

Crime, money and criminal mobility in Europe

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The Cross-Border Crime Colloquium is an annual event since 1999. It brings together experts on international organised (economic) crime to discuss the latest developments in empirical research, legislation and law enforcement, with a special geographical focus on Western, Central, and Eastern Europe. The Colloquia aim at building bridges in three respects: between East and West Europe, between scholars and practitioners, and between old and young. The Cross-border Crime Colloquium, so far, has been organised ten times:

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Old and new in criminally mobile Europe

Petrus C. van Duyne

Europe: a criminal space

For some odd reason Europe is sometimes referred to as “the Old Continent”. This is an ambiguous denotation. Does it mean that Europe has a long, ‘respectable’ history or is she just a stuffy old lady? Well, Europe’s blood-stained history is far from respectable, while all continents have long histories. Moreover, under the broad skirts of that stuffy ‘old lady’ one can observe a bubbling energy of rejuvenating life. But, as is so often the case with bursts of new energy, it is disorderly, challenging existing norms and values while probing the confines of legality. Some may feel uneasy with that, others will call it a ‘threat’.

In the past two decades, a new mobility in the European space developed, partly determined by the post-socialist era, the extension of the EU borders and partly by the attractions of her undeniable affluence and opportunities. This energy does not necessarily find its outlet in law abiding conduct. Why should it? It is in pursuit of immediate gains and satisfaction, of course against certain risks, because for luck-seekers Europe is not a friendly space. Going back in history, it has never been different.

The European space, criss-crossed by national boundaries, has always been a relatively open space, for traders, scholars, investors as well as for out-law mobile fortune hunters. In early modern times, 1500–1600, many adventurers, irrespective of nationality, found an occupation by enlisting in various foreign mercenary armies. Given the often times unpredictable insolvency of the monarchs, they used to compensate their payment arrears by looting the resident population (Parker, 1978). The cover of this volume conveys an impression of what crimes contemporaries experienced at the hands of these adventurers. In the course of the 18th Century, and certainly in the Revolutionary and Napoleonic wars, disciplined standing national armies became the rule (Decat, 2003). For this kind of criminal mobility there was no more place (often literally), or it was channelled overseas towards colonies which

soon covered Africa and Asia. Now the indigenous population could experience the dire consequences of this transferred energy. With the decolonisation all this ended, which does not mean that these dynamics came to a halt too. Also at present, there is much unbounded energy, beyond law and order, looking for opportunities and striving for the same (criminal) aims. Conditions and manifestations have changed, but basically it is still the continuing story of the open European space, now under the metaphoric skirt of that 'old lady'.

Against this background it is remarkable that in the last decade the ongoing manifestations of criminal mobility has so much caught the imagination of policy makers, law enforcement agencies and criminologists as some new phenomenon so that they coined a new phrase: 'transnational organised crime'. But did something really new emerge? Yes and no. From the perspective of the criminal underground market there was no new phenomenon to be covered by the adjective 'transnational'. Crime-entrepreneurs did and still do the usual crime-business, making illicit profits, among others from price differences between countries. So what was a need to coin a new concept? While empirically there may have been little need to do so, this was not the case on the political playing field, the reality of conventions, resolutions and institutions. This reality could use a new concept just as much as a new stimulating drink once could use the name of 'coca-cola'.

The political playing ground on which this all grew up was the United Nations in the 1990s, which in the previous 25 years has been working on international cooperation against organised crime (Williams and Savona, 1996). It installed the Commission on Crime Prevention and Criminal Justice. At its first session, 1992, the Commission stated that the guiding themes would be "national and transnational crime, organised crime, economic crime including money-laundering, and the role of criminal law in the protection of the environment". It is interesting to observe how things begin: 'transnational' slipped in between other terms and aims. Some aims faded away like the protection of the environment (quickly buried), others were overgrown, like 'economic crime', by money laundering. But 'transnational' would remain with all its connotations (Sheptycki, 2003) and would be concatenated to 'organised crime': like the 'coca' was connected to the 'cola', forming an unbeatable political brand.

It soon proved its usefulness, particular in the title of a main event of 1994: the World Ministerial Conference on Organised Transnational Crime held in Naples (Woodiwiss, 2003). It was a memorable event being marred

by a more than symbolic incident: during the second day two gentlemen in black entered the conference room and went straight to the proudly beaming chairman, Silvio Berlusconi. With only a few words they handed him the notification that the Public Prosecution Office of Milan had opened a criminal investigation against him. One could feel the sinister presence of organised crime indeed. But was this also ‘transnational’? Given the very plausible suspicion that mafia money from Sicily has flowed into Berlusconi’s firm Fininvest through secret Swiss bank accounts, it may have deserved the qualification ‘transnational’ (Stille, 2006). Or, if one thinks this too heavy, should one think of a shady European businessman exploiting the criminal opportunities of the local and open European space to his dubious ends. Then it would represent ‘underworld meets upperworld’.

It is an interesting and highly instructive case history, embodying all the threat components of the ‘transnational organised crime’ threat having come true: a suspected person rising to official power and international acceptance through deceit, corruption and laundering, manipulating legislation to fend off the pressure from law enforcement and in the end muzzling the media in a way never seen before in any Member State of the EU. Not only does it epitomize the realisation of menaces, but also the thinness of the political threat rhetoric. All UN and EU documents related to ‘transnational organised crime’ express ‘grave concerns’. However, no concern is observed in the European legal or political space when it comes to a Member State decriminalising aspects of economic crime or easing the fight against organised crime or virtually relinquishing the combat against corruption. This is an interesting situation, deserving a research of its own: are diplomatic considerations prevalent or is the ‘threat rhetoric’ merely theatrical? Whatever, if anyone still wants to make a sour remark about that ‘stuffy old lady’ Europe, just see here her skirt bulging out with naughty criminal energy, national in its origin, transnational in its consequences and always mobile when it concerns the money. And that is what this volume is about.

Cross-border connections and criminal mobility

To understand politics, one must study politicians; to understand ‘organised crime’ one must look at crime-entrepreneurs. This is not a narrow psychological perspective, because as Von Lampe (2007) illustrated in a previous

Colloquium Volume, criminals do not act alone. This is a banal truism if one does not look beyond that and study the actual knowledge and operational skills required for entering an illegal market and for keeping a sizeable flow of contraband going. This is elaborated in *Klaus von Lampe's* chapter on 'transnational organised crime' connecting Eastern and Western Europe concerning the illicit cigarette trade. The author compares the required conditions for becoming involved in wholesale cross-border cigarette smuggling, and two interpretations of 'transnational organised crime' on the one hand, with the entrepreneurial conduct he actually observed in three large scale crime-enterprises. The two potential interpretations are: (1) the transnational mobile probing of profitable new foreign areas; and (2) locally based groups expanding into new foreign areas by establishing cooperative links with fellow criminals in the targeted regions.

However, what did the three crime-entrepreneurs and the network they developed and commanded do when they made their strategic decision to penetrate an unknown foreign territory? Did they travel around to scout it out? No, they stayed at home and did not cross borders. Instead, they recruited other nationals who again recruited compatriots for the execution of specific tasks in the countries they selected for their expanded operations. Only if the handling of the contraband had to be monitored did some member of the home organisation cross borders. This also indicated a weaker bonding and lower levels of trust between the figures within the network than is usually assumed. This could be related to the much less prominent role of ethnic relationships of the nationalities involved: Germany, Bulgaria, Poland and Sweden. Defying the traditional notions from studies on organised crime, they implemented their cross-border strategy, not by creating anything like a transnational group, but by outsourcing and otherwise staying at home.

This finding seems to contradict the generally accepted criminal mobility notion inherent in the meaning of transnational crime. This mobility issue has specifically been researched by *Van Daele* and *Vander Beken* in their study of the so-called 'itinerate crime groups' in Belgium. It is not clear whether these crime groups, usually engaged in property crime (e.g. burglaries) can also be subsumed under the term 'transnational'. They mainly stem from Eastern Europe and – measured in average kilometre distances – are highly mobile. In this regard they differ from the usual local property offender, victimising within a relatively small radius from his residence. This does not mean, of course, that they just roam around haphazardly. As a matter of fact,

through mobile reconnaissance they know their targets beforehand. At the same time their anchor points are less flexible: also flexible groups need recognisable points for their operations. Apart from that, their temporary presence means that their homeland remains important, whether for more reliable fences or just as a place to retire and enjoy the profits.

In the official literature on transnational crime threat assessments these itinerant crime groups get less attention than other cross-border operating groups operating in the drug and human trafficking markets. Despite that, their victimisation impact is great and direct, like the roaming and plundering disbanded soldiers of the old mercenary armies (Egmond, 1994). Old fashioned mobile transnational crime. What is new?

The criminal mobility service industry, sex and cars

One accompanying phenomenon of the old mercenary armies was the mobility of a host of service providers taking care of the many needs of the troops. There were smiths, bakers, cartwrights, clowns, clergy for the spiritual and females for the carnal needs. All these moved around in Europe, just like the present businessmen and tourists (in a peaceful way). This gives rise to new service providers. And again, one of the services concerns the delivery of sexual pleasure. Another concerns coveted valuables like cars, though I expressly deny any anti-feminist connection between the cars and sex!

Naturally, human mobility is not a spiritual one: mobile people have to sleep, eat and have sex. These are important demands for services and as soon as they reach a critical mass they tend to become organised. However, these services are not legally neutral: providing bed and breakfast is legal, but the additional sex service does not have that neutrality. This implies that it has to be organised differently: even if the paid sex has become legalised, many requirements of organising its delivery are criminal. This organisation may concern a booming local market as well as a cross-border delivery, as elaborated by *Philip Gounev*, *Tihomir Bezlov* and *Georgi Petrunov* in their chapter concerning the flourishing Bulgarian commercial sex market.

Many social and economic circumstances contributed to the unfolding of this market in the past two decades: high unemployment and school dropout rates, changing sexual attitudes and tourism, turning Bulgaria itself into an object of mobility. When travel restrictions were lifted, the Bulgarians

flew out, while the tourists flew in. Those who flew out went for work, which was difficult to find, legally. Illegal employment in the 'old' EU member states is still widespread and one of the forms of illegal employments is to be found in the sex industry. Not everybody needs to fly out to get employed in this sector: in Bulgaria a sex market structure developed too, ranging from self-employed (elite) sex workers to sex firms with about 10-15 workers. Though it is essentially an unregulated market, it is not uncontrolled. Whether one works at the lower (street) end of the market or at the better side (brothels, clubs, massage parlour), it remains difficult to escape the usual pimps, between whom some hierarchy developed too. Of course, in terms of victimisation likelihood it makes a difference whether one works under a street pimp or in a more orderly structured expensive escort service. Alongside a tourist sex industry has developed, which unfolded according to similar organisational principles. In addition, the tourist (sex) resorts were divided into geographical regions. From these resorts the lanes of exportation fan out to most countries of Western Europe. This exportation of sex workers is not a haphazard undertaking: the sex workers must find a proper working place and the generated income must return to the organisers.

The criminal mobility from 'new' or candidate to 'old' Member States of the EU, seems rather EU centred, particularly in the eyes of policy makers looking at what comes from the East. But why should mobile fortune hunters on the sex market look only at one geographical direction? In her chapter *Dina Siegel* takes us to another destination of Eastern European women: Israel as the country of milk and honey, financially speaking. Indeed, a sizeable portion of women from the Russian Federation and surrounding countries head for Israel for a position in the sex industry.

Why should they do that when they can easily cross the many green borders of the European Union or go on a holiday visa which they let expire? The author mentions two good reasons for this choice of mobility. Israel is a popular country of destination for voluntary sex workers. And there are sufficient social bridgeheads provided by Russian-Jewish migrants from the last two decades. Some of these migrant proved to be more criminal than Jewish, providing a suitable receptive network, which could be addressed at the planning stage. So there is a well thought-out mobility from Europe partly due to pre-knowledge of the local Israeli situation.

At present this mobility has taken a remarkable detour: instead of flying directly to Israel, the enterprising ladies go to Egypt first. For good reasons: Israeli airport control for women from Eastern Europe has become tighter.

So the mobility followed another channel eased by previous social connections: the tourist industry in Egypt, a destination that is highly popular with the Russians for good weather and low prices. From Egypt to Israel is almost next door, but for the Sinai desert which requires an 'adventurous' trip with the equally mobile Bedouins, who are used to smuggling any commodity over the 230 km long border in the Negev desert. Whether this is the summit of romance is difficult to determine, but it is effective as the next step to get the women at their temporary destination. Few stay in Israel; most follow their previously repatriated money home.

This sounds all like a very rational entrepreneurship. But even if this is true, it remains still an *underground* economic conduct, by its very nature prohibited and risky. People may choose this underground economy 'of their free will', but one may wonder what a free will means, if one can just choose between much poverty in legality and less poverty in crime. The chapter by *Vesna Nikolić* makes us aware that there are many victimising aspects in this choice for 'less poverty' and 'a bit' of crime, particularly in countries which have gone through the turmoil of war and economic disaster like Serbia. This is certainly the case when people get adrift, whether voluntary or forced to leave their homes, handled by 'entrepreneurs of mobility': whether engaged in servicing their customers towards their destination or trafficking them to a place which proves to be not of their choosing. In whatever form, it is all business in an illegal labour market populated with economic survivors, that cannot be carried out haphazardly. From this perspective the author provides a solid description of the structured organisations of human trafficking and smuggling in a landscape with deep scars from the recent war and mal governance.

She pictures an interesting dynamic of mobility: criminals helping people to get out of Serbia or transiting through it next to criminals returning from abroad, either sensing new opportunities or because they were deported due to their criminal record. Both categories have knowledge of opportunities abroad, which is again of interest for the 'criminal mobility service industry'. It is sympathetic that the author emphasises that an economic approach to this industry should also keep an eye open for the high degree of victimisation accompanying it. On the other hand, some victims are happy to make the best out of it, like the Albanese children she mentions, delighted to guide a smuggled or trafficked person over the mountains for 'only' € 20. A heavenly income for them and they may think: "Hey, where is the next victim

today?” The criminal mobility service industry is the shady bottom of the official economy, but for some this bottom yields unexpected rewards.

The present day emphasis on anything transnational can make us forget that much crime trade begins and ends with local markets. That is elaborated by *Georgios A. Antonopoulos* and *Georgios Papanicolaou* in their chapter on the thriving Greek stolen car market. The increase of the annual theft of cars in Greece is higher than in any Member State of the EU. Cars are somewhat more expensive in Greece and as cars are valued highly as status symbols there is an incentive to get fine cars for friendly prices. With around 50% of the car thefts not being cleared and the vehicles not recovered it is fair to assume that, of the roughly 64.000 cars stolen in the last ten years, around 32.000 entered the illegal market.¹ Of course, all these vehicles do not enter the market in once piece: many are dismantled for their spare parts. A substantial part never enters the Greek market but is shipped abroad.

Apart from selling parts, the phases of stealing, recycling (giving a new identity) and transporting are not the monopoly of the Greeks. The authors mentioned the participation of people from virtually all Eastern European, even as far as Georgia. To add to this mobility, stolen luxury cars from abroad are transported to Greece, either to be sold on the local market or transited to foreign destinations like the Middle East. In this regard the Greek criminal car market is ‘transnational’ as well as local: ‘translocal’ which may equally apply to the sex and criminal mobility service market described in the previous chapters. This denotation may have less threatening associations than the ‘transnational organised crime’ concept, which is so popular with policy makers and less connected to the confusing globalisation of the ‘glocal’ concept of Hobbs and Dunninghan (1998). And being a local market it also has its commercial *couleur locale*. For example, the selling of car or cars parts *within* Greece is a matter between Greeks, to whom foreign traders are in principle suspicious, most of all if they are Albanian. As far as all other criminal aspects of this market are concerned, Greece is as much a normal cross-road country as any other. In this respect ‘transnational’ has become a banality with little discriminatory value, apart from remote corners like Spitsbergen or the Falklands.

¹ All figures in this volume are in standard (European Continental) decimal notation.

The financial mobility watchers

There is no need to elaborate the enforcement priority of the fight against crime-money and laundering of the past two decades. Though purportedly it is about the ‘integrity of the financial system’, what is really going on is a monetary mobility as an accompanying flow of the criminal mobility. If criminals would just sit on their money, we would have a static situation with no more threat to the financial system than the buried silver hoards of the Vikings representing the proceeds of robbed churches and cloisters (Swayer, 1971). But the Vikings did not only sit on their loot: a substantial part of the ‘church money’ came into circulation. The same applies to the present day criminals: they move the crime-money around. That implies an unwanted financial mobility which must be halted. To this end a ‘global watchdog system’ has been developed.

This watchdog system, rather a kind of ‘Financial Limes’, analogue to the old Roman Limes, has been criticised for its ineffectiveness against this criminal financial mobility (Harvey, 2005; 2008). This criticism is justified against the background of the evoked great fear of crime money and the high targets which have been set. Subsequently the ‘Financial Limes’ has been strengthened but still the crime money keeps flowing. One may wonder how all the bank employees and police officers who are manning the bulwarks of this Limes feel about that. The two chapters written by *Jackie Harvey* and *Antoinette Verhage* give a voice to those who must work at the front line to keep these money flows out of the system and society.

Jackie Harvey interviewed a number of officers knowledgeable of the fight against crime-money and laundering. To the author they expressed their opinions about aspects such as resourcing (always too little), managers or investigators (yes, too many managers), information flows of Suspicious Activity Reports (having an added value, but 40% of the avalanche of reports is not looked at), personal relationships (people more important than mechanisms), disruption of criminal activities and performance measures. The last two aspects are important but also puzzling because of the vagueness and contradictions involved. The respondents are clearly not very fond of performance measures such as “20% more of . . .” and resort instead to aims like: the “confidence of the community” and “what does society want”, which are not very clear either.

Interestingly the respondents do not follow the logic of their own arguments. Let us follow this to its final conclusion. What ‘society’ wants, among other things, is a reduction of thefts to finance drug consumption. And now society proves to be served, because that is what has happened in the last years: property crimes went down. Meanwhile drug consumption continued to rise – depending on popularity – while prices of most drugs went down (Van Duyne and Levi, 2005). This is an interesting finding worthy of deeper analysis. Does this mean that the present development of the drug trade flow (more availability against lower prices) could be actually beneficial to society? A challenging hypothesis and, if plausible, suggesting that relinquishing the hold on one part of the market (supply of drugs) alleviates the pressure on another part (acquisitive crime). To address such questions we must learn more about the consumption, users and mobility within the illegal markets and their finances.

Addressing a mobile illegal market from such an angle implies a flexibility one does not find among the designers of the system of the ‘Financial Limes’. Their strategic conception is one-dimensional: stem the inflow of crime money and report on anything suspicious which stealthily tries to slip through. As described in a lively manner by *Antoinette Verhage*, this is quite demanding, as executing this task entails numerous risks. The anti-laundering staff of the financial institutions which man the fortresses of this Limes are not just sitting behind the battlements, but they have to interact with the many people around who are customers asking for financial services. As was the case with the garrison life in the Limes: most people are friendly and decent. Only for a few unpredictable shady money movers does a fully fledged alert system has to be maintained. The anti-laundering garrisons perform a role as auxiliary forces for the law enforcement agencies with the risk of being reprimanded by their supervisors as well as facing reputation damage if they happened to have serviced suspicious clients. Apart from that, similar to the historic mercenaries who had to buy their own weapons, helmets, armour and other war equipment, the financial institutions must pay for their own anti-laundering equipment, like extra staff and expensive software. Here the historic parallel ends, because the mercenaries got paid – if the king was solvent – or else could plunder the unhappy countryside. Not paid for their anti-laundering mercenary role, banks cannot plunder, but they simply shift the burden to the customers, whose monies they squandered by not knowing their *real* risky customers: their fellow bankers.

The criminal areas in this volume have been addressed from the angle of mobility. Crime-trade, like any commerce, is movement. Nevertheless, the authorities seem to have directed their concern on an economic field where money seems to solidify almost literally into stone: *real estate*. Given this concern and the general belief of a serious threat to this sector emanating from crime-money-in-property the researchers *Petrus C. van Duyne, Melvin R.J. Soudijn* and *Tessy Kint* engaged in a still on-going project to shed light on the nature of this purported threat. To this end they combed through any available record and database concerning convicted criminals whose real estate was confiscated as a part of a recovery procedure.

The outcome of their quest contains two messages: a bad one and a good one. The bad one concerns the law enforcement authorities, the Public Prosecution Office in particular. Never has such a great worry been served by such a lack of responsibility and professionalism as far as the proper data recording and management is concerned. From the beginning the researchers had to cope with a fully neglected and polluted database, a lamentable state which had gone unnoticed for 13 years. Nevertheless, assuming the role of ‘criminological archaeologists’, amidst the rubble discernable outlines of the relationship between crime-money and real estate could be sketched. That contains the good message, at least concerning the nature of the assumed threat. First of all, the property distribution does not differ from what we find in the whole society, in the sense of a skewed distribution of property: few own much and many own just a little (Van Duyne and De Miranda, 2001). Also the average value of the properties held by these offenders did not differ much from the average value in the property market. Many have humble dwellings and a few own luxurious villas, often more than one. There were also a few criminals who sublet apartments, making an extra (laundered) income. Morally unacceptable, but where is the threat to the real estate sector or to the society as a whole? Finding no clear answer, the authors reversed burden of proof to the authorities challenging them to prove their point. Their morale: “Authorities stop nagging about threats if you neglect your duty of collecting and presenting supporting and transparent evidence”.

If the fear of crime money in the real estate sector may have been a bit premature and badly thought out, the place where there is a real flow of money instead of bricks is the securities market. Rumours about ‘organised crime penetrating the stock exchange’ have regularly popped up, never followed by any real substantiation. Such rumours also cropped up in the Nor-

wegian press followed by expressions of ‘grave concern’. Hence the Norwegian researchers, *Karsten Ingvaldsen* and *Paul Larsson*, set out to investigate this threat. The report of their search is in many ways instructive. It neatly describes the Norwegian anti-laundering system within the financial institutions, particularly concerning the stock exchange. It is again the same story of ‘goodies’ having fortified themselves against all sorts of money-laundering risks. It also describes this (potential) laundering mischief, which proved to be simply non-existent in the Norwegian securities sector. Then, by default, the paper elaborates the varieties of profit oriented crimes, of which the perpetrators hardly come in the vicinity of a bank, let alone a security market. So why this elaborate system? It is rather an imposing example of law enforcement autism, inducing the establishment of expensive fortresses and embankments against non-manifest financial threats. Meanwhile the policy making community continues to press for more expensive measures without taking note of any empirical evidence, while the financial criminal mobility may occur elsewhere.

New and old criminal spaces in Europe

It goes without saying that there is more going on than all these kinds of mobile criminals and crime-monies moving around. Countries and peoples must also be governed and the embankments, such as mentioned above, must be guarded by integral guardians. In brief, around and against all this mischievous mobility there must be trustworthy stability in which it remains at least contained. Therefore, knowledge of the state of integrity is important and it is fair to admit that the European Union has a substantial number of rotten spots. On the Corruption Perception Index of Transparency International 2008 eight EU Member States score at or below the midpoint of five (the scale ranges from 1, most corrupt, to 10 not corrupt). With Latvia and Slovakia still at the midpoint of five, it soon goes down to the old Member State Italy (4,8) and further to the lowest scores in the EU: Romania and Bulgaria with indexes of 3,8 and 3,6 respectively. Under this low score we find the candidate Member State Macedonia with a 3,4 index, which it shares with other Balkan countries also knocking at the door of the EU: Montenegro, Serbia and Albania. Therefore it is appropriate that the volume devotes two chapters on fraud and corruption: one in the Member State

Romania with the emphasis on EU-fraud and one on corruption in the candidate state Macedonia.

In the chapter on Romania *Brendan Quirke* describes how the new Member State Romania had prepared its accession to the EU by industriously adopting the requirements imposed by the European Commission. In 2005 the Romanian government implemented the EC advice of establishing a special EU-fraud watchdog institution, the Fight against Fraud Department. This is placed within the Prime Minister's office and would report directly to him or her. It established proper working relationships with the EU-fraud watchdog, the OLAF. In 2006 the staff of the Fraud Department was extended from 26 to 45, mainly young investigators. This is valued very positively. However, after enumerating many other positive measures taken by the Romanian government, the author raises the question whether this does not constitute an island amidst a basically corrupt environment. Corrupt politicians still enjoy immunity while a television documentary about corruption (with hidden cameras) only attracted the attention of the superiors, who dismissed the responsible editor-director. For the Romanian common people it appeared not to be a topic worth looking at.

The situation in Macedonia is elaborated in the chapter written by *Mladen Karadzovski* in which he pays closer attention to the discrepancy between the anti-corruption law-on-paper and the law-in-action, or rather the inactive law. Indeed, the Macedonian political landscape for fighting corruption looks bleak (Detrez, 2002). To provide a broader horizon, the author provides the historical roots of the corruption situation in Macedonia as well as a broader regional background. The country shares a common heritage from the socialist past with the other successor republics of the erstwhile Yugoslavia or other previous socialist countries like the Ukraine. To demonstrate that this is not just a matter of socialist 'predestination', the author makes a short detour through modern traditionally capitalist and democratic Italy with its corruption index of 4,8, just below South Africa.

Like most countries in the region Macedonia had to catch up its legislative lag (Holmes, 2003). Consequently it has adopted an anti-corruption strategy and established competent institutions: an official Programme to combat corruption and a State Commission for Preventing Corruption. However, the impact of these instruments and institutions proved disappointing: in 2007 only 13 decisions have been made against officials who failed to report their assets, four of them ending with a warning. After the evaluation by GRECO (Groupe d'États contre la Corruption, the Council

of Europe) many bills have been submitted. However, whatever law is in place, as soon as procedures have to be started against relatives and ‘friends of friends’, law enforcement activities tend to grind to a halt. This also applies to civil servants tasked with fighting corruption: they have corrupt relatives and friends too. As a matter of fact, here we observe the opposite of criminal mobility: semi-closed circles of nepotism and clientilism based on local networks.

It may be that these phenomena are just criminal backwaters, which will be cleared once Europe becomes opened up and modernised. There is more important mobility than the eternal clandestine movement of commodities, monies and people who are mainly servicing the underside of the licit economy. It is regular labour that matters, following the channels of opportunity: income and employment. So, would our theme of crime and mobility remain confined to that criminal underside? The last chapter of *Barbara Vettori* makes a clear point in this regard: crime for profit is not the exclusive realm of this economic underside. Labour is the most universal commodity as well as usually the most important part of the production costs, of which taxes and social contributions (the fiscal *price wedge*) constitute a lion’s share. Next come all expenses which concern life and welfare of the workers. Indeed, there is much criminal cost price reduction to be made (Van Duyne and Houtzager, 2005).

In this field one may think of ‘bloodless crimes’ like withholding income taxes or social security contributions. That is wrong: there is real bloodshed because of serious violations of safety regulations. Basically: economising on production costs by neglecting the working and welfare of the workers. Of course, workers are sometimes to blame as well because of carelessness. Nevertheless, we talk here of a systemic lethal danger to workers, the statistics of which does not differ much from that of homicide: annually there are about as many lethal industrial accidents as there are homicides. As far as occupational deaths are concerned, this outcome must not be equated with intent or criminal negligence. But it determines the upper limit of the problem.

As competition between entrepreneurs as well as labour force increases, particularly within and between the new Member States, safety as a business expense will come under pressure. In addition, less bloody but equally exploitative practices contributing to cheap production will expand: a mobile labour force roaming in Europe in search of quick labour and accepting lower safety standards and degraded employment conditions and lower payment-off-the books. To reduce this abuse there are sufficient laws and regu-

lations, but when it comes to enforcement, one observes little sense of urgency. There is much (licit and illicit) money involved and trade and industry cannot do without labour mobility, even if criminally abused.

So we are back in our criminally mobile Europe, from the underworld to the upperworld and ending somewhere in their intersection because of their predictable overlap. Politically she may move forward like an old lady, but in terms of (criminal) fortune hunting she is alive and kicking. That she has always been, though historically the manifestations vary. Whether that is a reason to display less concern is a matter of choice. Crime and mobility, greased with money, remains inherent to our dynamic society. The authorities use to respond to this by evoking a threat image and establishing other law enforcement Limes of various degrees of (in)effectiveness. This has become an almost autistic reaction, particularly in the 'transnational organised crime' and money laundering portfolios. Thus far these have been meagrely researched and mainly in relation to drugs (Van Duyne and Levi, 2005). Instead of lending academic support to this mainstream reaction I plead for learning the unwanted mobility first and reacting later.

Literature

- Decat, F., *De eeuwige oorlog. 3000 jaar moderne oorlogsvoering*. Leuven, Uitgeverij van Halewyck, 2003
- Detrez, R., Macedonië. Land in de wachtkamer. Antwerpen, Uitgeverij Houtekiet, 2002
- Duyne, P.C. and H. de Miranda, The emperor's cloths of disclosure: hot money and suspect disclosures. *Crime, Law and Social Change*, 1999, 245-271
- Duyne, P.C. van and M. Houtzager, Criminal subcontracting in the Netherlands: the Dutch 'koppelbaas' as crime-entrepreneur. In: P.C. van Duyne, K. von Lampe, M. van Dijck and J.L. Newell (eds.), *The organised crime economy. Managing crime markets in Europe*. Nijmegen, Wolf Legal Publishers, 2005
- Duyne, P.C. van and M. Levi, *Drugs and money. Managing the drug trade and crime-money in Europe*. Londen, Routledge, 2005
- Egmond, F., *Op het verkeerde pad. Georganiseerde misdaad in de Noordelijke Nederlanden. 1650-1800*. Amsterdam, Uitgeverij Bert Bakker, 1994
- Harvey, J., An evaluation of money laundering politics. *Journal of Money Laundering Control*, 2005, vol. 8, no. 4, 339-345
- Harvey, J., Just how effective is money laundering legislation? *Security Journal*, 2008, vol. 21, no. 3, 189-211
- Hobbs, D. and C. Dunnighan, Glocal organised crime: context and pretext. In: V. Ruggiero, N. South and I. Taylor (eds.), *The new European criminology*. London, Routledge, 1998
- Holmes, L., Political corruption in Central and Eastern Europe. In: M.J. Bull and J.L. Newell (eds.), *Corruption in contemporary politics*. Basingstoke, Palgrave Macmillan, 2003
- Lampe, K. von, Criminals are not alone. Some observations on the social microcosm of illegal entrepreneurs. In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe. The dirty linen of illicit enterprise*. Nijmegen, Wolf Legal Publishers, 2007
- Parket, G., *The army of Flanders and the Spanish Road*. Dutch edition, Bussum, Uniboek bv, 1978
- Sawyer, P.H., *The age of the Vikings*. London, Edward Arnold, 1971

- Sheptycky, J., Against transnational organised crime. In: M. Beare (ed.), *Critical reflections on transnational organized crime, money laundering, and corruption*. Toronto, University of Toronto Press, 2003
- Woodiwiss, M., Transnational organised crime: the strange career of an American concept. In: M. Beare (ed.), *Critical reflections on transnational organized crime, money laundering, and corruption*. Toronto, University of Toronto Press, 2003
- Stille, A., *The sack of Rome*. London, Penguin Books, 2006
- Williams, Ph. and E.U. Savona, *The United Nations and Transnational Organised Crime*. London, Frank Cass & Co, 1996

Transnational organised crime connecting Eastern and Western Europe: Three case studies

*Klaus von Lampe*¹

Introduction: the concept of ‘transnational organised crime’

The concept of ‘transnational organised crime’ (TOC), perhaps even more so than the concept of ‘organised crime’, has been criticised for being shaped by the political and institutional interests of governments and law enforcement agencies rather than by social reality. Undoubtedly, it has become a key issue on the criminal policy agenda since the fall of the Iron Curtain. On national and international levels, including the European Union and the Council of Europe, transnational organised crime has come to be regarded a major security threat, in part replacing the threat of military conflict (Edwards and Gill, 2002; Felsen and Kalaitzidis, 2005; Fijnaut and Paoli, 2004; Mitsilegas, 2003). At the same time the focus of the traditional debate on organised crime has shifted from a local and national to an international frame of reference (von Lampe, 2001).

The concept of ‘transnational organised crime’, broadly speaking, refers to crime that somehow transcends national borders. It is framed in the context of globalisation and EU enlargement where national borders have supposedly become less of an obstacle for offenders and “criminogenic asymmetries” (Passas, 1998) between rich and poor countries have become more virulent. Against this backcloth different images and perceptions of transnational organised crime have emerged in public and academic discourse.

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Some rhetoric lets transnational organised crime appear as if it was something that existed in a quasi-metaphysical sphere with no roots in any particular location and touching ground only in the moments when crimes are committed. A more concrete notion is that mobile, rationally acting offenders operate on an international scale, searching for the most lucrative markets for illegal goods and services and the most suitable targets for predatory crime, and taking advantage of cross-border mobility to evade prosecution (Mittelman and Johnston, 1999). Another widely held view associates transnational organised crime with the discrepancies between East and West and North and South. Developing countries and countries in transition with a weak or corrupt law enforcement system are believed to serve as safe home bases for internationally operating offenders (Shelley, 1999; Wagley, 2006; Williams, 1999). From the Western European perspective, this view constructs transnational organised crime as an external threat, epitomised by the metaphor of an octopus which has its tentacles extended throughout the Western world (Freemantle, 1995).

Yet another image of transnational organised crime is that of locally based offenders establishing transnational links to other offenders (Hobbs and Dunnighan, 1998; Hobbs, 1998). In this view, networking and cooperation between criminals across borders is the main feature of transnational organised crime (see also Adamoli *et al.*, 1998; Castells, quoted in Sheptycki, 2003).

This latter notion, irrespective of the empirical evidence, at first glance appears more plausible than the imagery of highly mobile offenders given the legal, cultural and practical constraints that hinder and impede even legitimate businesses on an international level.

Aim and purpose

Taking the large scale smuggling of contraband cigarettes in Europe as an example, this paper examines how illegal entrepreneurs manage to extend their areas of operation into another country despite existing cultural and language barriers. On the basis of a more extensive analysis of pertinent German criminal files (n=104) three case studies are presented which shed light on the ways in which Eastern European cigarette smugglers have opened up new trafficking routes and markets in Western Europe.

All of the three cases fall within the time period between 1995 and 2001, a highly dynamic phase in the development of cigarette smuggling in Europe (see Joossens and Raw, 2008). Each case involves attempts by offenders based in one country to establish smuggling routes to another country they themselves were not familiar with. While these three case studies can neither be taken as representative of transnational (organised) crime in general, nor of cigarette smuggling in particular, they do show variations in the strategies adopted by illegal entrepreneurs and the contingencies involved. As such they can serve as instructive illustrations. The three selected cases appear particularly noteworthy because they suggest that ‘organised criminals’ do not only expand their areas of operation across national borders in an opportunistic fashion, but that such expansion can be based upon strategic planning.

Data base

The sample of 104 investigations from which the three case studies are drawn form the core data base for a study of the cigarette black market in Germany, with a special focus on Berlin as the country’s largest regional market for contraband cigarettes. 102 of the 104 investigations were handled by the Berlin branch of the Customs service. They have been selected in an effort to examine cases that represent the highest market levels and the potentially most complex detected offender networks in order to gain insights into the operation of those actors that may be regarded as being among the key players in the black market (see also von Lampe, 2003; 2005). Selection criteria included amounts of cigarettes and number of suspects. On the basis of these criteria a selection was made from the Customs service database INZOLL and the set of investigations of the Berlin branch office (1990 until 1999). These involved respectively, the highest numbers of cigarettes and at least three suspects. Eventually, 98 complete case files and four case file fragments, containing only parts of the original file, were made available for analysis by the Berlin prosecutor’s office.

In addition to the Berlin investigations, the voluminous files of two complex investigations into cigarette smuggling were obtained from other prosecutor’s offices to gain a better understanding specifically of the ‘Northern Trade Belt’ (Van Duyne, 2003), the smuggling route connecting the Baltic

states, Poland, Germany, the Benelux countries and the British Isles. These two cases and one investigation from the Berlin sample are the only ones of use for the present analysis because they are the only ones containing information directly relating to the decision making of large-scale cigarette smugglers and the processes leading up to the expansion of areas of operation into another country across language and cultural barriers.

Large-scale cigarette smuggling: an overview

Before examining the focal point of this paper, the transnational mobility of illegal enterprises in the case of large-scale cigarette smugglers, it is helpful to first clarify the nature of the underlying business activity of cigarette smuggling. Cigarette smuggling means the illegal importation of cigarettes that circumvent excise and customs duties so that the cigarettes can profitably be sold to consumers for a price below the legal retail price. In the time span under consideration, between 1995 and 2001, two main schemes existed by which cigarettes were supplied to black markets in Western Europe, including Germany: bootlegging and large-scale smuggling.

Bootlegging “involves the purchase of cigarettes and other tobacco products in low-tax jurisdictions in amounts that exceed the limits set by customs regulations for resale in high-tax jurisdictions” (Joossens *et al.*, 2000: 397). The amounts of cigarettes that are being smuggled are sufficiently small to allow the transport under the guise of private cross-border traffic, for example in cars or in the luggage of train passengers, or across the “green” border by boat or on foot.

Large-scale smuggling, as the term implies, involves large amounts of cigarettes to which smugglers have access because they are close to the source, the tobacco manufacturers. Large-scale smuggling linked to cigarettes manufactured in the West “generally takes advantage of the ‘in transit’ system that has been developed to facilitate international trade. This system allows for the temporary suspension of customs duties, excise taxes, and VAT payable on goods originating from and/or destined for a third country, while in transit across the territory of a defined customs area” (Joossens *et al.*, 2000: 398). These untaxed cigarettes have either never left the EU or, far more typical for the years between 1995 and 2001, the cigarettes have been properly exported, but only to be illegally re-imported. Several trade routes have

been identified for this time span of which those involving the Baltic states and other Eastern European countries seem to have been the most important ones (Council of Europe, 2004: 29; Van Duyne, 2003; Regional Intelligence Liaison Office, 2001).

The actual smuggling of bulk loads of contraband cigarettes is typically integrated into legal commercial cross-border traffic. This means that the shipments pass through customs' inspections. They are accompanied by customs forms which are either forgeries or false declarations (Council of the European Union, 2003: 6). Large-scale smuggling in Western Europe around the second half of the 1990s was characterised by concealed shipments of between one and eight million cigarettes which were hidden inside or behind legal freight, including furniture, food, and timber (House of Commons, 2005: Ev. 80; Regional Intelligence Liaison Office, 2001: 12).

Large-scale smuggling may involve the reloading and reconfiguration of shipments within the EU in an effort to disguise the origins and trafficking routes of contraband cigarettes. In these cases, transport vehicles are switched and provided with new transport documents which give the appearance of a legitimate business transaction between a business in the transit country and a business in the country of destination. When cigarettes are smuggled inside or behind legal freight, the storage and disposal of these goods is also part of the overall smuggling operation (von Lampe, 2005).

The need for multi-national operations in large-scale smuggling

The main security strategy of large-scale smuggling operations is criminal mimicry by blending into the legal economy (Van Duyne, 2006; von Lampe, 2007). The illegal nature of the activity is concealed, but not the fact that goods are commercially moved across borders and commercially distributed. Accordingly, interaction with legitimate third parties occurs on a continuous or at least recurring basis within the context, and following the logic of, international business. This, in turn, necessitates the setting up of front companies, the leasing of warehouses and the renting of trailer trucks on behalf of these front companies, the use of haulage firms for cross-border transport and of dispatch forwarding agents for the clearing of cover loads with customs. In consequence, large-scale smuggling requires the presence of operatives in both the sending and the receiving country and in any country

which serves as a transit channel. These operatives, it appears, need to meet three basic criteria. (1) They have to be present in a given country on a regular, if not continuous basis. (2) They must have the knowledge and know-how necessary to convincingly and effectively function in the environment of legal cross-border commerce. (3) They must be able to implement this knowledge and know-how which requires certain language skills, and to a certain extent also certain cultural skills, in the country of operation. These requirements, it seems fair to assume, set high hurdles for those wishing to implement a large-scale smuggling scheme in the first place, as well as to establishing new trafficking routes. It was exactly this challenge that the main offenders in the three cases analysed here faced. How they addressed this challenge is the subject of the subsequent analysis.

With the different conceptions of ‘transnational organised crime’ in mind one can envision different scenarios to be played out. Thinking of ‘transnational organised crime’ in terms of highly *mobile* criminal groups, whether or not based in a safe haven country, would suggest that new areas of operation are being established by a group of offenders by relocating to that area in part or in total. The skills and resources necessary for the successful completion of such a move would be identified and purposefully acquired by members of the group.

In contrast, viewing ‘transnational organised crime’ in terms of *cross-nationally* connected *locally based* groups and individuals would make it appear more likely that expansion into new areas of operation occurs in the form that a criminal group in one country seeks out, and establishes cooperative links with a suitable criminal group based in the other country. As will be seen, however, these two scenarios do not resemble the patterns found in the three case studies.

The three case studies

Case file analysis

The following analysis draws on criminal files as the exclusive data source. In Germany, criminal files contain all documentation produced in the course of an investigation up to the final court decision. They are passed from the investigative agency (in the case of cigarette smuggling the Customs Service)

to the prosecutor's office and the trial court only to be later returned to the prosecutor's office after the conclusion of the trial.² Depending on the resources invested in an investigation, the range of investigative tools applied together with the luck of the investigators, criminal files contain more or less detailed and dense information about offenders and offences. Apart from variations in the amount of information contained in a criminal file, there are limitations for criminological research which have to be taken into consideration. Generally speaking, data collection in the course of criminal investigations and proceedings is selective and primarily geared towards the generation of evidence rather than towards the illumination of the complexities of social phenomena (Pütter, 1998). At the same time agencies do not apply uniform criteria in collecting information so that the possibilities for comparison between different cases are limited (Besozzi, 1997; Steffen, 1977). Still, criminal files have been found to be useful in organised crime research, especially when a fairly large number of cases are included in one study (see e.g. Van Duyne, 1996; Herz, 2005; Kinzig, 2004), and, as argued here, complex files generated in large-scale investigations may also provide sufficiently rich information for individual case studies.

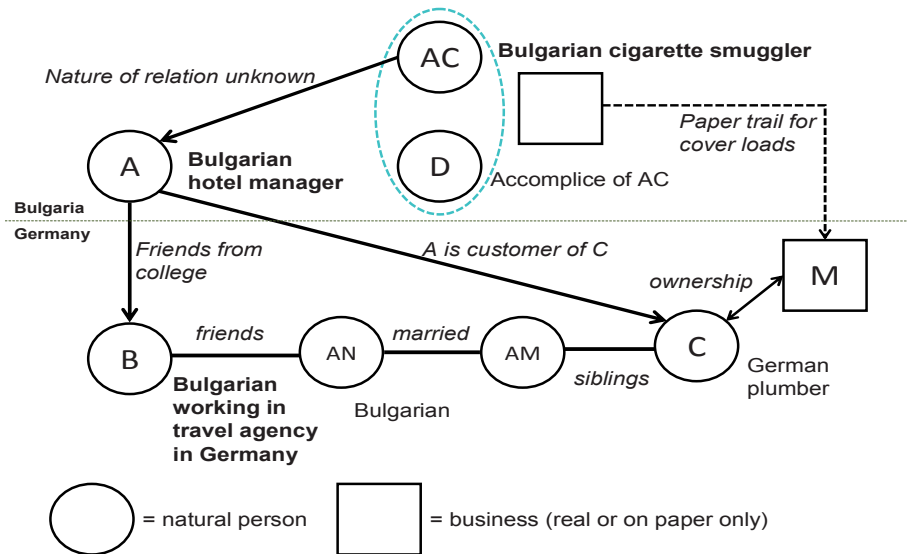
Each of the three cases analysed for the purpose of this paper contain extensive statements by key participants in the respective criminal operations, supplemented and supported by other evidence. In one case, this included extensive electronic surveillance ranging from the tapping of mobile phone communication to audio surveillance and GPS monitoring of one key suspect's vehicle. While many details remain vague or completely in the dark, the voluminous case files, comprising several hundred to several thousand pages, give a fairly good understanding of a number of aspects of the illegal cigarette business, including why and how offenders have tried to expand their areas of operation into other countries across cultural and language barriers. In fact, the files contain information to such an extent that in order to preserve the anonymity of the individuals involved some details have to be omitted or altered.

² I would like to thank the prosecutor's offices in Berlin, Hanau and Stendal for providing access to the case files analysed for the purpose of this paper and a larger research project conducted at Freie Universität Berlin, Department of Criminology. I would also like to thank my research assistant Tom Herberger for his help in extracting the raw data from one of the analysed criminal files.

Case 1: From Bulgaria to Germany

The first case (fig. 1) involves a cigarette smuggling operation based in Bulgaria which successfully sent four shipments with a total of 11 million contraband cigarettes to Germany over a period of several months during the year 1995. According to the information contained in the case file, this group of smugglers was already supplying cigarettes to Italy when they heard about the profitability of the cigarette black market in Germany. They made a tentative decision to expand their operations and to set up a smuggling route between Bulgaria and Germany. However, it appears that no one in the group had the necessary links to Germany. For that reason they recruited 01A, a hotel manager from the Bulgarian Black Sea coast. It is not clear how the group of smugglers knew about 01A, what previous relationship had existed, and why they thought 01A could help them set up a smuggling route to Germany. Although 01A had connections to two individuals in Germany, he himself was not familiar with Germany and he did not speak German. Still, for a split of the profits he agreed to set up the German end of the planned smuggling scheme, mainly by arranging for a business that would function as the receiver of the cover loads that would comprise produce from Bulgaria.

Figure 1: Context of the recruitment of 01A and 01B



One of the two individuals in Germany known to *01A* was *01B*, a Bulgarian who had moved to Germany in the late 1980s and who, in 1995, was working at a travel agency. *01A* and *01B* were friends from school. Both knew *01C*, a German plumber who had come into contact with Bulgarian circles through his sister (*01AM*) who had married a man from Bulgaria (*01AN*). When *01A* had built a house in Bulgaria a few years earlier, it was *01C* who had provided some of the plumbing. One might speculate that the smuggling group had been aware of these contacts when they approached *01A* with the proposal to get involved in cigarette smuggling.

01A took *01B*, who was in financial difficulties at the time, into his confidence and secured his support as an interpreter. He also obtained permission to stay at *01B*'s apartment while he was in Germany. Eventually *01B* took on a much more active role. His first contribution to the smuggling enterprise was to ask *01C*, the plumber, for assistance to help with the first shipment, a test run. It was due to arrive in a truck containing jars filled with vegetables. The plumber agreed to clear the shipment with customs for a small fee. His firm also appeared on the invoice accompanying the shipment, but later he claimed that he had been unaware of that fact. At the end of the investigation the case agents concluded that the plumber had remained ignorant of the true nature of the business throughout his involvement. The second shipment, this time containing 2,2 million cigarettes hidden under a cover load of vegetables, was also cleared with customs by the plumber and once again his firm (*01M*) appeared as the buyer of the cover load on the accompanying invoice. It was only for the third shipment, the second one containing cigarettes, this time close to 3 million, that *01B*, the Bulgarian in Germany, became directly involved with the importation formalities. The day the truck was due to arrive in Germany the plumber was unavailable because of urgent business. As a result, *01B* was forced to report to the customs service himself on behalf of the buyer of the cover load, *01C*'s firm. However, this was made easy by the fact that the plumber, as in the previous instances, had hired a forwarding agency that took care of the customs proceedings. The following two shipments, containing 3,4 million and 3 million contraband cigarettes respectively, were cleared through customs by a haulage firm which *01A* and *01B* had originally approached for storing the cover loads of vegetables from the previous shipments which proved to be non-marketable. Like *01C*, this haulage firm operated under the assumption that *01A* and *01B* were legitimately trying to start an import business for Bulgarian produce.

