC GROUPS</p> <div style="text-align: center;"> </div> <ul style="list-style-type: none"> ✓ Qualitative variables collected on OC groups ✓ Quantitative variables collected on OC groups 	<p>Contents:</p> <ul style="list-style-type: none"> - The IKOC consortium - Background - Goal - Why review the data on organised crime in the EU member states? - Data sources - Data on OC groups - Data on OC activities - Data on OC activities collected 	<p align="center">DATA ON OC ACTIVITIES</p> <p>From the information collected, the main activities carried out by OC groups in illegal markets appear to be:</p> <ul style="list-style-type: none"> ✓ Trafficking in drugs ✓ Trafficking in human beings ✓ Smuggling of immigrants ✓ Fraud ✓ Counterfeiting ✓ Tobacco smuggling ✓ Trafficking of stolen vehicles ✓ Trafficking in arms

Contents:

- The IKOC consortium
- Background
- Goal
- Why review the data on organised crime in the EU member states?
- Data sources
- Data on OC groups
- Data on OC activities
- **Data on OC activities collected**

Information on organised crime activities in **legal markets** included in these data sources is **extremely scarce**. It will therefore be supplemented by information of two crimes that can be regarded as relatives of the infiltration of organised crime into the legal market

↓

- ✓ **money laundering** and
- ✓ **corruption**

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Contents:

- The IKOC consortium
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- Data on OC groups
- Data on OC activities
- Limitations of the data collected
- **Limitation of the data collected**

LIMITATIONS HAMPERING THE COMPARABILITY AND RELIABILITY OF OC DATA IN THE EU

↓

- ✓ Variables limited or not collected by all MSs (e.g. variables crucial to understand the level of penetration and corruption of the legal economy by organised crime)
- ✓ Different modalities used for the same variables
- ✓ Lack of a predetermined set of variables common to all MSs
- ✓ Limited dissemination of collected data

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Contents:

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IKOC STARTING POINT: EXISTING DATA SOURCES ON ORGANISED CRIME IN EUROPE

EU

A presentation by
ERNESTO U. SAVONA

for
IKOC/AOC Joint Conference "Knowledge on crime in the EU"

Brussels, 12 December 2006

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<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>THE IKOC METHODOLOGY FOR MEASURING THE RISK OF ORGANISED CRIME ACTIVITIES ACROSS EU MEMBER STATES: PROPOSING COMMON EU INDICATORS FOR MEASURING THE PROBABILITY OF OC ACTIVITIES ACROSS EU MEMBER STATES</p> <p><i>A presentation by</i> ERNESTO U. SAVONA and BARBARA VETTORI</p> <p><i>for</i> IKOC/AOC Joint Conference "Knowledge on crime In the EU"</p> <p>Brussels, 12 December 2006</p>	<p>Contents:</p> <p>Criteria used to develop the methodology</p> <ul style="list-style-type: none"> Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>CRITERIA USED IN THE DEVELOPMENT OF THE IKOC METHODOLOGY TO MEASURE OC PROBABILITY</p> <ol style="list-style-type: none"> separately identifying indicators of probability, on one hand, and of impact, on the other using existing and available data making the methodology compatible with current data collection procedures developing innovation developing user-friendliness
<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology <p>Prerequisites for implementation of the methodology for comparative purposes</p> <ul style="list-style-type: none"> Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>PREREQUISITES FOR IMPLEMENTATION OF THE METHODOLOGY FOR COMPARATIVE PURPOSES</p> <ul style="list-style-type: none"> existence, in a given MS, of a separate data collection system on organised crime existence of common definitions of OC related-criminal conduct (i.e. the Enfpopol definition) whose risk is to be assessed, and of common criteria for the collection of related data 	<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>REVIEWING EXISTING METHODOLOGIES RELEVANT FOR THE MEASUREMENT OF OC PROBABILITY</p> <p>Two main methodologies relevant to the measurement of OC probability:</p> <ul style="list-style-type: none"> that suggested by Vander Beken et al. (2004) which uses OC activities as the unit of analysis that used by Europol (2005), which uses OC groups as the unit of analysis
<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>THE IKOC METHODOLOGY FOR MEASURING THE PROBABILITY OF A GIVEN OC ACTIVITY</p> <p>Indicators of probability grouped in two main categories:</p> <ul style="list-style-type: none"> indicators regarding the characteristics of OC groups involved in a given crime indicators regarding the law enforcement risk for a given crime 	<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>a) Indicators regarding the characteristics of OC groups involved in a given crime</p> <p>Indicator n. 1: links/cooperation between OC groups</p> <p><i>The higher the level of cooperation between OC groups involved in a given crime, the higher the probability of its occurrence, especially at an international level.</i></p> <p>Modalities of the indicator</p> <ol style="list-style-type: none"> 0-20% of annual reported OC offences of a given type involving cooperation between two or more groups 21% to 40% of annual reported OC offences of a given type involving cooperation between two or more groups 41% to 60% of annual reported OC offences of a given type involving cooperation between two or more groups 61% to 80% of annual reported OC offences of a given type involving cooperation between two or more groups 81% to 100% of annual reported OC offences of a given type involving cooperation between two or more groups
<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>Indicator n. 2: geographic distribution of OC groups (or overseas routes)</p> <p><i>The more geographically distributed the OC groups involved in a given crime, the higher the probability of its occurrence, especially in the countries forming part of this geographical distribution.</i></p> <p>Modalities of the indicator</p> <ol style="list-style-type: none"> 0-20% of annual percentage of reported OC offences of a given type involving more than one country 21% to 40% of annual percentage of reported OC offences of a given type involving more than one country 41% to 60% of annual percentage of reported OC offences of a given type involving more than one country 61% to 80% of annual percentage of reported OC offences of a given type involving more than one country 81% to 100% of annual percentage of reported OC offences of a given type involving more than one country 	<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>Indicator n. 3: specialisation/use of expert knowledge by OC groups</p> <p><i>The greater the specialisation/use of expert knowledge by the OC groups involved in a given crime, the greater their capacity to perpetrate the crime and the higher the probability of its occurrence.</i></p> <p>Modalities of the indicator</p> <ol style="list-style-type: none"> 0-20% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 21% to 40% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 41% to 60% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 61% to 80% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 81% to 100% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists