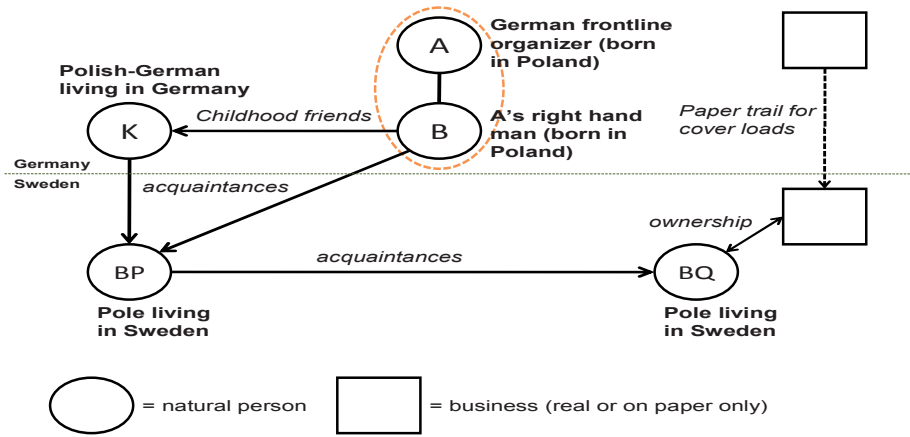
Under the arrangement *01A* had with the Bulgarian smuggling group the cigarettes were sent to him on credit. *01A* was responsible for selling the cigarettes for a sufficiently high price and for returning the proceeds minus his share of the profits within one month. Interestingly, however, the first customers were provided by the Bulgarian smugglers themselves who had also assigned a group member, *01D*, to monitor *01A*'s activities. This means that while the smugglers needed someone to arrange for the outwardly legitimate components of the smuggling scheme, they had been able to find buyers for the contraband cigarettes without either *01A*'s or *01B*'s help. It was only later that *01A* found an additional customer on his own initiative, which did not last long before he and *01B* were arrested.

Case 2: From Eastern Europe via Sweden to the UK

The second case (fig. 2) represents just one facet of a much more complex smuggling operation spanning Eastern Europe, Central Europe and the United Kingdom, with Germany serving as an important transit region. From several Eastern European countries smuggled shipments had been sent by truck to Germany for distribution on the German black market or for further transport to the United Kingdom.

The German part of the smuggling operation was run by *02A* and *02B*. Both had grown up in Poland and had moved to Germany in the 1970s and 1980s, respectively. They reported to *02E* who ran the organisation from his place of residence in Poland.

Figure 2: Context of the recruitment of 02BP and 02BQ



In an apparent effort to circumvent the profiling of particular trafficking routes and to reduce the disruptive effect of law enforcement interventions, the group constantly sought to set up new front companies. In 2001 this became more urgent after a number of smuggling shipments had been detected and subsequently a number of front companies had been broken by the German customs service. One of their plans involved setting up a new trafficking route via Sweden to England. Similar to case number 1, a strategic decision was made without having the necessary personnel and infrastructure available in the intended country of operation.

02A and 02B set out to implement the plan by mobilising their social networks which, it seems, were embedded in the Polish diaspora in Western Europe.

The first person they approached was a car mechanic, 02AU, who had previously undertaken repair and maintenance work on 02B's car. The mechanic, like 02A and 02B, was born in Poland and had emigrated to Germany years earlier. The mechanic arranged a meeting between 02A and a Polish businessman, 02BO, who owned several businesses in Sweden. The mechanic apparently had personal ties to businessman 02BO because he was able to obtain 02BO's cell phone number from 02BO's wife. Prior to the meeting, the mechanic, upon 02A's request, had already informed 02BO that he would be asked to set up a front company to redirect shipments with cigarettes from Eastern Europe to the United Kingdom. 02A and the businessman discussed the smuggling scheme and the latter asked for time to consider the deal. Eventually, nothing came of it. The businessman 02BO did not contact 02A again after the meeting and the latter decided not to

pursue the matter further because he mistrusted the businessman, believing that he might keep part or even the entire shipment and sell the cigarettes on his own account.

A second attempt to recruit an accomplice in Sweden was undertaken shortly thereafter. This time *02B* tried to locate an old friend from Poland who had later emigrated to Sweden. Through *02K*, a mutual acquaintance and childhood friend, *02B* obtained a phone number and set up a meeting in Sweden. However, when *02A* and *02B* arrived to discuss the smuggling venture it turned out that it was not the person *02B* originally had in mind but another mutual acquaintance of *02B* and *02K* from Poland, *02BP*. Because *02B* also knew *02BP*, the confusion did not matter, as was later disclosed in an interrogation by the Customs Service. *02A* and *02B* asked *02BP* to open up a business in Sweden to receive cigarettes and to send them on to the UK. At the time, *02BP* was waiting to obtain Swedish citizenship and he chose to remain in the background. In his place, therefore, he brought a relative into the operation, *02BQ*, who then bought a Swedish company and rented a warehouse with funds supplied by *02E*, the head of the smuggling organisation residing in Poland. *02BQ*, in turn, put the company in the name of another individual whose identity is not revealed in the German criminal files. Under the arrangement made between the smuggling organisation and *02BP* and *02BQ*, it was determined that the latter would receive a fixed amount of money for each successful smuggling shipment sent on from Sweden to the UK.

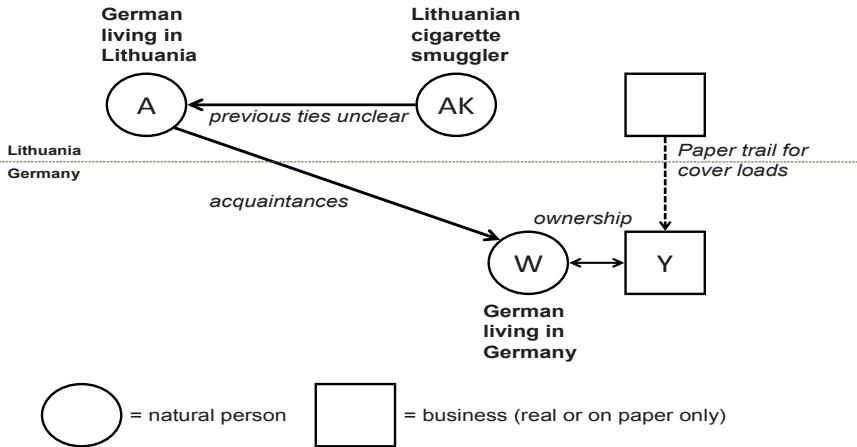
Although the recruitment attempt in Sweden was eventually successful, the smuggling operation itself was not. The first shipment sent to the company *02BQ* had set up was detected by Swedish customs. *02E* and the Eastern European suppliers of the cigarettes were suspicious of *02BQ* and demanded proof that the cigarettes had actually been seized. The issue lingered on for several months and had not been resolved to everyone's satisfaction by the time *02A* and *02B* were arrested later that year. Because of the lack of trust in *02BQ* no other shipments were sent to Sweden. Neither was an attempt made to recruit another person to set up a Swedish front company.

Case 3: From Lithuania via Germany to the UK

The third case (fig. 3) differs from the previous two in that it was not about the original expansion of a smuggling operation to a new country. Instead the investigation brought to light the establishing of a trafficking route, in

replacement of one that had previously been disrupted by the authorities, and running parallel to others already in existence. In this case, a smuggling group based in Lithuania and active at least in the years 2000 and 2001 used Germany as a transit country for contraband cigarettes ultimately destined for the black market in the United Kingdom.

Figure 3: Context of the recruitment of 03A and 03W



The central person in case number 3 was a German businessman involved in the lumber trade who had relocated to Lithuania in the 1990s (*03A*). In the year 2000, *03A* suffered a substantial loss of income due to the drop in lumber prices in Germany. In the same year, *03A* later claimed, he was aggressively approached by a Lithuanian, *03AK*, who coerced him into taking a leading role in the German component of a large-scale smuggling operation. Broadly similar to the role played by *02BQ* in the Swedish case described above, the tasks assigned to *03A* included clearing shipments with customs under the guise of legal cross-border commerce and reloading the cargo for further transport to the UK.

The case files contain contradictory information about *03A*'s previous involvement in cigarette smuggling. According to one interpretation he had been part of the Lithuania-based component of the same smuggling enterprise while the on-site management of the German component had rested in the hands of another German businessman with personal and business ties to Lithuania, *03AL*. One of the activities ascribed to *03A* included supplying *03AL* with details about the transport vehicles and intended receivers of incoming shipments. In any case, in the summer of 2000 a shipment *03AL*

had processed was intercepted by German customs agents, and a few days later *03A* was allegedly told by *03AK* to set up a “new line”, presumably to replace *03AL*’s operation. *03A* was to establish a business in Germany and in return for every successful shipment sent on to the UK he was to receive a small lump-sum in addition to funds to cover the costs of travelling between Lithuania and Germany.

In order to set up a business in Germany *03A* turned to *03W* who lived in Germany but who had family contacts to Lithuania where the two had met several years earlier. Two weeks after the shipment to *03AL* had been intercepted by German customs officers *03W* registered a company (*03Y*) for the import and export of lumber and building material. It was agreed that the *03A* would run the firm (*03Y*) and that *03W* would receive a share of the profits. Apparently, *03W* was not aware that the company (*03Y*) would be used in a cigarette smuggling scheme.

In the following months, *03A*, acting on behalf of the company *03Y*, arranged for a number of lumber shipments to be cleared with German customs by a freight forwarding agency and delivered to the premises of a sawmill in Germany, company *03X*. From there the shipments would be picked up by a hauling company contracted by *03A* on behalf of *03Y* after a day or two and brought to the UK by truck. The former had previously secured the consent of *03AF*, the manager of the saw mill *03X*, to use his premises for temporary storage and reloading of lumber shipments from Lithuania. It seems that the sawmill manager, like *03W*, was unaware of the true nature of the shipments.

Whenever *03A*’s presence in Germany was required he took the trip from Lithuania on *03AK*’s expense. In addition, each of the some 10 shipments handled by *03A* over a period of about seven months was accompanied by a person who monitored *03A*’s activities from the outside, presumably on *03AK*’s behalf.

After three shipments were impounded by customs, containing between 2,3 and 6,2 million cigarettes, *03W* discontinued his collaboration with the businessman and deregistered the import and export company. Transports were then managed by *03A* in the name of other businesses, the details of which are not relevant here.

General patterns

The three case studies show a broadly similar pattern. New trafficking routes for contraband cigarettes were set up based on a strategic decision, respectively, of an existing smuggling group. Only the motive underlying the strategic decision varied. In *case 1* the perceived profitability of the German cigarette black market prompted a group of Bulgarian smugglers to expand their operations into Germany. *Case 2* deals with a smuggling group which for practical and security reasons sought to diversify its trafficking routes. In *case 3*, finally, the disruption of a trafficking route appears to have led to the decision to set up a ‘new line’.

All three smuggling groups chose to implement the plan to establish new smuggling routes with the help of individuals recruited for this purpose: *01A*, *02BP* and *03A*. These individuals in turn recruited other individuals and businesses who performed different tasks in the movement, storage and reloading of shipments containing contraband cigarettes.

This means that the members of the original smuggling groups tended not to cross borders in order to implement their strategic plans. The only exception had been the travelling undertaken by *02A* and *02B* to meet with *02BO* in Poland and with *02BP* and *02BQ* in Sweden. However, neither *02A* nor *02B* planned to relocate to Sweden or to be present in Sweden for actually setting up and managing the smuggling route which would have included the registering or purchasing of front companies, the renting of warehouse space and the communication with hauling companies and forwarding agencies. These tasks were performed by *02BP* and *02BQ* and not by *02A* and *02B* or any other core members of the original smuggling group.

In *case 3* it seems that *03A*, the individual directed to set up a ‘new line’ from Lithuania through Germany to the UK, was not previously part of the core smuggling group. While some evidence ascribes him a functional role within the smuggling operation, the often contradictory information contained in the criminal file gives the impression that his position was marginal and he had no insights into the inner workings of the smuggling enterprise.

The only indication of regular cross-border movement by members of the original smuggling group, possibly even the relocation to the country of operation, is found where monitoring activities are described in the criminal files. In *case 1*, it was *01D* who observed the activities of *01A* and *01B* and also provided customers for the smuggled cigarettes. In *case 3*, *03A* reported

that all shipments were accompanied by either Russians or Lithuanians who kept “things under control” from the outside. In *case 2* the smuggling group did not put a similar security system in place and instead went through lengthy investigations to establish whether or not the initial shipment going to Sweden had been confiscated.

The fact that the smuggling groups saw themselves faced with a control problem in one form or the other, suggests that the initially recruited individuals (*01A*, *02BP* and *03A*) were in all likelihood not selected based on trust but based on opportunity and convenience, and the skills and knowledge needed for the purpose of setting up a new trafficking route. There is no indication that strong bonds connected the smuggling groups with the respective individuals they recruited. The relatively strongest bond appears to have existed between *02B* and *02BP* who knew each other from growing up in the same town in Poland. Stronger ties existed only further down the chain of recruitments, namely between *01A* and *01B* who were connected through a long lasting bond of friendship, and between *02BP* and *02BQ* who reportedly were relatives of some sort.

There is another factor which contributes to the overall weakness of the bonds linking the original smuggling groups with the newly created smuggling infrastructures. In all three cases it appears that down the chain of participants there was a decreasing level of awareness of the illegal nature of the underlying activities. In two cases (*1* and *3*) legal businesses were used as official receivers of shipments where the business owners (*01C* and *03W*) convincingly claimed ignorance of the contraband cigarettes hidden in the cargo. The same seems to apply to the forwarding agencies and hauling companies variously employed, respectively, in all cases.

Discussion

It is not easy to fit the findings from the three case studies into the broader context of research on transnational organised crime. There is, in fact, very little detailed, systematic research on criminal groups expanding their areas of operation across cultural and language barriers. Most of the pertinent academic literature is abstract and theoretical in nature. The only empirical studies specifically concerned with the transnational mobility, or the lack thereof, of criminal groups appear to be the ones conducted by Federico

Varese. However, he is concerned with “mafia transplantation”, i.e. “the ability of a mafia group to offer criminal protection over a sustained period of time outside its region of origin and routine operation” (Varese, 2006: 414; see also Varese, 2004). This means his focus is on “power syndicates” rather than “enterprise syndicates”, to use Alan Block’s (1983) terminology, and therefore he is dealing with criminal groups where group identity, group cohesion, group structure and group reputation play a substantially different role than in the case of illegal enterprises (see also Reuter, 1983; 1994).

Most research on transnational criminal enterprises, it seems, does not capture the expansion of areas of operation into ‘unknown’ territory. The establishing of network ties is typically described as a matter of individual events occurring within organically growing and changing transnational crime markets, primarily for drugs (Decker and Chapman, 2008; Desroches, 2005; Zaitch, 2002), but also for other illicit goods and services (Bruinsma and Bernasco, 2004). Unlike the cigarette smuggling groups presented in the three case studies, offenders in previous studies primarily appear to exploit opportunities instead of purposefully creating networks in the implementation of strategic business decisions (Morselli, 2001). In this respect the present analysis seems to contradict the empirical findings while lending support to the more conventional view expressed in journalistic and more general scholarly accounts of transnational organised crime as involving criminal groups strategically expanding their areas of operation.

An example for the journalistic treatment of the issue of the transnational mobility of illegal enterprises is provided by Ron Chepesiuk in his book on the Cali cartel. He presents a picture of the Cali cartel as a strategically operating international drug distribution business which in its time had systematically opened up new markets. In the following quote, Chepesiuk describes how the Cali cartel expanded its area of operation into Spain:

“The Cali cartel saw that the European drug market was ripe for penetration. When Gilberto Rodriguez and Jorge Ochoa moved to Spain in 1984, they bought a large ranch in Badajoz, near the border with Portugal, to serve as a base of operations from which they could analyze the potential for trafficking cocaine in Europe.

The Cali cartel reached out to tobacco smugglers from Galicia in Spain, who had a good knowledge of the region’s coastline and storage facilities that could be used to smuggle drugs. The cartel began to use boats to pick up the drugs from ocean-going vessels and bring them ashore”. (Chepesiuk, 2005: 109-110)

This account is in line with two key assertions found in Williams and Godson's comprehensive theoretical discussion of transnational organised crime; first that criminal organisations constantly seek new geographic markets and go where the rewards are greatest (Williams and Godson, 2002: 325), and second that criminal organisations, in order to overcome various obstacles associated with breaking into a new market, will seek the cooperation of a 'local partner' (Williams and Godson, 2002: 327) such as the Galician tobacco smugglers mentioned by Chepesiuk along with others groups, including the 'Italian Mafia' (2005: 111).

Only the first assertion, however, finds some support in the three cases of large-scale cigarette smuggling, namely in the case of the Bulgarian group which sought to exploit the perceived profitability of the German cigarette black market. There is no indication that any of the three groups considered searching for a "local partner" in the form of an existing criminal group. On the contrary, two of the three originally recruited individuals, *01A* and *03A*, were not locally based in the target country to begin with. In addition, neither of these individuals, nor any of the subsequently recruited individuals had a criminal record, let alone was a member of a criminal group, as far as can be learned from the criminal files. Moreover, as indicated, the respective networks also comprised a number of legitimate actors who were drawn into the smuggling schemes without knowledge of the nature of the scheme.

A further discrepancy exists between the three case studies on the one hand and widely held views in the academic and journalistic literature on the other regarding the importance of ethnic ties. Transnational ethnic ties are often seen as entry gates into a foreign country (see e.g. Desroches, 2005: 41; Williams & Godson, 2002: 331, 334). Ethnic ties were indeed underlying the network creation in two of the three cases. In *case 1* ethnic ties connected the Bulgarian smuggling group with *01A* as well as with *01B*, and in *case 2* all participants were part of the Polish diaspora, although the network that developed included both Poles and ethnic Germans born in Poland. However, ethnic homogeneity seems to have played only a superficial role in the network formation, while in essence recruitment occurred through the mobilisation of active or dormant social ties such as friendship, family, common childhood or mere acquaintance. The respective recruiters seem to have had few alternatives to choose from. In fact, the information contained in the criminal files gives the impression that every link bringing the smuggling groups closer to the intended countries of operation was pursued. Nothing

in the criminal files suggests that ethnicity provided the only underlying link, or that ethnicity added to the strength of network ties. In *case 2* mistrust characterised the relations within the Polish diaspora network, leading to the discontinuation of negotiations with *02BO* and to lengthy investigations into the honesty of *02BP* and *02BQ*. In *cases 1* and *3* essentially the same control mechanisms were put in place by the smuggling groups irrespective of the fact that in *case 1* an ethnically homogeneous (Bulgarian) network had formed while in *case 3* a Lithuanian (and possibly Russian) group of smugglers had recruited a German (*03A*) who in turn recruited another German, *03W*. In light of these control mechanisms, as noted above, it seems also fair to say that the three originally recruited individuals were not primarily selected based on trust but based on the possession of the skills and knowledge needed for the purpose of setting up a new trafficking route.

Although these cases of large-scale cigarette smuggling cannot be taken as representative for transnational organised crime in general, they provide further grounds for questioning the importance often indiscriminately ascribed to trust (von Lampe & Johansen, 2004). Kleemans, for example, based on an examination of numerous cases of “transit crime” in the Netherlands, argued that because of the need for trust in illegal activities and the basis of trust in strong social bonds, structural holes exist between countries and ethnic groups providing highly profitable opportunities for those able to bridge them (Kleemans, 2006: 179). The three case studies, in contrast, provide examples for the relative ease with which barriers between countries and ethnic groups can be overcome despite a lack of trust in criminal relations. Four factors seem to have been at play; first, the realistic expectation that offers to get involved in illegal activities can be made without fear of being reported to the authorities; second, the willingness to respond to such offers in light of economic hardship as in the case of *01B*; third, the effectiveness of explicit and implicit threats of violence, as reported, for example, by *03A*; and, fourth, the possibility to involve unwitting accomplices in a smuggling scheme to the extent that major elements of a smuggling operation can be outsourced to legitimate businesses (see also von Lampe, 2007).

Conclusion

Taking three case studies of large-scale cigarette smuggling enterprises as an example, this paper provides evidence that illicit enterprises are capable of implementing strategic decisions to expand their areas of operation, rather than solely acting opportunistically. While this finding is in line with conventional journalistic and academic accounts of transnational organised crime, namely the notion of strategically acting crime groups, it is argued that contrary to conventional views the profitability of markets is not the only motive for such strategic decisions, that cultural and language barriers are not necessarily bridged by forming alliances with “local partners”, and that ethnic links and strong bonds of trust do not seem to be crucial in expanding operations. Perhaps most importantly, the three criminal groups as such displayed little transnational mobility. The expansion into new areas of operation occurred through the direct and indirect recruitment of individuals and the outsourcing of tasks to legitimate businesses.

Future systematic research on the transnational mobility of illegal enterprises across a variety of areas of crime will have to show to what extent these are peculiarities of large-scale cigarette smuggling. It should be emphasised that, for example, the involvement of individuals without prior criminal record is a repeatedly reported characteristic of the cigarette black market, at least in central Europe (Vander Beken *et al.*, 2008; Van Duyne, 2003; von Lampe, 2005), though it is not entirely unknown in other illegal markets (see Desroches, 2005; Kleemans and Van de Poot, 2008). Likewise, the creation of criminal ties in the absence of underlying bonds based on trust has been observed most clearly, it seems, in the case of cigarette smuggling and in the largely similar case of alcohol smuggling (see von Lampe and Johansen, 2004).

Still, the data presented here appear sufficiently solid to undermine the certainty with which advocates and critiques approach the concept of ‘transnational organised crime’. There is an obvious need for a more in-depth examination of the phenomena. At the same time this means that current policies to combat ‘transnational organised crime’, perhaps more so than those aiming at ‘organised crime’ in general, lack a sound empirical and theoretical underpinning.

References

- Adamoli, S., A. Di Nicola, E.U. Savona and P. Zoffi, Organised crime around the world, Helsinki: HEUNI, 1998
- Besozzi, C., Organisierte Kriminalität und empirische Forschung, Chur, Switzerland: Rüegger, 1997
- Block, A., East Side, West Side: Organizing crime in New York 1930-1950, New Brunswick, NJ: Transaction Publishers, 1983
- Bruinsma, G.; W. Bernasco, Criminal groups and transnational illegal markets: A more detailed examination on the basis of Social Network Theory, *Crime, Law and Social Change*, 2004, 41(1), 79-94
- Chepesiuk, R., Drug lords: *The rise and fall of the Cali Cartel, the world's richest crime syndicate*, Wrea Green, UK: Milo Books, 2005
- Council of Europe, *Organised crime situation report 2004*, Strasbourg: Council of Europe, 2004
- Council of the European Union, *The smuggling of manufactured tobacco products in the European Union and its links with organised crime*, CRIMORG 90, 4 December 2003, 15618/03
- Decker, S.H., Townsend Chapman, Margaret, *Drug smugglers on drug smuggling: Lessons from the inside*. Philadelphia, PA: Temple University Press, 2008
- Desroches, F.J., *The crime that pays: Drug trafficking and organised crime in Canada*. Toronto: Canadian Scholars' Press, 2005
- Duyne, P.C. van, The phantom and threat of organised crime. *Crime, Law and Social Change*, 1996, 24(4), 341-377
- Duyne, P.C. van, Organising cigarette smuggling and policy making, ending up in smoke. *Crime, Law and Social Change*, 2003, 39(3), 285-317
- Duyne, P.C. van, The organisation of business crime. In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe, J.L. Newell (eds.), *The Organisation of Crime for Profit*. Nijmegen, NETH: Wolf Legal Publishers, 2006, 177-205
- Edwards, A. and P. Gill, The politics of 'transnational organised crime': discourse, reflexivity and the narration of 'threat'. *British Journal of Politics and International Relations*, 2002, 4(2), 245-270
- Felsen, D. and A. Kalaitzidis, A historical overview of transnational crime. In: P. Reichel (ed.), *Handbook of transnational crime & justice*. Thousand Oaks, CA: Sage, 2005, 3-19

- Fijnaut, C. and L. Paoli, The initiatives of the European Union and the Council of Europe. In: C. Fijnaut and L. Paoli (eds.), *Organised crime in Europe*, Dordrecht, NL: Springer, 2004, 625-640
- Freemantle, B., *The Octopus: Europe in the grip of organised crime*. London: Orion, 1995
- Herz, A.L., *Menschenhandel: Eine empirische Untersuchung zur Strafverfolgungspraxis*. Berlin: Duncker & Humblot, 2005
- Hobbs, D., Going down the glocal: The local context of organised crime. *The Howard Journal*, 1998, 37(4), 407-422
- Hobbs, D. and C. Dunnighan, Glocal organised crime: Context and pretext. In: V. Ruggiero, N. South, and I. Taylor (eds.), *The new European criminology: Crime and social order in Europe*. London: Routledge, 1998, 289-303
- House of Commons, *Treasury Committee, Excise Duty Fraud: Fourth Report of Session 2004-05*, London: The Stationery Office, 2005
- Joossens, L., F.J. Chaloupka, D. Merriman, A. Yurekli, Issues in the smuggling of tobacco products. In: P. Iha and F. Chaloupka (eds.), *Tobacco control in developing countries*. Oxford: Oxford University Press, 2000, 393-406
- Joossens, L., Raw, M., Progress in combating cigarette smuggling: controlling the supply chain, *Tobacco Control* 2008, 17(6), 399-404
- Kinzig, J., *Die rechtliche Bewältigung von Erscheinungsformen organisierter Kriminalität*. Berlin: Duncker & Humblot, 2004
- Kleemans, E.R., Organised crime, transit crime, and racketeering in the Netherlands. In: M. Tonry, C. Bijleveld (ed.), *Crime and Justice in the Netherlands*. Chicago: University of Chicago Press, 2007, 163-215
- Kleemans, E.R., Poot, C.J. van de, Criminal Careers in Organized Crime and Social Opportunity Structure, *European Journal of Criminology*, 2008, 5(1), 69-98
- Lampe, K. von, Not a process of enlightenment: The conceptual history of organised crime in Germany and the United States of America. *Forum on Crime and Society*, 2001, 1(2), 99-116
- Lampe, K. von, Organising the nicotine racket: Patterns of cooperation in the cigarette black market in Germany. In P. C. van Duyne, M. Jager, K. von Lampe, J. Newell (eds.), *Criminal finances and organising crime in Europe*, Nijmegen, Wolf Legal Publishers, 2003, 41-65
- Lampe, K von., Explaining the emergence of the cigarette black market in Germany. In: P.C. van Duyne, K. von Lampe, M. van Dijck, and J.L.

- Newell (eds.), *The organised crime economy: Managing crime markets in Europe*. Nijmegen: Wolf Legal Publishers, 2005, 209-229
- Lampe, K. von, Criminals are not alone: Some observations on the social microcosm of illegal entrepreneurs. In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe, J. Harvey (eds.), *Crime business and crime money in Europe: The dirty linen of illicit enterprise*. Nijmegen, NETH: Wolf Legal Publishers, 2007, 131-155
- Lampe, K. von, P.O. Johansen, Organised crime and trust: On the conceptualisation and empirical relevance of trust in the context of criminal networks. *Global Crime*, 2004, 6(2), 159-184
- Mitsilegas, V., From national to global, from empirical to legal: The ambivalent concept of transnational organised crime. In: M. E. Beare (ed.), *Critical reflections on transnational organised crime, money laundering, and corruption*. Toronto: University of Toronto Press, 2003, 55-87
- Mittelman, J.H., and R. Johnston, The globalisation of organised crime, the courtesan state, and the corruption of civil society. *Global Governance*, 5(1), 103-126
- Morselli, C., Structuring Mr. Nice: Entrepreneurial opportunities and brokerage positioning in the cannabis trade. *Crime, Law and Social Change*, 2001, 35(3), 2001, 203-244
- Passas, N., Globalisation and transnational crime: Effects of criminogenic asymmetries. *Transnational Organised Crime*, 1998, 4(3&4), 22-56
- Pütter, N., *Der OK-Komplex: Organisierte Kriminalität und ihre Folgen für die Polizei in Deutschland*. Münster, GER: Westfälisches Dampfboot, 1998
- Regional Intelligence Liaison Office for Western Europe (RILO), LASSO 2000: *Review on cigarette smuggling in Europe*. Cologne: RILO, 2001
- Reuter, P., *Disorganised crime: the economics of the visible hand*. Cambridge, MA: MIT Press, 1983
- Reuter, P., Research on American organised crime. In: R.J. Kelly, Ko-Lin Chin, R. Schatzberg (eds.), *Handbook of organised crime in the United States*, Westport, CT: Greenwood, 1994, 91-120
- Shelley, L., Transnational organised crime: The new authoritarianism. In: H. R. Friman and P. Andreas (eds.), *The illicit global economy and state power*. Lanham, MD: Rowman & Littlefield, 1999, 25-51
- Sheptycki, J., *Against transnational organised crime*. In: M.E. Beare (ed.), *Critical reflections on transnational organised crime, money laundering, and corruption*. Toronto: University of Toronto Press, 2003, 120-144

- Steffen, W., Grenzen und Möglichkeiten der Verwendung von Strafakten als Grundlage kriminologischer Forschung, in: Die Analyse prozeßproduzierter Daten, hrsg. von Paul J. Müller, Stuttgart: Klett-Cotta, 1977
- Vander Beken, T., Janssens, J., Verpoest, K., Balcaen, A., Vander Laenen, F., Crossing geographical, legal and moral boundaries: the Belgian cigarette black market. *Tobacco Control*, 2008, 17(1), 60-65
- Varese, F., Mafia transplantation, In: J. Kornai, B. Rothstein, S. Rose-Ackerman (eds.), *Creating social trust in post-socialist transition*, New York: Palgrave Macmillan, 2004, 148-166
- Varese, F., How mafias migrate: The case of the 'Ndrangheta in Northern Italy. *Law & Society Review*, 2006, 40(2), 411-444
- Wagley, J.R., *Transnational Organized Crime: Principal Threats and U.S. Responses*, Washington, DC: Congressional Research Service, CRS Report for Congress, RL33335, 2006
- Williams, Ph., Getting rich and getting even: Transnational threats in the twenty-first century. In: S. Einstein and M. Amir (eds.), *Organised crime: Uncertainties and dilemmas*. Chicago: Office of International Criminal Justice, 1999, 19-61
- Williams, Ph., R. Godson, Anticipating organised and transnational crime. *Crime, Law and Social Change*, 2002, 37(4), 311-355
- Zaitch, D., *Trafficking cocaine: Colombian drug entrepreneurs in the Netherlands*. The Hague: Kluwer Law International, Studies of Organised Crime No. 1, 2002

Out of step? Mobility of ‘itinerant crime groups’

Stijn Van Daele and Tom Vander Beken¹

Introduction

Criminologists have studied crime and mobility from two different theoretical angles. Firstly, empirical analysis was undertaken to discover patterns in crime mobility. One of the findings of this type of analysis was that the majority of the offences are committed near the residence of the offender. This is called the distance decay pattern and has been observed on both an aggregate and an individual level (Besson, 2004: 188–192; Canter and Hammond, 2006; Kent, Leitner, and Curtis, 2006; Rattner and Portnov, 2007; Rengert, Piquero, and Jones, 1999; Rhodes and Conly, 1981; Rossmo, 1995; Van Koppen and De Keijser, 1997), although individual variations exist (Smith, Bond, and Townsley, 2009). The second type of criminological research focuses on the explanations of crime patterns and mobility like target features (Bernasco and Nieuwbeerta, 2005; Patricia Brantingham and Brantingham, 1995; Cornish and Clarke, 1986; Lattimore and Witte, 1986; Palmer, Holmes, and Hollin, 2002), offender characteristics (Alison, Smith, and Morgan, 2003; Canter and Alison, 2000; Gabor and Gottheil, 1984) and knowledge about the area (Patricia Brantingham and Brantingham, 1981: 57–60; Rengert and Wasilchick, 1985).

This paper addresses crime and mobility from these two angles related to the so-called ‘itinerant crime groups’ in Belgium. Law enforcement authorities in Belgium take special interest in such groups which they describe as criminal gangs, mainly from Eastern European origin, specialised in systematically committing all sorts of property crimes, ranging from burglaries and robberies to ram raids and metal thefts. These groups have been given the name ‘itinerant’ because of their high degree of criminal mobility – i.e. mobility to, from and during criminal activity. ‘Itinerant crime groups’ is the term used, but there is more than just mobility ascribed to these groups,

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making it interesting to see whether mobility is indeed linked to the other attributed features.

First, the mobility patterns of these groups are analysed to find out if these so-called 'itinerant crime groups' indeed travel over greater distances than other offenders. It will be stated that these groups are indeed more mobile and, thus, can be called 'itinerant' with reason.

Second, some explanations are offered for the special mobility patterns of these groups related to target features and offender characteristics.

The framework

Organised property crime and, in particular, so-called itinerant crime groups have received considerable attention in Belgium since the start of the twenty first Century. The phenomenon was first observed in the late 1990s by the Belgian police (De Ruyver, 2006a). On the basis of a limited number of case files (Dupuis, 2004), the authorities believed they had discovered a new phenomenon. After half a decade of fine-tuning, the phenomenon was defined and adopted in Belgian criminal policy, in the so-called *Kademota Integrale Veiligheid* (Belgian Ministerial College, 2004). Policies concerning these crime groups, and how to define their members, were updated by the government in a revised action plan (22/03/2007), when 'itinerant crime groups' were identified as having the following characteristics:

- an association of criminals;
- systematically committing residential burglaries or burglaries of commercial properties, including ram raids, cargo thefts, metal thefts or thefts of construction vehicles and materials;
- originating mainly from the former Eastern Block;
- operating or directed from abroad or from large conurbations in Belgium;
- committing a significant number of crimes over a large area; and
- possibly, using minors to commit crimes.

Between 60 and 80 such groups have been identified each year in Belgium since 2004 (De Raedt, 2006). The size of these groups changes, indicating that their structure is flexible, and the organisations have become smaller (De Raedt, 2006: 41). An overview of the case files reveals a large variety of groups. Some only comprise around five offenders, while others have more

than 70 members. The number of offences committed range from a couple of dozens to, exceptionally, more than 1.000 crimes.

Of course, the prevalence of property crime is not new. What is new, however, is the growing involvement of criminal gangs and the particular features of these groups (Eastern European origin, high mobility). Organised property crime by these groups is raising concerns not only in Belgium, but also in some of its neighbouring countries, under a variety of names. In the Netherlands, France and Germany they are labelled, respectively, 'mobile banditism' (Huisman and Van der Laan, 2005; Van der Laan and Weenink, 2005) 'itinerant crime' (Marro, 2002) and 'Eastern European criminal groups' (Dortans, 2007). In each of these countries a defining element of these groups is that they systematically commit property offences. Engagement in property crimes, however, does not make them completely different from other criminal gangs or organisations. Spapens and Fijnaut (2005: 82) distinguish four offender types in their study on organised burglary. Next to itinerant crime groups –or mobile gangs– as they call them, 'professional thieves' may also operate in groups and/or work in organised structures. The same concerns car theft and smuggling of stolen vehicles, another example of property crimes executed by criminal groups (Bruinsma and Bernasco, 2004: 86; Spapens and Fijnaut, 2005: 98). Then what is it that makes these so-called 'itinerant crime groups' this special? Although the choice of words varies to describe these groups, mobility is a recurrent issue. We will therefore first look into mobility patterns of these groups, in order to answer the question: do offender mobility patterns of 'itinerant crime groups' differ from other offenders, and, if they do, to what extent? Second, if such differences emerge, we will try to find some explanations for these differences. Do they choose different targets or should the differences rather be attributed to offender related issues?

The method

Two data sources have been used. As such, triangulation of quantitative and qualitative approaches takes place (see for example Kleemans, Korf, and Staring, 2008: 328-329; Silverman, 2001: 233; Tarrow, 2004: 178).

For general information, the general database of the Belgian federal police was used. We obtained information of all serious property crimes (these are

all property crimes with aggravating circumstances) with known offenders for the period 2002–2006. This resulted in information on more than 64.000 offenders, committing more than 87.000 offences. ‘Itinerant crime groups’ are defined as having the following four key features: they commit property crime, offences are committed systematically, the criminals act as a group or ‘association’, and they are more mobile than other offenders. These four features are adopted from the definition. The first condition, property crimes, is met by the nature of our data. The second, systematic commitment of offences was put into operation by using multiple offending. The conditions for ‘multiple offences’ are either a limited number of offences for which the criminal was convicted, or a more substantial number of registered contacts with the police authorities, without the requirement of conviction. In terms of a limited number of offences resulting in a conviction, the number needed to achieve such categorisation can be five (Wartna and Tollenaar, 2004: 34) or even two (Lovegrove, 2000: 454). In the case of offences that do not result in conviction, ten registered contacts is a recurrent condition (Elffers, 2003; Ferwerda, Versteegh, and Beke, 1995). Given the nature of our data, the second approach fits best. In relation to the third factor, that of criminals acting as a group, co-offending (Weerman, 2001, 2003) was considered, because the data allowed no interpretation of group structure. The advantage of this approach is that the assumption of fixed structures, which do not necessarily comply with reality (Ruggiero, 1996: 5–6; Shelley, 1999; Von Lampe, 2005: 231), can be put aside.

In order to establish mobility patterns, mobility was herewith not assumed as a necessary condition. Despite the seeming contradiction this embodies, this is done in order to avoid tautology. After all, the first part of the paper aims at finding out whether these groups are indeed more mobile than other criminals. If we would only include mobile offenders in our analysis, we would obviously find them to be more mobile than others. Moreover, mobility can vary for individual offenders: an offender may commit most of his crimes near home, but this does not mean he may also commit offences far away or the other way around. Although one can of course calculate mean travelled distances for each offender, mobility is related to each individual offence. It is neither related to offenders themselves nor to fixed patterns, unlike other features as Eastern European origin, multiple offending and group operations.

The second additional data source consists of criminal case files of which we studied 27 cases of so-called itinerant crime groups. Contacts were made

with judicial police forces in five districts with various features: geographic location, size, degrees of urbanisation and whether the district mainly functions as target area or more as a starting point. We explained the focus of our research and asked for maximum heterogeneity in the case files. The persons involved supplied us with a number of case files, which they considered as interesting for our research. This means that the set of cases do not represent a random sample.

This approach is far from perfect, as it left our respondents with the possibility to choose which cases they could provide and which not. However, we believe this method has several advantages as well. Within most districts, several people were involved, each one having their own perception of which case being worth studying and which not. As we asked for heterogeneity in the cases, we believe no one better than those people involved in the investigation could evaluate this. They had carried out the criminal investigation –or knew the one who had– and often knew by heart what formed the particular features of each group. As a direct consequence, we could also obtain some additional background information useful to understand the files to their full extent. Thus, the potential bias of the people involved could be compensated for by the number and variety of districts, the number of persons contacted and the variation asked for.

The result is a data set of 27 case files of so-called 'itinerant crime groups'. These cases provided information on 49 offenders fulfilling the conditions we used to distinguish 'itinerant crime groups' in the database. Two cases were eliminated from the analysis, one dealing with criminal fencing and therefore providing only indirect information on serious property crimes, the other concerning a case, first believed to be an 'itinerant crime group' but later turned out not to involve any form of group or network. Because the focus in case selection was put on heterogeneity and not on representativeness, only qualitative conclusions can be drawn and we will not make quantitative statements. However, even without the possibility to quantify the results, relevant information can be provided. One should not forget that the phenomenon is quite new and, except for a couple of valuable police studies (see for example De Cock, 2007; De Ruyver, 2006b; Dupuis, 2004; Huisman and Van der Laan, 2005; Paulussen, 2007; Stichting Maatschappij Veiligheid en Politie, 2006; Van der Laan and Weenink, 2005) academic interest for the phenomenon is new and rather limited (see Ponsaers, 2004; Van Daele, 2008; Van Daele, Vander Beken, and De Ruyver, 2008 for some existing papers).

Offender mobility

Mean distance and decay

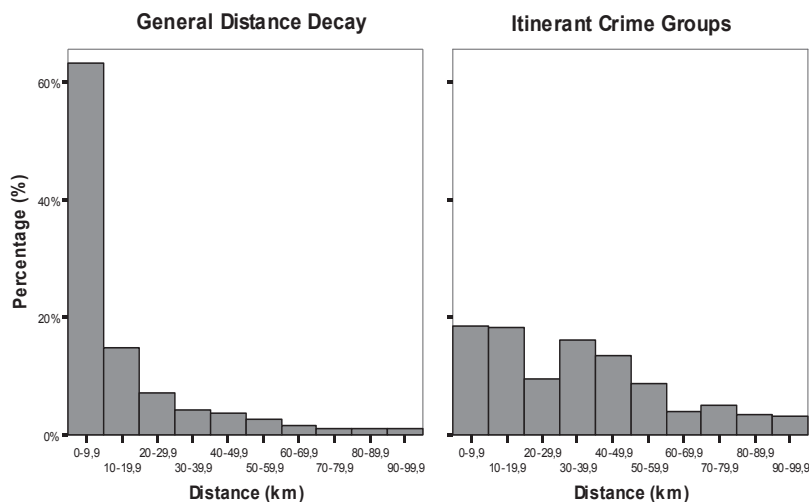
A first thing we want to find out is whether these groups are mobile indeed. The easiest option to describe travelling behaviour is to discuss and compare distances travelled by offenders. In order to do so, we use the data from our general police database. Although not always correct (Wiles and Costello, 2000: 48), distance between residence and place of offence is mostly used to calculate crime travelling behaviour. Looking at travelled distances, we observe a mean distance of 40,18 km. However, this also reflects distances of offenders living abroad, which do increase to over 11.000 km in our sample (for offenders residing in Chile. It is obvious that these offenders need an anchor point closer to Belgium. Moreover, we do not have any detailed information on residences abroad. For offenders living in one of Belgium's neighbouring countries, this possibly creates a high error margin. Therefore, it seems more appropriate to calculate distances of offenders living within Belgium. The average distance of all crime trips by these offenders living in Belgium is 17,2 km which is still considerably more than the figures found in literature (see for example Edwards and Grace, 2006: 223-224; Phillips, 1980: 157; Reppetto, 1974; White, 1932: 507). Distances travelled by the itinerant crime groups are higher and rise to a distance of 40 km. A t-test indicates that this differs significantly from the average crime trips travelled by other offenders, being 16,2 km ($t=35,70$; $df=3034,43$; $p<0,001$).

Because this approach might be biased, two variations might well be useful. Weighting all crimes equally, criminal behaviour of mobile multiple offenders influences the results. We, therefore, take a brief look at the mean travelled distance for each offender. Taking the mean of all *personal* average travelled distances implies some loss of information. It weights each offender instead of each crime/case and provides a better view on the offender population, not the offence population. Still, we notice a total mean distance of 14,6 km. Again, the average distance of the itinerant crime groups (37,4 km) differs significantly from the other offenders not including those of itinerant crime groups (14,5 km) ($t=9,28$; $df=124,91$; $p<0,001$). We also noticed that our observed distances in this approach are slightly lower than in the first one. An offender-based calculation of distances provides slightly lower averages than an offence-based assessment. Overweighting multiple offenders by

counting the number of crimes as well, augments the average distance travelled. Thus, multiple offenders tend to travel further, which conforms with the findings from previous research by Barker (2000).

A second variation takes into account offences committed by multiple offenders. In our first approach, a crime committed by two offenders is considered twice, and so is the distance. This would not bias the results if it should be committed somewhere in the middle between both residences. However, according to Bernasco (2006: 147), co-offenders have the tendency to commit their crimes not in between their residences, but closer to one of the offender's residence. Therefore, if one offender resides in town A and the other in B, the crime will more likely be committed close to town A or B, than somewhere in between. Thus, it might be worthwhile to aggregate our data on offence level and consider minimum distances. This results in an average minimum distance of 15,2 km. In this perspective, we considered crimes to be committed by itinerant crime groups as soon as at least one of the offenders meets all three features. For the so-called 'itinerant crime groups', this average minimum distance is 37,1 km. This is slightly lower than the initial 40 km, but still significantly different from the 14,4 km observed with other offenders ($t=26,91$; $df=1937,71$; $p<0,001$). Thus, co-offending and an eventual spread of offenders throughout the country cannot explain the observed differences.

The majority of crimes is mostly committed close to home, declining as distance increases (see for example Rengert *et al.*, 1999; Van Koppen and De Keijser, 1997). This can be presented by a graph, after which a so-called distance decay curve appears. For our total data set (left hand figure), we observe this curve clearly: 61% of the crimes are committed within 10km from home, gradually declining afterwards.



For ‘itinerant crime groups’, however, this is less straightforward: only 17% of their crimes are committed within 10 km from home and between 30 km and 40 km, still 15% of the crimes takes place. Although they do not exclusively operate far from their residence, the percentage crimes which is committed near home is considerably lower than it is for other offenders. Although we observe some degrees of ‘distance decay’, this is less obvious for the so-called itinerant crime groups than it is for other offenders.

Range as a possible alternative

Mean travelled distances demonstrate that itinerant crime groups are more mobile than other offenders. However, one should avoid rash conclusions, as these distances contain some difficulties for interpretation. Three main problems can be mentioned. First, in order to calculate the residence–crime distance, both locations have to be known. For the crime site, this is quite easy, at least for these types of crimes. One should not forget that we are mainly dealing with burglaries, robberies and car thefts, crimes for which the geographic location can rather easily be defined. For the residence, however, this is less obvious. Only half of the offenders (48,2%) have a registered residence in our database and this is even less for non-Belgian (41,2%) and particularly Eastern European offenders (35,8%). Thus, calculating travelled distances in a traditional way only provides information on about half of the offenders.

Second, residence is not always the starting point for the criminal trip. As already mentioned, co-offenders will tend to start from the residence of one of them, biasing the travelled distance for the other (Bernasco, 2006: 147). Additionally, there is even more to discuss. Wiles and Costello (2000: 40) found in their Sheffield study that other locations may function as anchor points as well, for example work or a friend's home. In that case, measuring the distance between home and the place of offence may provide incorrect information on the actual crime trip. It is therefore important to know and take into account the true geographical starting point of the crime trip.

Third, Ponsaers (2004) pointed out that anchor points for itinerant crime groups are difficult to assess. These groups travel around and it is assumed, have no fixed residence. Thus, the distance between residence and place of offence offers no solution, not because it neglects other anchor points, but simply because 'the residence' does not exist.

A question we should therefore raise is: do we actually need to know the residence in order to calculate crime travel? Although it turns out to be the most widespread way to calculate crime travel, it is not the only solution. Morselli and Royer (2008) used ranges to discuss criminal mobility and Barker (2000) included the geographical relationship between a burglar's crimes in her analysis of crime travel. In geographical profiling (see for example Canter, 2008; Kocsis, Cooksey, Irwin, and Allen, 2002; Rossmo, 1999; Rossmo, Thurman, Jamieson, and Egan, 2008; Van der Kemp and Van Koppen, 2007), the residence is derived from their criminal behaviour. As residence is the end product here, analysis is performed and trends and patterns being described before knowing the residence. This approach indicates that it is possible to study crime patterns even without knowledge of the residence.

Given the examples of offender mobility research without reference to the residence and taking into account the difficulties concerning traditional distance measures, we calculated the range of operation of each offender. We therefore took the distance between the two crimes that were the most remote from each other. Of course, this implies that this range can only be calculated when two or more crimes occurred. Hence, offenders committing only one crime were excluded from this analysis. The mean range for the remaining offenders in our sample is 20,36 km, while this increases to 93,8 km for the itinerant crime groups. Thus, it is fair to say that itinerant crime groups are actually more mobile than are other offenders.