<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies <p>The IKOC methodology for measuring the probability of a given OC activity</p> 	<p>Indicator n. 4: intimidating power of OC groups by the use or threat of violence</p> <p><i>The greater the intimidating power of OC groups within and outside the criminal world, by the use or threat of violence, the more powerful and dangerous these OC groups become in committing the crime and therefore the higher the probability of its occurrence.</i></p> <p>Modalities of the indicator</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving use or threat of violence</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving use or threat of violence</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving use or threat of violence</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving use or threat of violence</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving use or threat of violence</p> 	<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies <p>The IKOC methodology for measuring the probability of a given OC activity</p> 	<p>Indicator n. 5: use of corruption by OC groups</p> <p><i>The higher the level of corruption used by the OC groups involved in a given crime, the higher the probability of its successful occurrence.</i></p> <p>Modalities of the indicator</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of corruption</p> 
<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies <p>The IKOC methodology for measuring the probability of a given OC activity</p> 	<p>Indicator n. 6: use of legitimate business structures by OC groups</p> <p><i>The greater the use of legitimate business structures by the OC groups involved in a given crime, the more economically powerful these OC groups become in committing the crime and therefore the higher the probability of its occurrence.</i></p> <p>Modalities of the indicator</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> 	<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies <p>The IKOC methodology for measuring the probability of a given OC activity</p> 	<p>Indicator n. 7: use of Information and Communication Technology by OC groups</p> <p><i>The greater the use of Information and Communication Technology (henceforth ICT) by the OC groups involved in a given crime, the greater their capacity to perpetrate the crime and avoid law enforcement detection and therefore, the higher the probability of its occurrence.</i></p> <p>Modalities of the indicator</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of ICT</p> 
<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies <p>The IKOC methodology for measuring the probability of a given OC activity</p> 	<p>b) Indicators regarding the law enforcement risk for a given crime</p> <p>Indicator n. 8: probability of being convicted for a given crime</p> <p><i>The higher the probability of being convicted for a given crime, the lower the probability that the crime is committed.</i></p> <p>Modalities of the indicator</p> <p>1 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0 to 0,20</p> 	<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies <p>The IKOC methodology for measuring the probability of a given OC activity</p> 	<p>Indicator n. 9: probability of having the proceeds of a given crime confiscated</p> <p><i>The higher the probability of having the proceeds of a given crime confiscated, the lower the probability that the crime is committed.</i></p> <p>Modalities of the indicator</p> <p>1 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0 to 0,20</p> 
<p>Contents:</p> <ul style="list-style-type: none"> Criteria used to develop the methodology Prerequisites for implementation of the methodology for comparative purposes Reviewing existing methodologies The IKOC methodology for measuring the probability of a given OC activity 	<p>THE IKOC METHODOLOGY FOR MEASURING THE RISK OF ORGANISED CRIME ACTIVITIES ACROSS EU MEMBER STATES: PROPOSING COMMON EU INDICATORS FOR MEASURING THE PROBABILITY OF OC ACTIVITIES ACROSS EU MEMBER STATES</p> <p><i>A presentation by</i> ERNESTO U. SAVONA and BARBARA VETTORI</p> <p><i>for</i> IKOC/AOC Joint Conference "Knowledge on Crime In the EU"</p> <p>Brussels, 12 December 2006</p> <p style="text-align: right;">15</p>		

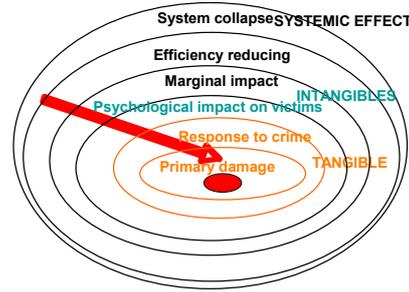
MEASURING THE HARM CAUSED BY ORGANISED CRIME