Moving towards explanations

Theory

Both traditional distance measures and range calculation shows that itinerant crime groups are more mobile than other offenders. A next step, however, is to establish which features may explain this behaviour. 'Explaining' should hereby not be considered in a direct way. Although some authors use distance as a dependent variable (see for example Paul Brantingham and Tita, 2008; Capone and Nichols, 1975; Meaney, 2004: 123; Van der Kemp and Van Koppen, 2007: 354), other authors argue that it is an independent variable (see Bernasco and Luykx, 2003: 982-983; Elffers, Reynald, Averdijk, Bernasco, and Block, 2008; Kleemans, 1996: 94-95). Notwithstanding this discussion, distance is one of the factors that are of interest when studying crime travel. Therefore, as distance increases, other aspects should compensate for that and in this way, these other measures can 'explain' changing distances.

Rengert (2004) distinguishes three basic elements that determine the journey to the crime: the anchor point or reference point of the offender, the directional bias and the distance. We believe this reveals three main domains. Anchor point is one of the features referring to the offender. Other offender characteristics can be considered as well, for example age, ethnicity and sex (Gabor and Gottheil, 1984). Direction seems to reveal something about the crime trip itself, but when we look deeper into Rengert's conception of 'direction', we notice that he discusses not the trip, but more the chosen target area, large cities for example (Rengert, 2004: 171-172). Thus, target related issues can be considered the second explanatory domain. The third and final issue refers to distance.

The target oriented approach is first studied. Offenders will only travel far when their earnings will make the trip worthwhile. Bernasco and Luykx (2003) broke the target oriented approach down into three issues: attractiveness, opportunity and accessibility. Attractiveness hereby refers to the expected gains, opportunity to the expected chances of success and with accessibility, the ease with which a target area can be reached is meant (Bernasco and Luykx, 2003: 986-987). In this last perspective, attention is paid to certain barriers (Elffers, 2004) and the structure of street networks (Beavon,

Brantingham, and Brantingham, 1994) which may influence the crime trip as well.

As already mentioned, the anchor point plays an important role in offender related explanations. However, there is more to it. Gabor and Gottheil (1984) found that the least mobile offenders were young, inexperienced and part of a visible ethnic minority. Following their observations, we look into the personal characteristics of the offenders involved. Another important issue refers to the awareness space of offenders. Brantingham and Brantingham (1981) use the term awareness space to describe those parts of the environment offenders have some knowledge of. As such, an action space is developed, based on both criminal and innocent activities, the latter mainly being at home, shopping, work and entertainment areas (Patricia Brantingham and Brantingham, 1981: 35).

Target oriented results

Attractiveness

We first looked deeper into the target related explanations. Attractiveness of targets aimed at by itinerant crime groups is split into two aspects. On the level of target choice, itinerant crime groups tend to go less for commercial targets (45% of the targets are dwellings) than other offenders (only 13,6% dwellings). As commercial targets are expected to be more profitable and high gains are correlated to high mobility (Morselli and Royer, 2008), itinerant crime groups do not compensate for their crime travelling by earning more profits.

On a higher geographical level, however, attractiveness does affect target choice. Each Belgian communality has been attributed a welfare-index, based on the average income. In general, property crimes are mostly committed in relatively poor towns and cities (average welfare-index 96,8), while itinerant crime groups tend to commit their crimes in richer areas (welfare-index 104,8). However, these itinerant crime groups mainly live in poorer areas (welfare-index 88,4) than other offenders do (welfare-index 94,5).² Thus, although the crimes committed by itinerant crime groups are not the most profitable ones, they do target rich areas. In his study on burglary, Mawby (2001: 72) describes this phenomenon as 'rich pickings': rich areas

² All differences here were significant at the .001 level.

attract more offenders from outside, while poor areas are targeted mainly by near-by offenders. Moreover, itinerant crime groups appear to select a target area and only later on choose their particular targets (Bernasco and Nieuwbeerta, 2005: 297).

Opportunity

In order to measure opportunity, we divided the number of crimes in our sample (these are the crimes for which the offender is known) by the total number of serious property crimes for each community. In this way, opportunity is measured in a pure sense, by calculating the chances of walking away after the crime. Strange enough, itinerant crime groups do not commit their crimes in successful areas: their mean success rate is 0,89 while it is 0,91 for other offenders. What is observed, however, is that these groups commit more crimes in rural areas, the average population density being 705,0 persons per square kilometre, versus 2029,7 for other offenders. Although the success rate in these areas is lower, offenders may perceive otherwise, because there are less people around. In order to confirm this, however, more information on motivational aspects of offenders is needed.

Accessibility

A final issue in target related explanations refers to accessibility. It is argued that offenders aim mostly for those targets which are easily accessible. If this is the case on a local level, why would it not be so on national level? Fink (1969) found that external offenders commit most of their crimes near major highways, in this way keeping the risk of accessing an unknown region within certain boundaries. Elffers (2004) discusses the barriers on the journey to crime. He pays attention to rivers and landmarks, but on larger scale, this will only play a minor role. Next to inhibiting barriers, there might as well be facilitating factors, compensating for these barriers. The most visual are arterial roads, particularly motorways. In a number of cases, the use of motorways has been observed: offenders driving over 100 km, committing a couple of burglaries and returning afterwards, proven by tracing the extensive cell phone traffic. Remarkable is the fact that this is not confirmed in our database as an explanatory issue. Yes, itinerant crime groups commit their crimes near motorways (68,7%), but this is even more the case for other offenders (75,4%).

Some target oriented observations seem to explain the mobile behaviour of itinerant crime groups: they target rich areas, rural areas and case file analysis shows the use of motorways. However, these types of explanations are insufficient for several reasons. First, it is unclear why rural areas would be targeted, because they are not characterised by higher success rates. Second, highways appear to be used by other offenders as well. Although this is able to explain mobility, it does not explain the differences between mobility of itinerant crime groups and other offenders. And third, this can be said for all target oriented features: they are not different for other offenders. Why would other offenders engage less in 'rich pickings' and stay more within their own neighbourhood? Therefore, explanations from another perspective are investigated as well: from the point of the offender.

Offender oriented results

Offender characteristics

Not only target features may influence the criminal trip. Offender related issues play a role as well. In this perspective, three main issues are dealt with: offender features, anchor point and awareness space. Members of 'itinerant crime groups' are slightly older than other offenders, but the difference is fractional and not significant. Case files show that most offenders are rather young or middle-aged. Several groups contain older offenders born in the 1950s or even the 1940s. A slightly larger proportion is born in the 1960s. The vast majority of nearly all itinerant crime groups are perpetrators born in the 1970s and the first half of the 1980s. Most offenders are in their twenties or thirties. Several groups contain older offenders as well.



Most offenders are experienced too. As a minimum of ten crimes has been set as a condition, all offenders are experienced. But there is more. They often already have a criminal record, either in their home country, in Belgium or even a third country. The crimes they have been known for mostly include property crimes, but also violence –whether or not while committing property crimes–, fraud, forgery and sometimes even drug crimes. While most offenders are adults and often experienced, this is not always the case. Two groups in our sample use minors for criminal purposes.

Itinerant crime groups are from Eastern European origin. As such, they can be considered as part of an ethnic minority. However, this forms no visible minority and, thus, constitutes no barrier for mobility. Several groups have no homogenous composition. Participating people have nationalities ranging from all sorts of Eastern European nationalities (those already mentioned above, but also offenders originating from Ukraine, Bulgaria, Slovenia, Russia, Czech Republic, Belarus) to Western European offenders (French, Dutch, Belgian and naturalised Belgian) and even Southern European (Italian) and Northern African (Moroccan) offenders.

Perhaps with the exception of age for some of them, itinerant crime groups are experienced, not part of a truly visible ethnic minority and thus conform what Gabor and Gottheil (1984) found as features of mobile of-

fenders. Yet, there should be more, because personal characteristics can be attributed to offender mobility, but cannot really explain it.

Anchor point

As one of the composing features of the crime, the starting point can play a vital role. Our case file analysis showed that many such offenders stay in Belgium illegally and only for rather short periods. This seems to confirm the travelling lifestyle hypothesis, stating that these groups have no fixed anchor points. However, looking at the individual offenders is a too limited perspective and group offending cannot be explained by making the sum of all perpetrators individually (Tillyer and Kennedy, 2008: 81). From a group point of view, itinerant lifestyles account for only a part of these groups. In studying journey-to-crime patterns, residence is often used as starting point. Because this may be incorrect (Wiles and Costello, 2000), Rengert (2004: 169-170) suggests to distinguish anchor point from residence, in which 'anchor point' constitutes the starting point for the criminal trip. Four types of anchor points have been observed in the case files of itinerant crime groups, three of them being fixed, at least to some extent.

The majority of groups have at least one offender who is embedded in the local society and lives in Belgium. He offers the other offenders a place to stay. This can be done by providing his own residence or another premise he owns/rents. If they do not have such a house or apartment, these locally embedded persons have connections with people who do. Thus, the offenders mostly live together, nearby or even with the embedded offender, making the residence of the latter appropriate to start studying crime-travelling behaviour.

A second typology, closely related to the one described above, consists of groups with several offenders, mostly residing in separate premises and starting their crime trips from a particular central point which functions as meeting point. Although anchor points in this type are conceptualised differently than in the previous one, crime travel can be assessed without further difficulties. Once the location of the starting point is known, the journey-to-crime can be studied, particularly because the group members tend to reside nearby this anchor point.

A third type creates more problems at first sight. These groups have no fixed residence and can be considered 'itinerant criminals' in the way Macdonald (1993) describes them. These groups have an itinerant lifestyle and

their mobility should not be necessarily attributed to criminal activity. However, giving these groups a closer look, their mobility becomes less obvious. They mostly stay within the same trailer camp or at least the same area for some time, making it possible to assess this as their present anchor point. This does not mean that this anchor point will not change at all. However, it will mostly stay the same within the time span of the police investigation. Two subtypes of this group are observed. One is the Eastern European gypsy group, with a clan-like structure and involving women and children in criminal activities as well. The other is what we call the 'border region crime group', consisting of family members too, not infrequently involved in ram raids and operating at both sides of national borders.

The fourth and final group type uses multiple temporary bases. This type has only been encountered once in our sample. The group members have no clear relationship with their residence and it is not possible to track when they stayed where. This does not mean, however, that mobility is part of their general lifestyle. They do not have a fixed residence here, but only come over to grasp what they can get and return home after their operations. In that perspective, mobility is built in their criminal way of life.

Journey-to-crime of offender groups may cause problems, because distance should be measured from two points and mostly, operations will be located nearby the anchor point of one of the offenders (Bernasco, 2006: 147). For our subject groups, this is mostly no problem, as the anchor point for one offender is the same or very nearby as for the others.

Study of the anchor points of itinerant crime groups informs us about two things. From a theoretical perspective, larger travelled distances cannot be attributed to wrong registration of the anchor points. These offenders are mobile after all, particularly in their criminal behaviour. Therefore, there is a need for further analysis to explain this high degree of mobility. From a practical perspective, anchor points can be assessed. This is quite important, as the anchor points create opportunities to investigate and capture the totality of a group, not only the people committing the crimes, but other actors being involved as well. By targeting those individuals providing housing opportunities and support, the fight against these groups can be raised to a more structural level. These anchor points were often localised in similar, so-called vulnerable, neighbourhoods and sometimes even the same anchor points returned. Although this has only been observed once in our analysis, one of the contacted police officers mentioned this as being quite common, particularly in cases where third parties provide temporary residences.

Awareness space

Brantingham and Brantingham (1981) defined the awareness space as the area of which offenders have knowledge. The gaining of this knowledge is based on both criminal and neutral activities (Patricia Brantingham and Brantingham, 1981: 35). Neutral activities can include work, school, shopping and leisure. In our analysis, this has been observed rarely. Yet, this does not imply that an awareness space is completely absent.

Our case file analysis reveals that, after the decision to commit house-breaking has been taken, there is often little or no further preparation. Bennett and Wright (1984: 45-46) called this typology 'the search'. In their sample, nearly half of the offenders belong to this type. Other authors observed this typology as well, also in Belgium (see Verwee, Ponsaers, and Enhus, 2007,: 104-106). Repeat victimisation occurs regularly. Six groups hit the same targets during their operations. Another group does not really target the same premises, but always targets the same type of holiday homes, with exactly the same layout. For burglaries, repeat victimisation is not an exclusive operation method of these groups. On the contrary, re-victimisation is quite common (Nee and Meenaghan, 2006: 946). Itinerant crime groups follow no totally different preparation scheme than other burglars either. What is rather typical, however, is that they often operate in series.

One possible explanation for this serial behaviour is that they do not fear police action (De Cock, 2007). They do fear imprisonment, however, particularly if it were in their home country (De Cock, 2006). As a consequence, various risk reducing measures have been observed. One often encountered strategy is reconnaissance activity, noticed in 18 out of 27 case files. Most reconnaissance activities were performed shortly –one or a couple of days– before the criminal operations. Concerning housebreaking, reconnaissance was often limited to a rather short exploration of the area, not infrequently by other accomplices than those doing the burglary later on. For commercial burglaries, this was more systematic: more information was obtained and targets were picked more carefully. One group had inside information on their targets and another had a map with all companies of their target type in Belgium and France.

Using strategies such as repeat victimisation, planning, reconnaissance and mapping, these offender groups become familiar with their target areas and become aware of the features of their region of operation. Despite some exceptions, no information on 'innocent creation of awareness space' is

known for these groups. Repeat victimisation by the same groups may be an explanation for further criminal activity, but it does not explain the initial criminal behaviour within a certain region. In general, crime trips into unknown territories are relatively rare (Palmer *et al.*, 2002: 12; Van der Kemp and Van Koppen, 2007: 353). For the itinerant crime groups, reconnaissance activities and maps can function as awareness space generators. Nevertheless, as there is already some criminal intent involved, the composition of this awareness space emerges mostly not in an innocent way. Awareness space is therefore less straightforward as it is for other offenders.

International orientation and distance perception

We briefly discussed some target and offender oriented features to explain the high degrees of mobility of itinerant crime groups. Although some of these did provide some useful information, there is more. A number of features carry information on the broader framework in which these groups operate. One of them is group structure. The Belgian annual report on organised crime (Dienst voor het Strafrechtelijk Beleid, 2005: 32-34; 2007: 62-64) distinguishes four levels of organisation, ranging from highly structured and internationally active to opportunistic, temporary active groups. The highly organised groups can be dealt with as criminal organisations, but for the small groups, this is less likely. Our analysis found both highly structured as well as hardly structured groups, including those in between.

At one extreme, we studied a highly structured organisation of Georgian origin. The group was known mainly for the organisation of vehicle thefts and contained various organisational levels. There was a leader, residing in Belgium and living in great luxury. He had some people he trusted and worked closely together with. Other people were situated a bit lower in the hierarchy: couriers, a forger and several people involved in the maintenance of the obchak –a word used to describe the system of social and financial security within Russian-like criminal organisations (see for example Lyman and Potter, 1997). At the lowest level were the executioners of the crimes. They had a much less luxurious lifestyle and were sometimes ‘transferred’ from this gang to other gangs abroad. This group was oriented in an international way: part of the members of these groups live in Belgium, they have

contact with groups in other EU countries (for example France, Spain, Germany, Italy) and operate in various countries.

At the other extreme, we found a group, coming over to Belgium for a short period. Offenders stayed with a Belgian couple and operated in small groups. There was no real structure or leadership and the offenders lived in poor circumstances. Groups of this type are oriented in what we call a 'bilateral international' way: they have contacts with people in their home country, but not in other countries. Structural features of most groups are situated somewhere between the two cases described above.

The same international focus is found in fencing activities as well. These are not always investigation priorities and may therefore remain unclear in some cases. Nevertheless, some relevant information could be obtained. Lu (2003), in a study on vehicle theft, found that mobility patterns after crimes may as well reflect distance decay and be rather similar to traditional journey-to-crime patterns. The criminal fence can be an important factor in crime, because the relationship between the criminal receiver and the thief is essential for both parties. Nevertheless, attention for the criminal fence is rather limited. Sutton (1998) distinguishes five types of fencing markets, ranging from commercial sales to hawking i.e. directly selling to consumers in clubs and pubs.

Studies showed criminal receivers not always being professional receivers/criminals (Kruize, 2007: 53-56) and fencing often occurring through informal ways (Kleemans, 1996: 71). Concerning the itinerant crime groups, some professional receivers were described in the files. One case involved a fence dealing with expensive jewellery. In some other cases the fencing took place in one or more pawnshops and for metal thefts, stolen goods are often sold to scrap dealers. This does not mean that these receivers are always aware of the criminal nature of the goods. Yet, while some cases involve professional receivers, most fencing activities take place through informal networks. These can be situated on a local level or abroad. Local fencing takes place via locally embedded persons or within the informal networks of the group (for example gypsy communities). In general, these groups steal easily disposable goods like jewellery, money and small electronics. One case involves a group being active in thefts of working tools. Buyers were then sought through a number of phone calls. In other cases, goods and vehicles were sold on second hand markets.

Most groups find easy ways to sell their stolen goods. Nevertheless, alternatives exist. First, some groups steal goods they do not have to sell, because

they need not be sold. This can be the case for money, but also for small amounts of jewellery and small electronics. Typical for some of these groups, however, is that they steal consumables: food, drinks and cigarettes. This is often the case for small, loosely structured groups and traveller clans. A second alternative is international fencing. A majority of the groups in our sample let the people in their home country benefit from their criminal behaviour. This includes transporting stolen goods (mostly by car) and stolen vehicles (mostly driven, rarely by boat), but also sending money home, often through money transfer companies or by car. Fencing activities for itinerant crime groups vary from own use and local activities through international fencing and letting the family benefit from the earnings. This variation offers opportunities to find out to what extent groups and group members still have connections with their home country or even third countries and their degree of embedment in local society.

It is not inconceivable that levels of organisation and international orientation are also reflected in criminal behaviour: if one travels for example to Spain to meet the leader(s) of another group or if goods are often transported to the other side of Europe, then why not travel to the other side of Belgium to commit a number of burglaries? In this way, even without truly being itinerant i.e. travelling criminals (see Macdonald, 1993), offenders can develop high degrees of mobility as routine activities (Cohen and Felson, 1979) and, therefore, perceive distances less inhibiting than other offenders do. This is also found in individual offender mobility. Although most groups have anchor points in Western Europe, the group members change, the individual offenders travelling more than a group approach reveals. The family and sometimes even the centre of their own life may still be situated in their home country, changing their perceptions of near and far.

Conclusion

Itinerant crime groups receive much attention from Belgian law enforcement agencies. These groups, mainly consisting of Eastern European offenders are specialised in all sorts of property crimes. This phenomenon has been observed in other countries as well. Although the specific denotation to describe these groups varies, mobility is herewith a recurrent issue. We first analysed the mobility patterns of these groups. Members of these groups are highly mobile indeed: not only do they travel on average over longer distances, they also show different distance decay patterns. Because traditional distance measures rely on a correct interpretation of residence, operational ranges were calculated as well. The results underline what was already suspected earlier: members of itinerant crime groups have operational ranges that are much larger than those of other offenders.

Observing a phenomenon is one thing, explaining it is another. We first looked into some possible target oriented explanations and, although they did reveal useful information, it is not sufficient to explain the differences between itinerant crime groups and other property offenders. True, these groups tend to target prosperous regions. Yet, their focus is not on those regions with the highest chances of success, unless they perceive rural areas as more successful. They probably bridge distances by using motorways, but so do other offenders. In any case, looking exclusively at target oriented measure does not answer the question as to why these offenders would consider the distance worthwhile travelling and others would not.

Offender related explanations provide an additional explanatory value, but not exclusively. A more in-depth interpretation of the anchor points shows that these are less flexible than often assumed for these groups. Also awareness space is also considered. Although it is not always straightforward and mostly created in a criminal context already, itinerant crime groups tend to commit their crimes in areas/targets they know. Particularly reconnaissance activities, repeat victimisation, target type familiarity and even the use of maps help to develop their geographical knowledge.

Some information could not be exclusively attributed to either target or offender related issues. Group structures and fencing networks show that various groups operate on an international level. They have links with their home country and/or third countries. Moreover, groups have fixed anchor points but are often of a flexible nature, and offenders tend to travel quite

often. As a consequence, the individual perceptions of near and far may shift, distances becoming less unbridgeable and action ranges developing accordingly.

Criminal mobility is influenced by a number of issues. Some crime types, such as drug smuggling and trafficking in human beings require large mobility in order to take place. For property crimes like burglary, this is in itself not the case. Yet, when these crimes are committed by criminal networks, we see mobility increasing as well. This could indicate that networks are not only the result of particular cross-border offences, but may as well facilitate criminal mobility for 'local' crime.

References

- Actieplan van de Regering, FOD Justitie, FOD Kanselarij van de Eerste Minister, and FOD Binnenlandse zaken. (22/03/2007). *De aanpak van de rondtrekkende dadergroeperingen: een actualisatie*. Brussel: Federale Politie
- Alison, L., M. Smith and K. Morgan, Interpreting the accuracy of offender profiles. *Psychology Crime & Law*, 2003, 9(2), 185-195
- Barker, M., The criminal range of small-town burglars. In: D. Canter and L. J. Alison (eds.), *Profiling property crimes* (pp. 57-73). Aldershot: Ashgate, 2000
- Beavon, D., P. Brantingham, P. and P. Brantingham, P., The influence of street networks on the patterning of property offenses. In: R. Clarke (ed.), *Crime prevention studies* (Vol. II, pp. 115-148). Monsey: Criminal Justice Press, 1994
- Belgian Ministerial College, *Kadernota Integrale Veiligheid*, 2004
- Bennett, T. and R. Wright, *Burglars on burglary*. Aldershot: Gower, 1984
- Bernasco, W., Co-offending and the choice of target areas in burglary. *Journal of Investigative Psychology and Offender Profiling*, 2006 3(3), 139-155
- Bernasco, W. and F. Luyckx, F., Effects of attractiveness, opportunity and accessibility to burglars on residential burglary rates of urban neighborhoods. *Criminology*, 2003, 41(3), 981-1001.
- Bernasco, W. and P. Nieuwbeerta, P., How do residential burglars select target areas? A new approach to the analysis of criminal location choice. *British Journal of Criminology*, 2005, 45(3), 296-315.
- Besson, J.-L., *Les cartes du crime*. Paris: PUF, 2004
- Brantingham, P. and P. Brantingham, Notes on the geometry of crime. In: P. Brantingham and P. Brantingham (eds.), *Environmental criminology* (pp. 27-54). Beverly Hills: Sage, 1981
- Brantingham, P. and P. Brantingham, Criminality of place: crime generators and crime attractors. *European Journal on Criminal Policy and Research*, 1995, 3(3), 5-26
- Brantingham, P. and G. Tita, Offender mobility and crime pattern formation from first principles. In: L. Liu and J. Eck (eds.), *Artificial crime analysis systems: using computer simulations and geographic information systems* (pp. 193-208). Hershey: Information Science Reference, 2008
- Bruinsma, G. and W. Bernasco, W., Criminal groups and transnational markets: a more detailed examination on the basis of social network theory. *Crime Law and Social Change*, 2004, 41(1), 79-94

- Canter, D., Geographic profiling of criminals. In: D. Canter (ed.), *Principles of geographical offender profiling* (pp. 197-220). Aldershot: Ashgate, 2008
- Canter, D. and L.J. Alison, *Profiling property crimes*. Aldershot: Ashgate, 2000
- Canter, D. and L. Hammond, A comparison of the efficacy of different decay functions in geographical profiling for a sample of US serial killers. *Journal of Investigative Psychology and Offender Profiling*, 2006, 3(2), 91-103
- Capone, D. and W. Nichols, Crime and distance: an analysis of offender behavior in space. *Proceedings of the Association of American Geographers*, 1975, 7(1), 45-49
- Cohen, L. and M. Felson, Social change and crime rate trends: a routine activity approach. *American Sociological Review*, 1979, 44(4), 588-608.
- Cornish, D. and R. Clarke (eds.), *The reasoning criminal: rational choice perspectives on offending*. New York: Springer, 1986
- De Cock, K., De rondtrekkende daders aan het woord. In: B. De Ruyver (ed.), *Rondtrekkende daders: grensoverschrijdend beleid* (pp. 45-51). Brussel: Politeia, 2006
- De Cock, K., Rondtrekkende daders: wie zijn ze, wat drijft hen? *Politiejournaal-Politieofficier*, 2007, (2), 6-9
- De Raedt, E., Rondtrekkende daders: dynamiek in de criminele markt. In: B. De Ruyver (Ed.), *Rondtrekkende dadergroepen: grensoverschrijdend beleid* (pp. 39-44). Brussel: Politeia, 2006
- De Ruyver, B., Ten geleide. In B. De Ruyver (Ed.), *Rondtrekkende dadergroepen: Grensoverschrijdend beleid* (pp. 5-8). Brussel: Politeia, 2006a
- De Ruyver, B. (ed.), *Rondtrekkende dadergroepen: grensoverschrijdend beleid*. Brussel: Politeia, 2006b
- Dienst voor het Strafrechtelijk Beleid, *Jaarrapport 2005: georganiseerde criminaliteit in België 2003-2004*. Brussel: Politeia, 2005
- Dienst voor het Strafrechtelijk Beleid, *Jaarrapport 2007: georganiseerde criminaliteit in België 2005-2006*. Brussel: Politeia, 2007
- Dortans, H., *Jahresbericht 2006: Eigentums- und Waffenkriminalität*. Düsseldorf: LKA Nordrhein-Westfalen, 2007
- Dupuis, B., Rondtrekkende dadergroeperingen: de zon komt op in het oosten . . . *Inforevue*(Juni), 2004, 34-37.
- Edwards, M. and R. Grace, Analysing the offence locations and residential base of serial arsonists in New Zealand. *Australian Psychologist*, 2006, 41(3), 219-226.
- Elffers, H., Veelplegers of vaakplegers? *Tijdschrift voor Criminologie*, 2003, 45(2), 119-126.

- Elffers, H., Decision models underlying the journey to crime. In: G. Bruinsma, H. Elffers and J. De Keijser (eds.), *Punishment, places and perpetrators: developments in criminology and criminal justice research* (pp. 182-195). Cullompton: Willan Publishing, 2004
- Elffers, H., D. Reynald, M. Averdijk, W. Bernasco and R. Block, Modelling crime flow between neighbourhoods in terms of distance and of intervening opportunities. *Crime Prevention and Community Safety*, 2008, 10(2), 85-96
- Ferwerda, H., P. Versteegh and B. Beke, B., De harde kern van jeugdige criminelen. *Tijdschrift voor Criminologie*, 1995, 37(2), 138-152
- Fink, G., Einsbruchstatorte vornehmlich an einfallstrassen? *Kriminalistik*, 1969, 23, 358-360
- Gabor, T. and E. Gottheil, Offender characteristics and spatial mobility - an empirical-study and some policy implications. *Canadian Journal of Criminology-Revue Canadienne De Criminologie*, 1984, 26(3), 267-281
- Huisman, S. and F. van der Laan, Mobiel banditisme: ongestraft of afgestraft? *Het Tijdschrift voor Politie*, 2005, (3), 20-24.
- Kent, J., M. Leitner and A. Curtis, A. (2006), Evaluating the usefulness of functional distance measures when calibrating journey-to-crime distance decay functions. *Computers Environment and Urban Systems*, 2006, 30(2), 181-200
- Kleemans, E., *Strategische misdaadanalyse en stedelijke criminaliteit*. Enschede: Universiteit Twente, 1996
- Kleemans, E., D. Korf and R. Staring, Mensen van vlees en bloed: kwalitatief onderzoek in de criminologie. *Tijdschrift voor Criminologie*, 2008, 50(4), 323-336
- Kocsis, R., R. Cooksey, H. Irwin and G. Allen, G., A further assessment of 'circle theory' for geographic psychological profiling. *Australian and New Zealand Journal of Criminology*, 2002, 35(1), 43-62
- Kruize, P., Analyse van geregistreerde helingzaken. In: D. van de Mheen and P. Gruter (eds.), *Helingpraktijken onder de loep: impressies van helingcircuits in Nederland* (pp. 33-62). Den Haag: Boom Juridische uitgevers, 2007
- Lattimore, P. and A. Witte, A., Models of decision making under uncertainty: the criminal choice. In: D. Cornish and R. Clarke (eds.), *The reasoning criminal : rational choice perspectives on offending* (pp. 129-155). New York: Springer, 1986
- Lovegrove, A., Proportionality, sentencing and the multiple offender. *Punishment and Society*, 2000, 2(4), 453-469

- Lu, Y., Getting away with the stolen vehicle: an investigation of journey-after-crime. *The Professional Geographer*, 2003, 55(4), 422-433.
- Lyman, M. And G. Potter, *Organized crime*. Upper Saddle River: Prentice Hall, 1997
- Macdonald, R., *Itinerant crime: an intelligent network*. London: Home office police department, 1993
- Marro, P., *La délinquance itinérante en France en provenance des PECO*. Paper presented at the International colloquium 'la politique et la gestion de flux migratoires dans la perspective de l'élargissement: sécurité nationale et stabilité sociale', 2002
- Mawby, R., *Burglary*. Cullompton: Willan Publishing, 2001
- Meaney, R., Commuters and marauders: an examination of the spatial behaviour of serial criminals. *Journal of Investigative Psychology and Offender Profiling*, 2004, 1(2), 121-137
- Morselli, C. and M-N. Royer, Criminal mobility and criminal achievement. *Journal of Research in Crime and Delinquency*, 2008, 45(1), 4-21
- Nee, C. and A. Meenaghan, Expert decision making in burglars. *British Journal of Criminology*, 2006, 46(5), 935-949
- Palmer, E., A. Holmes and C. Hollin, Investigating burglars' decisions: factors influencing target choice, method of entry, reasons for offending, repeat victimisation of a property and victim awareness. *Security Journal*, 2002, 15(1), 7-18
- Paulussen, L., *Strategisch rapport sedentaire dadergroepen*. s.l.: Federale Politie (protected document), 2007
- Phillips, P., Characteristics and typology of the journey to crime. In: D. Georges-Abeyie and K. Harries (eds.), *Crime: a spatial perspective* (pp. 167-180). New York: Columbia University Press, 1980
- Ponsaers, P., Rondtrekkende dadergroepen: rationale Nederlandse criminologen en irrationele criminelen in Vlaanderen. *Tijdschrift voor Criminologie, Jubileumuitgave*, 2004, 15-23
- Rattner, A. and B. Portnov, Distance decay function in criminal behavior: a case of Israel. *Annals of Regional Science*, 2007, 41(3), 673-688
- Rengert, G., The journey to crime. In: G. Bruinsma, H. Elffers and J. de Keijser (eds.), *Punishment, Places and Perpetrators: Developments in Criminology and Criminal Justice Research* (pp. 169-181). Cullompton: Willan Publishing, 2004
- Rengert, G., A. Piquero and P. Jones, Distance decay reexamined. *Criminology*, 1999, 37(2), 427-445

- Rengert, G. and J. Wasilchick, *Suburban burglary: a time and a place for everything*. Springfield: Thomas, 1985
- Repetto, T., *Residential crime*. Cambridge: Ballinger, 1974
- Rhodes, W. and C. Conly, Crime and mobility: an empirical study. In: P. Brantingham and P. Brantingham (eds.), *Environmental Criminology* (pp. 167-188). Beverly Hills: Sage, 1981
- Rossmo, K., Place, space and police Investigations: hunting serial violent criminals. In: J. Eck and D. Weisburd (eds.), *Crime and place* (4 ed., pp. 217-235). Monsey: Criminal Justice Press, 1995
- Rossmo, K., *Geographic profiling*. Boca Raton: CRC Press, 1999
- Rossmo, K. Q. Thurman, J.D. Jamieson and K. Egan, K., Geographic patterns and profiling of illegal crossings of the southern U.S. border. *Security Journal*, 2008, 21(1-2), 29-57
- Ruggiero, V., *Organized and corporate crime in Europe: offers that can't be refused*. Aldershot: Dartmouth, 1996
- Shelley, L., Identifying, counting and categorizing transnational criminal organisations. *Transnational Organized Crime*, 1999, 5(1), 1-18
- Silverman, D., *Interpreting qualitative data: methods for analysing talk, text and interaction* (2 ed.). London: Sage, 2001
- Smith, W., J. Bond and M. Townsley, Determining how journeys-to-crime vary: measuring inter- and intra-offender crime trip distributions. In: D. Weisburd, W. Bernasco and G. Bruinsma (eds.), *Putting crime in its place: units of analysis in geographic criminology* (pp. 217-236). New York: Springer, 2009
- Spapens, T. and C. Fijnaut, *Criminaliteit en rechtshandhaving in de Euregio Maas-Rijn, 1: De problemen van transnationale (georganiseerde) criminaliteit en de grensoverschrijdende politie, justitiële en bestuurlijke samenwerking*. Antwerpen: Intersentia, 2005
- Stichting Maatschappij Veiligheid en Politie, *Tegenhouden van mobiel banditisme*. Dordrecht: SMVP, 2006
- Sutton, M., *Handling stolen goods and theft: a market reduction approach*. London: Home office research and statistics directorate, 1998
- Tarrow, S., Bridging the quantitative-qualitative divide. In: H. Brady and D. Collier (eds.), *Rethinking social inquiry: diverse tools, shared standards* (pp. 171-179). Lanham: Rowman and Littlefield, 2004
- Tillyer, M. and D. Kennedy, Locating focused deterrence approaches within a situational crime prevention framework. *Crime Prevention and Community Safety*, 2008, 10(2), 75-84.

- Van Daele, S., Organised property crimes in Belgium: the case of the 'itinerant crime groups'. *Global Crime*, 2008, 9(3), 241-247
- Van Daele, S., T. Vander Beken and B. De Ruyver, B., Rondtrekkende dadergroepen: een empirische toets. *Panopticon*, 2008, 29(4), 25-39
- Van der Kemp, J. and P. van Koppen, Finetuning geographical profiling. In R. Kocsis (ed.), *Criminal profiling: international perspectives in theory, practice, and research* (pp. 347-364). Totowa: Humana, 2007
- Van der Laan, F. and A. Weenink, *Eindrapportage van het project Polaris: Mobiel banditisme uit Polen en Litouwen*. Zwolle: Korps Landelijke Politiediensten, 2005
- Van Koppen, P. and J. de Keijser, Desisting distance decay: On the aggregation of individual crime trips. *Criminology*, 1997, 35(3), 505-515
- Verwee, I., P. Ponsaers and E. Enhus, *Inbreken is mijn vak: textuur en praktijk van woninginbraak*. Den Haag: Boom Juridische Uitgevers, 2007
- Von Lampe, K., Making the second step before the first: Assessing organized crime. *Crime Law and Social Change*, 2005, 42(4-5), 227-259
- Wartna, B. and N. Tollenaar, *Bekenden van Justitie: een verkennend onderzoek naar de 'veelplegers' in de populatie van vervolgte daders*. Den Haag: WODC, 2004
- Weerman, F., *Samenplegen: over criminele samenwerkingsverbanden en groepsvorming*. Nijmegen: Ars Aequi Libri, 2001
- Weerman, F., Co-offending as social exchange: explaining characteristics of co-offending. *British Journal of Criminology*, 2003, 43(2), 398-416
- White, C., The relations of felonies to environmental factors in Indianapolis. *Social Forces*, 1932, 10(4), 498-509
- Wiles, P. and A. Costello, *The 'road to nowhere': the evidence for travelling criminals*. London: Home Office, 2000

Market regulation and criminal structures in the Bulgarian commercial sex market

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Introduction

Up until 1990 prostitution, as a social phenomenon, was almost completely absent in Bulgaria. Within less than two decades, between 25.000 and 30.000 Bulgarian women were annually involved in prostitution. Today the sex industry in Bulgaria is one of the main financial sources for organised crime (Bezlov *et al.* 2007). Furthermore, Bulgaria has become a major source of women trafficked for sexual exploitation to the EU, along with women from Ukraine, Romania, Russia and Nigeria (Europol 2008: 3).

The issue of involvement of Bulgarian women in prostitution came increasingly to prominence when some indirect data started to surface after 2001, indicating that the removal of visa restrictions for travel in the EU unleashed a large-scale export of women, possibly significantly increasing both the number of Bulgarian women involved in prostitution and the number that fall victims to trafficking.

Analysis of national data collected by UNODC (2009) shows that between 2005 and 2007, Bulgarian victims were amongst the *top five groups* of identified female victims of trafficking for the purpose of sexual exploitation in at least *thirteen* European countries for which there is data: Belgium, France, Germany, Netherlands, Greece, Poland, Slovenia, Czech Republic, Spain, Italy, Spain, Cyprus, and Croatia. Although the data from some countries is missing (France), some countries report only for some of the years, or do not differentiate sexual and labour exploitation, it could be concluded that at least 300 victims were *identified* each year by government agencies or

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NGOs in the above countries. This indicates that possibly the actual number of victims is much higher.

If one uses the data on trafficked women as a proxy indicator to the number of women involved in prostitution, then the available data indicates that a small country like Bulgaria has become one of the biggest sources of prostitutes for EU sex markets. Estimates show that in total between as few as 8.000 (Petrunov 2009) or as many as 18.000 (Bezlov *et al.* 2007) Bulgarian women are involved European sex markets outside Bulgaria. In many countries (e.g. Belgium, the Netherlands, France, or Germany), the *absolute* number of detected victims often exceeds that of much larger source countries, such as Russia, Ukraine, China, or Nigeria. With the exception of Romania, (which is three times larger in terms of population) the number of Bulgarian women involved in prostitution in the EU exceeds that of any other East European country. Such disproportionate involvement raises the question as to what makes a country of 7,5 million inhabitants like Bulgaria a major source of women for EU's sex markets.

As other authors have already indicated (Vocks and Nijboer, 2000), and as is the case in Bulgaria, significant number of trafficked victims have been previously (voluntarily) involved in prostitution networks either in Bulgaria or abroad. Only, it is argued, after being 'exported' to work abroad, they fall victim to sexual exploitation.² This category is often overlooked by authors (e.g. Kara 2009), as the attention of past studies has focused on unsuspecting women from a different professional background as victims of trafficking for sexual exploitation.

Despite the significant number of journalist or policy reports on trafficking and prostitution in Eastern Europe (Beccucci 2008; Bruinsma and Meer-shoek 1999; Service Traité des Êtres Humains 2007), few have focused on linking the EU sex markets with those existing in the countries of origin. These analyses generally examine East European sex-trafficking operations or their operations in Western Europe, with little understanding of the market regulation mechanisms and criminal structures in the source countries in Eastern Europe. Some authors (Hughes and Denisova 2001: 52) have disregarded the link arguing that "prostitution is not a major activity of organised crime" inside the country of origin [the Ukraine].

² What constitutes a victim is a contentious issue, and there are a range of legal definitions across Europe. In criminological terms there are also different degrees of victimhood – from being from a range of situations of physical abuse, to a range of unfair financial treatment, etc.

This chapter aims to explain how the domestic sex industry in Bulgaria relates to the transnational prostitution networks in the EU. We argue that understanding the operation of transnational prostitution networks (or the trafficking for sexual exploitation) is only comprehensive if one understands the domestic prostitution market in the country of origin, as well as how it relates to the international market. The importance lies not only in analysing the links between the networks of criminal control but also in understanding the context and causes for women's involvement in prostitution; the mixture of cultural, social, economic and criminal factors. The analysis in this chapter focuses on the different segments of the domestic commercial sex market in Bulgaria. We explain how the methods of organised criminal control differ within the various market segments, and how women are moved through them: from street prostitution, brothels, elite prostitution, tourist resorts, or border towns to international markets.

International prostitution and sex-trafficking networks often overlap. The issue of victims is complex and there are various degrees to which a sex worker could be considered a victim depending on the level of coercion or deceit. Some authors (Jeffreys 2009, Petrunov 2009) argue that all women leaving their country to work abroad as prostitutes could be considered victims of trafficking for sexual exploitation. Petrunov (2009) takes this position based on the fact that almost all women working abroad do so for criminal structures or a pimp, and need to pay some sort of protection racket. The present paper focuses on the mechanisms of control in the domestic and foreign prostitution networks, while it ignores specific mechanisms of coercion and control of women who have been deceived and forced into prostituting themselves or held captive against their will.

Methodology and sources

The present article draws on close to 160 semi-structured interviews that were conducted between 2007 and 2009 as part of two recent studies *Organised Crime in Bulgaria: Markets and Trends* (Bezlov et al. 2007) and *Key Mechanisms of Money Laundering related to Trafficking of Human Beings* (Petrunov 2009).

Most of the interviews (about 140) took place in the context of the study on the trafficking of human beings for sexual exploitation. These interviews

were face-to-face, and were conducted either by the authors of the present paper or through four social services non-profit organizations that work with street prostitutes on health related issues. In many cases the interviews went beyond a one-hour semi-structured interview. With some police officers, prostitutes, or pimps, a relation of trust was developed and numerous meetings were held. The sampling method of prostitutes and pimps was largely one of convenience, but an effort was made to have a wide geographic representation from around the country. In addition to Sofia, interviews were conducted in, Dobrich, Pleven, Pazardjik, Sliven, Blagoevgrad, Varna, Haskovo, Bourgas, Stara Zagora, Vratsa, and Yambol, as well as smaller towns (border or tourist), Botevgrad, Svoge, Sandanski, Bansko and Petrich, Borovets (a major ski resort) where larger prostitution networks were known to be present. Some of the respondents from public institutions (police, courts, prosecution) were officially appointed to be interviewed, following written requests by the authors. Additional investigators were then interviewed through personal connections that were established. In total, the following interviews took place:

- 37 law-enforcement officers: including the Head of Human Trafficking Department and an investigator in the same department, both at the Main Directorate Fighting Organised Crime in Sofia; three at the Sofia-city Directorate of Internal Affairs; five officers at district police departments (DPD); 22 officers across the country, including eight at Regional Directorates for Fighting Organised Crime; two DPD directors;
- Prosecutors: three at the Supreme Prosecution Office of Cassation, and eight outside of Sofia (in Sofia, Pazardjik, Plovdiv, Stara Zagora, and Haskovo);
- 12 investigators from the National Investigation Service; 19 representatives of the Commission for establishing of property acquired from criminal activity in Sofia, Plovdiv, Pazardjik, Haskovo, Blagoevgrad, Sofia-region;
- 37 prostitutes in Sofia, of which 12 were street prostitutes, five were former or present models, 11 working in 'club', three were working in bars; nine were working abroad;
- 57 prostitutes outside of Sofia, all of whom were working abroad; two transvestite prostitutes who were working abroad (in Plovdiv, Pazardjik, Blagoevgrad, Sandanski, Bourgas, Haskovo, and Botevgrad);

- Pimps: 14 in total: four of them working in Sofia; Most were low level, while three of them at the middle level, i.e. controlling a number of pimps (explained later in the paper);
- Others: two judges, two customs officers, two bar-tenders, five bouncers; seven non-profit organisation representatives in Sofia, Pazardjik, Plovdiv, Bourgas, Blagoevgrad, and Pleven.

For simplicity, below instead of listing the particular interviews, we indicate whether the source was law-enforcement interviewees ('LEI'), in which we include all officials (police, prosecutors, judges, customs) or market participant interviewees (MPI), in which we include, prostitutes, pimps, club owners, etc.³

Social Factors and Prostitution

Similar to the factors listed by Vocks and Nijboer (2000) in their analysis of trafficking of women from East-Central Europe to the Netherlands, evidence indicates the same destructive cocktail of social and economic factors emerged in Bulgaria during the mid to late 1990s. These explain to a great extent the increased supply of women to the commercial sex sector as we will see below. Although, no single factor alone would provide an explanation, the interviews show that the combined effects of various factors was significant. Of importance were the following: a rise in unemployment, poverty, the disintegration of the educational system, the changes in the family structure, and in the change in attitudes to sex.

Poverty is one of the main factors that brought about a large number of women willing to enter the commercial sex business. In the interviews, the most commonly cited reason for entry into the profession (for both prostitutes and pimps) was unemployment and the lack of income to ensure even a minimal standard of living (MPIs). This finding is consistent with the rapid rise in unemployment that has occurred since 1990. For example, by 2001, the unemployment rate in Bulgaria reached 21%, its highest level since 1990. Significantly, within the female age group 15-30, in some regions of the country, unemployment reached some 50-60%. At the same time, visa restrictions for Bulgarians to the EU Schengen countries were lifted, with a resulting surge in emigration towards the EU. Income levels in Bulgaria

³ The multitude of interviews and the variety of texts make relating each single description or analytical point in the paper, a cumbersome and possibly distracting undertaking.

were also amongst the lowest in Eastern Europe. At its lowest point in 1997, the average per capita income in the country fell to \$30 per month. For the period 1997 – 2007, despite the improving economic situation and continuous economic growth and growing wages, average salaries particularly outside the capital Sofia remained between €100 and €150 per month.

Another set of factors relates to the crisis in Bulgaria's social institutions, particularly, education. Compared to other countries in Eastern Europe, for the period 1996–2000, Bulgaria had the highest school dropout rate among the 15–19 age group of about 38–39% on average. This can be compared with averages of 16% in Poland and 19% in Hungary and the Czech Republic (World Bank 2006; Ministry of Finance 2004).

Further to this, changes in Bulgarian family and society took place that were seen as conducive to the mass spread of prostitution. The 'nuclear socialist family' model that had been imposed before 1989 started to fall apart. Between 1990 and 2001, the proportion of children born out of wedlock increased from 12,4% to 42,1% of all newborns. The average age of marriage for women continually increased from 22 years in 1993 to 26 years in 2005, while divorce rates almost doubled between 1997 and 2004 (NSI 2003, NSI 2005).

With the end of Schengen visa restrictions in April 2001, Bulgarians wishing to work in the European Union gained an advantage over the rest of the Balkan states (in Romania, visa requirements were lifted in 2002) and the former Soviet Union countries. This access to the Schengen area, combined with soaring unemployment and extremely low income levels created an incentive for mass emigration. Whereas between 1991 and 2001, about 19.400 people left the country each year, in 2000–2003, the number of emigrants to the EU reached 100.000 per year. These new emigrants, however, had no legal right to work too, and as many suitable jobs had already been taken by other Central and East Europeans, they undertook a variety of illegal jobs in the (black labour) shadow economy. Many of the stories that we heard in the interviews were of women who started working as prostitutes after struggling for some time with a low-paid 'black' job. In this respect, the internet offered new opportunities for the anonymous search and offer of sex services.

Demand for sex, both in Bulgaria and the EU also needs to be considered. Growth in tourism or transit in commercial vehicles, both of which have direct effect on demand for paid sex in tourist resorts and on highways (see relevant sections below) was the greatest Bulgaria had ever experienced.

For instance, between 2002 and 2004, the number of tourists visiting Bulgaria grew from 2,9 to 4,01 million visitors. Similarly, in the same short period the number of businessmen visiting Bulgaria grew from 180.000 to 270.000, giving surge to strip clubs (doubling as brothels) in the large cities. Before this period, international ski and sea resorts did not have prostitutes or strip clubs (i.e. brothels) before 1990 – they all do now.⁴ The National Tourist Board (the largest tourist industry body) even publicly announced that is preparing jointly with the Ministry of Interior a draft legalisation of prostitution law (Petrov 2007).

Domestic demand has also been driven by changes in attitudes to sex in Bulgaria: porn (movies or magazines) or erotic dance clubs, both of which were banned during communism, exploded after 1989 and contributed to establishing a new sex culture where paying for sex was acceptable (Jeffreys 2009). The rise in demand for sex services across Europe was also a significant factor: in the largest market in Europe – Germany – in the beginning of the 1990s the numbers engaged in prostitution was estimated at least 50.000 to a maximum of 200.000 (Leopold *et al.*, 1993), but according to current estimates this number is now around 400.000 (Polzer 2007). In Great Britain, the Home Office indicated that there has been a significant increase in the size of the sex industry in recent years, estimating a market size of £1 billion annual turnover employing over 80.000 sex-workers. It further points to increased opportunities for sale and purchase of sex via sex clubs, the internet, or sex tourism (Home Office 2008). As Jeffreys (2009) shows, the increased demand for prostitution supports the trend towards industrialisation of commercial sex. Therefore, the increased supply of Bulgarian women to a large extent coincided with a growing demand for paid-sex in the EU.

The prostitution market in Bulgaria

In addition to the socio-economic and value changes that took place in Bulgaria, a significant factor in the development of the sex market was the free-reign that organised crime has had in Bulgaria since 1990. The domestic, but in particular the foreign sex markets have provided one the most profitable criminal opportunities for Bulgarian criminals. Previous estimates have indi-

⁴ For instance the third largest sea resort, Albena, listed on the stock exchange, and a majority owned by its CEO, has two strip clubs doubling as brothels.

cated that while the domestic sex market generates around €115 million per year, the Bulgarian prostitutes working across the EU generate at least €900 million per year⁵ (Bezlov *et al.*, 2007: 139–140).

Within Bulgaria there are three strata of the sex industry – *street, club, and elite prostitution*. These three levels could be seen mostly in large cities but also have two important market locations – *tourist resorts and border towns*, both also meeting business demands. In addition a number of women use the internet or informal connections to work as amateur prostitutes. The latter aspect is described in detail in Bezlov *et al.* (2007: 141–143), and is not examined here, as the involvement of organised crime in amateur prostitution is much less pronounced. The largest market, though, is the international one: an estimated 70–80% of all prostitutes work (permanently or temporarily) abroad [MPI].

There are various ways in which these markets could be described. In the present chapter, we follow the typologies developed in Bezlov *et al.* (2007) and Petrunov (2009). There are three general ways in which participants in the above listed market segments are organised:

1. *Self-employed* – mostly observed amongst elite prostitutes, as well as amongst prostitutes working abroad that have managed to become independent. Amongst street prostitutes this is rarely observed. For example, Arsova (2000) shows that fewer than 5% of prostitutes surveyed in Bulgaria were working without a pimp.
2. *Partnership model* – a pimp with one or a few women, to whom he provides protection, and arranges infrastructure, including tackling administrative barriers in foreign countries. In this model pimps and prostitutes are partners, often intimate ones. These ‘firms’ often establish informal networks that are used to acquire market information (better opportunities) or protection from rivalling groups.
3. *Enterprise model* – in this model the prostitutes are hired as ‘employees’. The employer could be the pimp or the brothel, or a legitimate business structure (massage parlour, bar, night-club). In this model, the ‘employer’ provides protection, provides the ‘post’, the clients, and any related infrastructure (transport, permits, housing). The enterprise model could be

⁵ Depending on the assumptions made, this amount could be as much as €1,8 billion; Petrunov (2009) although estimating that 8000 women work abroad as prostitutes, argues that their daily incomes are higher, concludes that they generate between €900 million and €1.3 billion. He argues that only 50% – 80% of the income is returned as profits, i.e. between €500 and 900 million.

observed in all market segments. A 'firm' could consist of only a pimp and a prostitute, or a pimp with three or four women. A single owner running an enterprise with 10-15 prostitutes is already considered a big one.

What is common to all models is the reliance on the informal networks within the small towns around Bulgaria: informal networks of friends or family become the main way to recruit and control pimps *and* prostitutes, or to pressure women into prostitution, or to ensure the protection from law enforcement, politicians, or judiciary. Parts of these informal networks are culturally based while others, such as athletic schools (Bezlov *et al.* 2007: 14; Petrunov 2006: 305-307), 'boarding disciplinary schools', or orphanages, refer to a specific social phenomenon that exists in post-socialist Bulgaria.

Below we discuss the different market segments in an attempt to show how organised crime control mechanisms within each one function, and how the various levels are interrelated.

Street and Highway Prostitution

Street and highway prostitutes only differ by the locations where they pick up clients, as well as by the specific occupations of their customers, mainly professional drivers in the case of highway prostitutes. In terms of their professional characteristics (reputation, practice, profits, clients, and level of protection), street and highway prostitutes occupy the lowest level in the stratification scale of prostitution. At the same time, this is the most conspicuous form of prostitution and most tightly controlled by the police.

There are several ways of recruiting street and highway prostitutes. One of the most vulnerable groups for recruitment is the Roma.⁶ In some Roma families, there is a tradition of selling children to become prostitutes. All too often, the girls are resold from one pimp to another, with the price ranging from €250 to €500. Another method of recruitment is by kidnapping young women. These are mostly girls from broken families, from orphanages, girls who are vulnerable and cannot expect any help from family and friends. Lastly, some women enter prostitution on a voluntary basis, without being recruited by a pimp, but due to the need or desire for higher income.

⁶ The Roma are about 9% of Bulgaria's population and are dispersed across the country. All social and economic characteristics of the Roma minority point to the fact that they are the most disadvantaged part of the population. (UNDP 2003)

Some women, enter this lowest level, after having started as elite prostitutes, but due to drug-habits or aging gradually move to brothels, and eventually to the street. Street prostitution could be used as type of punishment for brothel or on-call prostitutes (e.g. if they had tried to lie to their pimp).

The price of the service offered by street and highway prostitutes is usually negotiated with the customer and is in the range of 5 to 15 euros⁷ depending on the location, and above all, on the type of service requested by the customer.

What is particularly alarming in the case of street and highway prostitution is the fact that some of the girls are often very young, under 18 or even under 16 years of age. Furthermore, street and highway prostitutes are exposed to high risks and often fall victim to crimes, both on the part of the pimps and the customers. The victims rarely report the crimes to the police and do not seek legal protection.

According to our interviewees, with this type of prostitution, the pimps typically resort to two kinds of control. In the first type, the pimp supervises the girls at all times. He waits nearby and watches them; thus he sees each customer and immediately after the service, the prostitute hands over the money earned. Most of the time, the pimp gets 70% of the takings and the prostitutes keep 30%. Often, though, the women do not get paid for months, as they are in debt and need to pay-back for their 'post' arrangement, or having been fined for various reasons. The other form of control is exercised by setting a daily target amount that the prostitutes must earn, reinforced with sanctions, often involving the use of physical violence. The daily norm is usually 50 euros and the pimp only comes by a few times a day to check on the girls and collect the money they have made. [MPI]

A single pimp usually has between two and six girls working for him, and sometimes even living with him. For a given pimp to work in a particular public place he needs to pay the police officers in the respective area, as well as a representative of the criminal ring operating there: all public areas identified in the interviews or through site visits were under the control of organised crime, and access to them was restricted only to pimps and prostitutes that pay these rings. The prostitutes related that they are allocated a daily amount, typically 10 euros, to pay a racketeer who charges the fee for the particular location (e.g. Sofia). [MPI]

⁷ All prices quoted in the paper refer to the 2005 - 2007 period and do not reflect the 2008 inflation in prices, neither the fall in prices which started in early 2009 with the beginning of the economic crisis.

Each woman has a designated street location, a ‘*post*’. If the post is lost, it means less income, as she also loses the clients that know her. The new post is always a risk: it needs to have enough potential clients passing by, exposure to police patrols needs to be reduced⁸. Some street locations are highly controlled and organised. For instance, the Sofia ring-road⁹ is serviced by 60 to 80 women brought daily from the nearby town of Botevgrad (60 km north-east of Sofia). The police control is somewhat impeded as the women reside permanently in a different town, which implies cooperation between police and prosecutor districts. Basically, the police in Botevgrad (which also lies on a major international highway) would push the women away from the Botevgrad district, and state in interviews that as long as the women work elsewhere, it is not their problem. The prostitution ring though is entirely operated out of Botevgrad [LEI].

The system of control is hierarchical, as there are several levels of pimps: (1) the pimp/guard/driver who exercises the immediate control and who often stays near to the work location; (2) pimps that control the various low-level pimps and deal with numerous women; (3) the ring-leader in Botevgrad; (4) a cashier that collects the money and is a middle man with (5) one of the four or five big crime bosses in Sofia, who provide overall protection from law-enforcement or other crime groups.[MPI, LEI]

Brothels (Club Prostitution)

This is the most common form of prostitution in Bulgaria, and could be described as mid-level between street and elite prostitution. It is encountered almost exclusively in the larger cities – Sofia, Varna, Plovdiv, Burgas or the tourist resorts. The interviews conducted showed that when speaking about ‘clubs’ the sex-workers had different types of sex-service locations in mind. They were referring either to (a) brothels in private apartments; (b) brothels operating under the guise of bars, nightclubs, strip bars, casinos, or restaurants, or (c) call girl /escort service;¹⁰ These three categories differ only by

⁸ Police patrols (on foot or by car) have fixed routes – therefore placing post on such routes is avoided.

⁹ As the ring road is one of the main places of street/highway prostitution in the country and in the capital, a number of interviews were conducted with prostitutes, pimps, and law-enforcement officers from Sofia and Botevgrad that were familiar with the situation.

¹⁰ Law-enforcement respondents used more disparaging language calling all such establishment ‘whore-houses’.

their location, and the fact the last type does not offer on-site service. The first two (a) and (b) also offer call girls.

With club prostitution the pimps arrange the customers, rent the premises, and ensure protection from the police. They make sure the girls in their clubs go through medical checkups. They deal with the promotion of the establishment, running ads in newspapers, and, increasingly, on the Internet. Clubs use advertising not only to offer prostitutes but also to recruit them. Club prostitutes enjoy greater security than street and highway ones, both in terms of arrests and with respect to violence by customers and pimps. Few club prostitutes are resold by pimps, as is common practice for street prostitutes, and they are rarely forced to work. Most engage in this activity out of financial interest. Often they even approach the pimps themselves in order to work in their clubs and to secure their protection and support. The girls engaged in this type of prostitution are typically 18 to 30 years old. [LEI, MPI]

In a brothel there are usually three to four girls (on occasion as many as eight), a pimp and bodyguards. Sometimes they operate under the cover of massage parlours. In this way, the brothels sidestep the law, which neither explicitly bans, nor allows, prostitution. The hourly rates range from €15 to €35, with the price usually increasing by 50% for non-standard services. The money is split 50:50 or 30:70 in favour of the pimp. In the big cities, there is an oligopoly model. In the capital, Sofia, for example, four to five owners control all brothels. [MPI]

Some brothels operate under the cover of strip-dance bars or nightclubs, with the prostitutes officially employed as dancers or waitresses, and the pimp acting as the manager. Almost all erotic/strip clubs in Bulgaria operate as brothels, although not all dancers in these enterprises are necessarily prostitutes. In some of the more luxurious establishments of this type, the prices exceed those for the private apartment brothels, and could reach €50 to €100.

Elite Prostitution

Whereas street prostitutes are regarded by pimps as ‘commodity’ and those in the brothels as ‘workers’, the so-called elite prostitutes rank highest in the stratification scale. Its importance lies in the fact that in addition to being a lucrative business, it is used as a corruption instrument by organised crime or

oligarchs to gain influence over politicians, magistrates, and representatives of multinational corporations. The elite prostitution is organised around modelling agencies, often owned by influential businesswomen, wives and girlfriends of 'oligarchs', organised crime figures, or former 'violent entrepreneurs' (Bezlov *et.al* 2007: 9).

The modelling agencies that offer elite prostitutes are primarily engaged in normal business activities, such as providing models for fashion shows, advertising campaigns, TV shows, promotions, film productions, or magazine photo shoots. Only some of the models that work for these agencies engage in prostitution. They are hired as models, but the boundaries between their modelling and escort-related duties are blurred, and they easily make the transition to paid sex services. Such a mixture of duties has also been described in Russia and the Ukraine (Belyi and Volkova 2008).

The elite prostitutes in such agencies are informally organised in two layers: a core permanent staff and a periphery of part-timers/temps. The first group gets the most lucrative assignments and has close relations with the managers and owners of the agencies. The 'peripheral' group engages in escort-type work at corporate functions or private parties, encompassing company events (e.g. office openings, presentations, trade shows). They are often hired by bars and discos to simply hang around and make the place more attractive to wealthy customers. However, with this job the girls are often not required to provide sex services.

The agencies invest significant resources in recruiting the core group, most often through beauty pageants held in larger towns. These events are preceded by an active advertising campaign throughout the surrounding villages or towns. The main target group consists of girls aged 15-16 but there are many older participants, as well. The selected girls have to move to the agency's 'modelling school', with all expenses covered by the agency. The transition from professional modelling to paid escort services and ultimately paid sex takes place on the basis of this economic and social dependency on the agency. Coercion and violence are seldom ever applied.

In addition to the modelling agencies a small nationwide network of pimps are also involved with 'luxury' prostitution. These pimps could rather be described as 'impresarios'. They are concentrated in several big cities around the country, but work independently connecting wealthy clients either to individual prostitutes or to modelling agencies. The agencies, though, have a major advantage, as they have access to international markets:

international fashion shows or beauty pageants provide opportunities to reach extremely wealthy customers abroad.

Stories about girls provided for luxury yacht parties in the Mediterranean, or for cruises in Greece, Italy, and Spain often surface within political and business elites. Models for temporary work are also 'borrowed' from former Soviet Union countries, mainly from Ukraine, or nearby Serbia, if demand suddenly surges. One interviewee recounted the story of the foreign managers of a Bulgarian telecommunications operator who hired for an occasion several dozen girls from the 'luxury pool' of four agencies, while additional women were brought in from Serbia.

The rates of elite prostitutes start from € 250 per hour. They are typically engaged for the whole night rather than on an hourly basis. That is why the price can exceed € 1000. The split of the earnings are 50/50 or less for the prostitute.

Resort Prostitution and Sex Tourism

One separate segment of the prostitution market is related to providing sex services to foreign tourists. In many respects this is a separate market, as it is limited to several resorts and three border towns, while the customers are largely foreign tourists.

Tourist resort prostitution is marked by seasonality and a migratory process: in summer prostitutes move from the big cities towards the Black Sea resorts – Sunny Beach and Golden Sands; and in winter they move towards the ski resorts – Borovets, Pamporovo, and Bansko. Three border towns Svilengrad (near Turkey), and Petrich and Sandanski (near Greece) serve cross-border sex-tourists. At all these locations the general market structure (street/brothel/elite) described in the preceding sections still exists, but the prices are twice as high.

Prostitution in the resorts is almost entirely under the control of individuals or networks of the former violent entrepreneurs [*sylovi groupirovki*], such as Club 777 or SIC¹¹, with the prostitutes and pimps operating as 'employees' of the respective ring. Resort prostitution can be a key factor contributing to a recent trend of Bulgaria evolving into a general sex tourism destination. This may be due to two circumstances: the 'product' is delivered

¹¹ For more in violent entrepreneurs see Bezlov *et al.* (2007), CSD (2004), Tzvetkova (2007), Gounev (2006), Petrunov (2006).

straight to the tourist clients and some hotel owners have also interests in that business.

International markets: the ‘export’ of women

The domestic market, as noted above is much smaller and less profitable than the West European one. Its organisational structures are closely related to the ones associated with the export of women (and men). In the early 1990s the first Bulgarian pimp networks were formed in Hungary and the Czech Republic which became the first destinations for export of prostitutes. The geographic proximity, higher profits, and easier access (visas were still needed for Western Europe) made them attractive. Bulgarian pimps made use of the foothold (in terms of local connections, knowledge, travel channels, even ‘infrastructure’, such as sharing apartments) put in place by Bulgarian car thieves, burglars, and smugglers [LEI, MPI].

The first cases of ‘exported’ prostitutes often concerned women accompanying migrant criminals looking for a better life. Many were not prostitutes in Bulgaria but out of necessity or lured by the higher incomes became involved. Once it was realized that risks were low and profits high, some criminals started to specialise in aggressively recruiting girls from Bulgaria. Bulgarian prostitutes worked mostly in locations close to the borders with Germany and Austria, where sex tourism was most active and profits were higher. By 1993–94, the first groups of pimps and prostitutes started to settle in more liberal countries like the Netherlands and Belgium, or in countries bordering Bulgaria such to Macedonia and Greece. In the mid 1990s, prostitution networks gradually expanded to Austria, Germany, Italy and Spain. [LEI, MPI]

With the removal of visa restrictions to Schengen countries in 2001, number of Bulgarian prostitutes working abroad sharply increased with Belgium (see figure below), the Netherlands, Spain, Italy, Germany, and Greece becoming the main ‘export’ destinations.

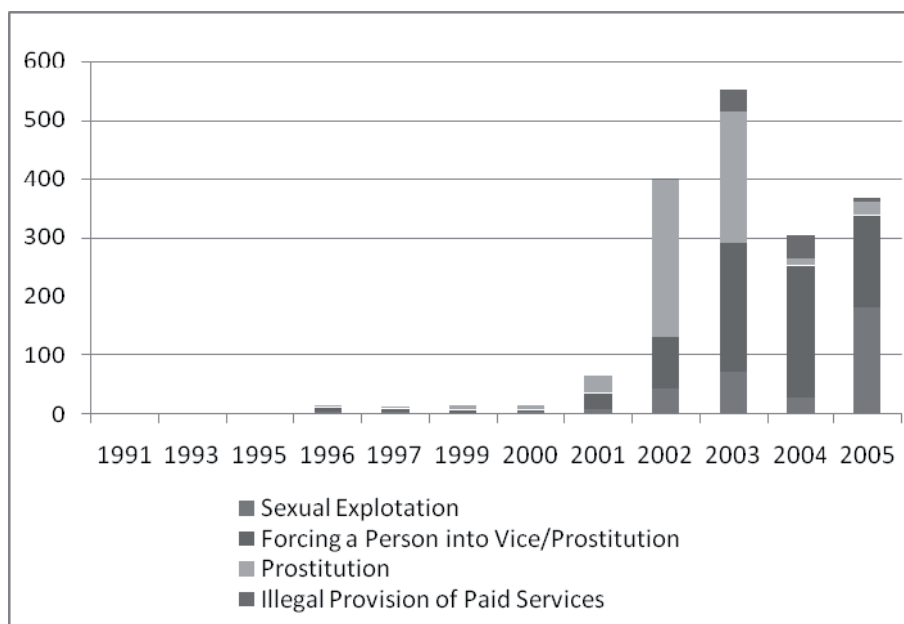


Figure 1. Belgium: Registered crimes committed by Bulgarians (Source: Federal Ministry of Interior, Belgium)

One of the key characteristics of the export business was that prostitution rings from particular towns in Bulgaria exported women to particular countries, often even to ‘sister’ towns abroad. In many respects, the partitioning of West-European territories (see below) is conditioned by the need to maintain constant communication with the towns/regions where the pimps come from. The Bulgarian source locations are usually either a single larger town or several smaller towns, as women are recruited from surrounding villages and small towns. Based on interviews [LEI, MPI] and other sources (Belgian Police, 2007: 27-46, Bulgarian National Anti-trafficking Commission 2008: 32) the following known ‘sister’ cities are:

- Sliven – Belgium/Holland (Brussels/Groningen)
- Blagoevgrad – Spain/Italy/Greece (Barcelona/Canary Islands/Milan)
- Pazardjik – France/Belgium/Spain/Germany (Brussels/Marseille/ Bordeaux /Cologne/Milan)
- Gabrovo – Spain (Valencia)
- Rousse – Italy/Spain/France (Charleroi)
- Pleven – Spain (Madrid)
- Varna region (incl. Razgrad and Dobrich) to Germany/Czech Republic/ Scandinavian countries.

Little is known about the backgrounds of this geography of prostitution migration to provide a specific explanation. One underlying reason for such territorial distribution is that the locally established criminal structures in Bulgaria engage in a range of other criminal activities in the respective regions in Western Europe: drugs trafficking/burglary/car-theft/currency or credit card fraud. Therefore, it is plausible that the foreign localities of these criminal activities determine the migration of prostitution rings. Such synergies facilitate remote control of prostitutes and pimps in the respective foreign markets.

The analysis of the export flows shows that the *eight* cities and towns with an established sex-industry are the main supply sources for export of prostitutes to the EU. They function as ‘wholesale export distribution centres’ that concentrate women and pimps from the entire country, willing to work abroad. For example, cities such as Varna and Bourgas (situated respectively nearby the resorts of Golden Sands and Sunny Beach) concentrate prostitutes from all over the country who come, particularly, in the summer months. Varna, in particular, attracts women and pimps from the nearby towns of Dobrich, Shumen, and Silistra. In southern Bulgaria, Plovdiv and Pazardzhik attract women from Asenovgrad, Haskovo, Kardjali, Smolyan, or Dimitrograd. Prostitutions rings based in the towns of Sliven and Pleven recruit women from the surrounding villages and smaller towns. The markets in these cities are also related to each other and supply and demand are balanced. For instance women are transferred from the towns to the ski resorts in the winter, and then to sea resorts in the summer. Supply is even fine-tuned, as women could work during the week in a nearby city and transferred for the weekend to the resorts to meet weekend demand.

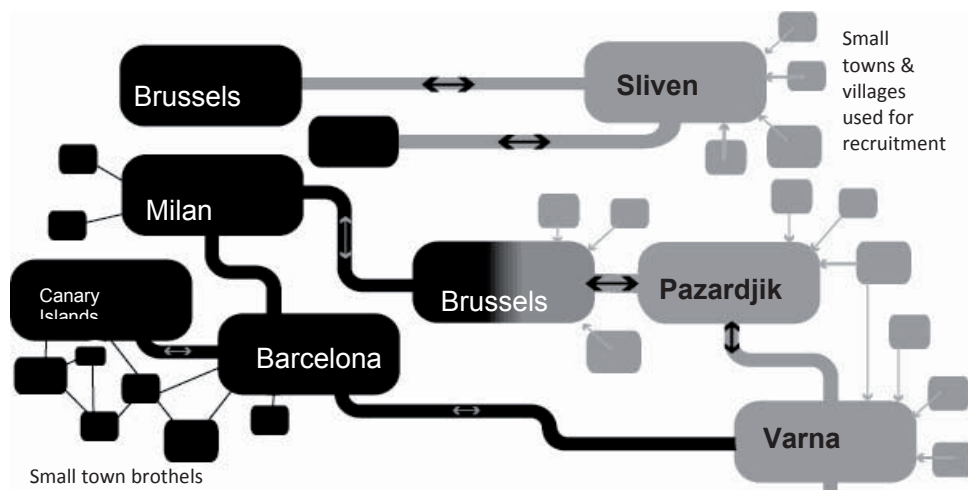


Figure 2. Connecting domestic and foreign markets – a sample scheme

Large cities also function as intermediary export centres: a girl to be exported from Dobrich to Strasbourg, Mannheim, or Oslo works for some time in Varna and Sofia, while waiting for a place to be arranged. This model of inter-connected prostitution rings and markets makes it possible to ensure control of the pimp networks that recruit, export, and money-launder the proceeds. The roles of the various players in the market are detailed in the next section.

In the past year (2008), with the increased movement and contacts that pimps and criminal networks have established in Western Europe, even direct export from smaller towns has become possible [MPI]. The capital or the larger cities like Varna or Sliven that served as ‘export’ centres could be losing their significance to pimps and prostitutes in smaller towns. They would still remain important, though, as their local markets or established networks will continue to provide the main supply of women to work abroad.

Organised crime and control of the prostitution market

Organised criminal control is observed in all segments of the prostitution market. In Bulgaria, prostitution without the involvement of pimp networks or of club owners is practically impossible. Despite the fact that the sex-market could be described as gray or illegal, corrupt local law-enforcement and municipal authorities have regular interactions with this business. Therefore, they could play an important role in the regulation and organisation of the market. In addition, the methods of control differ across ethnic lines, as Roma and Turkish-Roma often run family based prostitution rings (Belgian Police 2007).

Shelley's (2003) description of the organisation of criminal control in the prostitution market has been adapted in Bezlov *et al.* (2007) and Petrunov (2009) to be of three types:

- a *hierarchical* model: one boss uses controls a large number of prostitutes and controls them through several levels of intermediaries and pimps, using violence and extortion.
- a '*natural resource*' model: a boss who imposes a protection racket on the self-employed, the small and family businesses.
- an *entrepreneurial* model, when the criminal bosses act as entrepreneurs at some or all stages.

The hierarchical model

This model could be described as one in which a local boss controls the major pimps and through them, part of the pimp networks in a given area. The boss operates usually at a town or regional level. For instance, in Sofia there it is known that there are four such bosses: in Varna there are two, in Bourgas three and in Sliven four bosses. The role of the boss is to protect the network from rivals and law-enforcement. Each pimp pays his dues to a local town/regional boss.

As the present research project could not effectively reach beyond the mid-level of the rings to elucidate their operations and the related finances, it is difficult to speak about a single business model of the hierarchical prostitution ring. There are many factors that influence the earnings sharing arrangements with the different players: the market segment (street/club/elite), the particular foreign market (risks in countries might differ depending on legality/other market participants); size of the ring (larger hierarchical struc-

tures with many levels need different control mechanisms); place where the ring is headquartered in Bulgaria (in smaller town corrupting the local police, government administration or judiciary might be a necessity; in the capital or bigger cities with several prostitution rings, these corruption arrangements are less clear).

At the first level, the prostitutes share 50 to 70% of their earnings with the person authorised to collect the money at the particular location or town (the supervising girls, pimps, 'cashiers', club owners, etc.). The people at this lowest level control leave a share to themselves, and that varies between street prostitution or club owners. The rest of the money goes to the next level. Depending on the size of local-regional market a different number of layers exist, however, as at the national level six to seven individuals receive shares of the profits from the lower levels.

The key to the efficient operation of this system is the use of violence. In addition, in all major 'supply towns', one observes a symbiosis between prostitution ring leaders (and pimps at all levels) and the local authorities, police, prosecutors and even judges. [MPI]

The natural resource model

In this model (Shelley, 2003) the boss treats the prostitutes and their pimps as a local 'natural resource' that he simply exploits. Whether they work independently or in small partnerships/firms and networks, the boss extorts money from them and in return provides some protection from rivals and authorities. The boss could exploit these 'natural resources' regardless of whether he runs his own prostitution ring. Again the payment arrangements of this model are fluid and vary between towns.

The enterprise model

This has developed in recent years with the increased internationalisation of prostitution networks. Within an enterprise framework criminal entrepreneurs do not rely structurally on violence and threat but on market forces and economic logic. Abroad, where the Bulgarian criminal structures have little control over the local markets or impact on local law enforcement and judiciary, the girls working within an enterprising prostitution ring often receive higher and more stable income than those who try to work independently. Therefore, there are strong incentives for the women to remain within the system.

Roles and actors in international prostitution networks

The main roles within the system of control and operation of the sex-industry are laid out below. Some of variations of the functions exist in the cases of trafficking, but often the same individuals may operate in both systems.

Below we focus only on the specific roles and responsibilities related to the *international* component of prostitution networks. As with the case above, many of these roles would also overlap in networks that traffic women. Some mixture of responsibilities could be observed in smaller networks, when one person takes on several roles. Here again, we do not examine the ethnicity-based differences in the roles that could be observed amongst Roma, Turk-Roma, or Bulgarian networks.

The roles are the following.

'New flesh hunter'

This is a person recruiting girls in Bulgaria for the purpose of working abroad. Unlike the cases of trafficking, here, the job offer (usually) makes it quite clear that the work involves prostitution. With smaller prostitution rings, the hunter and the pimp are often one and the same person. It is believed that 'hunting' requires special skills and talent: "to judge a woman in just a few minutes whether she would bring sufficient earnings, and will not create problems" is not easy [MPI].¹² The majority of 'hunter' recruits only in Bulgaria, but recruitment amongst girls that are already abroad is also known. The girls who work regular jobs are recruited in prostitution when they are offered rooms for which they cannot pay or a better job, for which they need to pay in advance to get it, giving them loans or gifts. One scheme is to recruit their friend or even a boyfriend, who eventually begins to act as their pimp.

'Racketeers' and 'bodyguards'

The racketeer takes a percentage of the earnings and makes it extremely difficult for women to work without pimps. In exchange they protect the girls. In brothels, clubs, call girls and any non-street prostitution 'bodyguards'

¹² As one of the most successful pimps interviewed stated 'to break' (change the motivation) of a girls that does not have money-problem, and which is pretty, and which has all the chances of having a nice husband and family, you need to be really good. Only the real professionals in the industry could to this'. [MPI]

are used to protect the girls, as well as performing the role of drivers and cashiers.

'Mules'

The role of the 'mules' has changed significantly in recent years. Before 2007 they were guides who took the sex workers to the targeted respective country, usually by minivan, in which case they were often the drivers, but sometimes by regular coach lines when the guides accompany the girls. After 2007, when Bulgaria joined the EU, and borders controls were further diminished, they were probably used only in cases of trafficking. In other cases the prostitutes appear to usually travel on their own.

Supervisors

Supervisors ('Madam', 'first girl') are usually promoted prostitutes watching how much money each girl working for a given pimp network is making, whether she reports all her earnings, if she is making unauthorised calls, if she has any risky customers.

Pimp

Pimps work at up to three to four different levels, depending on the complexity of the prostitution ring. At the lowest level, they are the person who picks up the girls upon arrival and assigns them to the prostitution locations agreed in advance. This low level pimp *might* interface with someone at a higher level who controls several lower pimps. This person, who is also primarily based in Bulgaria, is the one that makes the prearrangements and usually sells the 'posts' (e.g. window display/bar post) to the new market entrants coming from Bulgaria. They could also be engaged in coordinating the recruitment and shipment of additional women to pimps already functioning in the international market. He is authorised to manage a certain number of girls himself, to keep records of the payments by smaller entrepreneurs gravitating toward the structure, and to collect the protection racket from the small independent businesses. [MPI; LEI]

Money carrier

Although money transfer systems, like Western Union, remain the most common way to repatriate profits and to pay those further up the chain of control, drivers of minivans or bus-drivers that transport prostitutes are occasionally used for moving money

Investors/launders

These functions are often performed by trusted businessmen and lawyers responsible for investing and legalizing the repatriated funds. Depending on the size of the structure, they may serve one or more organisations. The role of money laundering and the investor has proven quite important (Petrunov 2009) for the remote control over pimp networks. Many pimps working within hierarchical networks are forced into laundering their money through the network's money-launders. [MPI]

The boss

At the very top of the organisation is the boss, based in Bulgaria and who controls the other participants in the scheme. Prostitution is typically just one of his businesses, and all individuals that were identified as 'bosses' have legitimate enterprises. The main towns identified in the beginning of this chapter that work as 'export centres', have one or more such bosses. They are not concerned with day-to-day operations. The person(s) in charge of the international dimension is the higher level 'pimp-boss' described above.

While in small towns/regions, one observes a monopoly or oligopoly (one to three big bosses and about a dozen small ones) in large towns, and in particular in Sofia the highest levels are difficult to describe. The networks and hierarchical structures are controlled by groups of people, one could describe as 'syndicates': they take control over the sections of the local market, including an entire resort for example, or the export.

Conclusion

The present chapter has examined the various levels of the prostitution market in Bulgaria. The described structures and functioning of the domestic and foreign markets of the sex trade in many respects provide a static picture of the state of Bulgarian prostitution. Yet the processes in this country have been evolving dynamically during the period after 2001 and since the accession to the European Union in January 2007, thus many of the outlined characteristics and mechanisms have been undergoing changes.

The main contribution of this work is that it demonstrates how the prostitution market in the source country and destination markets interrelate. The importance lies in the interrelated methods of control and overlapping networks for recruitment of women.

The 'geographic patterns' of prostitution rings are important from the law-enforcement or policy point of view. They allow one to narrow the analysis focusing on the towns and regions where these rings recruit and operate. The analysis shows that the local criminal elite in small (by European standards) towns has monopolised and has made prostitution a mass and, to a large extent, socially acceptable phenomenon. It shows how social, economic, and in some cases cultural factors contribute to a situation, where many woman feel that prostitution has become an inevitable, but economically sound choice.

The described mechanisms of organised crime control also explain why to a large extent Bulgarian organised crime does not get involved (or does to a very limited extent) in the control or trafficking of women that are not Bulgarian. For instance, women from Ukraine or Moldova, both of which are a major source of trafficking victims in the EU are geographically close and have fairly sizeable ethnic Bulgarian minorities in Bessarabia. These could theoretically become involved with Bulgarian prostitution rings or fall victim to trafficking, yet there is no evidence that this has taken place.

Many questions and issues elaborated in this paper still need to be studied through more empirically based research. The social and economic conditions that have contributed to the increasing willingness of Bulgarian women to enter into prostitution need to be examined in a more systematic way. The ethnic and cultural difference between Bulgarian and (Turkish) Roma run prostitution networks are not well understood. Specific studies based on observations in destination countries do not exist yet, and information as to how Bulgarian prostitution networks relate to local markets in destination countries still suffer from being based solely on accounts of law-enforcement sources or only Bulgarian market participants.

Prostitution will continue to be a priority area of activity for organised crime groups in Bulgaria. Even though sex-industry revenues fell due to the economic crisis in 2008-2009, few other criminal areas remain as lucrative for the Bulgarian criminal. While major illegal drugs routes have by-passed Bulgaria, domestic demand for drugs and stolen cars in Bulgaria remains modest. Further, with the collapse of the real-estate market, prostitution is likely to remain a key area of organised criminal activity.

The mutual penetration and interaction between local and international organised crime structures will intensify. Prostitution rings are likely to remain associated with other criminal activities, as they provide good inroads into underworlds of foreign criminal markets, such as drugs or car-theft.

References

- Arsova, T., *Prostitution and sex workers in Bulgaria: Analysis of the situation and the risk with regards to HIV/AIDS/STDs*. Sofia: Health and Social Development Foundation, 2000
- Belgian Police, *Image annuelle 2007 (chiffres 2005/2006): Exploitation sexuelle et exploitation au travail*, Brussels: Belgian Police, 2007
- Beccucci, S., New players in an old game: The sex market in Italy. In: D. Siegel and H. Nelen (eds.), *Organised crime: Culture, markets and policies*. New York: Springer, 2008
- Belyi, M. and N. Volkova, N., Beauties and beasts: in Russia the modeling business looks ever more criminal, *Noviye Izvestia*, 2008, 27.10.2008
- Bezlov, T., P. Gounev, G. Petrunov, E. Tzenkov and M. Tzvetkova, *Organised Crime in Bulgaria: Markets and Trends*. Sofia: Center for the Study of Democracy, 2007
- Bruinsma, G. and G. Meershoek, Organised crime and trafficking in women from Eastern Europe in the Netherlands. In: P. Williams (ed.), *Illegal migration and commercial sex. The new slave trade*. London and Portland: Frank Cass, 1999
- Bulgarian National Anti-trafficking Commission (2008) *Report on the activity of the national commission for combating trafficking in human beings for 2007*, (<http://antitraffic.government.bg/>)
- Center for the Study of Democracy, *Partners in crime: The risk of symbiosis between the security sector and organised crime in South-East Europe*, Sofia: CSD, 2004
- Dencheva, R., G. Spirov, K. Gilina, D. Niagolova, G. Pehlivanov, N. Tsankov, Epidemiology of syphilis in Bulgaria, 1990–1998. *International Journal of STD & AIDS*, 2000, vol. 11, 12: 819–822.
- Europol, *Trafficking in human beings in the European Union: A Europol perspective*, The Hague, 2008
- Gounev, P., Bulgaria's private security industry. In: A. Bryden, and M. Caparini (eds.), *Private Actors and Security Governance*, Lit & DCAF, 2006
- Home Office, *Tackling the demand for prostitution: a review*. London: Home Office. 2008
- Hughes, D. and T. Denisova, The transnational political criminal nexus of trafficking in women from Ukraine', *Trends in Organized Crime*, 2001, vol. 6, No. 3 & 4, Spring /Summer 2001

- Jeffreys, S., *The industrial vagina*. New York: Routledge, 2009
- Kara, S., *Sex trafficking: Inside the business of modern slavery*. New York: Columbia University Press, 2009
- Leopold, B., E. Steffan and N. Paul, *Dokumentation zur rechtlichen und sozialen Situation von Prostituierten in der Bundesrepublik Deutschland, Schriftenreihe des Bundesministeriums für Frauen und Jugend*. Band 15, 1993
- Ministry of Finance, *Overview of Public Expenditures: Education - State, Problems, and Opportunities*, 2004
- National Investigation Service. 2005. *Genezis, razvitie i projavni formi na organizirana prestapnost v Balgaria*. Sofia, 2005
- National Statistical Institute, *Status, trends and issues of the birth rate in the Republic of Bulgaria*, Sofia: NSI, 2003
- National Statistical Institute, *Statistical Yearbook*. Sofia: NSI, 2005
- Petrunov, G., *Organized Crime and Social Transformation in Bulgaria. European Journal of Sociology/Archives Europeennes de Sociologie/Europaeisches Archiv Fuer Soziologie*, 2006, vol. 47, 2: 297-325.
- Petrunov, G., *Key Mechanisms of Money Laundering related to Trafficking of Human Beings*, Sofia: RiskMonitor, 2009
- Petrov, K., *Ministry of Interior and the National Tourist Board to work jointly on a draft legalisation of Prostitution Law*, Mediapool, 13 February 2007
- Polzer, W., *German prostitution law has failed, no reduction in crime through improved legal status. Journal Chretien*, 24 January 2007 (<http://www.spcm.org/Journal/spip.php?article5939>)
- Sarang, A. and J. Hoover, *Sex work, HIV/AIDS, and Human rights in Central and Eastern Europe and Central Asia*. The Central and Eastern Europe Harm Reduction Network, 2005
- Shelley, L. *Trafficking in women: The business model approach. Brown Journal of International Affairs*, 2003, vol. X, Issue I
- Service Traité des Êtres Humains, *Exploitation sexuelle et exploitation au travail*. Bruxelles, 2007
- Tzvetkova, M., *Aspects of the evolution of extra-legal protection in Bulgaria (1989–1999), Trends in Organised Crime*, 2008, 11, 326–351.
- Trud Daily, *Petkanov counts 4611 prostitutes*, Trud Daily, 31 May 2003.
- UNDP, *Avoiding the dependency trap*, UNDP, 2003
- UNODC, *Global Report on Trafficking in Persons*, 2009.
- World Bank, *A policy note, Bulgaria – Education and skills for the knowledge economy*, 2006

Hot sands or the ‘romantics’ of the desert

Women smuggling from Egypt to Israel

Dina Siegel¹

Human trafficking: the general picture

Since the collapse of the Soviet Union, hundreds of thousands² of women arrive in the West searching for better economic opportunities. Many choose to work in the sex industry. These women consider themselves as independent businesswomen and look upon sex-work as a profession and a matter of free choice. It appears, however, that often they come with particular expectations (and experiences), but with little or no idea about their future employment status. (Aronowitz, 2003: 87; Korvinus *et.al*, 2006:289). Many of them become confronted with a dark side of the business, with an ‘evil empire’ (Spencer, 2008:54), which is generally presented in the media and previes in criminological literature, namely women trafficking for sexual exploitation (see Goodey, 2003; Lee, 2007; and Stoecker and Shelley, 2005).

In this ‘evil empire’, trafficked women are recruited and controlled by violence and intimidation. *‘Trafficking victims are deprived of their identities, moved vast distances away from their families, language and culture in inhumane conditions and are tortured to induce compliance’* (ibid:131). The business of human trafficking is also very lucrative. For traffickers, trafficked individuals are ‘commodities’, a renewable resource (Shelley, 2005: 72).

In spite of these and similar heart-breaking media reports, numerous campaigns of human rights activists and the growing concern of policy-makers trying to combat human trafficking, different statistical reports show that the phenomenon is far from disappearing. On the contrary new routes, methods of recruiting and transportation emerge and new actors enter the

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² The statistics are controversial and vary from one source to another (see The United National Population Fund, 2005; U.S. Department, 2007, 2008; Belser, 2005; etc.)

scene. Traditionally much attention is devoted to the flow of human traffic from the previous socialist countries to Western Europe or the Balkan countries where international peace keeping forces have been (or are being) served (Maljević, 2005). This attention is understandable, but too narrow. Eastern European women demonstrated a broader geographical mobility and entrepreneurial conduct. In this chapter I will focus on the (old-new), and until recently less known traffickers, namely the Bedouin in the Negev and Sinai deserts and on their role in the business of women trafficking and smuggling.

Sandy attractions

In his fascinating analysis of the hashish smuggling by Bedouin in South Sinai, Emanuel Marx (2008:39) predicted “*hashish smugglers will sooner or later deal in even more profitable outlawed and heavily-taxed commodities, such as weapons, diamonds, and addictive drugs like heroin and tobacco*”. What Marx did not mention as another lucrative illegal activity of the Bedouin, is women smuggling. Smuggling of women in the Middle East, however, became widely discussed in the Israeli and Egyptian media and has been a part of the international public debate since the beginning of the 1990s. It is usually presented as a result of socio-economic reforms and the rise of organised crime, especially in the former socialist countries. About 1000 women are being smuggled through the Egyptian-Israeli border annually (Goldshmid, 2006). Since 2003, about 72% of trafficked women in Israel arrived through this border. In interviews with 340 women working as prostitutes, which took place in 2005, 85% of them appeared to reach Israel from Egypt, mainly accompanied by Bedouin (ibid).

Until 2000, women who came to work in the sex industry in Israel, primarily from countries of the former Soviet Union, were looked upon as criminals, “*who entered the country clandestinely in order to engage in shady business*” (Levinkron and Dahan, 2003: 5). Following an Amnesty International report, which criticised Israel for closing her eyes on inhuman ‘women trafficking’ (2000), the Israeli Knesset passed a law, prohibiting trafficking in women for prostitution (Amendment no.56 to the Penal

Code). Prostitution itself, however, remains legal³, providing a convenient environment for the many voluntary sex workers in Israel.

This chapter will answer two questions. The first one is: why do women from the former Soviet Union and other East European countries arrive to work in prostitution in Israel? Israel is much less prosperous than many West European countries, and the conditions of work in the sex industry are very poor – if one believes the numerous governmental and human rights reports, which appeared at the end of the 1990s and the beginning of the 2000s. In addition, there are plenty of restrictions and border controls, which make the entry into the country very difficult. In spite of all these factors, Israel is considered one of the most popular countries for the so-called voluntary prostitution (US Department, 2001). This contrasts with the general picture of a flow of (trafficked) women from Eastern Europe to the west: the cross-border crime image of Western and Eastern Europe (Arromaa and Lehti, 2007), being the main topic of this volume.

The second question has to do with the 'romantics' of the journey and the guide (*provodnik*). The 'exotic' Bedouin who transport young women on camels and jeeps through the desert from Egypt to Israel can be rather associated with some adventurous Hollywood film than with organised crime activities. What is then the real role of these 'romantic' traffickers, how and why have they become involved in these illegal activities?

Earlier studies and methods

In an earlier study, we tried to combine economic and cultural explanations of women trafficking, taking Russian women in Turkey as a case study (Siegel and Yesilgoz, 2003). Cultural perceptions are rarely taken seriously in criminological studies as a valid explanation of crime. Their value, however, can add an important complementary dimension for a better understanding of criminological questions. What did women on their way to work as prostitutes in Israel expect before they took the risk of crossing the desert? How do they view their work in the sex industry? How do Bedouin refer to the illegal activities they conduct? And how do they perceive their work and the women they smuggle across the border to Israel?

³ Though being a client of a prostitute is illegal, it is rarely persecuted de facto.

Though making links to history, this study is based on data gathered in 2007. During my short fieldwork in the summer of 2007 I conducted in-depth interviews with eight women from the former Soviet Union. All of them arrived to Israel from Egypt accompanied by Bedouins. I also obtained first-hand information from a Bedouin smuggler, who was himself involved in human smuggling. In addition, I visited a small Israeli town near Be'er Sheva, known for the frequent conflicts between the Bedouin and the local Jewish population and another town in the South of Israel known for the large presence of Bedouin traders and observed their activities. I also interviewed representatives of the local authorities about the smuggling and other illegal activities by Bedouin in Negev. I studied most of the available written sources, reports and press articles on this subject in Israeli, Russian-Israeli and international newspapers and journals. Remarkably, except for some journalistic publications (see Malarek, 2004), no anthropological or criminological research has yet been conducted on what, from the Israeli and Egyptian press, appears to be a well-known social phenomenon. This study will perhaps be the first attempt to discuss and analyse it within a sociological framework.

Smuggling and trade in women in historical context

In the Ottoman period, kidnapping and smuggling of women was connected to prostitution. Trade in female slaves was a daily activity, publicly accepted in all parts of the empire. There were markets, where women from Sudan, Persia, the Caucasus and from Slavic countries were sold and later used as 'instruments of pleasure' for men, who did not fulfil their sexual fantasies with their own wives (Siegel and Yesilgoz, 2003: 77, 78). Sex was inevitably connected with a man's reputation: the more women one had, the better for his reputation and the clearer his manifestation of power, wealth and masculinity. Therefore, bringing in new young women from all over the world and selling them to men was a logical and even inevitable process, profitable both for traders and for their clients. In the Ottoman empire many slaves ". . . were white females, principally of Slavic origin captured during Ottoman campaigns, or by their Tatar collaborators in Eastern Europe, with only a few of other

provenance – Circassian, Caucasian, Hungarian, and Austrian” (Ben-Nach, 2006: 317).⁴

This ‘white slavery’ became associated with deceiving or forcing young white women into prostitution (Doezema, 2000:24). “*The view of ‘white slavery’ as myth can account for its persistence and power despite the fact that very few actual cases of ‘white slavery’ existed*” (ibid). I will agree and follow here the argument of Doezema that the ‘trafficked women’ can be compared with this myth of ‘white slaves’, which “*bears as little resemblance to women migrating for work in the sex industry as did her historical counterpart*” (2000: 23).

Here perhaps is an appropriate place to mention the on-going discussion about the difference in definition between human smuggling and human trafficking. Human smuggling is considered a transnational criminal activity, based on a consensus between smuggler and smuggled person, in which both parties agree on conditions of a transfer across the national borders. Trafficking on the other hand, could be considered as an equivalent to illegal trade, and usually involves aspects of coercion, if not violence (see Aronowitz, 2003). Trafficking of humans is mainly associated with forced prostitution, in contrast to voluntary prostitution. The victims of human trafficking are usually described as passive and naïve girls, who want to escape from the tentacles of evil traffickers, mainly members of criminal organisations. Voluntary sex-workers, on the other hand are independent businesswomen, who have opted for prostitution as a profession (Spencer, 2008; Markovska and Moore, 2008). This distinction is important especially for social workers, NGOs, and other assistant groups: innocent girls, forced into prostitution, allegedly need their protection and help, in contrast to sex workers, ‘fallen women’, who deserve all evils (Doezema, 2000; Markovska and Moore, 2008). The process of the construction of the victim and the remedies the social workers offer them in the form of anti-trafficking campaigns and support facilities, such as shelters and protection programmes is a result of these definitions, though these also reflect the traumas of real victimisation. There is a broad literature on human trafficking, in addition to a huge number of governmental and non-governmental reports, to that effect (Aromaa and Lethi, 2007).

In this chapter I will focus only on one specific aspect of the abovementioned discussion, namely on women from the former Soviet

⁴ The slaveholding, including for sexual purposes was also common among Jews (also in Muslim countries) (Ben-Nahe, 2006: 316; Bristow, 1983).