P. KOPP
 Professor of economy
 Pantheon-Sorbonne Paris I
 CNRS

December, 2006

HARM OF CRIME

Effect of Organised Crime on society



HARM OF CRIME

Organised crime engenders a certain number of consequences for society

- **Tangible consequences**
 - > primary damage caused to the various components of the society
 - > public and private response to crime
- **Intangible consequences**
 - > refer to the direct emotional and physical impact of a crime upon the victim's well being
- **Systemic effects**
 - > collapse of the system
 - > society's global efficiency is negatively affected
 - > marginal effects of crime on the society

Social cost calculation: a methodological assessment

The social cost of crime describes the cost created for the collectivity by the existence of crime

- The social cost of crime measures all wealth wasted in relation to a situation where no crime exists
- Objective of the calculation: to allocate an optimal budget to the agencies responsible for combating OC
- ➔ "we must not spend one euro in an anti-crime programme if it reduces the social cost of crime by less than one euro "

Social cost calculation: a methodological assessment

Example:

Social cost of drugs in France (2000)

(in millions of euros and in %)

- This calculation allows determination of the amount of annual wealth produced which is wasted due to drugs.
 - It indicates how much richer a society would be without drugs
- | | | |
|--|-----------------|---------|
| 1. direct cost of care | 723,32 | 25,61 % |
| 2. direct costs for prevention and research | 144,66 | 5,12 % |
| 3. direct costs for application of laws | 596,30 | 21,11 % |
| 4. direct costs of loss of compulsory deductions | 179,70 | 6,36 % |
| 5. indirect costs of revenue and production loss | 1 180,46 | 41,79 % |
| Social cost | 2 824,43 | |
| net | 2 500 | |
| net in % of GDP | | 1,4 % |

Source : Kopp et Fenoglio [2003].

Social cost calculation: a methodological assessment

Social costs of drugs (in % of GDP)

Study	Country	Year studied	Alcohol	Tobacco	Illicit drugs	Total costs in % of GDP
Single et al. (1998)	Canada	1992	1.1%	1.4%	0.2%	2.7%
Rice et al. (1990)	USA	1980	1.7%	1.4%	1.1%	4.2%
N.I.D.A. (1998)	USA	1992	2%	-	1%	-
Collins & Laspley (1996)	Australia	1992	1%	2.4%	0.4%	3.8%
Fazey & Stevenson (1990)	UK	1988	-	-	0.4%	-
Institut Suisse (1990)	Switzerland	1988	-	-	0.2%	-
Jeanrenaud et al. (1998)2	Switzerland	1995	-	2.7% (1.3%)	-	-
Rosa et al (1996)	France	1995	-	0.26%	-	-
Kopp et al (2004)	France	1997	1.4%	1.1%	0.16%	2.7%

Limitations of the social cost approach

The result of the calculation of social cost depends acutely on choice of method which makes all international comparison impossible

- **Scope of the study**
 - > The measurement's perimeter can vary from one team to another
 - > Difficulties to assess intangible costs
- **Sensitivity of results due to choice of method**
 - > Social cost calculation depends crucially upon actualisation rate
 - > Social cost measures the present cost of consequences occurring in the future of a phenomena of which the source is in the past (prevalence based approach)
 - > The measurement of indirect costs is fairly imprecise

Limitations of the social cost approach

➔ The social cost calculation method is not adapted to crime risk assessment.

So, what shall we do?

- **Organized Crime:** committed by more than two persons
- **Principle OC activities :** Counterfeiting, Drug trafficking, Fraud, Tobacco smuggling, Trafficking in stolen vehicles, Trafficking in arms, Money Laundering and corruption, Smuggling of immigrants
- **Goals:**
 - To propose an original method of Harm calculation
 - To assess the risk presented by Organised Crime
 - comparison between countries
- **OC Risk = Probability of an OC event**

$$X$$
its Harm

Measuring the O.C harm

- The harm is a measure which indicates the cost of consequences of a criminal activity, as perceived or evaluated, in the current year**
- The harm encompasses all costs which are possible to measure
 - Assessing Harm allows a comparison between countries of risk presented by different organised crime activities.