Union looking for work in the sex industry in countries other than Europe and who are smuggled into Israel by Bedouin. The conditions of their stay in Israel and their future either as successful businesswomen or victims of trafficking will not be discussed any further, perhaps because much more in-depth research would be needed to draw any valid conclusions on this issue.

Organisation of smuggling

Arrival and transit

The 230 km long border between Israel and Egypt – from Kerem Shalom to Eilat – is the least secured border of Israel. It was established after Israel returned the Sinai Peninsula to Egypt in 1982. In many sectors it does not even have a security fence, which is justified by the notion that the strong shifting desert winds would inadvertently bury such a fence in sand. And for better fortifications Israel will need to invest much more resources and time, something Israel has only chosen to do in other areas, such as, for example, the Gaza strip (Gleis, 2007). Unlike the border between Israel and Jordan, which is characterised by cooperation between the authorities, along the border with Egypt cooperation is very limited (Goldshmid, 2006). The same is true for the borders with Lebanon and Syria. However, here the borders are heavily fortified; and there is also a visible presence of United Nations peacekeepers.

Since the beginning of the 1980s Egyptian authorities have invested in the development of tourism, building hotels and entertainment facilities, and advertising tourist attractions all around the world. Since the mid 1990s, Egypt has become one of the most popular holiday destinations for Russians. Almost one million Russian tourists visited Egypt in 2006⁵, attracted by low prices and warm weather. In tourist places, such as Hurghada on the Red Sea, there are so many Russians that shops have Russian signs and shop owners learn Russian. Egypt is especially popular among young Russian women. Many women find jobs as waitresses or dancers in nightclubs, often combining vacation with business. According to Heba Aziz (2000), one of the main attractions for tourists is a so-called Bedouin way of life, which is highly emphasised in these places. “*Female travellers get attracted to the Bedouin*

⁵ ‘Russian tourists give massive boost to Egypt’, *Middle East Times*, March 22, 2007

way of life, the traditional Bedouin dress and the stories about the desert and the Interior (most of the accounts are staged and fabricated by the locals, both Egyptian and Bedouin, to meet the fantasy of the tourists)" (Aziz, 2000:44). The vacation relationships sometimes end in marriages between Bedouin and tourists. For Bedouins ". . . marrying foreign women means sources they never reached before" (Gardner, 2000:62).

Other Russian women choose to work in prostitution in big hotels, charging about \$30 per hour. There are several reports of police operations among the tourists, who sometimes dismantle international prostitution rings, including women from the former Soviet Union (see Benninger-Budel, 2001: 28). Such prostitution rings are supposed to be engaged in women trafficking and forced prostitution. In many cases, however, the distinction between forced or voluntary prostitution remains unclear.

Among the female tourists in Egypt there are many women who look for an opportunity to find work in Israel. At the beginning of the 2000s Israel implemented a number of regulations against human trafficking, including stricter control at Ben Gurion International Airport and the seaport of Haifa (Gleis, 2007). This has been the main reason of the displacement of the phenomenon to Egypt and the increasing role of Bedouin smugglers along unconventional routes through the desert. Egypt, in fact, has become a transit country. Lina, my Ukrainian informant explained: "*If a Russian woman comes alone to Egypt, she is viewed as a tourist, but if she comes alone to Israel – she is a whore*".

The reports about Russian women crossing the Egypt-Israeli border, with assistance of Bedouin, appear regularly in the international press.⁶ Israeli sources reported on Russian women who were disappearing from Egyptian hotels at night, even before they unpacked their suitcases.⁷ Also the involvement of criminal networks, mainly combinations of Russian, Georgian, Egyptian and Bedouin men and women, is often mentioned in this context.⁸ From these reports it looks like Egypt has become two things. Firstly, a country of destination for Russian female tourists, who try to make quick money during their holidays, or to have fun with the romantic Bedouin men. Secondly, as remarked before, it is also one of the most important tran-

⁶ 'Bedouin trying to smuggle Russian women into Israel was killed by Egyptian police', *Pravda*, December 23, 2002; 'Israel a human trafficking haven', August 18, 2004, *Fox News*

⁷ Hotline for Migrant Workers, 'Trafficking in women via Egypt during 2003', *Report for the U.S. Embassy*, Tel Aviv, 12 January, 2004

⁸ *Narod moi*, no.24, December 28, 2004, *Nekuda*, no.12 (65), December 2004, *Spektr*, no.10 (76), October 2004.

sit countries for human smuggling to other countries of the Middle East or to Israel.⁹

There are two possibilities for women to travel to Egypt and further on to Israel. The first one is a 'spontaneous' decision, which they make upon their arrival in Egypt, mainly as tourists. They either learn about this possibility upon their arrival, or they have contact addresses of other women, who are already prepared to go to Israel, or men –'agents' in their own description– who provide the logistics for the further journey. The second possibility is an organised trip, an 'all-in', from the beginning arranged at home in their own country. In this case, women land in airports of Cairo, Sharm-el-Sheikh or Hurghada, where they are usually met by agents, who take them to Sinai by car. From there they cross the border accompanied by Bedouin. They are transported through the Egypt-Israel border together with other illegal commodities, such as drugs. Mainly these are groups of 3-20 women, but there were also cases of individual transportation.

There are a number of methods used to transfer women from Egypt to Israel: on foot, by jeep or by camel. For much of the route the road is modern, which makes it quite convenient to take cars, but modern roads also imply more police control, and this is precisely what the Bedouins are trying to avoid. Travelling by camel is much slower. The caravan can be on the way for a few days. Police controls can also happen on caravan routes, but less frequently than on main roads. Sometimes Bedouin inform each other on GSM about approaching controls. There have been reports of women who had to hide from such controls in caves for hours, without food and water.¹⁰ The duration of the journey can even take up to two weeks (Levikron and Dahan, 2003).

The role of Bedouin

The women are transferred from Egypt by Sinai Bedouin and then passed on to Israeli Bedouin, usually from the same tribe, mainly the Tarabin, Sawarka, Rumaylat, Tayaha, Hanajra, Ahaywat and to lesser extend Azazma tribes. My Bedouin informant told me:

⁹ During my visit to Abu Dhabi and Dubai in March 2007, I had conversations with Russian women, who told me that many women were flying to Arab Emirates through Egypt to work in prostitution.

¹⁰ Machon Todaá (Awareness Centre), Second Annual Report, Tel Aviv, 31 March, 2002, on: <http://www.macom.org.il/todaa-un-20001-ch3.asp>

“Smuggling of women demands much more preparations than smuggling of drugs, but the profits are bigger. On the other hand drugs are illegal, but women are not. If police asks questions you can always say that these are tourists, who wanted to have a camel ride, or something like this. If they have correct documents there will be no problems.”

In other cases the smugglers get the women to wear Bedouin garments¹¹, pretending to be members of a local tribe.

In the region, Bedouin conduct the majority of illegal smuggling between Egypt, Israel and the Palestinian Territories. Emanuel Marx argues that

“the requirements of the smuggling trade fitted easily into the Bedouin’s existing social realities and practices, such as their familiarity with cities, the wide dispersal and increasing mobility of the Bedouin labour migrants, the free access of all tribesmen to pastures anywhere in South Sinai, the Bedouin’s reliance on dispersed networks of kinsmen and friends . . .” (Marx, 2007:34).

According to Marx smuggling, especially of hashish, became an important factor of the Sinai Bedouin’s economy since the 1980s, though smuggling of hashish, tobacco, salt and other ‘illegal products’ existed for generations (Dumreicher, 1931; Marx, 2007: 34–35). Smugglers were looked upon as businessmen, who contributed to the local economy and therefore were praised for it. Illicit trade in drugs has proved to be a lucrative activity among nomadic people in different places and in different periods (Dumreicher, 1931; Claudot-Hawad, 2006; Marx 2007). Smuggling varies from region to region. In some places Bedouin are busy with smuggling of electronics, in other with drugs (Gardner and Marx, 2000: 23), or cigarettes.¹² There are reports of smuggling illicit labourers from China¹³, and refugees from the Darfur province in Sudan.¹⁴ Since the first Palestinian *intifada* there are also reports on the smuggling of weapons, basically into the Gaza Strip through tunnels.¹⁵

In contrast to Western traffickers, who invest illicit proceeds in real estate or transfer money to bank accounts in Switzerland or Luxembourg, Bedouin have other ideas about the right investment. The most important form of

¹¹ *International Herald Tribune*, June 18, 2007

¹² *Ibid*

¹³ *Associated Press*, June 13, 2006.

¹⁴ *Middle East Times*, August 8, 2007

¹⁵ *International Herald Tribune*, June 18, 2007

investment is a marriage, not with a smuggled Russian woman, but with a Bedouin one, or maybe more than one. According to Lila Abu-Lughod: “*Polygamy among Awlad ’Ali is on the increase thanks to the influx of wealth from smuggling . . .*” (1986: 228). Emrys Peters, an anthropologist who spent many years among Bedouin, found that women were mainly viewed by males as commodities. Bedouin women have a value because of their ability to bear children. “*Like other commodities, it is owned by males, and its transfer from one set of males to another is a contractual arrangement*” (1990: 248). Many Bedouin strive to have large families and many children. “*They treat children as workers in the household economy, as allies in local politics, and as the most reliable helpers in sickness and old age*” (Gardner and Marx, 2000: 24). All other commodities, which can contribute to the enlargement of their families, are considered useful. The profits from the smuggled women from the former Soviet Union allow them to purchase a Bedouin wife. In this case the smuggled Russian women may be viewed as an appropriate means by which to make money in order to be able to buy another commodity, namely a Bedouin wife.

Masha, my Russian informant told me:

“The Bedouins were counting us before putting us on the jeep. But they were not counting per person, but: ‘one thousand, two thousand, etc.’ in Israeli shekels. They made money on us, like on sheep or on camels.”

Both the smuggling of drugs and the smuggling of Russian women brings to Bedouin large profits, which can add to the enlargement of their families and the improvement of living standards, thereby increasing personal reputation and power within the tribe. In this sense, smuggling of Russian women, similar to drugs and other illicit commodities, can be viewed as a contribution to polygamy: the Bedouin becomes wealthier; which allows him to marry more women, which in turn means more children. Thus, one commodity, namely the smuggled women, creates another commodity – Bedouin wives. The latter contributes not only to the economic situation and reproduction of a Bedouin, but also to his position in terms of power and wealth. Therefore, there is a correlation between smuggling and reputation.

Looking at women smuggling from this point of view it can be considered as an important economic activity in Bedouin society, in which the legality of the act is unimportant compared but its socio-economic outcome. Similar to smuggling of drugs, Bedouin consider smuggling of women as a normal business. The smuggled women are brought to Israel,

where they become employed in the sex industry, while the Bedouin are gaining capital on their smuggling activities in order to invest it later in marriage with one or more Bedouin wives.

Social networks

Since the beginning of the Great Immigration¹⁶ in 1987 more than a million former Soviet citizens have arrived in Israel, forming the largest wave of immigration in the short history of Israel (Siegel, 1998). Israel has been one of the most important countries for Russian organised crime to find new markets and clients. Criminal groups found the conditions favourable to widen their activities, which included, for example, the extortion of compatriots, smuggling of illegal migrants, and drugs smuggling (Siegel, 2005). One interesting development following the immigration of post-Soviet criminals to Israel was the establishment of cooperative relationships with local gangs, irrespective of ethnicity. In the case of smuggling, these were mainly Bedouin and local Arab groups, though there was also evidence of cooperation between Russian criminal groups and Israelis. For example, Russian couriers were recruited to smuggle synthetic drugs from Israel, or from Israeli-subsidised European clandestine laboratories, to the former Soviet Union and to the United States (Blickman *et. al*, 2003).

In the case of the East European women (the Soviet Union having broken up) who choose to work in prostitution in Israel, the assistance of Bedouin in bringing them across the borders is only one part of a much more complex cross-border network of interrelationships. These are based upon individuals who provide valuable information, establish contacts with the owners of illegal brothels, or with other sex workers who are already working in the sex industry in Israel. These networks are at odds with the prevailing image depicted in criminological sources of criminal networks made up of violent and manipulative individuals who force women into submission by organising their trip; taking away their documents and exploiting them later in prostitution (see also Spencer, 2007).

Rita, a 20-year old teacher from Moldova told me:

“Two friends of mine worked in Israel last summer; they came back with packs of dollars. One of them told me exactly what I needed to do: first contact Sasha, her

¹⁶ This is the denotation of the massive outflow of Russian Jews (or of those declared themselves as such) due to the relaxation of the migration regulation in the Soviet Union (see Siegel, 1998).

cousin, who arranged the whole trip. I paid him 1.000 US dollars. He gave me exact information where to stay in Egypt; he gave me a telephone number of I., a Bedouin, who took me to the border with Israel. On the other side there was a jeep, with another Bedouin, who took me to Eilat. In Eilat I called Sasha's friend, Josef, also Russian. He arranged for me a place in a massage parlour."

In other sources there are reports of criminal networks which divide their tasks in transferring women and illegal labourers to Israel. According to Levinkron and Dahan, 66% of women came to Israel in response to information of acquaintances (2003:21), a phenomenon described also in other countries (see e.g. Hughes, 2001:11). There are always 'agents' who provide women with addresses and contacts (Siegel and Yesilgoz, 2003:80). In some cases there are men, who also accompany them on their trip. In addition there are different pimps and smugglers.

There is also rivalry among different smuggling groups, which is sometimes manifested in threats and physical violence. Rival smugglers, for example, 'steal' women from each other. In case of Suleiman S. the arrangement was made between the smuggler and a man from Moldova, to transfer a few people, men and women from Sharm el-Sheikh to Israel. S. found out that a group of other smugglers had stolen 'his' clients by taxi. He ordered one of his men to follow the taxi and transfer them to his jeep, by threat of gun.¹⁷

One representative of the local authorities in the South of Israel told me:

*"Bedouin smugglers possess weapons, mainly rifles, AK-47s. They use them either to conduct robberies, especially of cattle in moshavim (farms), or they sell them for good price in the Gaza Strip to terrorists."*¹⁸

Good life?

Bedouin profit from smuggling women from Egypt to Israel not only in economic terms, but also in terms of strengthening their social position and reputation. But what about the women, these 'victims of women trafficking', these 'white slaves', or with whatever other synonyms women may be

¹⁷ Criminal file Suleiman S. vs. State of Israel, Supreme Court Reports 2002, quoted in Levenkron and Dahan, 2003:22.

¹⁸ Israeli press reported that in Ramat HaNegev almost all streetlight cables have been stolen. Bedouin also steal fuel, generators, antennas, etc. (*The Jewish Voice*, May 2007), on: <http://jewishvoiceandopinion.com/a/jvo200705c.html>

presented in the media or reports of governmental and non-governmental organisations?

The authors of a report on women trafficking to Israel based on interviews with trafficked women who were expecting deportation from Israel (Levenkron and Dahan, 2003) were surprised that not all the interviewed women considered themselves as victims, and some of them even claimed that they were well-treated. The authors immediately excused these women by both arguing that those were actually comparing the conditions with an even worse situation at home, and showing that their claims could not be real, because they were complaining that they were not allowed to laugh and to talk to each other, when sitting in a 'too cooled' air-conditioned brothel. In the authors' vision prostitution and trafficking could never have any positive effect on a woman's life.

Australian TV aired an interview with a Russian girl, Marusya, who stated that she knew exactly what kind of job she expected in Israel and how much money she would earn. *"For the first month I worked to repay the travel costs. All girls had to. But the people I worked for were nice people. I am not sorry"*.¹⁹

Another informant in Israel, Asya, who arrived from Moldova to Egypt, and then was transported by Bedouins to Israel, told me:

"We had to spend a night by the Bedouin tent. There was a woman there, I don't know exactly what was her role, a wife, or a sister of our provodnik, but she was very friendly, she gave us food and blankets, because it was quite cold in the desert. Also our Bedouin was nice; he stopped every time we asked him. He gave us cigarettes and sweets."

Luba, another 19-year-old Russian woman told me:

"The only inconvenience I remember from this journey through the desert is the lack of communication with I., who took us with his jeep. He could not talk Russian, and we could not speak English or Arabic. We did not know how long we would have to ride."

Part of the money earned by the women in Israel is send back to their villages, where their parents, and sometimes, small children are left behind. 100-200 dollars per month, which these families receive from abroad, can make enormous differences in their standard of living.

Masha, my informant, told me:

¹⁹ Australian Broadcast Corporation (ABC), TV Programme, 21 June 2004.

“I have a very sick child back home. In order to give him a proper treatment all our incomes together: my salary (as a hairdresser – \$70), my husband’s salary (truck driver, \$140), pension of both my parents, and my mother-in-law (together \$130) - will not be enough even to hospitalise him. One month working in prostitution in Israel will be more than enough to save my child. What choice do I have?”

Prostitution is a business, and many women from the former socialist countries see an opportunity to make money from sex work. The exchange of information with other women, who already work in prostitution in Israel and stories and rumours in their immediate environment at home encourage them to take this step. The continuous campaigns of different NGO’s to warn girls about all kind of threats in a dangerous *zagranița* (abroad) and numerous dramatic reports on violent criminal organisations, poor conditions, lack of security and hostile environment obviously do not stop thousands of women to make the decision.

The idea to go to Israel is, however, less clear. There are much more prosperous and safe countries than Israel with much more liberal and glamorous life styles, such as countries of Western Europe. The continuous ethnic and military conflicts and suicide terrorist attacks do not contribute to the attractiveness of Israel either. In spite of all this, Israel remains one of the most popular destination countries for sex workers.

There are several reasons for this choice. Firstly, there are strong ties between post-Soviet Israelis and their families and friends in their native countries. In the Soviet period, when the Soviet Jews were immigrating to Israel or to the United States, the contacts were usually broken because of fear of repressions. Under the Soviets any contact with foreigners was considered suspicious. Since the fall of communism, however, and as a result of the *perestroika* and *glasnost* reforms, freedom of movement and exchange of information with abroad became a fact. Indeed, many immigrants from the former Soviet Union visit their countries and have intensive contacts there. When the non-Jewish women decide to go to work in Israel in the sex industry, they are usually well informed about the Israeli laws and potential problems. Having acquaintances in Israel, even though not even too close ones such as ex-classmates or ex-neighbours, gave my informants a feeling of security that they would have a place to hide if necessary.

In addition, there is a reputation of tolerance of prostitution on the side of the police and if women will be caught and deported from the country,

they will not have to pay a cent on travel costs, because the Israeli government provides the funds for deportation. It is thus a win-win situation: if they are not caught the women will be going back with money, and if caught, they are going back for free.

Another reason to choose Israel has to do with the many facilities, such as peep-show clubs, massage parlours and night clubs, which mushroomed in Israel with the post-Soviet immigration. These are easily accessible and always have a demand for new sex workers.

According to Jewish tradition “*prostitution is acceptable as long as the prostitutes are not Jewish*” (Lemish, 2000: 340). Dafna Lemish found that most of the women entering Israel for work in the prostitution were not Jewish, and they also had no intention of staying in Israel for too long. However, the media tended to blur the distinction between the Jewish women, who emigrated from the former Soviet Union during the mass immigration in the beginning of the 1990s and the non-Jewish sex workers who arrived to Israel approximately at the same time. In the press a general picture of the ‘Russian whores’ emerged, which contributed a lot to the creation of a negative attitude and criminalisation of the new immigrants in the mid 1990s. Even ten years later this image still exists. An example is a debate in 2007 on a proposal for the exemption of the visa requirements for Russian tourists, during which the Public Security Minister warned that ‘tens of thousands of prostitutes’ could enter the country should visa requirements be eliminated.²⁰ These new regulations for visa exemption have indeed become another reason for Russian sex workers to choose Israel.

Conclusion

While it cannot be ignored that the flow of women to the EU continues unabated, many women from the previous Soviet Union and socialist satellites countries opt for another window of opportunity. Using their network relationships, thousands of young women take the risk of crossing the border between Egypt and Israel and of being secretly transported through the desert in order to become prostitutes in Israel. For many of them this option is perhaps much better than living in poverty in the villages of the Russian countryside, Moldova or Romania. Some earn money and go

²⁰ *Haáretz*, August, 8, 2007.

back to their families. Others find themselves in shabby brothels exploited by greedy pimps. The fate of all these women in Israel was not the focus of the present study. This chapter presents some empirical data on one fragment of a long journey: whom did the women contact, how did they travel, what were their experiences? In addition to the smuggled women, I focused on the smugglers, the Bedouin: how and why do they smuggle these women, where do they invest their profits, what is their position and reputation in their community?

Sex work and sex trafficking is a very hot issue, widely discussed in public debate, in governmental and human rights reports and sociological literature, but there is still very scarce empirical data, evidence ‘from the field’ both on victims and on traffickers. This case study from the ‘hot sands’ of the Middle East will contribute to our knowledge and understanding of the phenomenon. It demonstrates that looking at the traditional traffic channels neglects on-going movement of women making the best of their network information at home and abroad to make an income out of the sex industry. Many of them ignore the usual routes to red light districts in the western cities and pass the hot sands to their preferred working stations in Israel.

References

- Abu-Lughod, L., *Veiled sentiments. Honour and poetry in a Bedouin society*. Berkeley & Los Angeles: University of California Press, 1986
- Amnesty International Report*, 2000, London
- Aromaa, K. and M. Lethi, Trafficking in human beings: policy problems and recommendations. In: P.C. van Duyn, A. Maljević, M. van Dijck, K. von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe. The dirty linen of illegal enterprise*. Nijmegen, Wolf Legal Publishers, 2007
- Aronowitz, A.A., Trafficking in human beings: an international perspective. In: D. Siegel, H.G. van de Bunt and D. Zaitch (eds.), *Global Organized Crime. Trends and developments*, Dordrecht: Kluwer Academic Publisher, 2003
- Aziz, H., Employment in a Bedouin community: The case of the town of Dahab in South Sinai. *Nomadic Peoples*, 2000, vol. 4, issue 2, pp. 28-48
- Belser, P., *Forced labour and human trafficking: Estimating the profits*, Geneva: International Labour Office, 2005
- Benninger-Budel, C., Violence against Women in Egypt, in: *Report prepared for the Committee on the Elimination of Discrimination against Women*. OMCT, 2001
- Ben-Naeh, Y., Blond, tall, with honey-coloured eyes: Jewish ownership of slaves in the Ottoman Empire, in: *Jewish History*, 2006, no.20, pp. 315-332
- Blickman, T., D. Korf, D. Siegel and D. Zaitch, D., *Synthetic drugs trafficking in Amsterdam*. Amsterdam/Turin:TNI/Gruppo Abele, 2003
- Bristow, E., *Prostitution and prejudice: the Jewish fight against white slavery, 1870-1939*. New York: Schocken Books, 1983
- Doezema, J., Loose women or lost women? The re-emergence of the myth of 'white slavery' in contemporary discourses of 'trafficking in women', in: *Gender Issues*, 2000, vol. 18, no.1, pp. 23-50
- Dumreicher, A., *Traders and smugglers in the desert of Egypt*. London: Methuen, 1931
- Gardner, A., At home in South Sinai, in: *Nomadic Peoples*, 2000, vol. 4, issue 2, pp. 48-68
- Gardner, A. and E. Marx, Employment and unemployment among Bedouin. *Nomadic Peoples*, 2000, vol. 4, issue 2, pp. 21-28

- Geil, J., Trafficking and the Role of the Sinai Bedouin, In: *Terrorism Monitor*, 2007, vol. 5, Issue 12 (June 21) on:
<http://www.jamestown.org/terrorism/news/article.php?articleid=2373485&printhis=1>
- Goldshmid, R., *Havrachot derech gvul israel-mitzraim* (Trafficking through the Israeli-Egyptian border). Merkaz hamichkar u-hameida, 16 November 2006. (In Hebrew)
- Goodey, J., Migration, crime and victimhood. *Punishment and Society*, 2003, 5 (4): 415–431
- Hughes, The ‘Natasha’ trade: The transnational shadow market of trafficking in women. *Journal of International Affairs*, 2000, 53 (2): 625–651
- Janssen, M.L., *Reizende sekswerkers: Latijns- Amerikaanse vrouwen in de Europese prostitutie*. Apeldoorn: Het Spinhuis, 2007
- Korvinus, D., D. Koster en H. de Jonge van Ellemect, Mensenhandel: het begrip uitbuiting in art. 273a Sr, *TREMA*, 2006, 7: 286–290
- Lee, M., (ed.), *Human trafficking*, Devon, Portland: Willam Publishing, 2007
- Lemish, D., The whore and the other. Israeli images of female immigrants from the former USSR. *Gender & Society*, 2000, vol.14, no.2, April, pp. 338–349
- Levenkron, N. and I. Dahan, Women as commodities: trafficking in women in Israel, 2003). Hotline for migrant workers; Isha L’ Isha – Feminist Center, Haifa, ‘Adva’ Center. (In English and in Russian), on:
<http://www.owl.ru/win/books/israel/index.htm>
- Maljević, A., Trafficking in women in Bosnia and Herzegovina. In: P.C. van Duyne, K. von Lampe, M. van Dijck and J.L. Newell (eds.), *The organised crime economy. Managing crime markets in Europe*. Nijmegen, Wolf Legal Publishers, 2005
- Malarek, V., *The Natashas. Inside the new global sex trade*. New York: Arcade Publishers, 2004
- Markovska, A. and C. Moore, Stilettos and steel toe-caps: legislation of human trafficking and sexual exploitation, and its enforcement in the UK and the Ukraine. In: P.C. van Duyne, J. Harvey, M. Maljevic, M. Scheinost and K. von Lampe (eds.), *European crime-markets at cross-roads: Extended and extending criminal Europe*. Nijmegen: Wolf Legal Publishers, 2007
- Marx, E., 2008, Hashish smuggling by Bedouin in South Sinai. In: D. Siegel and H. Nelen (eds.), *Organised Crime*. Dordrecht: Springer, 2008

- Peters, E., *The Bedouin of Cyrenaica*. Cambridge: Cambridge University Press, 1990
- Shelley, L., Russian and Chinese trafficking: A comparative perspective. In: S. Stoecker and L. Shelley (eds.), *Human trafficking and transnational crime. Eurasian and American perspective*. London, Boulder, New York, Toronto, Oxford: Rowman & Littlefield Publishers, INC, 2005
- Siegel, D., Recent trends in women trafficking and voluntary prostitution: Russian-speaking sex-workers in the Netherlands, *Transnational Crime*, 2005, 4 (1): 4-23.
- Siegel, D., *Russische bizniz*. Amsterdam: Meulenhoff, 2005
- Siegel, D. and Y. Yesilgoz, Natashas and Turkish men: new trends in women trafficking and prostitution. In; D. Siegel, H. van de Bunt and D. Zaitch (eds.), *Global Organised Crime. Trends and Developments*. Dordrecht: kluwer Academic Publishers, 2003
- Spencer, J., Media constructing organized crime concepts in an extended criminal Europe: Trafficking women for sexual exploitation. In: P.C. van Duyne, J. Harvey, A. Maljevic, M. Scheinost and K. von Lampe (eds.), *European crime-markets at cross-roads: Extended and extending criminal Europe*. Nijmegen: Wolf Legal Publishers, 2007
- Stoecker, S. and L. Shelley, *Human traffic and transnational crime. Eurasian and American perspective*. Lanham, Boulder, New York, Toronto, Oxford: Rowman & Littlefield Publishers, INC, 2005
- United Nations Population Fund, 2005, *State of world population 2005: The Promise of Equality – Gender Equity, Reproduction Health and the Millennium Development Goals*, on:
http://www.unfpa.org/upload/lib_pub_file/493_filename_en_swp05.pdf
- U.S. Department, 2001, *Trafficking in Persons Report* Washington, D.C.
- U.S. Department, 2007, *Trafficking in Persons Report*. Washington, D.C.
- U.S. Department, 2008, *Trafficking in Persons Report*. Washington, D.C.

Trafficking in humans and illegal economy in war and post-war society

*Vesna Nikolić-Ristanović*¹

Introduction

Socio-economic changes related to globalisation and neo-liberal capitalism, instability of social status and overall insecurity exist in almost all contemporary societies. In addition, all countries worldwide are facing recession and increasing unemployment, but also the expansion of irregular and illegal markets and the incorporation of informal economies into formal ones (Ruggiero, 2001:64; European Commission, 2007). The distinction between legal and illegal activities became in general less clear and visible than before.

However, the speed and accumulation of change and related difficulties in everyday life of people are especially emphasised in transition societies and in the societies affected by war. The overall social disorganisation resulted from war and transition is followed by the disorganisation of economic relations, so that the former legal economy is replaced with an informal, i.e. illegal one.² During a war, an informal economy offers not only scarce goods but also various jobs related to the functioning of the illegal market. In this way the illegal economy compensates for the (non existent or inefficient) formal economy. However, the same situation may continue to exist in a

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² It is necessary to make distinction between two types of illegal economies, i.e. criminal markets (Van Duyne, 1996: 341): illegal trading in goods and services that are themselves forbidden, i.e. whose trade is strictly forbidden (e.g. drugs and people) and illegal trading in otherwise legal goods and services (e.g. goods such as cigarettes, liquor or petrol and other scarce goods during embargo in Serbia in 1990s). This latter form of crime market is sometimes called informal market or informal (hidden or shadow) economy (UNDP, 1998: 4; Ruggiero, 2000: 66). The hidden economy is the part of the larger context of the shadow economy, which is expanding not only in developing, but in developed countries as well. For example, in most of OECD countries, shadow economy was far below 10 per cent of GDP in 1970, while in 1990s it increased in some of them, such as Belgium, Denmark, Italy, Norway, Spain and Sweden to almost 20 per cent of GDP (Schneider & Ernste, 2000:41, 44).

post conflict period as well, and its duration usually depends on the speed with which institutions are repaired, and trust in them regained.

Structural factors related to war and its aftermath play a significant role in the development of various illegal markets, including illegal labour and identity documents markets, as well as in trafficking and smuggling of humans. This is directly related to overall criminalisation of war-affected societies as well as to the status of anomie resulting from war (Nikolic-Ristanovic, 1998). The existence of a shadow economy, which frequently develops during war, in combination with economic mismanagement and corruption that can occur during and afterwards, is also one of the main contributing factors to long-term loss of a clear distinction between legal and illegal economic activity.

All of the above-mentioned factors create conditions for recruitment of both victims and offenders of trafficking in humans. In spite of that, trafficking in humans is often treated as an isolated phenomenon, independent of its close connection with structural problems. These frequently take the form of poverty; an increasing gap between rich and poor; unemployment; social exclusion; as well as gender discrimination and other forms of violence against women and children (Nikolić-Ristanović, 2005:14; Aromaa and Lehti, 2007).

The impact of these factors on victimisation is identified and explored in a number of academic works, while their impact on criminalisation is almost completely neglected and under researched.³ As a consequence, the connection between structural victimisation and criminal actors is hidden. Simplified pictures call for simplified solutions which are rarely effective. Without required nuance, no prospect for effective solution of the problem is likely to emerge. Thus, in order to improve understanding and help develop more efficient programs against trafficking in humans, it is necessary that the relationship between structural victimisation and criminal economic activities is explored.

From the above perspective, this paper aims to explore the relationship between structural victimisation and criminal behaviour of traffickers. This work aims to answer the following questions:

1. What causes people, who once used to be law abiding, to look for jobs/income within the informal economy?

³ This may be the consequence of the fact that so far research has dealt primarily with victims, while research interest only recently shifted toward traffickers. As a consequence, available knowledge about traffickers is in general very poor.

2. How does acceptance of a job within the informal economy lead people to self-criminalisation by in particular, becoming involved with smuggling and trafficking in humans?
3. What is the impact of war and transition on the above two questions?

The points raised in the previous sections and questions raised above are relevant for most countries in the Balkan region, but in this chapter I will address them for the Republic of Serbia. By analysing the conditions under which individual choices and motivations are created in war and post-war societies, the intention is to contribute to a better understanding of trafficking in humans in Serbia. This work will consider their actions both as a form of organised and professional crime, as well as a strategy for survival. This latter especially includes exploration of criminalisation factors which are seen to be directly connected with difficulties resulted from war. These may include international economic sanctions, slow reestablishment of trust and rule of law, transition from communism to neo-liberal capitalism, as well as with their gender implications – gender inequality and gender-based violence.

Taking as a starting point research findings from a study of the illegal economy and trafficking in humans in Serbia, during and after the ethnic wars in 1990s, it will be argued that traffickers committing these crimes view their actions as part of normal economic activity, which can be considered as a continuation of long-term illegal activities that are largely accepted as coping (economic) strategies during and after the war.⁴

The analysis is based on earlier research into the impact of war on crime in general (Nikolić-Ristanović, 1998), and, especially, on work that dealt with the impact of war on trafficking in humans as the form of illegal market, where people are treated as commodities (Nikolić-Ristanović, 2003).⁵ In addition, part of the findings from the Victimology Society of Serbia re-

⁴ Similarly, the close connection between the conflict and criminalisation of the economy in Bosnia is also stressed by Lalic, 2007:85, and Andreas, quoted in the same work. The economic heritage of the conflict affects also post conflict reconstruction. In addition, the transition had an impact as well. Although institutions were eroded earlier and informal economy existed before the war as well, in Serbia as well as in other transitional countries, it became dominant within economy when void was filled by the destruction of one system and the development of another (Marinković, 2006).

⁵ In my earlier research I dealt with trafficking in humans as an illegal market from the perspective of victims (victimological perspective), while the focus of my interest in this paper is moved to the perpetrator, i.e. to trafficking of humans as an illegal labour enterprise (criminological perspective). However, both perspectives are connected by structural victimisation and its impact on both victimisation and criminalisation in postconflict and transitional societies.

search “Male victims of trafficking” are included. These are, based on life story interviews with 11 traffickers (6 men and 5 women) and 11 victims, as well as on interviews with 82 professionals, on reports on trials and criminal files. Life history interviews focused on the exploration of life stories in changing social circumstances (course of life interviews). Both traffickers and victims were interviewed in prison. Traffickers were imprisoned for trafficking and smuggling of men and/or women, while victims were imprisoned because of illegal border crossing or illegal stay in Serbia (Nikolić-Ristanović, 2009).⁶

The general theoretical perspective of this analysis is an economic approach to the explanation of crime, as well as an understanding of organised crime as criminal enterprise, which represents the counterpart of legal enterprise. Trafficking in humans is thus explored primarily from the perspective of the labour market and as a form of criminal enterprise, where job, status and power distribution is organised in a similar way to the organisation of legal enterprise. This perspective questions prevailing policy approach to trafficking in humans in post-war societies, which prioritise criminal law as an appropriate solution.⁷ I will argue for alternatives that may tackle and minimise sources of recruitment of both victims and traffickers. The paper concludes with identification of possible social responses that could provide alternatives to, or even supplement, the usual criminal sanctions.

⁶ The sample included the perpetrators, convicted individuals who, at the time of the data collection, were serving their prison sentences in the Penal- Correctional Institute in Sremska Mitrovica and the Penal-Correctional Institute for women in Požarevac and who agreed to be interviewed by researchers. The sample also included the potential victims of male trafficking (adults and minors, domestic citizens and foreigners), who, in the period in which we conducted the phase of data collection, were in prison in Subotica, serving sentences related to the administrative offences of the unlawful crossing of the state border, and the unlawful stay in Serbia. The questionnaire for interviewing the potential victims as well as the questionnaire intended for interviewing the perpetrators are similarly designed, and as such they were used to conduct the life history interviews, along with the monitoring of the changes in the course of their lives that occurred as a result of the social changes (especially transition and war). This is how we wanted to obtain a deepened understanding of the social factors that influence the exposure to the victimisation and the criminalisation by male trafficking as well as of their mutual interconnectedness.

Using the life story approach, the questions were designed in such a way as to enable us to investigate how the family situation, gender socialisation, economic transition, i.e. the crisis and the war, as well as the social marginalisation can influence men becoming victims of trafficking in people. Also, this approach enabled us to identify the critical phases in one's life route of both the victims and the traffickers in the moments when the important choices/decisions were made and also to obtain a more complete picture of male trafficking in Serbia and the recommendations about its prevention. The data obtained in this way were analysed using qualitative analyses.

⁷ E.g. US Department of State Trafficking in people reports and policies in Balkan countries.

Trafficking in humans as illegal economic activity

Recognition of the economic features of criminal behaviour started during the late 1960s in the USA. Gary S. Becker's study 'Crime and Punishment: An Economic Approach', considered to be one of the earliest studies of crime from economic perspective. He explored crime as the result of rational calculations by the offender related to opportunities for earning income (legal and illegal) and amounts of profits as well as to the probability of being arrested and punished (Becker, quoted by Schloenhardt, 1999:204). After Becker's pioneering work, many studies explored crime from the same economic point of view. A crucial objective of the economic analyses of crime is understanding crime as an illegal economic activity, and perpetrators as "*rationally and normally calculating people maximising their preferences subject to given constraints, like the rest of us.*" (Sullivan, quoted by Schloenhardt, 1999: 204).

On the basis of the analyses of crime in the USA in the 1970s, Smith suggested the crime and its various manifestations could be positioned in "*a taxonomy of all economic activities.*" According to him, "*the spectrum of economic activity ranges from legal to criminal activities, from legitimate to illegitimate businesses*" (Smith, quoted by Schloenhardt, 1999: 204), while organised crime has an important place in the latter ones. The major goal of organised crime is to maximise economic gain, in a way that profit goes into the hands of those who stand back and are not directly involved in committing the crime. In that regard, the aim of organised crime does not differ from the aim of commercial organisations (Schloenhardt, 1999: 206). As has been well observed by Savona, "*crimes are to criminal organisation as legal activities are for legal enterprise*" (Savona, quoted by Schloenhardt, 1999: 206). Thus, as noticed by Schloenhardt (1999: 207), "*a drug trafficker can be described as a wholesaler in the illegal market, while the migrant trafficker may be seen as the illegal counterpart of a migration agent*".

As a result of the constant growth in the number of economic studies on organised crime, there is a high level of agreement within criminology that the economic analysis of organised crime was very successful in clarifying goals and organisational and operational characteristics of criminal organisations. In order to understand criminal organisations, economic theories started by viewing them as organisations functioning within illegal markets. They also explored the similarities and differences between legal and illegal

economic activities (Schloenhardt, 1999: 205, 206). Thus, the analysis of organised crime as an enterprise and labour market are developed.

Trafficking in humans as criminal enterprise and labour market

In the literature about organised crime there is an assumption that its economic activities can rather be described within the conceptual framework of the criminal enterprise than by using the conceptually unclear notion 'organised crime'. (Van Duyne, quoted by Naylor, 2004: 5). Existing knowledge about human trafficking shows that it has various organisational structures. The relationships among members and the management of a criminal enterprise can be vertical, i.e. hierarchical (corporate model), but in contemporary societies more often it is horizontal (network model).

Criminal enterprises can include smaller or larger groups of people, can be of a local or international character, but it can also have a form of 'family business' (Nikolić-Ristanović *et al*, 2004: 160). Very often, these organisations, apart from trafficking in humans, are involved in other criminal activities as well, particularly drug trafficking. In addition, some associates may act as independent individuals who perform individual tasks *ad hoc* or, less often, on a permanent basis. Schloenhardt calls these individuals amateur traffickers. They usually act in border areas, using their own boats, taxis and lorries. However, this author warns that, in spite of the individual and local nature of their functioning, many of these traffickers work for big organisations which act at an international level (Schloenhardt, 1999: 215).

Research shows that, similarly as with legal enterprise, division of labour is a key characteristic of a criminal enterprise as well. Moreover, when a criminal enterprise is in question, the division of tasks and functions assumes a protective role: if it comes to arrest and investigation, only small units of the organisation are exposed (Schloenhardt, 1999: 217). So far research has identified two key positions for the members of a criminal enterprise, bearing in mind the job they are performing, and education and skills they possess:

- distant managers/investors – competent persons who invest in trafficking in humans and supervise its overall functioning. These individuals are usually not known to persons from lower levels or to trafficked persons;
- persons on the lower levels who deal with various criminal activities and come in direct contact with victims. These individuals generally do not

have or have only low levels of education and experience and are mainly hired *ad hoc*, not on a permanent basis:

- persons who recruit and transport victims,
- guides and crew members responsible for transfer of migrants,
- persons who rent their own flats or houses for temporary accommodation of migrants etc. (Schloenhardt, 1999:218).

Apart from the above-mentioned findings, surveys of trafficking in males, carried out in Serbia, found evidence of a third group of individuals being those on the middle managerial level. This clearly makes the criminal enterprise even more similar to a legal enterprise. In essence, the distinction between entrepreneurs, managers and experienced but non-educated workers, which are identified on the basis of the analysis of interviews with traffickers, is very much in accordance with Taylor's review of legal and illegal labour markets and other financial possibilities in market societies (1999:230).

Managers/investors are rarely arrested and punished, mid level managers a bit more often, while those on the lowest positions are the most exposed to arrests and punishments. Bearing in mind that there is no contract, the order among 'employees' is maintained by the use of threats, intimidation and violence. Also, important to the functioning of a criminal enterprise, is that the entire business is secured from outside. This appears to be achieved through the use of violence and intimidation against witnesses and victims, as well as through corruption of state officials (Schloenhardt, 1999: 209, 210).

Up to date surveys hardly shed light on the method of recruitment. This can be with respect to both the employment of members of a criminal enterprise for trafficking in humans, as well as to the process of establishing contacts and interactions between the person who offers and the one who accepts and commits the crime. However, studies of some other forms of organised crime, particularly drug trafficking, provide a proper theoretical basis for the analysis of trafficking in humans from the perspective of the (illegal) labour market. In this regard, especially, an important contribution is made by critical criminologists such as Ian Taylor and Vincenzo Ruggiero.

Ruggiero and Taylor, starting from the analysis of organised crime from the labour perspective,⁸ pointed out to the impact of neoliberal capitalism as providing an enormous increase in employment opportunity from within the

⁸ This analysis relates mainly to studying professional criminals. Ruggiero reminds that this perspective takes into consideration skills which are necessary for dealing with specific criminal activity/job and can be useful for identification of important elements of its organisation (Ruggiero, 2001:16).

“*hidden, parallel and semi-legal economies*” (Ruggiero, 2001: 11), as well as in the increased flexibility and informality of work (Taylor, 1999: 163, 228;). It is also important to stress these authors’ emphasis on the connection between employment in the informal (grey, hidden) economy and looking for a job or possibilities for investment, either in the purely criminal economy, or in both the licit and illicit one.

Ruggiero, in particular, points out the proximity that exists between the informal and the criminal economy, as well as at the blurring of boundaries which distinguish them, often influencing both simple workers and investors periodically to shift from one ‘dirty economy’ to another. Consequently, Ruggiero identified continuity between the irregular, hidden, semi-legal and openly criminal economies, discovering at the same time “*scandalous normality*” of criminal markets, which “*reproduce the most repulsive aspects of legitimate ones*” (Ruggiero, 2001: 11, 12). Myths about hierarchically organised professional criminal enterprise that involve life criminals are increasingly replaced by empirically confirmed facts about its “*essentially local, opportunistic and entrepreneurial character*” (Van Duyne, 1996).

Taylor noticed the connection between economic changes that brought about a significant increase of unemployment, thus producing “*the emergence of a mass underclass population of unemployed young men in a permanent position of marginality vis-a-vis the Fordist labour market of opportunity and routinely seduced by the alternative opportunities of local hidden economies of illicit activity . . .*”, on the one hand, and the emergence of new criminal syndicates in Europe and North America, on the other hand. Many of those new criminal syndicates emerged only in areas affected by long periods of intensive and deep crises connected to changes in the local economy (Taylor, 2001: 169). As a consequence, employment within local ‘economies of crime’ often is the result of the efforts of the individual to adapt to worsening of material wellbeing, i.e. to find appropriate strategies to survive the change (Taylor, 1999: 228). As a consequence, acceptance of a job within criminal enterprise in these circumstances often is being rationalised and justified by the use of different techniques of neutralisation.

Pugh (2005), who researched the links between Balkan post conflict economic difficulties and crime, suggests that economic crime can be categorised into three types of shadow economy: (1) organised mafia and trafficking, (2) corruption, fraud and nepotism in business and public life and (3) survival shadow economies (including black markets in employment and

trade) of the population at large. Pugh also contends that because of the institution of neo-liberal economic policies (in Bosnia and Herzegovina), the dependence on shadow economies is integral to survival among poor populations.

For the analysis of trafficking in humans as a criminal enterprise as well as a possible source of 'jobs', it is of special importance to stress the contradiction between two possible causal explanations ('causality of contraries') of organised crime, which was suggested by Ruggiero. On the one hand, this author pointed out that the lack of resources and legitimate possibilities for employment, and even the need for belonging to a collective have important places among factors that lead to joining organised crime on the lower levels of its structure. However, as he noticed, this etiological explanation can explain only crime committed by 'soldiers' in the organisation – thus by those with the lowest level of education, with the least experience and power – but not criminal entrepreneurial knowledge of the organisation as whole. This latter can be better explained by something completely different: *“through the availability of resources, access to markets and to political mediators”*. In this respect, the following question raised by Ruggiero in relation to drug trafficking can be almost identically be raised in relation to trafficking in humans: *“How can we explain the general causes of drug-related offences, if for some these offences amount to the search for a basic income, while for others they are part of strategies for the valorisation of an income they already have?”* (Ruggiero, 2001: 9). One of the rare comprehensive explanations applicable to both types of criminals is the seduction of crime concept developed by Katz, which suggests the influence of emotional processes that seduce people to deviance, with quality of dynamics differing by social position (Katz, 1988: 321).

Structural victimisation, continuity of employment in hidden economy and the crime of trafficking in humans in Serbia

The impact of war and transition

Poverty, rise in unemployment, the lack of trust in institutions and a strict taxation policy in post-communist and war-affected societies force numerous people to look for jobs in the informal sectors that are, along with the con-

nected job markets, on the rise in many transitional societies. The informal sector often offers better-paid jobs than the formal one, making it the most significant source of income for a part of the population (Nikolić-Ristanović, 2003: 7). On the other hand, the development of the informal job market means that increasing numbers of people (both men and women) are relatively unprotected and open for exploitation in their job positions (inadequate salaries, prolonged work hours, lack of any sort of rights, etc) (UNICEF, 1999: 6).

All of the aforementioned conditions became worse with the armed fighting that was happening in the territories of the former Yugoslavia, “*when criminalized paramilitary and government security troops invested in, sponsored or took part directly in the criminal markets*” (Lewis, 1998: 217).

As a result, war zones became seedbeds for organised crime related to illegal trade of drugs, fuel, weapons, human organs and human trafficking (Nikolić-Ristanović, 1998: 466). Economic sanctions imposed on the Federal Republic of Yugoslavia and sanctions that Greece imposed on Macedonia also contributed to the development of the informal economy in the entire region.

During the war, the informal economy offered jobs and commodities that could not be found through the legal market. The economic and financial crisis in Serbia with galloping inflation, which was a consequence of the war and international economic sanctions, enabled the criminalisation of the entire society. This was evident in the fact that virtually the entire population became involved with some kind of illegal activity. This was particularly the case in terms of their involvement in the hidden or informal economy.

In another words, the enormous inflation and the impossibility of legally earning a wage forced many people to smuggle and sell on the black market scarce goods or to give in to some other illegal activity as a way to survive (Nikolić-Ristanović, 1998: 462). The hidden economy encompassed those who made profit from the wars, criminalised businessmen employed in large export-import jobs and connected with the ruling elite but it also encompassed the petty or street economy in which “*thousands of poverty stricken ordinary individuals were trying to make money in order to survive*”. (Bolčić, 1995: 153). Such stratification that emerged because of the war and which continued to exist in the post-war period, greatly contributed to the determination of the role of the loser/victim or the winner in the structure of the society

that emerged. With that, their role in the closely connected criminal economy was also decided.

The hidden economy offered 'temporary alternative employment' to those who were otherwise nominally employed in legal companies (in which more often than not, they were not getting paid or the paycheque was insufficient to make a living). Also, it offered many types of jobs which were not available in the legal job market at that time. In short, people who took the jobs in the sphere of the grey economy were for the most part honest citizens who were forced into this arena as they were unable to find legal jobs. As observed by Bolčić (1994:143), everyday life became a fight for survival, which did not leave much space for thinking about the legality of one's deeds. Moreover, the extent of the people's involvement in the illegal activities and the benefit that the state elite derived from this were so big that it was no longer in the interest of the authorities to punish the perpetrators. This led to the complete anomie and social disorganisation, and generated a further rise of crime and other forms of deviant social behaviour.⁹

All of the afore mentioned enabled the development of all types of criminal markets and organised crime which, similar to other developed and undeveloped countries alike, serve as a survival strategy for some and as a method of capital accrual¹⁰ for others. Economic hardships related to the war continued to exist in the post-war society as well. Related to this, illegal markets played an important role in the post war economy, despite the re-establishment of the formal economy and the heightened openness of the citizens to the idea of conformity.

After the war, some of the criminals who were connected to the ruling elite used privatisation to legalise their activities and used the profit made for investments in legal jobs and privatised enterprises. The other part continued with their criminal economic activities or moved on to other activities that were more profitable and carried less risk, such as trafficking in humans. They continued to get rich in the sphere of the illegal economy and they began to take on the role of the 'employer' within it: arrangers/investors and managers.

The lowest level are marginalised, war-stricken individuals and those with the lowest socio-economic status who are forced, in order to cope with economic difficulties and problems related to migration, to continue to look to

⁹ Similar situation is in Bosnia and Herzegovina (Lalić, 2006)

¹⁰ See more about this in Ballentine and Nitzschke (2003).

the informal markets for cheap commodities and documents that they could not get legally. Research conducted in the majority of the post war societies point to the particular vulnerability of the war participants regarding the aforementioned (Nitzschke, 2003:1). Under the above given conditions, these people came into a situation to ask for, or accept the job in the sphere of trafficking in people. Closely related to this category of traffickers, the available data on trafficking in humans as a form of organised crime in Serbia and in other countries alike, points to the existence of a relationship between structural victimisation caused by war, the development of the informal economy and the risk of criminalisation of the law abiding citizens but who have since then turned to illegal activities (Studdard, 2004).

Lessons from the survey on male trafficking in Serbia

The survey on male trafficking in Serbia (see footnote 6) produced detailed information about mid and low level traffickers' roles in criminal enterprises.¹¹ Men from lower levels performed the role of recruitment and transfer organisers, while both men and women were mid level night bar (brothel) owners. On the lower organisational levels, men were recruiters, drivers, guides, or they rented houses or flats for migrants to stay in temporarily during transfer, while women were mostly involved in recruitment.

The results of the survey show that traffickers who perform tasks at these lower levels in the criminal enterprise commit trafficking as the part of the continuing search for a job in the informal market. On the other hand, those who are on higher levels use to do that as the part of maintaining a stable and diversified criminal career.¹²

Mid level traffickers were hired by the main organisers or were small-scale entrepreneurs/brothel owners, while those from the lower levels mainly answered that they used to get *ad hoc* job offers from those from mid level. According to the answers of convicted traffickers, no one from the low level had any long term arrangement. Men received offers from mid level "managers" whom they knew as friends, acquaintances and/or their legal or semi-legal employers. All women were involved in human trafficking by their

¹¹ Unfortunately, those from the highest level were not in prison, i.e. available for interview by the time the survey was conducted.

¹² Similar is found by Ruggiero (Ruggiero, 2000).

partners or husbands, who played a similar (low level) or more important (mid level) role in trafficking network.

All traffickers—men whom we interviewed had in common that they were all involved in the last Balkan wars (as soldiers or as policemen). Interviewed men—traffickers who were engaged on the lowest level had problems with physical and mental health, which were a direct consequence of the war, while this was not the case with the ones at the middle level.

The beginning of employment in the informal sector for the trafficker from the lowest category is related to the war in the following ways:

- during the war, upon being wounded and becoming a refugee (for example, they started to be involved in re-sale of smuggled commodities in order to survive)
- after the war, when they are faced with economic problems related to the war and taking refuge (for example, the beginning of the work: ‘off the books’).

Completely opposite to that, traffickers from the higher levels saw war and the post war circumstances as an opportunity for developing their criminal activities and for quick enrichment – for fulfilment of their ‘American dream.’ They had been involved in various forms of illegal trade, mostly drug trafficking and human trafficking/smuggling for a long time and on a permanent basis – as a stable and main job. They became involved in such informal/illegal activity at the beginning of war (illegal trade on war affected territories, opening bars in Kosovo after KFOR¹³ arrived) – after coming in from abroad, after loss of a job in the police forces, or by shifting into a new type of trade that fitted the new social circumstances. Their main motive for getting involved in trafficking in people was a bigger income.

Some of the human smugglers in Serbia, as told by our interviewees, had luxurious houses and otherwise were very wealthy. One of the convicted smugglers, interviewed for our survey, for example, said: *“I am financially secured, at least for the next 10 years. I have €30.000 in a term account in a German bank, as well as income from my wife and my mom’s pension in foreign currency.”*

It is not unusual that some of the mid level traffickers are criminals who, during the 1990s, returned to Serbia from emigration in Western Europe, either voluntarily or upon the deportation because of their criminal record.

¹³ The Kosovo Force (KFOR) is a NATO-led international force responsible for establishing a safe and secure environment in Kosovo

This is when they joined the war and various illegal market activities on the territory of the former Yugoslavia. Some of them first started with drug trafficking, shifting later to trafficking in humans.¹⁴

Although rarely, women also have higher positions in trafficking business, especially as managers ('madams') or brothel and night bar owners. In this case, the war can also have an impact on women shifting their economic position to earn money in this way. One such woman, convicted for trafficking women for sexual exploitation in her night bar/brothel in Serbia, explained that she started to smuggle alcohol during the war in Croatia, and opened a night bar in Kosovo immediately after the arrival of the KFOR. She considers that all she ever did was trade, which was exactly what she was trained for in school. She used to work together with her father, whom she described as 'good merchant'. She also said that she had made a big profit, had acquired a lot of real estate and a stable financial situation.

The Serbian survey findings also suggest that those who were low level traffickers during the war advanced and acquired managerial or higher positions. As a result, they themselves were able to recruit young people, especially drivers, who found themselves to be in an unfortunate economic situation. One of convicted traffickers said that previously he used to work for other employers as a driver and through renting and subletting the flat, but later on he started to make direct deals with people on both the Croatian and Albanian sides.

With the women on the low level, the war did not play a significant role in upward mobility but instead the gender marginalisation, partner violence and transition played a significant role. Women began working in the illegal economy under the coercion of their partners, but in some cases, their first encounter with the informal economy was related to the transition and opening of the borders of Eastern Europe (i.e. smuggling of commodities). The partners who got them into human trafficking had either the same or a higher position than they had (they were usually recruiters or coordinators of the recruiters' network).

Our respondents/convicted traffickers continued to look for jobs in the informal and criminal economy in the post conflict period as well. On the one hand, this could be explained by the lack of distinction between licit and illicit behaviour and the associated habits they formed to look for jobs informally. On the other hand, the wider social and economic context in

¹⁴ For similar see Logonder, 2008: 78.

Serbia also furthered this tendency because of the insufficient availability of legal jobs and income. This was compounded by both the slow recovery of ruined institutions and the lack of citizens' trust in those institutions. Moreover, the economic situation in Serbia is still extremely difficult since the negative consequences of transition have been added to the serious consequences of war affecting the living standard and overall everyday life of people (Nikolić-Ristanović, 2008), as well as corruption of the ruling elite.

Interviews carried out for the purpose of the survey on trafficking in men in Serbia suggest firm patterns of transporting migrants through the territory of Serbia, especially Albanians from Kosovo and Albania, and earning money in this way. It seems that trafficking in humans is a very important source of labour and income for a large number of people, especially for those living in areas near the borders. In addition, Serbia is obviously recognised as a territory where illegal activities are facilitated by weak police control and widespread corruption, and this is why this route is chosen, although it is often a longer and roundabout way.

One of our respondents from the police gave the example of the village from the south of Serbia where about 80 men are involved in smuggling and trafficking of humans, while their relatives operate in other areas. They are the part of criminal groups with firm cohesion as they are all in some kind of kinship. On the other side, in the north, people are renting houses for smuggled and trafficked migrants to stay in, sometimes housing more than 20 of them at the same time. This "business" seems flourishing in border areas in Serbia and may in some degree be comparable with the situation with drug trafficking in Latin American countries, such as Columbia, after the demise of cartels, which involved large part of population (Decker, Townsend Chapman, 2008: 60).

When it comes down to people hired in human trafficking on the lowest level, the influence of structural victimisation is evident also from the findings which suggest instability of employment and 'doing everything and anything', as well as the existence of economic hardships immediately prior to taking the criminal job in the sphere of trafficking in humans. As stressed by our interviewee, a police inspector from the border area, traffickers are most often persons "*who used to do all sorts of things – smuggling of merchandize, cigarettes, cattle, etc. Thus, jobs where the income is quick and risk is small.*"

Mainly, as was the case in the aforementioned research carried out in other countries, they tended to accept *ad hoc* jobs offered to them by the people they knew. Some traffickers also used to have either part-time or even full time legal jobs, apart from being involved in criminal jobs. Traf-

fickers who are on the lowest level do not make any profit (for example: women who do not get any money or are forced to hand it over to their partner) or they make very little money (€ 100 – 300).

The impact of structural victimisation and the informal economy in dealing with trafficking in humans is shown in its most drastic form in the case of children who are hired to guide illegal migrants, sometimes being of their own age, through the border between Serbia (Kosovo) and Albania for symbolic amounts of money (e.g. € 20).

It is also interesting to look at how traffickers perceive their own criminal activity. At the time of crime commitment, traffickers from the lowest level, did not consider their activity in the frame of trafficking in humans to be criminal but instead, that they were only doing their job. Traffickers from this group are low educated people, with problems in verbal expression, who sometime also have mental and physical health problems. They thought that they were doing what was normal, that they were helping other people migrate or get a job, which points to different neutralisation techniques used by them to rationalise their actions. As Goffman (quoted by Nordstrom, 2007: 155) says, they downplay their sense of wrongdoing, using psychological defence such as: “*Everyone does it, it’s not really bad, I’m not involved in criminal activity . . .*” And this keeps the entire system running (Nordstrom, 2007: 155). Finally, in accordance with that and with their total socio-economic positions, they are either likely to blame those they worked for, people close to themselves who got them in touch with the ‘employer’ or the victim for being mistaken about the true nature of the job, the age of the victim and similar. They also tended to deny victimisation of those they trafficked, while they are more likely to look at themselves as the true victims and not as criminals.¹⁵

In contrast, traffickers from higher levels see themselves as criminals who cannot resist temptation. They leave the impression of educated persons, speak eloquently, describing details and seem proud of what they had achieved so far, of their skills and business. They say that they earned a lot of money, and feel financially secured for the future.

They did not make much of an effort to rationalise their behaviour, but spoke more about their effort to avoid arrest. They tend to think that punishment is deserved. Some of them thought that they should be charged with

¹⁵ For similar regarding people involved in various types of illegal markets, see Nordstrom, 2007: 207.

a more lenient offence such as procurement (“*it is criminal but not trafficking*”), but there were also some who were even happy for not getting harsher penalty.

Instead of conclusion: toward a holistic approach to structural victimisation and criminalisation in post-war society

As the previous analysis shows, the connection between scarce legal jobs, the hidden economy and dealing with trafficking in humans is evident. As pointed out by Marinković, there are an enormous number of jobs which are neither legal nor illegal, or which often shift sides. Moreover, informal economy, black labour market, organised crime and corruption are closely connected and it is very difficult to make a clear distinction between jobs in informal economy and those belonging to the category of organised crime, including trafficking in humans (Marinković, 2006: 28, 37).

The perpetrators of trafficking in humans who take up the lowest levels in the criminal enterprise are usually those who were victimised on several different levels, relating to the place they hold in the social, economic and gender structure and also to their experiences during the war and the consequences they suffered. Their acceptance of a job related to trafficking or alternately smuggling of humans is motivated by economic reasons and it is mostly a part of a continuation of the job search in the informal job market. It is for that reason that they, unlike the ‘real’ traffickers–criminals, are not aware of the illegality of their job, or they tend to neutralise its illegality. With that, their capability to escape arrest is lessened, making them prone to arrest and punishment.

The statistical data on convicted¹⁶ traffickers in Serbia in the time period of 2003–2008 show that out of the total 262 accused individuals, only 47 of them were convicted.¹⁷ Recent analyses of verdicts in trafficking cases showed that the largest portion of the convicted persons are the recruiters

¹⁶ Humans trafficking is criminal offence from 2003 in Serbia, and humans smuggling from 2005. Between 2003 and 2005 smuggling cases were treated as trafficking, but now trafficking is mostly connected with women, and smuggling/illegal migration with men/entire families.

¹⁷ Data of Statistics Bureau of the Republic of Serbia, <http://webzrzs.stat.gov.rs>, retrieved at 10 June 2009.

and transporters, the ones on the lowest level while the lesser part of them are the middle, i.e. the managerial level (Copic, 2009). With regards to this, the situation in Serbia does not differ significantly from the one that exists in other countries regarding trafficking in humans (Kelly, 2002: 45; Markovska, Moor, 2008), but also regarding illegal markets, such as drug trafficking.¹⁸ In other words, those who are the most responsible and those who take the most of the profit have a higher chance of remaining out of the hands of the law.

Looking at the big picture, those with the least power and those who are the most marginalised are at the same time those who are the most prone to repression. Traffickers who are on the lowest level in criminal business are most often also those who are arrested and incarcerated. On the other hand, traffickers from higher levels only rarely are arrested, and even more rarely convicted. This can be explained from the social constraints within the business. Remaining silent about the 'business' in the case of arrest is especially appreciated and is awarded with 'career development' As said by one convicted trafficker, "*when you become known, everyone calls you, especially if you do not squeak. I did not squeak and since then they had more confidence in me.*" If it happens that these traffickers are convicted, the conviction have much smaller impact on them comparing to low level traffickers, since the challenge of making profit is usually bigger than fear of arrest and conviction.

However, not only the arrest policy but also the sentences passed to traffickers do not reflect the position and share of power and profit within criminal enterprises. Thus, penalties, which are in general lenient (imprisonment from several months to six years, and conditional sentences), are not proportional to the responsibility, influence, power nor the realised profits by the perpetrators. Those at the lowest level and those who make the least money are sentenced similarly or equally as heavy as the ones on higher levels who made a bigger profit. If we look at imprisoned traffickers interviewed for the male trafficker's survey, we can see that they got following sentences:

1. Mid level traffickers:

¹⁸ Ruggiero, for example, stress that social panic connected to international war against drugs in 1980s led to increase of incarceration rate of users and small dealers, who became the part of a „carceral social zone“, similarly as other marginalised, poor and underemployed, in whose economic activities legality and illegality are interlinked. „Prison discipline lowered their social expectations, turning the majority of them into routine criminal workers“, with drug users being treated as „criminal reserve army“, as „the poor of the era of forced industrialization were redefined as the reserve army of labour.“ (Ruggiero, 2001: 24).

- a. Men: one year and six months, and six years imprisonment;
 - b. Woman: four years imprisonment.
2. Low level traffickers:
- a. Men: 10 months, three years, five years imprisonment;
 - b. Women: one year and six months, two years, three years and 10 months, four years imprisonment.¹⁹

The words of a woman who was convicted for working for her husband as a recruiter of girls for trafficking are very illustrative of the disproportionate sentences: “*He got six years, and me four. For him it is too little, for me it is too much.*”

Thus, we could ask ourselves, like Liz Kelly did: what would be the appropriate punishment for those who get the least in the criminal business? (Kelly, 2002: 57). Considering that for those traffickers, committing a criminal act has an importance of normal economic activity, which is related to the long-lasting legal and semi legal activities which were widely present as economic strategies of survival during and after the war, I think that it is important for criminologists and the general public to question the current approach to human trafficking in Serbia and surrounding countries.

In other words, the approach which deals with the perpetrators solely through repression ought to be re-evaluated. Repression, meaning criminal law enforcement, besides the short-term useful effects, in the long run deepens the already existing social exclusion and marginalisation of these individuals. With that, as pointed out by some authors, some changes along the lines of a strategic reconstruction and a sudden move to the formal economy, without taking into consideration the useful social function which hidden economy is known to play in transitional societies, one risks ignoring the hidden entrepreneurs. It would hurt those who became dependent on the hidden and survival economy in conflict and post-conflict societies (Nitzschke, 2003: 14).

Keeping the aforementioned in mind, it is my belief that the business of trafficking in humans in the post-war society has to be closely tied with dealing with the aftermath of war, including the said war economy. In that sense, it is necessary to adopt a holistic approach that joins the two problems together and has as its priority long term measures, such as the development of democratic institutions, the concept of a rule of law and, especially, measures

¹⁹ This is confirmed in recent analyses of 37 cases of convicted traffickers in Serbia (Copic, 2009)

of social policy, based on social solidarity, empowering support and social inclusion. This last one includes the increase in the number of legal jobs and better access to jobs for marginalised groups in general, and particularly for war victims and participants, as well as programmes for providing employment for the said groups. That is how the decrease of the source of victims and perpetrators alike as well as the commencement of a lasting and positive peace could be influenced.

With that, the mechanisms of restorative justice can also be usefully applied, considering that findings of the research in trafficking of men in Serbia show that the traffickers on lowest levels are still not aware of the consequences that their actions have caused or that – if aware – they still have a tendency to deny the consequences of their own criminal activity on the victim. Very illustrative in that regard are the words of the above-mentioned woman, who was convicted for trafficking (recruitment of girls):

“When once I am out of prison, I would like to go to see these girls, to ask for their forgiveness. Thanks God, this was only attempt. I realised that something like that may happen to me as well. No penalty can punish you as you can punish yourself. The girls were victims of course. They wanted to sell them. I realised what I did only here, in prison. Then I was not able to think about consequences and their situation. Now I started to think how it would be if I were on their place. If something like that happened to me, I would forgive. I would feel better if I go to talk with them and if they can forgive me.”

Closely related to this is the need to raise awareness of those belonging to the vulnerable population, especially war veterans and refugees, not just about the risks of victimisation but also that taking of a job in the hidden economy can make them a part of a criminal group and can lead to harmful consequences for other people.

Particular attention must be given to areas close to borders, whose marginalised population is particularly prone to the risk of inclusion in the illegal network. Moreover, the regional approach to the fight against organised crime and consequences of the war and war economy is necessary (Studdard, 2004: 2).

References

- Aromaa, K. and M. Lehti, Trafficking in human beings: policy problems and recommendations. In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe. The dirty linen of illicit enterprise*. Nijmegen, Wolf Legal Publishers, 2007
- Ballentine, K. and H. Nityschke, Beyond greed and grievance: Policy lessons from studies in the political economy of armed conflict. New York: International Peace Academy, 2003
- <http://www.ipacademy.org>, retrieved on 25 October 2008.
- Bolčić, S., O 'svakodnevnici' razorenog društva Srbije početkom devedesetih - iz sociološke perspektive (About everyday life in ruined society of Serbia at the beginning of 1990s - from sociological perspective.) In: M. Prošić-Dvornić (ed.) *Kulture u tranziciji*(Cultures of transition), Beograd: Plato, 1994, 143.
- Bolčić, S., Izmenjena sfera rada. In: S. Bolčić (ed.), *Društvene promene i svakodnevni život: Srbija početkom 1990-tih*. Beograd: Insitut za sociološka istraživanja Filozofskog fakulteta u Beogradu, 1995, str. 153
- Copic, S., Trgovina ljudima u Srbiji:kaznena politika sudova u funkciji kontrole kriminaliteta. (Trafficking in humans in Serbia:courts penal policy in the function of crime control). In: L.Kron, (ed.), *Crime control and European standards: the situation in Serbia*, Belgrade: Institute for Criminological and Sociological Research, 2009, 323-341
- Decker, S. and M. Townsend Chapman, *Drug smugglers on drug smuggling: lessons from the inside*, Philadelphia: Temple University Press, 2008
- Duyne, P.C. van, The phantom and threat of organized crime. *Crime, Law and Social Change*, 1996, no. 4, 241-377
- EC, Undeclared work in European Union. *Special Eurobarometer*, 2007, 284/Wave 67.3
- Katz, J., *Seductions of crime: a chilling exploration of the criminal mind – from juvenile delinquency to cold-blooded murder*, USA: Basic Books, 1988
- Kelly, L., *Journeys of jeopardy: A review of research on trafficking in women and children in Europe*. IOM Report, 2002
- Lalić, V., *Trgovina ljudima u Bosni i Hercegovini* (Trafficking in humans in Bosnia and Herzegovina), Banja Luka: Defendologija, 2007
- Lewis, R., Drugs, war and crime in the post-Soviet Balkans. In: V. Ruggiero, N. South and I. Taylor (eds.) *The New European criminology:*

- Crime and order in Europe*. London and New York: Routledge, 1998, 216-230
- Logonder, A., Who is 'Yugo' in 'Yugo-mafia'? A comparative analysis of the Serbian and Slovene offenders. In: P.C. van Duyne, J. Harvey, A. Maljevic, K. von Lampe and M. Scheinost (eds.), *European crime-markets at cross-roads: extended and extending criminal Europe*, Nijmegen: Wolf Legal Publishers, 2008, 63-97
- Markovska, A., C. Moor, Stilettos and steel toe-caps: Legislation of human trafficking and sexual exploitation, and its enforcement in the UK and the Ukraine. In: P.C. van Duyne, J. Harvey, A. Maljevic, K. von Lampe and M. Scheinost (eds.), *European crime-markets at cross-roads: extended and extending criminal Europe*, Nijmegen: Wolf Legal Publishers, 2008, 121-151.
- Marinković, D., Shadow labour market as an obstacle to strengthening the competitiveness of companies. *South-East Europe Review for Labour and Social Affaires*, 2006, no. 4, p. 31-43
- Nikolić-Ristanovic, V., War and crime in the former Yugoslavia. In: V. Ruggiero, N. South and I. Taylor (eds.) *New European Criminology*, London: Routledge, 1998, 462-480
- Nikolić-Ristanovic, V., Illegal markets, human trade and transnational organised crime. In: P.C. van Duyne, M. Jager, K. von Lampe and J. Newell *Threats and phantoms of organised crime, corruption and terrorism*, Wolf Legal Publishers, Nijmegen, 2004, 117-139
- Nikolić-Ristanovic, V., S. Copic, B. Simeunović-Patić, S. Milivojević and B. Mihalj, *Trafficking in people in Serbia*. OSCE: Belgrade, 2004
- Nikolić-Ristanovic, V., Trgovina ljudima u Srbiji: između moralne panike i društvene strategije (Trafficking in humans in Serbia: between moral panic and social strategy). *Temida*, 2005, no. 4, 5-15.
- Nikolić-Ristanović, V., *Male trafficking in Serbia*. Belgrade: Victimology Society of Serbia, 2009
- Nitzschke, H., Transforming war economies: Challenges for peacemaking and peace building. New York: International Peace Academy, 2003
<http://www.ipacademy.org>, retrieved on 25 October 2008.
- Naylor, R.T., *Wages of crime: black markets, illegal finance, and the underworld economy*. New York: Cornell University Press, 2004
- Nordstrom, C., *Global outlaws: crime, money, and power in the contemporary world*. Berkeley and Los Angeles: University of California Press, 2007

- Pugh, M., *Liquid transformation in the political economies of BiH and Kosovo*. Draft Paper for TD10 International Studies Association Honolulu, March, 2005
- Ruggiero, V., *Crime and markets: Essays in anti-criminology*. Oxford:Oxford University Press, 2001
- Sykes, G., and D. Matza, Techniques of neutralization: A theory of delinquency. *American Sociological Review*, 1957, vol 22, p. 664 - 70
- Studdard, K., *War economies in a regional context: Overcoming the challenges of transformation*. New York: International Peace Academy, 2004, <http://www.ipacademy.org>, retrieved on 25 October 2008.
- Schneider, F. and D. Ernste, *Shadow economies around the world: Size, causes, and consequences*. IMF Working Paper, International Monetary Fund, 2000
- Schloenhardt, A., Organised crime and the business of migrant trafficking: An economic analysis. *Crime, Law and Social Change*, 1999, 32, 203-233.
- Taylor, I., *Crime in context*, Cambridge:Polity Press, 1999
- UNICEF, *Women in Transition*. The MONEE Project CEE/CIS/Baltics, Regional Monitoring Reports, No.6., Florence: UNICEF International Child Development Centre, 1999

‘Gone in 50 Seconds’

The social organisation and political economy of the stolen cars market in Greece

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Introduction

Car theft in Europe has increased considerably since the 1950s, and is today one of the most common forms of property crime (EUROPOL, 2005). Cars are stolen for various reasons such as: (1) for own transportation use; (2) for fun (‘joyriding’); (3) as a means of conducting another criminal activity (e.g. the transportation of undocumented migrants), and/or as ‘side effect’ of another criminal activity (e.g. after the commission of a robbery or a burglary); (4) as a means of blackmailing the legal owner to ransom (see, e.g., Gounev and Bezlov, 2008); (5) as a means of upgrading one’s car by stealing specific features of another vehicle; (6) as part of an insurance fraud (von Lampe, 2005); and (7) as commodities to be illegally traded (trafficked) in whole or in parts.² Evidently, these types of car theft are not mutually exclusive; for example, cars stolen during the conduct of a burglary or a robbery may conceivably end up in the market of stolen cars and car parts.

Moreover, not all of them are associated with particular assumptions about the nature of the criminal activity from which they result. It is particularly the seventh type of car theft, the traffic of stolen cars that is regularly and unambiguously associated with ‘transnational organised crime’. This approach is taken in reports of law enforcement agencies (e.g., EUROPOL, 2006), the media (e.g. ‘*The Mafia of Luxury Passenger Cars*’, ‘*The Mafias of the Stolen Passenger Cars*’), and of political bodies such as the EU Council (Council of the European Union, 2004). Thus for EUROPOL (2006), car

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² For an analytic typology of motor-vehicle theft see Herzog (2002: 710-712).

theft and trafficking is organised by entities that are similar to large multinational companies, have very sophisticated structures and may specialise in the activity. Equally, for some media sources the ‘criminal organisations’ involved in this ‘transnational’ illegal market are distinguished by “internal discipline, systematic action and high professionalism” (Bikatzik, 2003).

The official view further accepts that vehicle crime ‘may be linked to serious forms of violence’, and ‘may be linked internationally to other forms of crime, such as trafficking in drugs, firearms and human beings’ (Council of the European Union, 2004). As estimates of the damage approximates or exceed the figure of €15bn a year (Council of the European Union, 2004), the business of stolen vehicles is considered as particularly harmful while it is also considered extremely lucrative. For example, estimates based on the number of unrecovered vehicles in the EU for 2001 suggest that criminal profits could be around € 9 billion (Sánchez, n.d). The above constitute the essential parameters of the threat of ‘organised crime’ that is routinely invoked in the course of criminal justice policy-making and which acts as a platform for the intensification of police controls, surveillance, and punitive countermeasures.

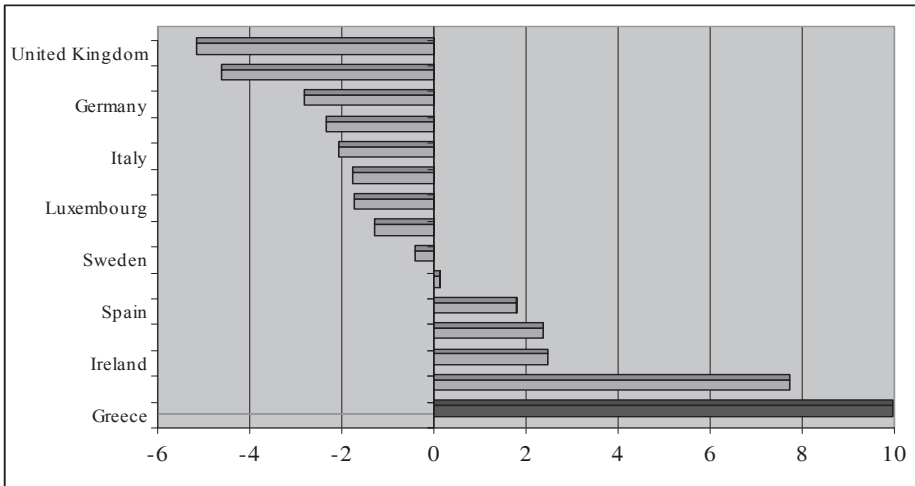
As the significance of the issue for the direction of public criminal policy is indisputable, in this chapter we aim to pose once again a series of fundamental questions regarding the accuracy of the official image of the organisation of the business of stolen vehicle trafficking. One may firstly object that in the absence of hard data, estimates of the criminal profit derived from this business can be quite speculative. Leaving such speculations aside, we are more concerned, however, about the accuracy of the more fundamental assumptions of the organisational image, noting that the direct association of damage and profit involved in the stolen vehicle trade is a corollary of the initial assumption about the particular form of ‘transnational organised crime’ related to stolen car trafficking. The attribution of the above characteristics to the entities involved in it may involve considerable misrepresentations of the actual social organisation and social purpose of these activities. Essentially, were we to dispose of a certain monolithic imagery of ‘transnational organised crime’, the social and economic characterisation of this crime-market may appear to be different.

To shed more light on the social and economic features we offer a ‘view from below’ by considering the social organisation of the illegal trade in stolen cars and car parts in Greece. There are several reasons that make Greece a relevant context for the conduct of such investigation. The country has al-

ready been identified as one in which the illegal trade flourishes, and is considered as an integral part of what Liukkonen (1997) describes as the 'Balkan Route' in vehicle trafficking. As a significant number of stolen cars in Greece is considered to be trafficked, it is highly instructive to investigate the national structure of the business, which is evidently a precondition for any consideration of trans-national illegal trade.

The significance of Greece emerges more clearly when one considers that the country has experienced between 1990 and 2001 an approximate 10% rise in car thefts, which is the highest in the EU for the same period (European Communities, 2004; Graph 1). Several factors may have contributed to this trend. These include the demand for cheap cars and car parts made in the Western world and Japan, and the ownership of cars in Greece, including expensive luxury cars, which has increased considerably (see Houliaras, 2000; Souliotis, 2006).

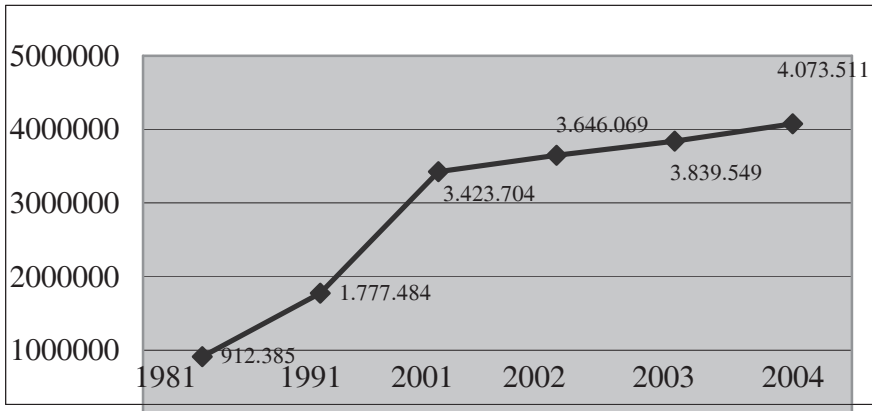
Graph 1. Annual change in car theft, EU-15, 1990-2001



Source: European Communities (2004)

Passenger car ownership in Greece has been increasing by 6-9 per cent annually, whereas the average annual increase in the rest of the EU has been only 1-2 per cent (Galanis, 2005; see also Graph 2).

Graph 2. Number of passenger cars in Greece, 1981-2004



Source: ESYE (2006)

The figure of 3,4 million passenger cars in Greece in 2001 is an impressive one considering that, according to that year's census (ESYE, 2001), the population of Greece was 10,9 million. These figures must, however, be viewed in light of a number of relevant indicators, which, in our opinion, further strengthen the relevance of the Greek case. Unlike other old EU member states Greece has no car industry, it has a GDP that is lower than the EU-15 average and it is the country with the most expensive *new* cars. Yet, passenger car ownership is only slightly lower than the EU-15 average (To Vima, 2007), which is related to the fact that the retail market prices in Greece is much higher than this in other EU-15 countries (see To Vima-Anaptyksi, 2007). Finally, the car is an important, highly desirable commodity in Greek society, unambiguously signifying one's social status (see Trakousellis, 2008).

Thus in the light of a relative absence of relevant literature Greek and international (Clarke and Brown, 2003; Gerber and Killias, 2003; Tremblay *et al.*, 2001; see also Gant and Grabosky, 2001), we firstly aim here to fill a gap by providing detailed information on the trafficking in cars. By *cars* we mean *privately-owned passenger cars*. We are excluding *privately-owned trucks* and *buses* as well as *motorcycles*, as we found that the elements of the illegal business by type of vehicle vary, sometimes –as in the case of motorcycles– significantly. Additionally, passenger cars and car parts are exactly the pivot of the whole business and heavily define its social purpose. Our main concern, therefore, is to provide a thorough account of the extent and nature of the car theft and trafficking business, with an emphasis on the *practices and roles*

prevailing in it as well as the *relations* between its actors and the external environment. Furthermore, we explicitly consider the role of foreign nationals, corruption and violence. In the concluding section we offer a discussion of our findings, suggesting that the official/mainstream idea of 'organised crime' fails to capture essential and analytically decisive characteristics of this business.

Methods and Data

The current study uses data from a number of sources. Initially, statistics were obtained on car theft from the Ministry of Public Order (MPO).³ These statistics refer to the period 1998–2007. The annual reports on 'organised crime' for the years 1999, 2004 and 2005 published by the Ministry of Public Order (MPO, 2000; 2005; 2006) were also used. These reports are based on the compilation of information and data on 'organised crime' by the Greek Police, the Hellenic Coast Guard, the Greek Customs Authority, the Committee of Section 7 of Law 2331/1995 on money laundering and the Bureau for Special Inspections (YP.E.E.). It should be noted that these reports were not used for their value as accounts of 'organised crime' in the country but as sources of information in relation to methods of transportation and routes of trafficked cars and the participation of foreign nationals in the trade.

Secondly, we have used articles from high-circulation Greek newspapers published between May 1999 and May 2008. In addition, financial and business newspapers and some locally circulated newspapers were used. Some of the articles appear indicatively within the text. These articles were supplemented by items from the 'Flashback' section of the Greek *Police Review* (Astynomiki Anaskopisi), published between June 1998 and February 2007. These refer to successful operations of the Greek police (and other law enforcement agencies) in relation to car theft and trafficking.

Anonymised copies of 10 pre-trial reports were obtained from the Greek police in August 2007. The information that was obtained from these reports includes actors of the car-theft-and-trafficking business, practices involved in 'recycling' a car, transporting stolen cars as well as relationships among actors.

³ Currently General Secretariat for Public Order of the Hellenic Ministry of Interior, Public Administration and Decentralisation.

Some of the pre-trial reports refer to cases of car *theft*. In addition, they have been extremely useful in relation to the involvement of foreign nationals in the business. Each pre-trial report does not refer to one case of car theft and trafficking only. For instance the largest report referred to 64 cases of stolen and trafficked cars. The pre-trial reports also helped us to shape directed questions to the live participants.

A number of participants were also interviewed for this study. We utilised information obtained from interviews conducted with the police in 2002. These were supplemented by interviews with police officers investigating cases of car theft and trafficking in August 2007. In addition, we used information provided in informal conversations with employees and entrepreneurs in the legal car business such as used car dealers and garage owners. One engineer from the Directorate of Transportation of the Prefecture of Achaia was also interviewed. The Directorate of Transportation is responsible for conducting inspections of stolen cars on behalf of law enforcement agencies.

Finally, individuals involved in the car trafficking business were interviewed. These include: (a) a used car dealer from central Greece, who has been selling stolen cars coming from Western Europe. The interview was conducted in November 2006 in a town in the North East of England. (b) Two retired professional car thieves. By professional we mean thieves who steal cars for profit (Light *et al.*, 1993). The last three interviewees were treated and used as “experts” (Nee, 2004: 4), and the interviews led to obtaining information about ways of stealing a car, the role of anti-theft measures as well as the process of recycling, transporting, and selling a car. Accounts from cars thieves were cross-checked with each other’s accounts and some aspects with accounts obtained by the police, media and other sources.

The extent of car theft and trafficking

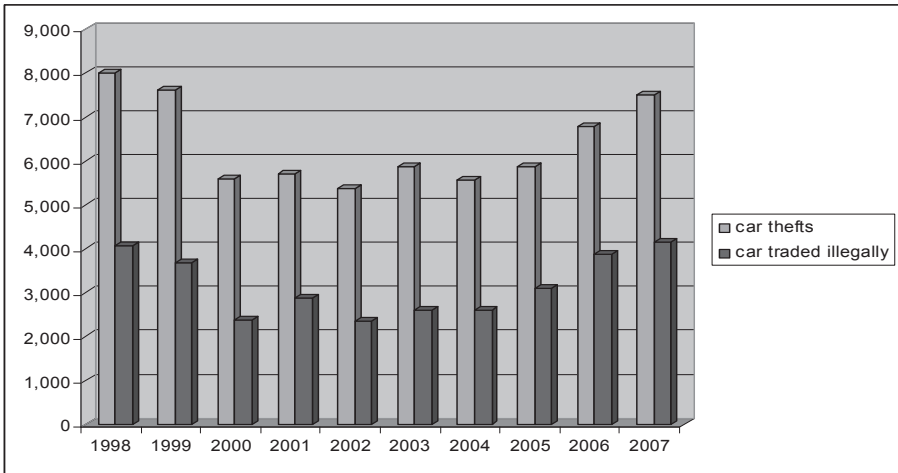
Data on *car* theft in particular are available from 1998 onwards. From 1998 to 2007, 63,884 cars were stolen in Greece. We can accept this figure as a reliable one due to ‘motor-vehicle theft’ being a crime almost always reported to the police because of the strong insurance motive (see Skogan, 1976; see also Gideon and Mesch, 2003). Indeed, across all countries that participate in the *International Crime Victimization Survey* nearly all cars and motorcycles

stolen were reported to the police (see, for example, Mayhew and White, 1997). Thus, we can strongly argue that official statistics on car thefts is an accurate representation of the phenomenon.

The majority of car thefts in Greece were committed in urban centres and particularly Athens and the Greater Athens area (Prefecture of Attica). The majority of types of cars stolen in Greece are Fiat, Toyota, Citroën, Nissan, BMW, Volkswagen and Opel (see also Dobovšek, 2004), which are more or less the best selling types of cars in the country (ESYE, 2007).

The number of cars that are *trafficked* is basically the number of stolen cars that are not *recovered*. However, the available data from the MPO relates to *cleared* car thefts, which does not automatically mean that the car is *recovered*. For example, the offender of a car theft may be found, the offence is cleared but the car may still be missing. On the other hand there are cases in which the car has been recovered but the theft has not been cleared. However, as a rank officer with experience in car theft and trafficking suggested, "*the cases in which the car has been recovered and the theft has not been cleared are very few . . . the number of cleared thefts and the recovered cars are almost identical*". It follows that neither the number of cleared thefts are a *completely accurate* representation of recovered cars nor the non-cleared thefts are a *completely accurate* representation of non-recovered (illegally traded) cars. Nevertheless, as the differences, according to the police, are very small, they can provide a valid representation of the volume of vehicles stolen *in* Greece and traded illegally. Thus overall, it is reasonable to assume that the 31.703 car thefts that were not cleared (49,6%), approximates an equal number of cars which have not been recovered, and were thus illegally traded (Graph 3).

Graph 3. Number of car thefts and cars traded in Greece, 1998-2007



Source: MPO (2007; 2008)

It should be noted, however, that the assumption of the number of non-recovered cars as an indication of the volume of *illegally traded cars in Greece* possesses more limitations. Firstly, statistics on car thefts in Greece include cars that were stolen within Greece whereas car trafficking involves cars being stolen in Greece *and* other countries or stolen in other countries and traded in Greece. Secondly, a number of cars are stolen in Greece but they are being traded illegally in other contexts, as we will later show. Third, there are some cases in which the car is recovered with some parts missing. In this case, the car is recovered, but there is no official recording of the theft of parts, which may have been illegally traded. Fourth, non-recovered cars may be stolen for joyriding or the facilitation of another criminal activity and be hidden, destroyed or ‘thrown into the sea’. As the police argued, while this is rare, their non-recovery does not mean they have been traded. Fifth, interviewees involved in the legal car trade suggested that small car parts (whose absence is not easily observable) are stolen from cars seized by banks due to the owner inability to pay debts and kept in premises that are inadequately guarded. These thefts are not accounted for in the official statistics. Sixth, as it was apparent from the pre-trial reports, when the police reached close to a ‘recycled’ car, which was initially stolen and was in the possession of a garage owner or a used car dealer, then the car ‘disappeared’ and another theft was reported, a practice that may *slightly* inflate the number of stolen cars in the country.

The social organisation of the stolen car market in Greece

We generally agree with Bruinsma and Bernasco (2004) in that there are three phases in the car trafficking business, which are dealt with by clusters of individuals: (1) stealing a car, (b) 'recycling' a car, which involves changing the identity of a stolen car, and (c) selling a car. We have come across, however, schemes in which the three functions are performed by less than three clusters. For example, one of the two retired thieves interviewed used to steal a car, 'recycle' it and then sell it. All three functions were performed by one individual. Moreover, it would be appropriate to add another phase, namely *transportation* of stolen cars, for those cases in which cars are imported/exported into/out of Greece. All four phases (theft, 'recycling', transportation and sale) are discussed separately below.

Phase (1) – Theft of the car

In contrast to much of the literature and media accounts, we found that *initially* traffickers in Greece buy a crashed or burnt car supposedly to repair it, rather than steal a car and then buy a crashed one. The latter only happens after opportunistic thefts, which are considerably fewer than the planned thefts. The crashed cars are bought with the registration documents and license plates, and the price varies considerably depending on the model and the condition of the car. The range is from € 300 to € 1.500. Crashed (or partly burnt) cars, which are bought by car traffickers, may simply be found on the side of the road

“. . . [name of first thief] and [name of second thief] came twice to the police station and asked me to let them know who the owners of a burnt BMW and a crashed Renault were. They told me they wanted to buy them from their owners and repair them. Later it was proven that they wanted to buy the cars in order to extract their VIN and switch them to a BMW and a Renault they stole”. (Police officer)

The above however, is not the most common channel of identifying crashed cars to be bought for this business. A very small number of crashed cars are bought from legal businesses such as car rentals. The vast majority of crashed vehicles are bought either via classified advertisements or from road assistance companies', 'car cemeteries' as they are euphemistically called in Greece. The large number of road accidents occurring in Greece, which primarily

involve privately-owned passenger cars, results in a large number of crashed cars as well as a variety in models and colours. In 1999, for instance, 3,834 cars were involved in serious and deadly road accidents (Autocar, 2000; see also European Commission, 2005). Unfortunately, however, statistics on crashed cars that could provide the number of cars potentially to be pooled for 'recycling' are not collected in Greece. This is a weakness of the bureaucratic mechanism of the country that is exploited by car traffickers (see also Dinopoulos, 1999).

Once the crashed car is bought, thieves look for an identical (in terms of type and colour) car to be stolen.

"It depends on what crashed car we have. Same type, same colour . . ." (car thief).

There are many cases in which the theft is commissioned by entrepreneurs/receivers involved in the legal car business, who may order for a specific car and/or its parts. Thieves may travel to other localities to find and steal a car. As Felson and Clarke (1998) suggest, it is the nature of the offence which defines what models are mostly at risk. Those cars stolen for their parts are the cars that are not considered very expensive or a luxury, whereas very expensive and luxurious ones are usually stolen to be sold as a whole, although this does not preclude luxury cars being stolen for their parts. While there are numerous ways of stealing a car, the particular method used depends on opportunity, time of the day and, very importantly, whether the target is of *old* or *new* technology. What is meant by *old* technology, according to one of the car thieves interviewed, is the cars that do not have immobilizers. It is interesting to note that Greece has the lowest percentage of car withdrawal in the EU. As a consequence, the average 'age' of the fleet in the country is about 10,5 years whereas the Western Europe equivalent is less than 8 years. 23,5% of passenger cars are considered of old technology and a further 10,2 are older than 15 years (IOBE, 2007), which means that about one in three cars in Greece are extremely vulnerable to theft.

Some of the stealing methods are appropriate for both old and new technology cars. The first method is entirely opportunistic and relies on 'precipitating victims' (Wolfgang, 1958), who leave the car unattended with the key on the engine.

"You wait near a kiosk. Someone goes to the kiosk and leaves the keys on the engine. You go and take the car like a gentleman". (car thief)

Old technology cars are very easily stolen. For example, by breaking the window and turning the engine on by using the cables under the steering wheel or by duplicating a key just by using the extracted door lock or the tap of the gas tank. New technology cars, which currently constitute the majority of the cars stolen, are stolen by using different methods. One of them involves stealing the key by breaking and entering a premises (Levesley *et al.*, 2004; see also Copes and Cherbonneau, 2006). Another way is by duplicating the car's (immobilizer) keys. During the empirical research, it was found that car attendees outside nightclubs are likely to be involved in the duplication of keys used for the theft of luxurious cars in Greece. Car attendees hand over the keys to locksmiths who cut keys by using state of the art equipment. The original keys are then returned, and when the legal owners of the luxury cars leave the nightclub they are followed by car thieves. A few hours later the car is stolen. As far as the duplication of immobilizer keys is concerned, the role of locksmiths and employees in car agencies is instrumental.

"There are immobilizer keys. Apart from the car agencies, there are some locksmiths, who can cut keys. There are very few places in the world where immobilizer keys can be cut by locksmiths, and Greece is one of them". (used car dealer dealing stolen cars).

"There are locksmiths who have the machinery to 'cut' immobilizer keys. I went to [name of locksmith] to get me a second key for one of my cars. I got it . . . There are also 'vermins' in car agencies, who can 'cut' second immobilizer keys, which are then used for thefts". (used car dealer)

Other methods involve loading the car on a wrecker and transporting it to a garage where it is being dismantled, or not returning rental cars.

"A Saab was stolen from a car rental company in Hungary. It was not returned back. The owner of the company could see via GPS that the car was in Patras. He came to Greece, reported it to us, and when we went there we found a used car dealership with about 50 stolen cars". (police officer)

The most ingenious method of stealing a new technology car however, was brought up by one of the thieves interviewed, and it involved the unknowing collaboration of a road assistance company.