Measuring the O.C harm

Fraud's Harm indicator

Organized crime Activity	Type of consequences of OC activity	Indicator of harm	Type of Harm
Fraud	.Direct loss for the victims of fraud.	Average compensation given by the courts (C).	Primary damage
	.Loss of taxes, which would be paid by the legal business sector if its turnover includes the illegal market share.	T=loss of taxes with st. global tax rate applied on a representative variable of the commercial activity (S= sales)	
	.Public expenditure for policing	PE: Amount of public expenditure	Cost of public response
	.Cost of judicial system	CJ: Number of cases X prosecution cost	
	.Cost of correctional institutions	CC: Number of prisoners X cost	

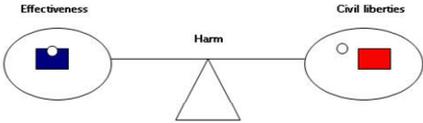
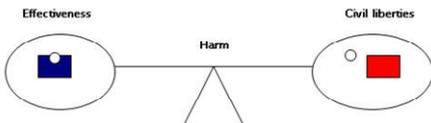
Remaining problems

- Estimation of the current level of the harm of crime for the society

$$\neq$$
Market value of crime
- Public spending does not necessarily correspond to the level desired by the people
- It does not clarify what the sacrifice the society make to compensate the cost of crime is if all individual preferences were perfectly respected by an efficient market
- Overlapping effects

<p></p> <h2 style="text-align: center;">PILOT STUDY ON FEASIBILITY</h2> <p style="text-align: center;">- using both public & private sector data</p> <p style="text-align: center;">in order to get a fuller picture</p> <p>Michael Levi, Nicholas Dorn, Cardiff University.</p> <p>IKOC, Brussels, DG-Research, 12-12-06</p> <p style="text-align: right;">Number of slides: 13 + options on 2</p>	<p><u>OVERVIEW of IKOC RISK MECHANISM, and FEASIBILITY APPROACH</u></p> <p>Taking IKOC approaches of WP 13 and 14 together, the IKOC model is</p> <p><u>OC risk</u> =</p> <p>f (<u>Probability</u>, from LEA reporting and from CJS statistics [WP 13],</p> <p style="text-align: center;">and</p> <p><u>Impacts</u> e.g. as reflected in court judgments, etc, & in MS expenditure statistics [WP 14]).</p> <p>Question: how feasible?</p> <p style="text-align: right;">2</p>
<p><u>How to approach the question of feasibility?</u></p> <p><u>Original intention</u></p> <ul style="list-style-type: none"> ○ Assumption at project planning stage: private sector data on thefts of plastic cards and related losses. (Virtually all misuses and losses quickly become known to card issuers.) ○ However, that approach <i>not</i> applicable to WP 13 proposals concerning LEA reports on organisation of OC. ○ Nor do card issuers collate info called for by WP 14 concerning either 'intangible' (social) costs, or MSs' response costs. ○ So, re-think was required to address WP13 and WP14. <p><u>2006 approach</u></p> <ul style="list-style-type: none"> ▶ Identify (a) the proposed implementing agencies and (b) the stakeholders for the information. <i>Needs more work.</i> ▶ Look for 'banana skins'. What needs to be considered in order to minimise problems? <i>Focus for this study.</i> ▶ A final step would be to check on capacity [to do what? need to explain] of implementing agencies. <i>For future work?</i> <p style="text-align: right;">3</p>	<p><u>Looking first at the proposals for measuring PROBABILITY</u></p> <p>Necessary conditions, according to WP 13. <i>Note these especially:</i></p> <ul style="list-style-type: none"> □ MS have a separate data collection system on organised crime □ common definitions of <i>OC</i>-conducts; common collection procedures □ use of existing and available data [but also] □ develop innovation: include some promising new indicators □ methodology compatible with current data collection procedures □ developing user-friendliness: simple and understandable □ <i>separate</i> indicators of probability and of impact. <p style="text-align: right;">4</p>
<p><u>The resulting probability mechanism has two parts</u></p> <p>1. <u>OC groups' characteristics</u> (reported), ratings on 1-5 scale:</p> <ul style="list-style-type: none"> ● Intra-Group cooperation ● Geographical spread ● Specialisation/Use of expert knowledge by OC groups ● Intimidating power of OC groups by the use or threat of violence ● Use of corruption ● Legitimate business structures ● Use of ICT. <p>Note the assumptions involved:- <i>Group characteristics ~ offence probability</i> <i>LEA reporting ~ actual offending [by those groups only?]</i></p> <p>2. <u>Law enforcement risk</u> for given crimes (from MS justice statistics):</p> <ul style="list-style-type: none"> ● Ratio of numbers convicted for a certain category of crime, in relation to those criminals reported as being involved ● Ratio of value of assets confiscated, in relation to value of assets seized. <p><i>Note that these do not refer to or include risk of apprehension or disruption; they refer to ratio of final judgments / LEA actions.</i></p> <p>Not used: OC offences (reported to LEAs). Not used: victim reports.</p> <p style="text-align: right;">5</p>	<p><u>Feasibility - & questions - about probability mechanism</u></p> <p>Approach has moderate fit with existing MS systems. The first part is (more or less) existing reporting by LEAs to EU. The second is CJS and other MS data (if OC/non-OC can be differentiated).</p> <p style="text-align: center;">Questions remain on fitness for purpose</p> <ul style="list-style-type: none"> • ROBUSTNESS? Are the posited relationships and available data <i>robust</i> and <i>stable</i> enough to permit <i>empirically defensible</i> policy-usable statements on probability, time trends and MS comparisons? • SIMPLICITY? Is the policy requirement for estimates of crime probability based on data <i>as reported by LEAs</i>? If yes, then why not use OC activity frequency as reported? (rather than holding that back to compare/check against probability estimates) • INDEPENDENCE? More fundamentally, are we sure LEA data are independent of priorities, targeting, resources, activities and intellectual fashions? If not, what are the consequences? <p style="text-align: right;">6</p>
<p><u>Looking now at the proposals for measuring IMPACTS</u></p> <p>IKOC WP 14 proposes that impact of frauds by OC =</p> <p>f ('direct tangible' losses, 'direct intangible' hurts, 'response costs' where data is available).</p> <p><u>'Direct Tangible' loss measurement: sources</u></p> <ul style="list-style-type: none"> ■ Civil court judgements: most rigorously tested, since often strongly contested between the parties, in civil tort or criminal restitution cases. But only available for a small minority of impacts. ■ Insurance companies' decisions, with less attention to detail than courts, and a tendency to minimise pay-out (to minimise costs to companies). Available for those impacts which lead to a claim. ■ Our feasibility study offered some further possibilities → <p style="text-align: right;">7</p>	<p><u>Further possibilities in operationalising 'Direct Tangible' losses</u></p> <p>On a 1 – 5 scale of seriousness...</p> <ul style="list-style-type: none"> 5) Financial impacts of September 2001, or other events that require intervention by institutions/regulators to prevent contagion.* 4) A major company is wiped out (Barings Bank, reduced to the market value of £1). 3) A big company collapses (or several medium sized ones do), however appreciable assets remain available to be salvaged/sold on. 2) Trading, turnover or share price is severely disrupted (fall of 50% in 2 months is a possible criterion), even if recovering thereafter. 1) Harms to individuals, which may be important to them, and need to be scaled up to aggregates (via probability/frequency estimates). <p style="text-align: right;">8</p> <p style="text-align: right;"><small>* For systemic harms and estimation thereof, see IKOC deliverable 16.</small></p>