"We buy a crashed car from [name of roadside assistance company], and we immediately subscribe with them. After some time, when we find the same model of the same colour on the street, we change the number plates putting on the plates of the crashed car and we call [name of the roadside assistance company]. We tell

them that we cannot get into the car and that we would like them to carry the car with the wrecker to our place. The company does not have any problem to do it since they see that the owner of such a car of such colour with this registration number is a subscriber". (car thief)

Relatively recently the theft of cars by the use or threat of violence against the legal car owner has been observed (see Marnellos, 2004), but there is no evidence that this developed into a trend. Cars are stolen from the street and other public space, car parks, car dealerships, exhibitions or other businesses. Evidence from the Hellenic Coast Guard suggests that a number of car thefts occur at the ports of Piraeus, Rhodes and Heraklion (Crete) (MPO, 2000). According to the participants in this study, the vast majority of the car thefts are committed at night or during the early morning hours. This provides car thieves with several advantages. Firstly, a car theft can be more easily committed when it is dark. Secondly, because 'recycling' many times takes place in localities, which are geographically distant from the place of the actual car theft (e.g. as it was shown in one of the police reports, a car stolen in Pyrgos was 'recycled' in Patras), thieves want to avoid the relatively heavier traffic policing that exists during daytime. Thirdly, because it gives the car thieves, who want to transport the car out of the country, time before the theft is reported to the police and border authorities notified.

"If a car theft is committed at 24:00 or 01:00 the owner will become aware of it, let us say, at 7:00. The offender could be in Albania by 5:00 long before the theft is reported to the police. By the time all relevant authorities are notified the car would be in Croatia . . ." (police officer).

Another practice employed by Greek thieves is stealing cars with a foreign registration number. The only piece of data we possess on stolen cars with foreign registration number concerns 21 Dutch registered cars stolen in Greece from 1998-2002, of which 14 were not recovered (Blaauw, 2004).

"The car thieves were telling us that they go for car with foreign registration numbers because their owners would leave Greece after reporting the theft to the police, and no one would look for the car." (police officer)

Stealing cars with foreign registration numbers has a big advantage for the car thieves, and others involved in the car trafficking business in Greece. Legal owners return back to their countries and they do not look for their car, something that may instigate a process leading to discovering the 'recycling'

of the stolen car through an inspection of the car conducted by the Directorate of Transportation.

Car thefts are usually committed by pairs or groups of three to four offenders. This is in accordance with Hochstetler's (2001) account, namely that street offenders choose to commit an offence in the presence of co-offenders. This is a rational decision, which is related to the practicalities of committing a car theft as well as reducing or minimizing risks.

"There must be at least two people stealing a car. For example, one opens the car and the other looks out . . . or one opens the car and the other uploads it on the wrecker." (car thief)

The time it takes a thief to steal a car depends on the type of the car, opportunities and circumstances as well as anti-theft devices installed. A car left unattended with the keys on is stolen in a few seconds. However, in those cases in which the theft is not opportunistic and anti-theft devices need to be neutralised "*a car can be stolen in 50 seconds . . .*" (car thief). In most cases, the thieves hand over the stolen cars to the persons, who 'recycles' it, and get paid by the theft. In this way, car thieves do not "absorb the costs of concealing and rehabilitating the stolen vehicle" (Tremblay *et al.*, 2001: 569). The thieves' payment depends on the type of car stolen: € 1.000–1.500 for a 'regular' car, and as much as € 10.000 for an expensive, luxury car such as Porsche and Lamborghini.

Phase 2 – 'Recycling' of the stolen car

The second phase of the business involves the 'recycling' of the car. This can be done by two methods: (a) Vehicle Identification Number (VIN) change, by changing the stolen car's VIN, the 17-digit number that is unique for every car, with the VIN of a crashed car of the same type and model. In the literature this process is also referred to as 'ringing' or 'rebirthing' (Tremblay *et al.*, 2001; see also Morselli and Roy, 2008). (b) By the production of fraudulent documents. VIN change is basically done for two connected reasons: (a) in order for the theft of the car not to be ascertained, and (b) in order for the car to be sold as 'legal'. There are three different ways of VIN alteration:

- 1. Re-engraving (Epanaharaksi):* Once the stolen car's VIN is erased, the VIN of a crashed car of the same type and colour is printed. For the printing, seal-like metal sticks of 5mm or 6mm with letters and number are used. These metal sticks are called *pontes* in Greek.

2. *Enwalling (Entoihismos)*: the part of the chassis or the small metal plate with the VIN is cut/extracted, and is replaced by the crashed car's metal plate with the VIN. Similar procedure is used for the alteration of the engine's number although, according to the interviewees, altering the engine's number is not as functional and necessary for the business as the VIN change.
3. *Welding (Epikollisi)*: the piece of the chassis with the VIN or the metal plate with the VIN of a crashed car is pasted over the VIN of the stolen car. Welding is the easiest and most rare way of VIN change. In fact the only reference to welding was made in one case in one pre-trial report. The reason that welding is very rarely done is because it becomes extremely easy for the Directorate of Transportation to establish whether the VIN of a stolen car has been altered.

The stolen car is in this way 'recycled' and presented as the repaired car, which was bought 'crashed' in the first place. Re-engraving, enwalling and welding are being done in garages in various towns and cities, which can be different to the ones in which the actual car theft was conducted. In the current research we came across such garages in Athens, Thessaloniki, Patras, Corinth and Pyrgos. This is in support of the view that garages and other repair outlets are criminogenic settings (Leonard and Weber, 1970; Tremblay *et al.*, 2001; see also Gnomi, 2007). Indeed, a closer look at the operations of the Bureau for Special Inspections (YP.E.E) reveals that 6.646 known offences were committed in businesses related to the sale and repair of cars (and motorcycles) from January 1 to September 30, 2006 (YP.E.E, 2006). In the vast majority of cases the 'recycler' is someone who has been involved in the legal business of car repairs, uses his legal business as a cover for illegal business, and may be specialised on specific car models. For example, a 'recycler' involved in stealing, 'recycling' and selling Fiat cars in Athens was employed in authorised Fiat garages (Ta Nea, 2000). If the 'recycler' is not involved in the sale of the stolen and 'recycled' car, he usually receives a payment of € 1.500 per car by the receiver. The type of car makes no difference in the payment since the work involved and the skill required for 'recycling' is the same irrespectively of the type of the car.

Another way of changing or attempting at changing the identity of the car is the *production of fraudulent car documents*. In one of the cases we came across during the interviews, a used car dealer employed a burglar to steal blank forms and the official stamp from Holargos' Directorate of Transporta-

tion in Athens. Moreover, in 1999 the police arrested a number of individuals involved in the theft and trafficking of cars who used to produce fraudulent German and Georgian registration documents (MPO, 2000). In the case of fraudulent car documents production, the VIN alteration is not necessary; however, this may lead to the authorities finding out that the car had been initially stolen in the case of international trips or in the case the police require the Directorate of Transportation to perform an inspection. Needless to say, in those cases in which the cars are disassembled in order for parts to be sold, no 'recycling' is required. There are however, very few instances in which a car does not need to be 'recycled' or have fraudulent registration documents produced. That is the case when cars are stolen and sold directly to individuals demanding a cheap car to be used for transportation between fields or to facilitate agricultural works in rural areas.

"There are farmers from [name of area] who come to me and say 'I want a pick up truck. I don't care if it is stolen. I can give you EURO 1.000-2.000'. They don't care if it's stolen . . ." (used car dealer selling stolen cars).

Phase 3 – Transporting the car – Routes for stolen cars

The flow of stolen cars is *generally* from (relatively) richer to (relatively) poorer countries (see Clarke and Brown, 2003). This generally applies to the case of Greece, which is a source, transit and destination country for stolen cars. However, cases in which stolen cars were transported and destined for sale in a relatively richer country are present, such as a case with stolen cars from Hungary destined for the Greek market or the stolen cars registered in Greece and identified by the Schengen Information System (SIS) in the western world. In 1999, for instance, one Greek-registered car was identified in France, one in Italy, one in Austria, one Belgium, and three in Germany (MPO, 2000). In those cases the cars stolen in Greece remain in the country, the identity of the car is changed and it is introduced to the market as a used car. In the case of trafficking, the car stolen in Greece *out* of the country, there are a variety of transportation methods and routes. The stolen cars are driven to the borders and then into the transit/destination countries such as Albania, Macedonia, Bulgaria, and Turkey. According to the Chief Constable of the Prefecture of Thessaloniki in Northern Greece, about 62% of the cars stolen from Thessaloniki in the mid-1990s were found in Bulgaria (MPA, 1998). Up to the mid-1990s paths in inaccessible areas in the Greek-Albanian borders were used by traffickers to avoid customs. Another way of trafficking cars is by disassembling and carrying to transit/destination country

in other vehicles such as trucks. A popular way of trafficking stolen luxury cars out of Greece is by shipping them in sealed containers accompanied by false documentation and even among legal commodities such as fruit and small electrical appliances to countries such as the United Arab Emirates.

Greece is also a transit country, and the aforementioned procedures and routes are also applicable here. Cars are stolen from countries of Western Europe such as Germany, Italy, France, Austria, Belgium, the Netherlands and Spain and sold to Balkan and Eastern European countries via Greece. For instance, in February 2005 twelve individuals were arrested by the French Gendarmerie for the theft and trafficking of cars to the former Yugoslavia via Italy and Greece (Eurowatch, 2005). According to available evidence, the majority of cars that are transported to Greece and identified by SIS before they are sold, are stolen primarily from Italy and secondarily from Germany (MPO, 2000). Stolen cars usually enter Greece through the ports of Patras, Igoumenitsa and Piraeus either by being driven or on car transporters. The payment for the driver of a stolen car is € 1.500 whereas the payment given to the car transporter driver is € 1.000 per stolen car. There are however, cases in which stolen cars were 'imported' through the country's northern borders with Bulgaria and Macedonia. Law enforcement investigations have also led to the apprehension of individuals involved in a car trafficking scheme with cars stolen from Central Europe being exported to Georgia via the Greek-Turkish border (MPO, 2005) and to Russia (port of Novorossiysk) via the Greek islands of Lesbos, Chios, Rhodes, and Turkey (MPO, 2000; Ta Nea, 2003). Many of the cars stolen from Western Europe are transported and sold to the Middle-East and Asian countries via Greece (MPO, 2006).

In the 'organised crime' reports (MPO 1999; 2005; 2006) emphasis is placed on the role of Greece as a source and particularly transit country for stolen cars. However, Greece is also a destination country for cars stolen in Western Europe. Stolen cars are either simply driven/transported to Greece or cut in two pieces in the source country and are imported into Greece supposedly as car parts (*tropeta* as they are called in the language of the business) cleared through the customs. Once arrived in Greece the parts are assembled into a car and the process of 'recycling' begins.

Phase 4: Selling the car and/or car parts

Older models are usually disassembled and sold as parts. New technology cars that are not considered very expensive or luxury cars (e.g. Citroën, Peugeot,

Ford, Toyota, Nissan, Fiat, Volkswagen, Opel etc.) are either stripped for parts or sold as a whole. New technology, expensive and luxury cars (including SUVs) are usually sold as a whole, though there are exceptions primarily with relatively more expensive but more common types, such as BMWs, Mercedes and Audis, which may be stripped for parts. We have not come across cases of luxury cars reportedly stolen in Greece such as Cherokee, Porsche, Lamborghini, Maserati, Ferrari and Bentley that were stripped for parts.

Cars and car parts are kept in warehouses or other private premises before they are sold. In one case in which the cars were stolen in Germany, the cars were simply parked on streets of Athens as well as on rented parking space. The traffickers regularly moved the stolen cars to other parking locations so that suspicion was not raised (Astynomiki Anaskopisi, 2004). Some cars and car parts are sold by the thieves and 'recyclers' to customers from their social network.

However, according to the interviewees involved in the business, the vast bulk of stolen cars and car parts is sold through numerous legal outlets and specifically used car dealerships throughout the country. Tremblay *et al.* (1994) identify these legitimate sellers as a *basic* requirement for a successful stolen car market. There was a consensus among the participants that as much as 30–40% of the car parts in the Greek *legal* market originate from stolen cars. It emerged from the interviews that the sheer volume of stolen merchandise ending up in the legal market makes local car and car parts dealerships that are not knowingly or unknowingly involved in the sale of cars and car parts something of an anomaly. Car parts and cars are sold cheaper than their original prices or their real price in the market. As the retired car thieves and used car dealers suggested, they are sold between one third and one fifth cheaper than their real price in the market depending on the sale premises and whether the stolen merchandise is integrated to the legal merchandise or whether the sale is made in an informal way. If, for instance, a stolen luxury car of a good condition is sold through a legally used car dealership, the price will be only one fifth of the market price lower so that suspicion on the part of the prospective buyers is not raised. Business through legal car dealerships highlights that "the informal tends to be absorbed by into the formal and the alleged threats posed by the former tend to be turned into opportunities for the latter (Ruggiero, 1997: 35).

On the other hand, when the sale is made informally through the seller's social network then the price can be significantly lower. Although not all

buyers are aware of the sale of stolen and ‘recycled’ cars, a number of buyers do have knowledge of that and in fact consider the sale of stolen and ‘recycled’ merchandise as a positive feature of the market.

“When we arrested [name of a used car dealer], who was selling stolen cars in Corinth, some people rose because they thought he was the only dealer they could buy cheap cars from.” (interview with the police)

A number of cars are disposed through newspaper classified adverts. Sometimes stolen and ‘recycled’ cars are gifted to and used by relatives and friends of the entrepreneurs involved in the business. Finally, individuals exchange stolen cars or car parts with other commodities. As was confessed by a rank detective in an interview, their Albanian informers argued that a number of Albanian luxury car thieves have been exchanging the cars with heroin and cocaine at the Greek–Albanian borders.

Patterns of cooperation in the stolen car market

We generally agree with Bruinsma and Bernasco, who have argued that actors involved in all phases of the stolen car market “*are linked to each other via ‘thin lines’ and relate to each other instrumentally*” (2004: 89). We are nevertheless sceptical about the suggestion that “*the entire network must be regarded as a chain*” (p.89), to the extent that this may be taken to indicate a continuous structure. Although the *process* of stealing, ‘recycling’ and selling a car may look like a chain, the network does not. This is because thieves may be working for/with more than the rest of the ‘clusters’ involved in the process. In other words, the relations between the clusters seem more opportunistic than regular. The thieves interviewed, for instance, used to work with more than one used car dealers and by no means were they linked to one of them only. In addition, the fact that one of the thieves interviewed was involved in the theft, ‘recycling’ as well as sale of a car suggests that structures even less complicated than networks may be involved in the business. Although the four phases/stages of the car theft and trafficking business are fairly fixed, the relationships among actors in the trafficking networks change continuously depending on the phase of the business, and very importantly, the ability of some actors to be involved in other phases of the business as well as when the theft is by order. In the first phase (car theft) cooperation involves either pairs or small groups of three to four individuals. Largely, there is a mixture

in the patterns of cooperation in the particular trade. This is not to say that cooperation among some of the individuals involved in the trade cannot be durable. This depends primarily on pre-established personal/social relationships. The better/lengthier the personal/social relationship between individuals involved in the trade, the more durable future business cooperation can be expected. What is also interesting to note here is that the legal businesses (even those that are not directly related to cars) are the setting in which 'loyalty is borrowed' (von Lampe, 2007) and/or legal business relationships transform into criminal business relationships (von Lampe and Johansen, 2004). For instance, one of the thieves interviewed knew the used car shops he was illegally working with/for from his legal business as a car repairer. Moreover, the interviewed used car dealer, who sells stolen cars in Greece, established the initial connections with thieves and individuals producing fraudulent documents in his father's restaurant in Germany.

The role of foreign nationals in the stolen car market

From 1998-2006,⁴ out of the 3,429 offenders known to the police, 1,187 (34,6%) were foreign nationals (MPO, 2007). Unfortunately, the figures are not broken down by ethnicity. These figures also suffer from a major drawback, namely they refer to known offenders for car *thefts*. In consequence, we cannot be certain about the extent to which foreign nationals are responsible for stolen cars that are *non-recovered*, and are, therefore, introduced in the market of stolen cars. The pre-trial reports suggest that when foreign nationals steal a car, they abandon it shortly after the theft having stolen CDs and equipment such as CD players and amplifiers or after having run away from the crime scene. In addition, according to evidence from the pre-trial reports, in all cases in which foreign nationals were arrested for car theft, the cars were found and returned to their legal owners *immediately*, which suggests that the VIN was not altered. According to the Greek legislation, when the VIN of a car is altered, the car is not forwarded to its legal owner but to the *Public Property Management Organisation (ODDY in Greek)* for auction.⁵

Other qualitative evidence, however, suggests that foreign nationals do participate in the first, second and third phase of the business. The interviews

⁴ There is no data for foreign offenders for 2007.

⁵ The only way for a 'recycled' car to be returned back to its legal owner is for the owner to have reported a specific characteristic of the car (e.g. engraving of a sign or the owner's initials) when reporting the theft to the police.

with the car thieves provided evidence in relation to the involvement of skilled Russians and Italians in the first phase of the business. Russians and Italians are also identified as nationalities involved in car trafficking according to the international literature (see Plywaczewski, 2003; Allum and Sands, 2004). We also came across evidence on the involvement of Albanians, Hungarians, Bulgarians, Polish, Serbs, Armenians and Georgians in the theft and transportation phase (see Karsiotis, 2007). In addition, there has been involvement of foreign nationals in the second phase, particularly migrants that were employed in garages.

We have not come across however, any evidence on the involvement of foreign nationals in the fourth phase of the illegal market of stolen cars *in* Greece. This is most probably because foreigners are still viewed suspiciously by the Greek public, something that does not allow them to sell a (stolen) car to Greeks. Foreign nationals in general and Albanians in particular (who constitute the largest migrant group in the country) are considered untrustworthy (see Antonopoulos, 2006), and “*if an Albanian attempts at selling a car to someone, people would be suspicious that something is going on . . .*” (police officer; see also Antonopoulos *et al.*, 2008). There *may* be however, sales of stolen and ‘recycled’ cars by more ‘respectable foreigners’ or sales of stolen and ‘recycled’ cars through the migrant thief or ‘recycler’s’ social network and in a more informal setting. When the cars are stolen from Greece and are driven out of the country there is a heavy involvement of foreign nationals in the sales. In the late 1990s the Greek police apprehended two Albanian networks that were involved in stealing luxury cars, and exporting and selling them in Albania (Nesfyge, 2000). It could be argued that the transportation of cars stolen from Greece and sold into other countries, particularly Eastern European countries is embedded into and facilitated by the migrant community in Greece (see Bovenkerk, 1998).

Car trafficking and corruption

Corruption in the car trafficking business *within* Greece was not a major theme in the particular study. The police officers interviewed, the two car thieves, the engineer from the Directorate of Transportation and the employees in the legal sector did not comment in relation to corruption of public officials, and when they were asked specifically whether corrupt practices on the part of public officials were present, they replied negatively. Corrup-

tion does not appear to be endemic to the stolen car trade, if only because the functional/instrumental parts of the illegal trade in stolen vehicles, such as the change of VIN, do not require the contribution of public officials to materialise. In addition, the fact that the 'recycling' and the sale of stolen cars usually take place within legal business settings not only highlights the blurring of the illegal/legal, 'underworld'/'upperworld' realms but also explains further why public officials do not come into frequent adversarial contact with people involved in the trade.

The only reference to 'corrupt public officials' in our interviews with live participants was made by the used car dealer interviewed. He mentioned that customs officers in the port of Patras were bribed to avoid thoroughly checking the merchandise in order for the procedure to be simplified, time to be saved and the merchandised to be cleared through the customs with lower tax.

"All stolen cars are cleared through the customs along with non-stolen cars. When the car transporter reaches Patras, they [customs officers] ask me 'where are the cars?' I tell them 'over there. Here, have € 50 to have a coffee. They have a quick look of the cars and they let us go . . . everything starts with the customs officers. If they were doing their job right, nothing would have happened . . ." (used car dealer selling stolen cars)

It is safe to argue that the customs officers in the particular case were not aware of the cars imported being stolen because if that were the case they would most probably either arrest the importer and have the cars seized, or ask for more money. Given that the interviewee has not been arrested thus far (as of March 2009) and the extremely small amounts of money mentioned (€ 50), it can be assumed with reason that customs officers did not know that the cars are stolen. The customs officers would not risk losing their job and/or being imprisoned for such a small amount. We have found however, media references to corrupt customs officers accepting bribes by transporters of stolen cars in order to turn a blind eye. The bribe per stolen Mercedes transported from Greece to Albania, for instance, is about € 1.000 (Alpha TV, 2005). We also came across media references about participants in a network of public officials also being involved in the trafficking of cars stolen from Greece (and Italy) to Albania (Eleftherotypia, 2008). Corruption has also been a central theme when cars are stolen in Greece and traded in other countries where the need to provide fraudulent registration documents leads to bribing of public officials in the relevant authorities.

Car theft, trafficking and violence

Competitive violence (Reuter, 1983) is not an integral part of the car trafficking business. Firstly, there is no monopoly in the illegal trade in stolen cars or stolen car parts which are distributed through numerous legal outlets. There is, therefore, no particular need to control large parts of (stolen) merchandise or segments of the market. Secondly, entrepreneurs want to avoid violence because “*they want to do business as quietly as possible. If there is violence, and the police come, they may look further into the cars and find out that some cars are stolen.*” (police officer).

There are, however, three instances in which violence may *appear to be linked* to the car business. Violence (or threat thereof) is an essential part in those cases in which one is robbed of their car. Moreover, there are cases in which specific individuals in the business are willing to use violence, though not as part of the business:

“There is generally no violence . . . but I remember, we had been informed about a Cretan, who was transporting cut cars from Germany, left the truck with the cut parts in a car park near the beach. We went there and we were 5-6 officers waiting for him. When he saw us he pulled a gun out . . .” (police officer)

Finally, there are individuals, the so called ‘Godfathers of the Night’ in Greece, who extort money from used car dealers –among other legal businessmen– by ‘selling protection’:

“Godfathers of the night extort used car dealers. Last week⁶ godfathers of the night poured petrol on some cars and set them on fire because the owner did not want to pay the ‘protection fee’.” (police officer)

These types of violence however, are neither integral to the car trafficking business nor exclusive to the stolen car market but are present to other businesses that are vulnerable to extortion in Greece such as establishments of the night-time economy.

⁶ Last week of July 2007.

Discussion

We are now able to connect the different threads of our account of the social organisation of car theft and trafficking in Greece. Let us first return to the question of the extent to which this illegal market is part of the business of 'organised criminals'. Unsurprisingly, a view of these activities as the result of robust, continuous and hierarchical predatory organisational structures is upheld in official accounts. Thus in the MPO's annual report on 'organised crime' in Greece for 2004 it is stated: "*the market of stolen cars constitutes a profitable activity for organised crime, which assumes a big transnational dimension. In Greece, the problem becomes apparent from the apprehension of isolated drivers of criminal organisations . . .*" (MPO, 2005:13).

What emerges from this study is that the entities involved in the business are *networks* or – in extremely rare situations – sole individuals with the skills to be involved in *all* phases of the car trafficking process when the scale of the operations and the quantities of merchandise concerned are small (see von Lampe, 2007). Participants on these networks many times act on improvisation such as in the case of opportunistic car thefts. There is no leader directing action of the individuals involved in the business, and in the case used car dealers order for a specific type of car, they should be viewed as the 'initiators' rather than the 'organisers' of the process. These individuals and networks involved in the stolen car and car parts market by no means constitute 'transnational criminal organisations'; rather, they are loosely connected local units that act independently (see Hobbs and Dunnighan, 1998). The workings of each of the phases are autonomous. In this way the flow of information about (parts of) the business is blocked or at least filtered. With some exceptions the stolen car market displays mostly a technical division of labour, according to skills and competencies without further elements of organisational direction or centralisation. Networks of car theft and trafficking operate on a local, regional or national level depending on needs of the market.

This is not in the least to deny that there are networks that operate in a cross-border context, which are embedded either in migrant communities (Bovenkerk, 1998) as mentioned earlier, or in pre-established social relationships facilitated by legal businesses. But speaking of 'transnational' criminal

networks would operate more as an “additional fear arouser” (van Duyne, 2004: 6), rather than reveal an essential aspect of the business. ‘Organised crime’ reports in Greece are likely to place emphasis on foreign nationals, who traffic stolen cars to the Balkan and Eastern European countries (see MPO, 2006). While it was shown that foreign nationals are indeed involved in the first, second and third phase of the trade, criminal business formed only by foreign national would not be viable in Greece. This is because stolen cars (and car parts) are primarily distributed through legal businesses, which are controlled by natives. The role of aliens therefore emerges as less critical, and more as an integral part of a wider structure wherein “*criminal activity conducted by ‘aliens’ need[s] a range of indigenous partners and agents, along with a receptive environment in which that activity is carried out*” (Ruggiero, 2003: 177).

Overall, the image of the business that emerges from our examination of a series of its aspects does not quite vindicate the heavy emphasis that orthodox accounts of ‘organised crime’ place on characteristics such as organisation, coordination, hierarchy, ethnicity, violence and so on. Rather, our findings are consistent with views of organised criminal activities as rather less robust from an organisational viewpoint, carried out by clusters of individuals that assemble on the basis of necessity and opportunity rather than authority and formal rationality. It follows that an adequate understanding of the business at the level of description has much to gain by the deployment of concepts found in social network theory (Bruinsma and Bernasco, 2004), even though the exploratory nature of our study and the amount of data we possess at the moment have precluded such an undertaking in this instance.

We nevertheless believe that it is possible to return to certain more fundamental questions about the nature of ‘organised crime’: to ask what it does, and how it relates with licit business. Such questions elude extant official accounts of the trade in Greece. For example, by putting emphasis on the role of Greece as a source and transit country, the Greek MPO’s ‘organised crime’ reports effectively bypass the question of the important role of the legal sector for the whole business, and therefore strongly communicate the idea of the ‘exceptionalism’ of ‘organised crime’. And yet our findings leave little doubt that the market in stolen cars and car parts exemplifies the idea that crime and commercial activity are ‘half-brothers’, as it were (Van

Duyne, 2005: 2). We are concerned to begin to assemble the wider picture that thus emerges.

We began our account by noting the impressive extent of car ownership in Greece, and how automobiles are integrated in Greek social life, not merely instrumentally but also as status symbols. Not only new models are introduced in the Greek market without significant or any delays with respect to other large markets, but the Greek public is also bombarded with information about 'the latest and the greatest' in the automobile world. If only as an indication of this, in August 2008 there were 15 car-related magazines circulating in Greece, excluding daily newspaper supplements.⁷ Furthermore, the automobile market in Greece in the 1980s and after has been receiving periodic boosts, especially via state sponsored incentives aimed at the renewal of the car fleet. Ultimately, car ownership itself is a significant parameter of fiscal policy, due to an assortment of direct and indirect taxes currently in place.

Thus behind the figure of approximately four million passenger cars populating Greece's busy streets today, there lies an extensive industry that aims not only to put new cars into circulation, but also to keep old ones going. As an indicative measure of the extent of this business circuit in our research setting, we examined in August 2008 the local yellow pages for the city of Patras. There were 262 car-related businesses in the city, excluding petrol stations, driver schools, taxis and transportation firms and insurance companies. Car-related businesses, most of which are small businesses specialising in particular aspects of the car, such as tyres, electrical circuits, paintwork etc, or trading in particular car parts, such as doors, exhausts, or other body or mechanical parts, is the economic sector that occupies by far the largest space in the yellow pages. This could be taken as a measure of the objective weight of the sector, and it certainly highlights its importance for the local economy.

Importantly, however, we believe that the patterns of the social organisation of the stolen car and car part business emerging from our research make sense in the light of this extensive, and in some sense hypertrophic, car-related economic circuit. As the car trade in Greece as a whole is subject to

⁷ For example, 'Wheels & Motor' (with *Ethmos*); 'Auto Typos' (with *Eleftheros Typos*); 'Autocar' (with *Eleftherotypia*); 'Car & Speed' (with *Proto Thema*); etc.

the economic cycles and fluctuations in disposable income, it would be a truism to say that car-related businesses that depend on the automobile for their survival operate in an extremely competitive environment. It appears therefore that trading in stolen cars and car parts constitutes a strategy for reaping an additional competitive advantage towards other actors in the business.

We have seen that the stolen car market, just as any other illegal market, is a dynamic environment in which the demands of law-abiding consumers are met (see also van Duyne, 2003; 2005): the top seller car types in the legitimate market largely correspond to the types targeted by car thieves. This is no mystery, since the initiators of the stolen car trade are typically used car or car part dealers who translate demand in the legitimate market into demand for criminal activity. This occurs in two ways. Firstly, a stolen car can be traded as such, and at a competitive price below the average price of the market; secondly, a stolen car can become parts, which are also traded at a competitive price below the market average. The entrepreneurs involved in the legal business of cars and parts thus seize the opportunities for additional profit and, in turn, thieves provide stolen merchandise to cater for demand in the legal market.

Put in Ruggiero's (1996) terms, we are dealing here with an exemplary 'dirty economy', in so far as crime and the legal sector appear to mutually promote entrepreneurship. There is an overlap of the licit and the illicit feeding on increasing passenger car ownership in Greece, and certain circumstances related to it, such as the large number of road accidents in Greece.

It is interesting to note that the legitimate actors such as road assistance companies, garage owners/repairer, and used car dealers are neither exploited by criminal networks nor simply provide support to the criminal networks knowingly or unknowingly. They are what Morselli and Giguere (2006: 185) call 'critical actors'. For example, road assistance companies are the first who deal with crashed cars. In the vast majority of cases, a car is 'recycled' in legal businesses or individuals employed legally as repairers. Although some stolen and recycled cars are sold informally, it is likely that the majority of the cars and car parts could not be sold if not from within a legal business. Evidently, because of the characteristics of the commodity at stake as well as

because of insurance requirements, the car trafficking business would not be viable without the legitimate actors, who are “*essential in orchestrating the criminal network*” (Morselli and Giguere, 2006: 197). These legitimate actors drift from legality to illegality and back always within the confines and protection of their legal business.

Recalling that Ruggiero’s concept of the ‘dirty economy’ posits the existence of *objective* common interests linking together official business and criminal conduct’ (Ruggiero, 1996: 28), we would be further prepared to explore a number of hypotheses related to the fact that the stolen car (and car part) market creates numerous opportunities for legal and illegal economies. These are related to cars and therefore to the idea that the particular illegal markets contributes both directly and indirectly to the viability of car-related small businesses that in their vast majority exist outside official dealer networks.

This firstly occurs by allowing an unknown, but, at any rate, large number of people who do not have the financial capacity to buy new or expensive cars in lower prices. Stolen cars in this respect are essentially re-introduced in the (Greek) market, and become available at an appropriately lower price to a segment of the clientele that differs from the group to which the originally victimised owners belong. So while the latter are likely to have their cars replaced with new ones, especially when the car has been insured against theft, the stolen one caters for different types of clients. Incidents such as the protest in Corinthos to which we referred above clearly highlight the existence of a stratified market along those lines. But it is also important to note again how to a large extent consumer behaviour is conditioned by the status of the automobile as an ‘indispensable’ commodity in the Greek context (see Manolas *et al.*, 2008). We do not argue that for every stolen-and-trafficked car two cars enter the fleet in circulation. What is certain is that stolen-and-trafficked cars firstly allow for the introduction of an increased number of cars overall. Moreover, we have yet to consider the stolen car as a source for cheap parts.

It is possible in the above light to make sense of the fact that more stolen cars enter rather than exit Greece – the position of Greece as a destination country was something about which our respondents were adamant. Thus car theft and trafficking increases, in fact, the actual volume of cars available

in the Greek market: it caters for demand originating in different segments of the market, and therefore enhances the viability of car-related small businesses by reducing their operating costs.

What holds for the stolen-and-trafficked car as a whole is of course also true when one considers it as the sum of its parts, which in this case become spare parts to be traded at competitive lower prices by the large number of smaller, local, car-related businesses that exist outside factory-authorized networks. Of essence here is that the illegal trade contributes in a positive way towards the maintenance of the running car fleet by increasing the volume of cheap spare parts readily available from the multitude of car-related small businesses. And to the extent that the latter survive, they are also a source of income for the state through taxation and also through collection of road tolls, road tax and other taxes such as those imposed on fuel. All these have constituted important parameters in the fiscal policies of the Greek government historically (see Daskalopoulos, 2008). The above suggests that in the general socio-economic environment criminal benefits are multilateral (see also Antonopoulos, 2008).

Finally, although vehicle theft is considered a 'strategic offence' (Svensson, 2002) indicating a long and serious criminal career, there is no evidence about traffickers of other commodities hopping onto the stolen car market and *vice versa*. This not only discredits EU Council's claim but also points to the fact that individuals involved in organising the theft and trafficking of cars are specialised in the particular illegal trade due to their position in the *legal* car-related trades. For all the above, the stolen car market is, following Ruggiero (1996), the archetypal 'dirty economy', an environment in which neither criminality is unknown to legitimate businesses nor criminals live off legitimate business in a parasitic way.

References

- Allum, F. and J. Sands, Explaining organized crime in Europe: Are economists always right? *Crime, Law and Social Change*, 2004, 41, 133-160
- Alpha TV, To 'Perasma ton Klemmenon Autokiniton apo tin Kakavia. *Alpha TV*, 10 November, 2005
- An Garda Siochána, *A Cross Border Organised Crime Assessment 2004*. Dublin: An Garda Siochána, 2004
- Antonopoulos, G. A., Public reporting of criminal activities to the police in Greece: Is there a difference when the offender is migrant? *European Journal of Crime, Criminal Law and Criminal Justice*, 2006, 14(2), 135-160
- Antonopoulos, G. A., The Balkans as a 'laboratory (for the study) of illegal Markets. *Trends in Organised Crime* (special issue on 'Illegal Markets in the Balkans'), 2008, 11(4), 315-325
- Antonopoulos, G.A., J. Tierney and C. Webster, Police perception of migration and migrants in Greece. *European Journal of Crime, Criminal Law & Criminal Justice*, 2008, 16(4), 353-378
- Astynomiki Anaskopisi, Polytelis Apatheones', *Astynomiki Anaskopisi*, January/February, p.92, 2004
- Autocar, Gia Poion Htypa I Kampana? *Autocar*, 8 June, p.42-46, 2000
- Bikatzik, C., Mikromeseoi Kleftes IX. *Eleftherotypia*, 19 October, 2003
- Blauuw, F.J., *Vehicle crime in the Netherlands-2003. Annual Report*. Amsterdam: AVc, 2004
- Bovenkerk, F., Organised crime and ethnic minorities: Is there a link?', *Transnational Organised Crime*, 1998, 4, 109-126
- Bruinsma, G. and W. Bernasco, Criminal groups and transnational illegal markets', *Crime, Law and Social Change*, 2004, 41, 79-94
- Clarke, R.V. and R. Brown, International trafficking in stolen vehicles. In: M. Tonry (ed.), *Crime and Justice: A Review of Research* (pp.197-227) Chicago, Il.: University of Chicago Press, 2003
- Copes, H. and M. Cherbonneau, The key to auto theft: Emerging methods from the offender's perspective. *British Journal of Criminology*, 2006, 46, 917-934

- Council of the European Union, Council decision of 22 December 2004 on tackling vehicle crime with cross-border implications (2004/919/EC). *Official Journal of the European Union L389*, 28–30, 2004
- Daskalopoulos, Triplo Chtypima se Odigious apo Fthinoporo. *Isotimia*, 14–17 August, 2008, pp.30–31
- Dinopoulos, A., I Mafies ton Klemmenon IX. *To Vima*, 24 January, 1999, p.58
- Dobovšek, B., T. Hasovič, L. Pec and D. Garbajs, *Round Table on Organised Crime (Collection of Reports)*. Ljubljana: Ministry of the Interior, 2004
- Duyne, P.C. van, Greasing the organisation of crime-markets. In: P.C. van Duyne, K. von Lampe and J.L. Newell (eds.), *Criminal finances and organising crime in Europe*. Nijmegen, Wolf Legal Publishers, 2003
- Duyne, P.C. van, Fears, naming and knowing. In: P.C. van Duyne, M. Jager, K. von Lampe and J.L. Newell, J.L. (eds.) *Threats and phantoms of organised crime, corruption and terrorism: Rhetoric and critical perspectives*. Nijmegen: Wolf Legal Publishers, 2004
- Duyne, P.C. van, Crime and commercial activity: An introduction to two half-brothers. In: P.C. van Duyne, K. von Lampe, M. van Dijck and J.L. Newell (eds.), *The organised crime economy: Managing crime markets in Europe* Nijmegen, Wolf Legal Publishers, 2005
- Eleftherotypia, Mafioziko Kykloma apo Stelehi EYP-EL.AS. *Eleftherotypia*, 20 June, 2008
- ESYE (Ethniki Statistiki Ypiresia Ellados, 2001) *Census 2001*. Available online at: <http://www.statistics.gr> , accessed on 15 March 2004
- ESYE (Ethniki Statistiki Ypiresia Ellados, 2006) *I Ellada Me Arithmous*. Athens: ESYE
- ESYE (Ethniki Statistiki Ypiresia Ellados, 2007) *Vehicle Circulation Licences – October 2007*. Available online at: <http://www.statistics.gr>, accessed on 5 November 2007
- Ethnos (2001) ‘I Mafia ton Polytelon IX’, *Ethnos*, 18 July 2001, p.15
- European Commission (2005) ‘Road Safety Country Profile – Elláda’, available online at: http://europa.eu.int/comm/transport/care/index_en.htm, accessed on 12 November 2007
- European Communities, *A review of the current knowledge and statistical development on vehicle theft in the EU Member States*. Amsterdam: AVc, 2004

- 'Gone in 50 Seconds' *The social organisation and political economy of the stolen cars market in Greece*
- EUROPOL, An overview on motor vehicle crime from a European perspective – January 2004. Luxembourg: EUROPOL, 2004
- EUROPOL, 2005 *EU organised crime report public version*. The Hague: Europol, 2005
- EUROPOL, An overview on motor vehicle crime from a European perspective – January 2006. Luxembourg: EUROPOL
- Eurowatch, March Bulletin', *Freight Crime Bulletin*, March, 1-4 2005
- Felson, M. and R.V. Clarke,, *Opportunity makes the thief: Practical theory for crime prevention*. Police Research Series Paper 98 London: Home Office, 1998
- Galanis, D., Adais Odigi-Dolofoni. *To Vima*, 3 December 2005, p.11
- Gant, F. and P. Grabosky, The stolen vehicle parts market. *Trends and Issues in Crime and Criminal Justice*, 2001, no.215, 1-6
- Gerber, J. and M. Killias, The transnationalization of historically local crime: Auto theft in Western Europe and Russian markets. *European Journal of Crime, Criminal Law and Criminal Justice*, 2003, 11(2), 215-226
- Gideon, L. and G.S. Mesch, Reporting property victimisation to the police in Israel. *Police Practice and Research*, 2003, 4, 105-117
- Gunev, P. and T. Bezlov, From the economy of deficit to the black market: Car theft and vehicle trafficking in Bulgaria', *Trends in Organised Crime* (special issue on 'Illegal Markets in the Balkans'), 2008, 11(4)
- Herzog, S., Empirical analysis of motor vehicle theft in Israel, 1990-1997. *British Journal of Criminology*, 2002, 42, 709-728
- Hobbs, D. and C. Dunnighan, Glocal organised crime: Context and pretext. In: V. Ruggiero, N. South and I. Taylor (eds.), *The New European Criminology: Crime and Social Order in Europe*. (pp. 289-303) London: Routledge, 1998
- Hochsteller, A., Opportunities and decisions: Interactional dynamics in robbery and burglary groups. *Criminology*, 2001, 39(3), 737-763
- Houliaras, K., Mesa stin Agora. *Autocar*, 8 June, p.25, 2000
- Gli gnomi, Forologika 'Paranomes'. *I Gnomi*, 10 August 2007, p.15
- IOBE (Idryma Oekonomikon kai Viomichanikon Erevnon), *Etisia Ekthesi gia tin Agora tou Autokinitou* (Deltio Typou). Athens: IOBE, 2007
- Karsiotis, P., Doste Piso ta Klemmena IX. *Eleftheros Typos*, 5 January 2007, p.16

- Levesley, T., G. Braun, M. Wilkinson and C. Powell, Emerging methods of car theft – theft of keys. *Findings*, 2004, 239, 1-4
- Leonard, W.N. and M.G. Weber, Automakers and dealers: A study of criminogenic market forces. *Law and Society Review*, 1970, 20, 407-424
- Light, R., C. Nee and H. Ingham, *Car theft: The offender's perspective*. Home Office Research Study 130 London: HMSO, 1993
- Liukkonen, M., *Motor vehicle theft in Europe*. Paper no.9 Helsinki: HEUNI, 1997
- Manolas, C., C. Karanikas and K. Koukoumakas, Me to Autokinito kai sto Periopisto. *Ta Nea*, 22 September 2008, p.16.
- Marnellos, G., Anatomia tou Organomenou Eglimatos. *Kyriakatiki Eleftherotypia*, 3 October 2004
- Mayhew, P. and P. White, *The 1996 International crime victimisation survey*. Home Office Research and Statistics Directorate Research Findings No. 57 London: Home Office, 1997
- Morselli, C. and C. Giguere, Legitimate strengths in criminal networks. *Crime, Law and Social Change*, 2006, 46, 185-200
- Morselli, C. and J. Roy, Brokerage qualifications in ringing operations. *Criminology*, 2008, 46(1), 71-98
- MPA, News Bulletin. MPA, 23 September 1998
- MPO, *Etisia Ekthesi gia to Organomeno Eglima stin Ellada, Etous 1999*. Athens: MPO, 2000
- MPO, *Etisia Ekthesi gia to Organomeno Eglima stin Ellada, Etous 2004*. Athens: MPO, 2005
- MPO, *Etisia Ekthesi Perigrafis gia to Organomeno Eglima stin Ellada, Etous 2005*. Athens: MPO, 2006
- MPO, Sygkritika statistika stihia eglimatikotitas kai narkotikon stin Epikratia (1991-2006) Available online at <http://www.ydt.gr>, accessed on 1 July 2007
- MPO, Statistika Stoiheia Eglimatikotitas 1991-1997 gia tin Epikrateia. Available online at: http://www.ydt.gr/main/Attachments/Attachment17198_HELLAS%202007.pdf, accessed on 2 May 2008

'Gone in 50 Seconds' *The social organisation and political economy of the stolen cars market in Greece*

Nee, C., The offender's perspective on crime: Methods and principles in data collection'. In: A. Needs and G. Towl (eds.), *Applying psychology to forensic practice*. Oxford: BPS & Blackwell, 2004

Nesfyge, L., Stous Dromous tis Iroinis Milane Alvanika. *Ta Nea*, 5 July 2000, pp.18-19

Plywaczewski, E.W., The Russian and Polish mafia in Central Europe. In Siegel, D., van de Bunt, H. and Zaitch, D. (eds) *Global Organised Crime: Trends and Developments*. Dordrecht: Kluwer Academic Publishers, 2003

Reuter, P., *Disorganised crime: The economics of the visible hand*. Cambridge, Mass.: MIT Press, 1983

Ruggiero, V., *Organised and corporate crime in Europe*. Aldershot: Dartmouth, 1996

Ruggiero, V., Criminals and service providers: Cross-national dirty economies. *Crime, Law and Social Change*, 1997, 28, 27-38

Ruggiero, V., Global markets and crime. In: M. Beare (ed.), *Critical reflections on organised crime, money laundering, and corruption*. Toronto: University of Toronto Press, 2003

Sánchez, L. J. A. (n.d). The current situation on motor vehicle crime in the European Union (seminar presentation). Retrieved July 20, 2008, from <http://taix.be/Seminar%20Organisation/Tools/Presentations/6721/Rol%20of%20EUROPOL%20-%20EUROPOL%20-%20Luis%20Javier%20Agud%20Sánchez.pdf>

Skogan, W. G., Citizen reporting of crime: Some national panel data. *Criminology*, 1976, 13, 535-549

Souliotis, G., Megali Afksisi Poliseon Polytelon Jeep and SUV. *Kathimerini*, 7 October 2006

Svensson, R., Strategic offences in the criminal career context. *British Journal of Criminology*, 2002, 42, 395-411

Ta Nea, Eihan Eidikotita sta Klemmena Fiat. *Ta Nea*, 22 April 2000

Ta Nea, Stin 'Tsimpida' Dyo Meli Kyklomatos Klemmenon I.X. *Ta Nea*, 28 January 2003

To Vima, Ta Autokineta stin Evropi. *To Vima*, 18 November 2007, p.D31

To Vima-Anaptyksi, Paradeisos Autokiniton in Ellada. *To Vima-Anaptyksi*, 27 December 2007, p.B23

- Trakousellis, T., I 'Magkia' ton Ippon. *Car & Speed (Proto Thema)*, 24 August 2000, p.1
- Tremblay, P., Y. Clermont and M. Cusson, Jockeys and joyriders: Changing patterns in car theft opportunity structures, *British Journal of Criminology*, 1994, 34(3), 307-321
- Tremblay, P., B. Talon and D. Hurley, Body switching and related adaptations in the resale of stolen vehicles: Script elaborations and aggregate crime learning curves. *British Journal of Criminology*, 2001, 41, 561-579
- von Lampe, K., Organised crime in Europe. In: P. Reichel (ed.) *Handbook of transnational crime & justice*. Thousand Oaks, Ca.: Sage, 2005
- von Lampe, K., 'Criminals are not alone': Some observations on the social microcosm of illegal entrepreneurs. In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe: The dirty linen of illicit enterprise*. Nijmegen: Wolf Legal Publishers, 2007
- von Lampe, K. and O.P. Johansen, Criminal networks and trust: On the importance of expectations of loyal behaviour in criminal relations. In: S. Nevala and K. Aromaa (eds.), *Organised crime, trafficking, drugs : Selected papers presented at the annual conference of the European Society of Criminology, Helsinki 2003*. (pp.102-113) Helsinki: HEUNI, 2004
- Wolfgang, M.E., *Patterns in criminal homicide*. Philadelphia: University of Pennsylvania Press, 1958
- YP.E.E., Pinakas Synolikou Ergou YP.E.E apo 01/01/2006-30/09/2006. Available online at: <http://www.ypee.gr>, accessed on 8 November 2006

Policing criminal money flows: the role of law enforcement – paragons or pariahs?

*Dr Jackie Harvey*¹

Powers and performance

Let us cast our minds back to 1990 and to the introduction, in the United Kingdom, of the first Money Laundering Guidance Notes. These notes mark the start of a process that saw, up to and including the 2007 Money Laundering regulations needed to implement the 3rd EU Money Laundering Directive, some 14 changes to the regulatory framework. Part of the rationale underpinning this regulatory creep was provided by the agencies of law enforcement who complained that there was much suspected criminal wealth around which could not be causally connected to specific crimes. Not unreasonably, the police, supported by a Government who wanted to be seen as being 'tough on crime' wanted to attack these criminal assets directly and in order to do so required new and stronger powers. This anti money laundering legislation, in particular the powers associated with the Proceeds of Crime Act (2002) and the Serious Organised Crime and Police Act (2005), do add the much welcomed extra law enforcement weapon to the arsenal provided by the existing criminal justice framework. Indeed, the police and other enforcement authorities are now in the position of being able to target the funds of criminals separately from targeting the criminals themselves (HM Treasury 2007, 23). In a nut shell: if suspected of criminal activities, one does not need to be convicted in a penal procedure to see one's 'unexplainable' assets confiscated. Indeed, such powers appear to rival those of King John before the Magna Carta.