<p>Possibilities in operationalising 'Intangible' (social, etc) impacts</p> <ul style="list-style-type: none"> ■ Conceptually tricky. Needs ingenuity to apply to frauds. Example: <ul style="list-style-type: none"> ■ For corporate bodies, <u>reputational</u> harms may be reflected in share and/or bond prices, either in the spot market or in futures markets: <p>"Our point estimate of the reputational penalty is twelve <i>times</i> the sum of all penalties imposed through legal and regulatory processes." (Karpoff et al)</p> ■ Others suggest that serious reputational losses – Union Carbide, Exxon Valdez, etc – may be reflected by share price falls up to 2/3rds in the short-medium term. Some firms die, e.g. Arthur Anderson. <p>What these and other bits of evidence suggest is:</p> <ol style="list-style-type: none"> estimates of reputational/social harms sometimes by a wide margin exceed estimates of direct costs, therefore are ESSENTIAL; but tangible and intangible costs may not be positively correlated, could not rely on either one to represent the other; scaling for 'intangible' losses call for further consideration. 	<p>Finally, 'Response costs'</p> <p>WP14 includes after-the-crime costs, but not cost of prevention.</p> <p>Feasibility? Public sector:</p> <ul style="list-style-type: none"> ■ Difficulty of separating out expenditures that relate specifically to responses to (international) frauds. ■ How to distinguish response costs to 'OC' (within the expenditures of agencies that respond both to OC and non-OC)? ■ Anti-fraud/anti-crime responses and their costs may be determined by policy choices, rather than being responsive to crime levels. <p>Private sector:</p> <ul style="list-style-type: none"> ■ Similar issues to public sector. <p>And:</p> <ul style="list-style-type: none"> ■ If made at all, private sector response cost estimations may be made for strategic purposes (such as, in relation to counterfeiting, emphasising the scale of losses experienced, thereby supporting demands for prioritisation or for more public sector assistance).
<p>Summing up feasibility of the IKOC proposal, probability x impacts</p> <ul style="list-style-type: none"> ■ OC risk = f <ul style="list-style-type: none"> <u>Probability</u> (from LEA reporting and from CJS statistics [WP 13] <i>times</i> <u>Impacts</u> (e.g. from MS CJS, & MS expenditure stats [WP 14]. ■ Summing up challenges: <u>Probability mode!</u> <u>Impact mode!</u> <ul style="list-style-type: none"> • <i>Can be implemented?</i> Progressively. Difficulties on tangible, intangible & response. • <i>Utility of outputs?</i> Questionable. Questionable. • <i>Why. Main difficulties?</i> Indirectness. Partial coverage. <ul style="list-style-type: none"> ! Reflecting policies & +ve feedback cycles. • <i>Easier routes exist?</i> Victim studies, corporate & individual. ■ Some of the questions may take us back to certain assumptions, e.g: <ul style="list-style-type: none"> □ <i>MS</i> data □ <i>OC</i> conducts □ <i>separate</i> approaches to probability, impact. 	<p>The path not taken: two examples of pan-EU data from victims</p> <ol style="list-style-type: none"> 1. 'First Findings from a Global Survey of Economic Crime', BUSSMANN and WERLE, 2006, BRIT. J. CRIMINOL. <p>"Economic crime examined in a global survey of more than 5,500 companies [...] 2,900 incidents Nonetheless, the most frequent response worldwide is not to bring criminal charges, particularly against perpetrators from within the company [...]"</p> 2. European Payment Council, report to 11th Meeting of the <i>Fraud Prevention Expert Group</i>, 28 November 2006, Borschette. <p>Antifraud database feasibility study progress report. Industrial card fraud databases indicate roughly 10 million frauds in the SEPA, affecting 500,000 merchants and involving Euro 1 Billion losses for the banking industry.</p> <p><i>In neither case will majority of cases be in police or court files.</i></p>
<p>CARDIFF University Conclusions, Thinking Points & Recommendations</p> <p>Conclusions <u>Probability x Impact mode!</u></p> <p><i>Can be implemented in practice?</i> The whole would take some years</p> <p><i>Validity of outputs in principle?</i> Questionable, data is partly the product of policy priorities.</p> <p>Thinking points...</p> <ul style="list-style-type: none"> □ Private sector has pan-EU data! Why ignore? □ Leaving out 'non-OC' leaves out much fraud (IFPI underlines this). Going forward, OC-only may be politically limiting... <p>Recommendations</p> <ul style="list-style-type: none"> ■ Probability & impact estimation would benefit from victim data. ■ Help EU to interpret & utilise LEA data for management purposes. ■ Consult all relevant stakeholders about <i>forward info requirements</i>. ■ Use private sector as well as public sector sources; <u>a public-private interchange could leverage quality on both sides.</u> 	<p style="text-align: center;">Thank you</p>
<p>Selected recommendations in more detail – only if required</p> <p>1). <i>Use private sector as well as public sector sources (including surveys of frauds against businesses and persons)</i></p> <ul style="list-style-type: none"> ■ Both the probability proposal (WP 13) and the impact proposal (WP 14) leave aside the possibility of utilising existing pan-EU victim fraud victimisation surveys. ■ EG: PriceWaterhouseCoopers studies of crime against companies; plastic card issuer data – which themselves are inconsistently available; could be used alongside some member states' surveys of crimes against businesses and against persons. ■ Exploiting private sector sources, and developing them widely, would complement public sector sources, improving validity regarding frequency of frauds <u>and</u> their impacts. ■ These sources could be built upon and collated - not disregarding the weaknesses of those data, but rather using the public sector interest to leverage quality. 	<p>2). <i>Help EU to better interpret and utilise law enforcement data (including its use for management in describing law enforcement activities)</i></p> <ul style="list-style-type: none"> ■ What then would be a scientific and management understanding of law enforcement agencies' reports on their units' sightings of, and their estimations and judgements on OC (as set out in the 'group characteristics' aspect of WP 14)? ■ These measures reflect levels of targeting and of resource utilisation, in terms of surveillance activities, informant placement, covert operations, etc. Highly targeted areas of crime naturally generate more reporting. Intellectual fashions in LEAs also influence reporting over time. ■ Such data – no less than reports on arrests, etc – are very valuable in showing what the agencies are <i>doing</i> and what those actions yield in terms of patterns of organisation and techniques. ■ Such management information on operational/intelligence activities is valuable to MS and the EU in ensuring that highly-prioritised areas of crime are being strongly targeted.

<p style="text-align: center;">Workpackage 17</p> <p style="text-align: center;">Practical and policy implications and the need to respect civil liberties</p>	<p style="text-align: center;">Crime control and IKOC</p> <ul style="list-style-type: none"> • Contemporary crime control <ul style="list-style-type: none"> ➢ Early identification and intervention ➢ New players • Focus IKOC <ul style="list-style-type: none"> ➢ European instrument to assess risk ➢ Role of the private actors
<p style="text-align: center;">Balancing (1)</p>  <ul style="list-style-type: none"> • Balancing is in particular problematic in regard to preventive measures. • The concepts of civil liberties, effectiveness and harm are problematic. 	<p style="text-align: center;">Civil Liberties</p> <ul style="list-style-type: none"> • Dynamic concepts • Privacy: core non-interference with the private life-sphere. • However, developments like changed proportions between the public and private sectors and new technologies raise fundamental questions. • Differentiation of perceptions on civil liberties among citizens.
<p style="text-align: center;">Effectiveness (1)</p> <ul style="list-style-type: none"> • Determining effectiveness of preventive strategies based on risk assessments is in particular problematic. <ul style="list-style-type: none"> ➢ Aiming at the stage before the crime occurs. ➢ Are unspecific and have a large scope (this can cause net-widening). ➢ Little insight in the phenomenon makes it difficult to determine indicators of organised crime. ➢ Risk-assessments are still under-developed. 	<p style="text-align: center;">Effectiveness (2)</p> <ul style="list-style-type: none"> • Strategies addressing organised crime should prove effective. <ul style="list-style-type: none"> ➢ Empirical data supporting anti-OC strategies. ➢ Plausible theoretical foundation of policy. ➢ Should take different European contexts into account. ➢ Case: administrative approach towards organised crime.
<p style="text-align: center;">Harm</p> <ul style="list-style-type: none"> • The greater the harmful effects the greater extent to which civil liberties may be infringed upon. • Intangible costs prove difficult to be determined precisely. • Intangible costs influence balancing effectiveness and civil liberties significantly. • Perceived harm of organised crime in society varies. 	<p style="text-align: center;">Balancing (2)</p>  <ul style="list-style-type: none"> • Central premise: the more a strategy to fight organised crime tends to infringe civil liberties, the stronger the empirical basis should be that this strategy is effective.

New Alliances

- **Public – private**
 - Private actors are increasingly involved in the reduction and prevention of crime
 - Public and private interests and legal safeguards diverge

- **Private – private**
 - Companies and sector organisations engage in anti-OC strategies
 - Black-listings
 - 'old boys networks' and the risk that sensitive information is being shared

ANNEX 19A

INTRODUCTION TO FINAL REPORT: ‘SUMMARY OF PART 1 OF THE BOOK’ + THE NEED TO IMPROVE METHODOLOGIES’

DELIVERABLE FOR WP 1 9A OF:

Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach



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As far as deliverable 19A is concerned, its finalisation is delayed by the delay in the production of deliverable 10D.

ANNEX 19B

CONCLUSION ON IMPROVING KNOWLEDGE

By:

- Ernesto Savona, Università Cattolica del Sacro Cuore (*coordinated by*)
- Aretì Antoniou, Università Cattolica del Sacro Cuore
- Barbara Vettori, Università Cattolica del Sacro Cuore

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MARCH 2007

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1. FOREWORD

This paper is the deliverable for WP 19B of Project IKOC – *Improving Knowledge on Organised Crime to develop a common European approach*.

The aim of this paper is to draw some conclusions from the overall Project. In particular, considering that the added value of the Project to the state of the art of OC measurement is a methodology for measuring the risk of organised crime activities across EU Member States, by proposing common EU indicators for measuring a) the probability and b) the impact of OC activities, the IKOC methodology is herein summed up.

This paper has been produced by the Università Cattolica del Sacro Cuore, leader of WP19. In particular, it was directed by Ernesto U. Savona, Professor of Criminology at the Università Cattolica del Sacro Cuore and coordinated by Dr. Barbara Vettori, Executive Project Manager of the Project. It was written by Aretì Antoniou, Ph.D. candidate at the Università Cattolica del Sacro Cuore, who elaborated a first draft, and Barbara Vettori, who revised it.

2. THE IKOC METHODOLOGY FOR MEASURING THE PROBABILITY OF A GIVEN ORGANISED CRIMINAL ACTIVITY IN A GIVEN MS

The IKOC methodology for measuring the probability of a given organised criminal activity in a given MS is made up of 9 indicators. These are presented in the Table below. For each indicator, the related modalities are also indicated.

	INDICATORS OF PROBABILITY OF A GIVEN OC ACTIVITY	MODALITIES
CHARACTERISTICS OF OC GROUPS	Links/cooperation between the OC groups involved	a range from 1 to 5, where 1 = 0–20% of annual reported OC offences of a given type involving cooperation between two or more groups 2 = 21% to 40% of annual reported OC offences of a given type involving cooperation between two or more groups 3 = 41% to 60% of annual reported OC offences of a given type involving cooperation between two or more groups 4 = 61% to 80% of annual reported OC offences of a given type involving cooperation between two or more groups 5 = 81% to 100% of annual reported OC offences of a given type involving cooperation between two or more groups
	Geographic distribution of the OC groups involved (or overseas routes)	a range from 1 to 5, where 1 = 0–20% of annual percentage of reported OC offences of a given type involving more than one country 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving more than one country 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving more than one country 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving more than one country 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving more than one country
	Specialisation/Use of expert knowledge by the OC groups involved	a range from 1 to 5, where 1 = 0–20% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists 5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the participation of one or more specialists

Intimidatory power of the OC groups involved by the use or threat of violence	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving use or threat of violence within and outside the criminal world</p>
Use of corruption by the OC groups involved	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of corruption</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of corruption</p>
Use of legitimate business structures by the OC groups involved	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of legitimate business structures</p>
Use of Information and Communication Technology by the OC groups involved	<p>a range from 1 to 5, where</p> <p>1 = 0–20% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>2 = 21% to 40% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>3 = 41% to 60% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>4 = 61% to 80% of annual percentage of reported OC offences of a given type involving the use of ICT</p> <p>5 = 81% to 100% of annual percentage of reported OC offences of a given type involving the use of ICT</p>

LAW ENFORCEMENT RISK	Probability of conviction for a given OC activity	<p>a range from 1 to 5, where</p> <p>1 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio number of people convicted for a given OC offence/number of people reported for a given OC offence ranging from 0 to 0,20</p>
	Probability of having the proceeds of a given OC activity confiscated	<p>a range from 1 to 5, where</p> <p>1 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,81 to 1</p> <p>2 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,61 to 0,80</p> <p>3 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,41 to 0,60</p> <p>4 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0,21 to 0,40</p> <p>5 = ratio value of confiscated assets for a given OC offence/value of seized assets for a given OC offence ranging from 0 to 0,20</p>

3. THE IKOC METHODOLOGY FOR MEASURING THE IMPACT OF A GIVEN ORGANISED CRIMINAL ACTIVITY IN A GIVEN MS

The IKOC methodology for measuring the probability of a given organised criminal activity in a given MS is summed up in the Table below.

	INDICATORS OF IMPACT OF A GIVEN OC ACTIVITY	MODALITIES
PRIMARY DAMAGE	Direct loss for the victims of the given OC activity (e.g. loss of turnover for the companies and their suppliers whose production has been counterfeited)	<p>Loss = ΣC_i</p> <p>With:</p> <p>i : number of cases with $i = [1...i...n]$</p> <p>C_i : Range of compensation given by the courts [or ONLY IN THE CASE OF TRAFFICKING IN STOLEN VEHICLES]</p> <p>Loss = $\Sigma(IC_i + P_i)$</p> <p>With:</p> <p>i : number of cases with $i = [1...i...n]$</p> <p>IC_i : Increased insurance premiums for consumers</p> <p>P_i : Compensation awarded by the insurance companies</p>
	Loss of taxes, which would have been paid by the legal business sector if its turnover included the illegal market share.	<p>T=loss of taxes</p> <p>$T = t * S$ with t, global tax rate applied on a representative variable of the business activity ($S =$ sales)</p>
COST OF PUBLIC RESPONSE	Public expenditure for policing	PE: Amount of public expenditure
	Cost of judicial system	CJ: Number of cases X prosecution cost
	Cost of correctional institutions	CC: Number of prisoners X cost

ANNEX 19C

FINAL REPORT

DELIVERABLE FOR WP 19COF:

Project IKOC – Improving Knowledge on Organised Crime to develop a common European approach



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MARCH 2007

The Final Report is the document bringing together deliverables 11 to 19B as presented in the previous pages.

ANNEX 19D

OUTLINE OF PART 2 OF THE BOOK PRESENTING THE OVERALL RESULTS OF THE PROJECT ON 'ORGANISED CRIME – IMPROVING KNOWLEDGE

DELIVERABLE FOR WP 1 9DOF:

Project IKOC – Improving Knowledge on Organised Crime to develop a
common European approach



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Outline of part 2 of the Book presenting the overall results of the Project on 'Organised Crime – Improving Knowledge' (soon to be published by Springer)

- The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: proposing common EU indicators for measuring the probability of OC activities across the EU Member States (Ernesto U. Savona and Barbara Vettori)
- The IKOC methodology for measuring the risk of organised crime activities across the EU Member States: proposing common EU indicators for measuring the impact of OC activities across the EU Member States (Pierre Kopp)
- Examining the feasibility of the IKOC methodology in relation to international fraud: a pilot study (Nicholas Dorn)
- Discussing the practical and policy implications from the IKOC methodology: the balance between the fight against organised crime and the need to respect civil liberties (Henk van de Bunt and Bas ter Luun)

ANNEX 20



ANNEX 21



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**Download the
Approved Project**

(Last update, March 2006)

Project IKOC - Improving Knowledge on Organised Crime in order to develop a common European approach

Project IKOC is financed by the European Commission, DG Research, under the VI Framework Programme for Scientific Research and Technological Development. Project IKOC started on 1 May, 2004 and will last 2 years, the deadline being 30 April, 2006.

▶ **The demand for a knowledge-based European approach**

Despite forceful demand for a sound knowledge-based common European approach to combating organised crime, research on the matter is highly fragmented. The intention of the IKOC Project is to piece the fragments together and to introduce value added by elaborating a methodology to measure the volume and impact of organised criminal activities.

▶ **Goal of the Project**

The goal of this Project is twofold:

- to update knowledge of organised crime, with specific regards to 1) the organised criminal groups operating in EU Member States (types of groups, their organisational structure, and the socio-economic and cultural framework in which they operate), and 2) the activities they carry out in both legal and illegal markets and their related *modi operandi*;
- to elaborate a methodology to develop a knowledge-based common European approach to organised crime and to examine its feasibility.

▶ **Objectives of the Project**

In order to achieve this general goal, the Project has two main objectives:

Objective n. 1: to update knowledge of organised crime, with specific regards to 1) the organised criminal groups operating in EU Member States (types of groups, their organisational structure, and the socio-economic and cultural framework in which they operate), and 2) the activities they carry out in both legal and illegal markets and their related *modi operandi*.

Objective n. 2: to elaborate a methodology to develop a knowledge-based common European approach to organised crime and to examine its feasibility.