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Such wide and comprehensive range of powers that enable the law enforcement agencies to rake through the financial affairs of suspects include production orders²; customer information orders³; account monitoring orders⁴; and disclosure orders⁵. The main focus of the Proceeds of Crime Act (POCA, 2002) is on cash seizure⁶, confiscation and the introduction of civil recovery and taxation. “Put simply, POCA makes it possible to seize cash from a suspected criminal and places the onus on that individual to prove that the money has been acquired legitimately.” (UK HMICA⁷, 2004: 5; 23). Application of confiscation orders⁸ following a criminal conviction also allows for removal of the benefit of crime. Crime may be interpreted in either singular or plural form as if the confiscation is a ‘general’ order, the court may assume that the defendant’s property is all proceeds of crime.⁹ This is reinforced via restraint orders which can be applied at the start of investigations in order to prevent the disposal of property that may be needed to meet a later confiscation order. Criminal powers are backed up with civil recovery¹⁰ and taxation (H M Treasury 2007: 24). In addition, the Serious Organised Crime and Police Act (2005) enables a court to make a Financial Reporting Order (FRO) against a convicted person that requires continued and ongoing disclosure of their financial situation (HM Treasury 2007: 22). This means that a convicted person will remain financially under police guardianship for a period of up to 15 years, unless the sentence was life imprisonment when it can extend to 20 years. Further,

“An all-crimes approach allows money laundering legislation to be hard-wired into the government’s fight against all crime, making it as flexible and dynamic as the criminals themselves. In Northern Ireland money laundering prosecutions have

2 Production orders require an institution (primarily banks) to produce or give access to the material they hold such as bank statements.

3 Customer information orders require banks or other financial institution to identify any account held by a person under investigation.

4 Account monitoring orders require banks or financial institutions to provide information relating to account transactions.

5 Disclosure orders can be made by the civil recovery agency, formerly the Assets Recovery Agency (ARA) and now the Serious and Organised Crime Agency SOCA) to require a person to answer questions, provide information of produce any required documents.

6 Powers of seizure and forfeiture of cash are applicable for amounts over £1,000.

7 HM Inspectorate of Court Administration (HMICA).

8 A regime of confiscation was first introduced in 1986 as part of the Drug Trafficking Offences Act and extended to other offences through the Criminal Justice Act 1988

9 This may be applied retrospectively for a period of 6 years. Further, investigation by the tax authorities enables this prior period to be extended to a total of 21 years. For some suspects, this could well encompass their whole economic life..

10 Refer to Harvey and Lau (2008) for an explanation of how these work.

been brought in the cases where the predicate offence is, or is suspected to be, armed robbery, drug dealing and trafficking, kidnapping, fuel and cigarette smuggling, tax evasion, fraud, motor vehicle theft, dishonesty and deception. As a result, a single piece of legislation has attached criminal profits associated with an enormous range of crimes.” (p. 18)

At the risk of appearing facetious, one wonders why the rest of the criminal legislation framework is not simply dismantled as clearly these most recent additions are so significant.

Van Duyne (2003) points to the money and effort being expended: first in producing such a plethora of legislation; and secondly, in the subsequent enforcement and policing of these regulations. While Van Duyne *et al.* (2005) noted the abject failure of the authorities to balance the desires of law enforcement who naturally call for more and wider powers, against the costs of such legislation. In their opinion, these costs do not only concern the budgetary expenses for enforcement, but also the legal costs in terms of the erosion of civil rights.

The purpose of this paper is not to re-visit the arena of cost benefit analysis, nor indeed to look for evidence of effectiveness as that has already been considered (Harvey, 2005 and 2008a; Van Duyne, 2003, Van Duyne *et al.* 2005; Sproat, 2007). Instead, bearing in mind that “critics draw attention to the inability to measure impact of counter measures on either money laundering or predicate crime” (Harvey, 2008: 287), this work will contribute an additional dimension by looking specifically at the impact of these powers from the perspective of the law enforcement authorities. This perspective may establish evidence to support or, indeed, contradict the statement from Levi and Reuter (2006: 294):

*“We cannot dismiss the possibility that the regime’s many critics are correct. Whatever their benefits **in theory** [emphasis in original], the controls in practice may do little to accomplish crime-fighting goals or to combat terrorism, while imposing a substantial burden on people doing business”.*

Evidence will be sought from a number of areas including outsourcing of police activity into the private sector, effectiveness of this relationship, the inter-agency relationships that have been criticized extensively by Levi and Reuter (2006), Fleming (2005), and HM Inspectorate of Court Administration (2004) and indeed evidence of a reduction in criminal activity. Chong and López-de-Silanes (2007: 4) already suggested that anti-money laundering

legislation has targeted the wrong area so it is perhaps informative to find out from the law enforcement perspective, exactly what it does target.

The relationship with gatekeepers

The introduction of anti-money laundering legislation has had the effect of transferring some of the detective activities of law enforcement to the compliance and supervisory functions within financial institutions. Indeed, it is a well received fact that, as noted by Alexander (2000), banks are used as the front line in anti-money laundering activities on the assumption that criminal laundering activity will be detected by them on the basis of irregular activity across accounts that banks will identify through their “inside knowledge” of all financial transactions. An important recent contribution to the debate is made by Favarel-Garrigues *et al.* (2008) who note that, “*banks are called upon to identify ‘proceeds of crime’ when all they can concretely observe are account transactions*” (p. 3). This, in one simple sentence draws attention to the underlying flaw inherent in the approach: there is an explicit assumption behind the legislation that the gatekeepers to the financial system are in some unspecified way able to discriminate criminal from legitimate assets. In reality, all they can reasonably do is point to what is unusual – the leap of faith being that unusual by definition equates to suspicious. An interesting paper by Demetis and Angell (2007) draws attention to our innate desire to manage the unusual as, “*by finding a way to represent risk our hopelessness with uncertainty is swapped for the optimism in a structured plan of action that is meant to handle the risk*” (p. 413). There is nothing startling about this statement. Indeed we teach our students that risk management involves assigning probability to an outcome, any remaining element that is unquantifiable is by nature unknowable and thus uncertain. Further, they go on to point out that the risk of the reporting regime is that reporting of the unusual generates a high degree of “false-positives” such that “*Under the fear of regulatory enforcement, institutions reported excessively, and thereby uncertainty and thus risk were passed onto the FIU, whose staff could not be certain whether it was real suspicion being reported or a self-defensive act by the reporters*”¹¹ (p. 419). From a different perspective but adding weight to the debate over quality of reporting from institution to police, consider the following statement:

¹¹ An observation also made by Harvey (2008).

*“One of my main concerns is that so much of the approach used across banks is based on such limited empirical evidence. The main risk assessment inputs we use – country, product type, and customer business – are hard to assess objectively and I really wonder whether there is a significant correlation between customer AML risk ratings and actual money laundering”.*¹²

Financial institutions are used to modelling risk. However, these concern *financial* risks. Highlighted here, though, is genuine concern that variables relevant to laundering are incorrectly specified. Demetis and Angell (2007) conclude, as do others, with a call for the feeding back from police to the financial institutions information about the usefulness of unusual transaction reports.¹³

Rent seeking behaviour

When it comes to the justification for the anti money laundering regime, Levi and Reuter (2006) draw attention to the circular logic of much of the theory, simply because it is impossible to answer the null hypothesis regarding volume of laundering that would have occurred in the absence of legislation. In essence, they point to a win-win situation for the many agencies whose existence and resourcing continues to be justified by assumptions. These assumptions are that there is a huge volume of crime-money that, if laundered, would threaten the integrity of the global financial system. Whether or not the assumptions are proven is irrelevant for justifying the (costly) existence of a host of anti-laundering agencies. Public choice literature draws attention to similar rent-seeking behaviour by government officials. The term “*describes behaviour in institutional settings where individual efforts to maximise value generates social waste (deadweight loss) rather than a social surplus*”, thus such individuals seek to influence the state to perpetuate the need for

¹² E-mail correspondence with the author sent from a compliance officer within a bank dated 30th July 2008.

¹³ FATF Recommendation 32 states that countries should ensure that their competent authorities can review the effectiveness of their systems to combat money laundering and terrorist financing systems by maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of such systems. This should include statistics on the STR (Suspicious Transaction Reports) received and disseminated; on money laundering and terrorist financing investigations, prosecutions and convictions; on property frozen, seized and confiscated; and on mutual legal assistance or other international requests for co-operation. However, nothing of the sort has happened (See Van Duyne, 2007).

their continued employment, effectively transferring benefit to themselves (Brown and Jackson, 1991: 58). Usually this is accomplished by politically deploying well-managed threat images.¹⁴

In the field of money-laundering the result is an ever expanding list of training, conferences, journals, bulletins and updates, supplemented, as noted by Levi (2007: 169) “*by an army of consultants*” staffed frequently by former regulators and, more often, former police.¹⁵ As suggested by Harvey and Lau (2008) there is clear evidence of the *status quo* being supported by strong vested interest as legislative requirements have spawned a global security business selling consultancy as well as software. In addition to former police, compliance professionals are often recruited from amongst the ranks of accountants and auditors¹⁶ and these people tend as a result to be more systems focused than if from other parts of business. Favarel-Garrigues *et al.* (2008) draw attention to the specialism that has evolved in that compliance is now ‘*a new profession*’ (p. 6) reinforced by the legion of security consultants. Naturally, their interest is to reinforce the threat of money-laundering and thus the continued importance of their function which remains, after all, as cost overhead on the real business. Where compliance officials come from a police background they see their role (Favarel-Garrigues *et al.* 2008: 10–11) as fighting money laundering with great emphasis on the security aspect – the ‘sentinels’ in the title of their paper. They feel themselves engaged in protecting the bank by undertaking the very defensive reporting observed by Demetis and Angell (2007) above.

More concerning is the decision by such banks to develop compliance by establishing their own internal police function. Take for example the following statement:

“One of the things we are looking at is to create a small intelligence unit that would make more effective use of the data we generate internally to try and understand whether our risk assessment methodology is helping us to identify the likelihood of suspicious activity. Feedback on SAR¹⁷ quality from the authorities, which is a typical industry gripe (and on which SOCA¹⁸ is working), is helpful in this

¹⁴ The organised crime threat and the numerous agencies assigned to fight this threat is another example of the well-exploited threat industry (Van Duyne, 2004).

¹⁵ The same point also being made by Verhage (2009).

¹⁶ As well as from amongst the legal profession.

¹⁷ Suspicious Activity Reports

¹⁸ Serious and Organised Crime Agency

process, but I have quite low expectations about the level of feedback we will ever see even in relatively well resourced places like the UK.”¹⁹

Levi (2007) muses over the explanations for compliance officers being prepared to cooperate with the police, identifying what he terms ‘positive’ reasons whereby the banks gain from the relationship and ‘negative’ ones where cooperation is driven by fear of something bad occurring as a result of non cooperation. He goes on to point out, as did Harvey (2004), that banks, along with all other businesses covered by the anti money laundering legislation “*have been involuntarily co-opted into becoming unpaid agents of the state*” (p. 162). Of greater significance is his observation that the authorities are motivated by “*ideological ‘control freakery’: that there is a genuine fear of loss of control over financial flows*” (p. 165). He suggests that banks are willing to sign up, motivated by “*positive reputational benefit (and the absence of very negative reputational harm)*” (p.166). Although Harvey and Lau (2008) and Demetis and Angell (2007) have both noted that the principal driver is in fact negative with banks adhering to what Harvey describes as a deficit rather than enhancement model of compliance. A similar point is made by Favarel-Garrigues *et al.* (2008) who note the fight against AML as having “*extended the boundaries of policing . . . by enlisting for the first time actors in the private sector responsible for identifying suspect transactions*” (p. 1). They also note, much as Levi does, that there is no real history of mutual cooperation by law enforcement and bankers. As a matter of fact, the latter, are historically more comfortable with a code of ethics that demanded discretion rather than disclosure in the dealings of their clients.

Sproat (2007: 285), in a valiant attempt to make sense of the many ‘estimates’ of the cost of anti money laundering legislation on the regulated sector identifies the phenomena whereby the “*new policing of assets have created new assets for policing*” arriving at the not unexpected conclusion that the asset recovery regime “*presently costs more to implement than it recovers in any year, with approximately £3,73 being spent on the post-POCA regime by the participating institutions for every £1 criminal assets recovered*” (p. 290). Within this context it is interesting to note the following comments:

“what will be the eventual consequences to society, of law enforcement agencies and indeed the treasury, getting used to an income stream arising from criminal activities. I think this is worthy of deep debate, but I would say that one fairly probable

¹⁹ E-mail exchange from a bank Money Laundering Reporting Officer and former treasury employee dated 30th July, 2008

*outcome is a decreasing desire to kill the golden goose, more likely, a growing desire to fatten it up. So, I ask, what is the difference between SOCA's current powers and a traditional protection racket?"*²⁰

As already noted there is support in the literature for the focus of legislation being fiscally driven, for example Van Duyne *et al.* (2005): "In 1990 the US Attorney General issued a warning to the local attorneys for a 'failure to achieve the \$ 470 million projection [as this would] expose [us] to criticism and undermine confidence in our budget projections'." (Blumenson and Nilsen, 1997, note 102).

Despite the position within academic literature, the government has stated that "asset recovery is not an end in itself but a mechanism for achieving . . . crime reduction" (HM ICA, 2004: 7). Indeed, if it is fiscally driven it is perhaps not entirely successful. Finding support for Sproat from a different perspective, Harvey and Lau (2008) indicated that the number of payments into the Joints Assets Recovery Database²¹ from confiscation orders had increased over the period 2003/4 to 2005/6 from 2.016 to 7.837, however, the range in size of payment is quite significant. Taking data from 2005/6, the size of confiscations ranged from payments of £0 to £905,909. Of significance, however, is that the average payment size was £7,832 and more telling the median confiscation size was only £300.

The view from the front

A review of some of the literature in the field has pointed to a number of areas that deserve further investigation. Certainly the apparent outsourcing of police activity into the private sector and the subsequent relationship between law enforcement and the gatekeepers is worthy of further exploration. In particular the suggestion that financial institutions may not be able to detect criminal money flows is intriguing. Past work has tended to focus on the costs and consequences for financial institutions. Here an attempt is made to view this symbiotic relationship from the perspective of the police.²² Inter-agency relationships have been criticized in the past (Fleming (2005),

²⁰ Email exchange with the author from a representative of a leasing company dated 31st July, 2008

²¹ This database was established in April 2004.

²² The reporting structure from financial institution to law enforcement is via the Serious Organised Crime Agency (SOCA).

Lander (2006) and Kennedy (2007)) so it is also appropriate to examine this relationship. It is important, therefore, to be aware of this background; for it is against this that the efficacy of the legislation from the police perspective may be considered.

A first simple starting point for a consideration of usefulness of legislation is to look for evidence over predicate offending. The FATF (2001), as part of its consideration of effectiveness of the anti money laundering regime, identified what it referred to as a ‘*crime rate indicator*’. This was intended, to provide a ‘rough guide to the number of drug and fraud offences occurring per head of population’ to be used as a proxy variable for attempts to launder money. It is acknowledged that this indicator, although calculated for all countries at the time, has not been revisited, presumably due to its obvious limitations²³. That said, if anti money laundering powers have been effective, it might be reasonable to assume that an improving trend might be visible, although as will be discussed, the outcome does not lend itself to easy interpretation. Data for England and Wales were obtained from the UK Home Office. There was a change to the Home Office counting rules for Recorded Crime from April 1998 that had the effect of increasing the number of crimes counted for drug offences removing comparability with data in previous years. In consequence, it has been necessary to rebase the data series prior to 1998/99.

From Figure 1, below, it can be seen that there are two peaks in the total fraud and drug offences per thousand head of population; the first in 1990/1 and the second in 2002/3. Specifically, the number of fraud and drug offences per thousand head of population stood at 7,1 in 1998/9, peaked at 8,0 in 2002/3 and in 2007/8 stood at 6,5. Set this against the fact that POCA²⁴ became operational in 2003 and there may be some evidence that crime, or rather reported crime, is being reduced. Of interest is the underlying data which indicates a significant reduction in fraud related offences in the past couple of years falling more than 50% from 331.098 in 2002/3 to 155.358 in 2007/8 whilst over the same period the number of recorded drug crimes rose 63% from 143.320 to 228.958. It shows that the crime rate indicator is all but unambiguous and, to make any sense, has to be projected against underlying data, but that even the data itself is far from helpful, capturing, as it

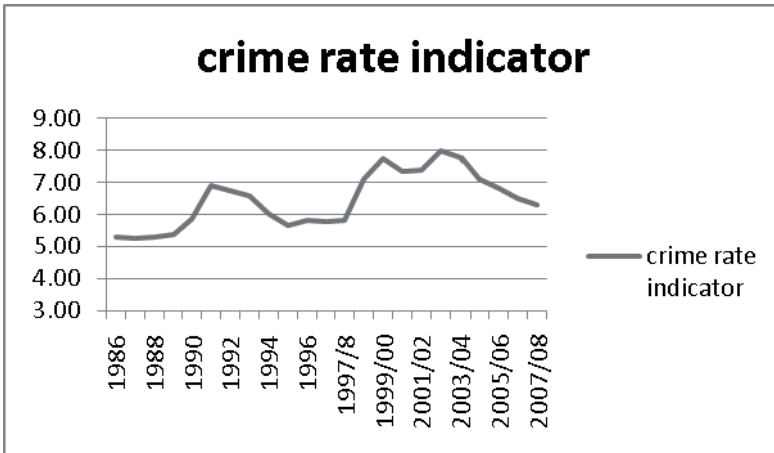
²³ It will be apparent for example, that the data is based upon the number of recorded crimes (not criminals) which is as much about the effectiveness of the system of reporting to, and recording by, the police of criminal activity as it is about apprehension and crime reduction.

²⁴ The Proceeds of Crime Act (2002)

does, changes in recording and classification of crimes as well as deployment of resources.

Figure 1.
Crime rate indicator

Calculated as total recorded fraud and drug offences per 1000 population data prior to 1998/9 rebased.



One of the arguments from the Government already noted is that the legislation has enabled the police to bring prosecutions, under the money laundering legislation, for a wide range of predicate offences for which conviction might not otherwise have been secured. However, Table 1 below refers to Home Office data for England and Wales and does not appear to substantiate the claim. With about 411,000 recorded crimes for fraud and drugs the 1,327 prosecutions and subsequent 595 convictions for money laundering looks dismally small.

It is accepted that a mere look at statistics does not tell us about how useful the police have found their additional powers to be. Mentioned above was the relationship between law enforcement and the institutional gatekeepers together with the relationship existing between the various law enforcement agencies.

Table 1
Prosecutions and convictions for money laundering offences
England and Wales 2005

| | 2005 (number) | 2005 (%) |
|----------------------------------|----------------------|-----------------|
| Total Prosecutions | 1,327 | |
| Total Convicted | 595 | |
| Of whom 'sentenced' | 575 | 100% |
| Conditional Discharge | 54 | 9,4 |
| Fined | 53 | 9,2 |
| Community Sentence | 240 | 41,7 |
| Suspended Sentence | 29 | 5,0 |
| Immediate Custody* | 194 | 33,7% |
| Otherwise Dealt With | 5 | 0,9% |
| <i>*Average sentence length:</i> | <i>25,7 months</i> | |

To investigate how well these work requires a search for evidence from more qualitative sources. In order to do this, a series of loosely structured interviews were conducted with representatives from six different law enforcement agencies across the UK over a period of three years as detailed in Table 2 below. Keeping to a loose structured format achieved the objective of enabling the individuals to raise and discuss the issues that they believed were important to them. All interviews were started with the same initial question asking generally about the effectiveness of money laundering legislation in the UK.

Table 2
List of participants

| Law Enforcement Representative | Date of Interview |
|---------------------------------------|---------------------------------|
| 1 Civil Recovery Inspector | 17 th April 2007 |
| 2 Retired Detective Inspector | 15 th October 2008 |
| 3 Retired Police Officer | 11 th March 2007 |
| 4 Detective Chief Constable | 11 th September 2007 |
| 5 Financial Investigator | 4 th September 2008 |
| 6 Detective Inspector | 14 th July, 2005 |

Analysis of the interview transcripts started with the themes that had emerged from the literature. Each of the transcripts was read, coding for the key points raised by the speaker, however it quickly became apparent that the themes emerging from the transcripts were different. Applying an iterative approach, this process was repeated once all key areas had been identified to ensure that no important issues had been overlooked in earlier scripts. What emerges is an area of informally identified overlapping areas of tension that did not match necessarily to the statements in the official literature. As the purpose was to 'give voice' to the interviewees, their words and sentiments have been used here to represent the predominant views of the interviewees in relation to each theme. However, given the small number of interviewees, spread over time and institutions, it goes without saying that they are not presented as a representative sample of all police. Nevertheless, their observations may well transcend personal opinions, particularly if projected against what is known from other sources.

The emergent tension areas arising from these interviews were (1) resourcing (2) disruption of activity (3) information flows (4) managers or investigators (5) personal relationships (6) performance measures.

Resourcing

Contrary to HM ICA (2004) which observed amongst the police service "*low levels of awareness of asset recovery issues*" (p. 9), Interviewee 2 is of the opinion that the Proceeds of Crime Act has been "*very useful and absolutely necessary as there was nothing there before, managers did not understand what was involved in the cases – money laundering cases are complex, resource intensive and time consuming, POCA brought it higher up the ladder to a different level*". This interviewee was very clear about the benefits accruing to law enforcement. As a result of the Act he identifies three main advantages:

1. The application of restraint orders prior to a criminal being charged helps to limit activities as the police are able to restrain the bank account(s).
2. A greater use of monitoring orders giving police the ability to access information on accounts, as they can now be more easily applied for.
3. The ability to make lifestyle assumptions. "*If say a drug trafficker is convicted the police can go back 6 years and prove assets acquired by that person(to) have arisen from crime – we can just assume that. We could not do that before. These claims will be supported by the judge.*"

“*Anti money laundering legislation is draconian but it was not used properly – this is now changed with POCA*” (Interviewee 3). A slightly different perspective was offered by Interviewee 4 who felt that the current legislation was limited with a need for greater onus on the forfeiture aspect (rather than confiscation) thus it should be reviewed with a view to extending it. This was especially the case for people with ‘no visible means of income’, and they would like to make greater use of restraining orders with these people. Interviewee 6 noted that “*regulation has a huge impact on deterring money laundering*” and he felt “*It is good to have strong legislation but this needs to be policed and this needs resourcing. A significant amount is spent on investigation*”, going on to note that “*there is a lack of funding for money laundering in the UK as prosecutions are very costly and there is a lack of public support*”. This observation is somewhat surprising as the intent of the Proceeds of Crime legislation had been very much on alleviating the burden of proof placed upon the police, making it easier to secure a conviction for money laundering where conviction for a predicate offence might have proved elusive.

Disruption of criminal activities

Curiously very little was said about the underlying criminal activities being targeted for disruption. What was discussed, however, points to the major source of predicate crime being drugs (supporting the statistics over reported drug related offences) and this was predominately due to the associated high profits. The major asset class held by criminals in this category are houses (as noted by Harvey 2008). The major source of fraud is missing trader (i.e. VAT) fraud (Interviewee 1). Attention was drawn to the apparent underreporting by estate agents “*there were 120 suspicious activity reports [from estate agents] last year - how many houses were bought by criminals?*” (Interviewee 3). The focus for Interviewee 6 was, however, on the fact that they perceived business to be routed through accountants and lawyers (usually small-scale operators). “*More accountants have been charged or are in prison and yet the police receive the least number of reports from them and yet they must see what is going on*” (Interviewee 6).

Interviewee 4 noted honestly that they did not know the amount of laundering taking place. However the interviewees talked of people using the processed of crime to move into legitimate business and then using this business to launder illegitimate funds. As might be expected, and in light of

the discussion of rent seeking behaviour, from the perspective of these interviewees, *“this backs up the fact that criminals do not stop”* (Interviewee 4). Indeed more would apparently be caught according to Interviewee 3 as *“Prosecutions are simply capped by the resourced put into investigation – more resource would result in more prosecutions”*, By which he means that provided with increased resources, the police would be able to bring a significantly increased number of prosecutions for money laundering than is evident from the figures reported in Table 1 above.

Despite limited discussion of predicate offences, the view that was clearly held was that the money taken was criminal and to the extent that their activity disrupts criminals *“it pees on the chips of criminals”*²⁵, then they perceive themselves as being immensely successful (Interviewee 1). *“The cases adopted are often complex and, prior to the existence of ARA²⁶ would not have been pursued and would not have yielded anything”* (Interviewee 1). *“SARs are only useful on the money laundering side – it makes cases a lot stronger – we are able to take more assets off people and have a great disrupting effect”* (Interviewee 2). While Interviewee 4 noted that anti money laundering legislation is seen as *“hitting them in the pocket as criminals will continue to commit crime irrespective of whether they are caught or not or have recovery orders against them”*.

When asked, the majority of the interviewees were very sure that recovery of assets would not result in additional criminal activity to replace those assets. When the same question was put to Interviewee 1, they acknowledged that removing assets might generate further crime as criminals would endeavour to replace those assets and in the quickest possible time. However, *“by seizure of criminal’s assets, such assets cannot be used for future funding of criminal activity”*. Interviewee 6 noted that the police *“Must attack the finances of criminals”*. Asked about the estimates of funds available for recovery Interviewee 2 was adamant. *“I have no doubt that it is there but whether we are able to confiscate, that is a different matter”*.

“The aim is to look at disruption so the police will charge with whatever low level offence will stick and this might be low level fraud. We have been criticised that the terrorist financing legislation is not used but operationally we do not want to go that far” (Interviewee 5).

²⁵ This expression, literally meaning urinating on potato fries, was used as a metaphor to explain that removal of financial assets makes them of no further use to the criminal.

²⁶ Assets Recovery Agency.

Interviewee 1 stated that there is more to their role than disrupting criminal operations: *“the objective of the ARA is to remove the assets and thus remove the negative role models. The aim has always been to reduce crime not to generate revenue and to take criminal money off the streets”*. Interviewees 3 and 4 were both equally sure that the regime was not responsible for *“diverting attention from criminals to assets”* (Interviewee 3), and that the role of their force was not to be concerned with fiscal activity *“only the Home Office is concerned with that”*. Further, fiscal targets used as performance measures are *‘meaningless’* (Interviewee 4). That said *“Receiving 50% of cash seizures provides a good lever. ARA was a fantastic idea – working with civil powers only was a great idea”* (Interviewee 2).

Despite the official tenet of disrupting criminal activities, all does not go that smoothly when it comes to information management and accuracy of the picture being painted over recovered amounts. Interviewee 2 talked of the difficulties faced in tying up information between agencies and in so doing acknowledged issues raised by Harvey and Lau (2008) over accuracy of asset recovery data.

“Court payments are meant to go in under the same codes and should tie up so that the force can know what amount is due back each three month period. Estimates were only put in to allow JARD²⁷ to recognise there is going to be a confiscation but these amounts give a false impression; they are guesses there are no true figures when guessing. They might provide great publicity but give a false impression at the end of the day - they never get that amount of money so they should not publicise it as a restraint”.

Despite the official line that asset recovery was not intended as an end itself and there being no link between disruption activity and fiscal incentivisation. Interviewee 4 noted that there was an 18 month delay on recovered funds coming back into the force. They also noted that large cases might not produce large fiscal benefit. *“The 50% that is recoverable can only be spent on certain things such as laptops – only on operational things that help with cash seizures”*. In response to a question about whether incentivisation might dictate policing the response of Interviewee 5 was that *“it boils down to humans. Units are measured on performance. It is easy to measure a cash seizure within AML and fraud is a growing area, driven by asset recovery. But cash seizure is resource intensive; it involves repeated appearance at court and not as easy as it appears”*.

²⁷ Joint Assets Recovery Database.

From the foregoing, it is clear from the perspective of those interviewed that they considered themselves to be successful because the legislation, as was its intent, has enabled them to focus on removing the criminal from the benefit from his illegal lifestyle. Reflecting the threat image of the authorities, those interviewed indicated their belief that their ability to apprehend those in society of criminal inclination is only limited by the resources given over to them. Further, and not surprisingly, they make the plea for greater resources as the powers at their disposal, whilst being extremely comprehensive are supervised and approved by the legislative system.

Information flows

The relationship between financial institutions and law enforcement revolves around the information flowing primarily from the former to the latter²⁸. Thus there was discussion with the interviewees over the usefulness of the SAR regime, some of which touched upon the accuracy of the information reported. Force [name supplied] have a SAR team whose job it is to look at all SARs and identify the ones to be pursued.

“This is on the basis of such criteria as: previous convictions; more than one SAR; already investigated or previously investigated. From these a profile is built up and sent to the money laundering teams to investigate with others sent to revenue and customs’ criminal taxation unit if they are too small for us to deal with”. (Interviewee 2).

“The system of SARs works in [name of force]. It is appropriate to focus on financial institutions but government needs to fund the LEA and they need to fund money laundering correctly” (Interviewee 6).

Given the legislative emphasis on the SARs regime, it is interesting to note the comments from Interviewee 5 who had a great deal to say on the effectiveness of the reporting framework as illustrated in the following extract.

“They set up the financial intelligence unit, made up of staff from police and customs with not a great deal of understanding of the information. All SOCA is, is a clearing house. A large part of the information transfer involves ELMER [the SARs database] and moneyweb [bulk SAR transfer system]. [Financial] institutions subscribe to SAR online and they are bulk transferred into SOCA. SOCA allocates these on the basis of postcode out to the regional law enforcement

²⁸ The failure of the reverse flow to take place is a familiar complaint from the institutions.

agencies, via money web. Forces have economic crime units and these teams can log onto money web and see local SARs. There are still around 200.000 per year being reported. One issue to consider is what happens if the postcode is not included on the SAR or the entity has no postcode? These are left floating in ELMER. Any of the fields are searchable but 40% of SARS that are submitted are not looked at as they are not allocated to a force. Some of these will, however, be sent to the City of London Police”.

It is debateable as to the extent that we should be alarmed by this disclosure and the extent to which they are assumed to identify miscreant activity. Interviewee 1 appears to suggest that SARs will only be investigated when matched to a previously investigated person or where there is more than one SAR. They go on to confirm the same procedures for reporting, namely that SARs are submitted to SOCA who will pass these out (based on address) to the appropriate regional LEA for investigation. Interviewee 2 also confirmed that they now have access to all post-coded SARS via ELMER which is seen as an improvement on the prior system when they all went to NCIS²⁹ to be pre-sorted. They were also clear that “*they [SARS] are being used to initiate investigations*” (Interviewee 2). However, this can be contrasted with a question asked of Interviewee 3 about the helpfulness of SARs to which he responded that he had never instigated an investigation from a SAR. Despite this and the comments above by Interviewee 5, they clearly still supported the system by following up with the observation that “*SARs do have importance, however, through adding value*”.

It is perhaps unfair to lay criticism at the door of the police over failure in data management as indeed they might equally be victims of the system. Interviewee 4 noted that during 2007 there had been 129.000 crimes investigated within their force each of which would create a police record with 40% of those resulting in the creation of a case file. They indicated that as a result they prepare some 70–80 thousand case files a year.³⁰ This is an awful lot of record keeping – much of which, being paper based files, is not sharable with other forces. Indeed Interviewee 5 noted that “*Part of the problem is that there are a large number of different police data bases*”. This implies that deficiencies in the SAR information management are not so much due to the SAR system, but to the fragmented police information management in general.

²⁹ National Criminal Intelligence Squad, now part of SOCA

³⁰ The figures here are the ones supplied although it should be noted that they do not add up.

Managers or investigators?

Failure in information management has been an issue raised in the literature, not only within the UK context but also in relation to the Netherlands and to Germany. The interviewees were also critical of the system, focussing on their relationships with the central agency, SOCA. SOCA was created in April 2006 to tackle drug, immigration and other organised crime together with the recovery of the proceeds of crime. The first annual report notes that *“It brought together staff from the National Crime Squad (NCS) and the National Criminal Intelligence Service (NCIS), staff and resources from HM Revenue and Customs (HMRC) to support the transfer to SOCA of certain work on drugs trafficking and associated criminal finance, and some of those dealing with organised immigration crime in the UK Immigration Service”*.³¹ By the end of its first year of operation it was employing some 4,400 full time equivalent staff. It was merged with the operational element of ARA in April 2008 in order to provide civil as well as criminal recovery powers.

SOCA has been criticised for failure to provide feedback to reporting agencies, despite, as pointed out by Interviewee 6, this being part of their role. It is perhaps natural that field officers would have their own critical view of the organisation. *“NCIS [the existing UK FIU with that role now assumed by SOCA] is a poor organisation with a lot of staff on secondment from LEAs and from Customs. It merged with Customs and Excise and the National Crime Squad to jointly create SOCA . . . three poor organisations creating one big one”*.

A perceived failure to adequately resource the organisation was evident as this interviewee went on to explain that the problem for the organisation was that the budget promised from the Lander Report³² never materialised. This was compounded, in their eyes, by the recruitment strategy that had been used to transfer staff into the newly created organisation. This had ap-

³¹ SOCA Annual Report 2006/7 available online at: http://www.soca.gov.uk/assessPublications/downloads/SOCAAnnualRep2006_7.pdf

³² This refers to the following report: Lander, S., Review of the suspicious activity reports regime (the SARs Review) March. SOCA, 2006 available at http://www.soca.gov.uk/downloads/SOCAtheSARsReview_FINAL_Web.pdf. Recommendations covered a range of proposed changes to the implementation of the SARs regime within the UK. The resource requirements were identified as being an increase in the numbers of staff directly working with the SARs database (from 80 to 200) plus an additional £5 million, at least, to be spent on improvements to the ELMER database. Further to this, the first annual report produced by SOCA (footnote 30) indicated problems over transfer of funding from the different agencies to accompany incoming staff.

parently been carried out top-down with people being moved across on upgraded job specifications that resulted in promotions. As a result, the former operational staff from NCIS and Customs “*are now managers*”. The operational arm has been seen to have been reduced and SOCA, as a result is “*left with too many managers and no one to do the work*” (Interviewee 5). Whilst police forces themselves were not beyond reproach with one person pointing to the occasional lack of cooperation between police and the assets recovery agency with “*evidence of turf wars associated with getting famous criminals*” (Interviewee 3).

Clearly the preceding section reflects the perception of serving or former police who identify with the views of front line operational staff. Under the circumstances it would be surprising if they did not take the side of the front line officer and agree against the burden of management. What might be apparent, however is the inefficiencies that occur from policy imposed administrative ‘solutions’ where there is a need to be seen to be doing something. Thus, the government might have felt it had to react to the criticisms laid at its door over the failure of the existing regime (Fleming, 2005, Lander, 2006 and Kennedy, 2007), without necessarily taking the time to consider whether combining existing agencies would improve or merely exacerbate the identified operational problems.

Personal relationships

An interesting theme to emerge from the interviews was the perceived importance placed upon personal relationships, being seen as an intrinsic part of compensating for gaps in the data management system. One area of data mismanagement refers to the operation of the Joint Assets Recovery database (JARD). As noted by Harvey (2008), data on crime-money detected and seized flows through the JARD. The information related to confiscation orders, cash forfeitures (orders granted) and remitted amounts for both, are entered onto this revenue tracking system. Data entry can be conducted at various points and by various people in the criminal justice system including both the police and the judiciary. In theory the whole system is joined together by a unique coding system so that remitted funds can be matched against orders granted, although as Harvey pointed out the reality appears somewhat different as the database contains numerous errors.

Interviewee 2 discussed the Joint Assets Recovery database (JARD) noting that

“Each SAR forming a potential investigation has to be put on JARD. When a restraint³³ goes on we have to open up a record of the person and guess at the asset amount...This is, in effect, a false confiscation order for the court stating the amount that would be expected. This should also include a summary of the investigation and the production order with a list of tangible assets. The police do this. The courts are supposed to add in their stuff and at the end of the case the results go in”.

What is being described here is the process whereby intelligence from SARs is used to begin a criminal prosecution, in the expectation of there being financial criminal proceeds to recover; the police apply for a court order to restrain this sum. The problem identified is that this amount is estimated and it is this figure that is entered into the JARD system. Once convicted and a confiscation order put in place, the courts should add in details of the assets recovered and remitted through the JARD, effectively replacing the estimate with an actual figure, closing down the case. Apparently, however the practice has proved to be different, with the suggestion that these ‘guessed’ sums remain on the JARD database. They went on:

“figures were difficult because data input could be done by everyone” – in [name of force] “they had only one person inputting data but the courts service was not doing their bit. In [name of force] they set up the SARs user group and got people talking and working it out. The group in London wants to change JARD to be an investigative case management system”.

The indication, here is that the potential from this database is not being exploited. Further, the system is improved by individuals identifying an issue and taking steps to handle things on a direct basis. The importance of personal relationships in smoothing over the flaws in the inter-agency system was also pointed to by Interviewee 6

“Some SARs require immediate investigation and will be verbally reported on for immediate police response. This underlines the paramount important of contact. There has to be a constant prioritizing of information”. They went on to comment that *“There is no joined up approach in the UK . . . It is people who are*

³³ Under POCA, once a criminal investigation is started for an offence where there are reasonable grounds to believe that the defendant has gained financially from his criminal activity; the police may request the Crown Court to issue a restraint order for the amount judged to be the proceeds of crime.

more important than mechanisms. It is important to have contact with the industry and there must be continuity, they have a name to report to. This is very important for industry security and confidence”.

Interviewee 5 noted the importance of maintaining good operational relationships with the holders of the information, specifically, with the larger banks. Noting, as commented upon earlier, that many banks had extended their compliance in order to establish internal intelligence units. These are seen as a necessary response to the increase in the number of production orders from law enforcement, so that quite literally they are assuming the functions of the police. This personal approach was seen to work as the relationship concentrated on a small number of individuals and it was immediately acknowledged that there a problem in supplying meaningful feedback to the other ‘200 plus’ institutions.

“SOCA can tell an institution the numbers of SARs generated by that institution and the percentage linked to investigations but they cannot say what was actually useful about the SAR and how it was used. Free format SARs have to be coded by individuals and thus are subject to error. SOCA will have individuals doing a process driven system not able to feedback anything of value as they do not ask why they are undertaking the search say of this 100 names, they must do this to understand to feedback to the FIUs, it is a waste of resource in looking at nonsense to get what is of value”.

This comment was made in relation to a discussion on the perceived need to guide financial institutions on what to report so that SARs are more useful and it was evidently felt that the best way that this could be achieved was by the Interviewee talking on a regular basis to the largest of the reporting institutions. However, the interviewee followed this up by immediately noting the dilemma faced by the agency in the fact that if they fed back to institutions that, for example, there appears to be an intelligence link to an increase in mortgage fraud all that will get back will be an increase in reporting in this area (Interviewee 5).

Respondent 4 thought it was appropriate that the focus of legislation was on banks and associated professionals due to the need for “*collective responsibility*” and they were not sure how it would be dealt with otherwise. Banks are also singled out for criticism by Interviewee 1 who felt there was clear evidence of defensive reporting.

“The rise in the number of SARs is associated with the use of electronic screening packages. Banks should sort these prior to referral; the problem is that not all will

do this. For example, in the case of one [unnamed] investment bank – the electronic screening software employed can generate in the region of 2,000-3,000 ‘hits’ (per week) these need to be manually sorted prior to reporting and this bank employs a number of people to do this”.

Interviewee 6 noted that “*Skilled MLROs pick up some fascinating facts but they need to use their judgement to filter reports*”. Understanding what is important and beneficial to the police comes, not from their operating independently but from their being told about what was useful from the information reported and how it was being used. As this data was not being tracked in the past it was impossible to operate such a feedback loop. However, Interviewee 2 noted that they are now being asked to report back, on a twice yearly basis to SOCA (who presumably can pass this through to the banks) “*what came as a result of the SARs; how many money laundering cases arose from them*”. Perhaps in the realms of fantasy this interviewee noted their wish that as police can only gain access to bank accounts via a court ‘production order’ “*It would be helpful to financial investigators if banks indicated to them that it would be worthwhile obtaining such orders*” (Interviewee 3). Clearly, to know someone in the bank would help to get such an indication.

Despite emphasis on relationships as a means of improving quality of information, there was still preference by some for use of a stick.

“There is no protocol for reporting by the FSA to the police, breaches of regulations by financial institutions – they will be more rigorous if a few more were prosecuted as an example” (Interviewee 3).

“It is not going to be long before an MLRO is in contempt of court as more demands are put on them [through production orders] but this has cost implications to the institution” (Interviewee 5).

“Enforcement activity is high in [name of force]. In the past 6 months there have been 3 MLROs arrested. These were directors of trusts – this sends out a strong message regarding the importance of compliance. ‘Suits’³⁴ are treated like all other criminals. This tends to provoke activity in the compliance field”. (Interviewee 6).

Banks similarly found themselves in trouble for assuming that others had performed due diligence. “*Financial institutions have found themselves exposed through structured finance products because the firms assume (particularly if they are buying from another ‘gatekeeper’) someone else has done the due diligence*” (Interviewee 5).

³⁴ A term taken to refer to white collar criminals.

Likewise Interviewee 3 commented that due diligence by banks when dealing with clients referred via gatekeepers was lacking as “banks’ assume that the accountant or solicitor has performed it and that they have also assumed they are honest” (Interviewee 3).

There is a further problem over relationships that remains unsolvable and that was highlighted by Interviewee 5 who drew attention to the conflict of interest between detection and intelligence.

“You have special branch, who want to gain intelligence (and keep it secret), and detectives working together but the latter want to prosecute and lose the intelligence. Intelligence is a more subtle game and it is being lost we need to look at the longer term and the bigger picture, not short term gain.”

Hence, personal relationships are seen as important not only as a way to compensate for failures in information management but also as a way of enhancing information flows. The interviewees see benefits accruing from their ability to build direct contacts with the larger institutions and that this is beneficial both to the force (through enhanced information) and to the institution through being able to direct their account monitoring activity.

Performance measures

The final tension area, not unexpectedly, was to do with measures of performance. Interviewee 3 drew attention to the problem already identified by the representative of the leasing company noting that “*it would suit the government to underestimate them [estimates of assets available for recovery] to show that crime does not pay. The police do not investigate thus they do not report crimes and they show lower estimates to show they are effectively tackling [crime]*”.³⁵ In saying this, they inadvertently drew attention to the problems of quantification of crime. Indeed, if this is a routine response of more than one force it will cast doubt on reliability of recorded crime statistics, already the subject of criticism from criminologists.

Interviewee 2 had strong opinions over performance measures.

“Targets are set for the force but they are not widely publicised within the force. An example would be to tell the assets agency, we would give it 45 cases a year –

³⁵ Although perhaps appearing counter intuitive, the point being made is that by underestimating amounts the indication is that criminal activity is not lucrative as there are few identified assets to recover. Likewise, by not recording crime the impression may be given that criminal activity is decreasing.

it might be a target but it is never hit. We are governed by what is in the policing plan. For the first time last year we included cash seizure but did not put a figure on it. SOCA have put a figure for their own performance but I don't agree with it – they are not yet set up properly, they have no cases in place they will fail to make the target. They should find out their capability and then set a target as it can take time for the money to come through. You might as well give someone a few darts to throw at you”.

This is an important point as the inference is that targets are set but then not specified or made widely known for the reason that they may well be unattainable or that failure to hit such targets will open the police up to criticism. Interviewee 2 also noted that their targets might be to reduce crime by 20% or to increase convictions by 2%, noting that they “*always talk in percentages*”³⁶. Interviewee 4 complained about performance measures, referring to a series of ‘restraint’ related measures by which they were monitored. When asked about how they would like to be measured the answer was that there was no single measure available and to measure success “*you need to look at confidence and security in the community*”, noting that “*there is inevitably an element of subjectivity involved*”. In conclusion they felt they should be accountable and driven in terms of “*what does society want*” (Interviewee 4).

In pursuing his point over the difficulty in measuring success, Interviewee 4 commented further over problems with statistics and interpretation noting the fact that quantitative performance measures that should correlate fail to do so. Further bringing into question their apparent usefulness

“looking at effectiveness of a focus on burglary might mean we measure the number of burglars taken out. Growth in drugs is a further issue – this is linked to acquisitive crime. Indications are that drug use continues to rise (drug recovery data, street price etc) there should be an associated increase in acquisitive crimes (theft etc) but statistically these have gone down by 65%” (Interviewee 4).

The implication from the foregoing is that quantitative measures of performance may not be as objective as the government may wish and that the value of policing may well be through less tangible, but nevertheless significant, feelings of confidence and security.

³⁶ It being harder, presumably to dispute their attainment than if absolute numbers were tracked.

Discussion

It is appropriate to start with a methodological note concerning this work. The point has already been made that these interviews were conducted over a period of time and draw on the personal views of the six individuals. Whilst it not appropriate to suggest that their views can be taken as representative of those of the wider law enforcement population it is valid to note that having obtained some glimpses from the field, they do appear to deviate from the official line. In as much as this occurs they are, therefore, worthwhile considering, if with *caveats* attached. So are our representatives of law enforcement paragons or pariahs? Clearly they find the powers granted under the legislation to be of benefit. Emphasis was firmly placed on their ability to use the legislation to disrupt criminal activity and remove financial benefit, justified by the belief, however biased, that criminals will not amend their ways. There is no interest within the law enforcement arena in fiscal gain, this being seen as the preserve of government, although inevitably funds recovered provides an accessible measure of performance (Kennedy, 2007). There is evidence to suggest, however, that anti-money laundering legislation is not quite as effective and easy to implement as suggested by the government. In contrast, the view here is that it is costly, time consuming and resource intensive. If these expert observations have some validity, it may explain the general low number of prosecutions for money laundering. On a more positive note, it was noted that, as result of its higher profile, forces were under pressure to allocate resource to close cases.

Given defensive reporting by financial institutions and the fact that there is room for errors in data entry and interpretation by SOCA, it is tempting to suggest that what the police would like to see is police trained investigators embedded in the institutions. Discussion of inter-agency relationships and information flows did point to problems that the police have in relating to SOCA, and to the tension between operational officers and ‘managers’. SOCA was seen as suffering from being bolted together from a number of previously underperforming agencies, although this might reflect the inherent bias of the interviewees.

Of concern, is that whilst SARs are largely seen as helpful, 40% of the SARs were not looked at and SOCA cannot identify what was actually useful about the SAR and how it was used. Although it is noted that SOCA appears now to be asking police forces to track this information, for the time

being the cries from the industry for greater feedback from the Agency are in vain simply because that data, whilst undoubtedly of value, remains uncaptured. In overcoming these problems, evidence points to the importance of personal relationships, particularly between police and financial institutions and from the police towards SOCA.

Conclusions

It was stated earlier that this work hoped to identify evidence to support or, indeed, contradict the statement from Levi and Reuter (2006: 294) that indicated a disconnect between theoretical benefits and crime fighting objectives. Clearly crime reduction is a different *foci* than fiscal performance and we should endorse whole heartedly Levi's (2006) call for an evaluation within this context. No one enquires over the "*vast annual gap between estimated proceeds of crime (both stocks and flows) and asset forfeitures/taxes on crime*" (Levi 2006: 177).

These interviews gave a voice to those at the front line and in so doing, highlighted some important topics and divergences from the official line. What appears to emerge from this dialogue with the front line is that police are more paragons than pariahs. Most certainly they embrace and use the additional legislative power but there are a number of resulting tensions that have to be managed. Prosecutions are resource intensive and these resources have to be made available, often by diversion from next best activities. It is perhaps not surprising that it appears easier to stick lower level crimes against a subject and interpret this as a positive result for crime reduction. Relationships between police and SOCA are hampered by the perception that the Agency is too bureaucratic and top heavy. It appears fundamentally difficult to transfer meaningful information between financial institutions and the police because of poor data management systems, reinforcing findings from elsewhere. This is compensated by strong personal relationships between individuals. The ultimate tension is between well intentioned bureaucrats needing to establish national data systems – unwilling to relinquish control of the money flows – needing ever more information from financial institutions, lending support to Levi's identification of 'control freakery'. This drive towards control of the money flows fails to recognise that from the police perspective, success is not about numbers, measures or targets: these are

veiled in ambiguity, and rather, in the words of Interviewee 4 it is about confidence and security in the community. This reconnaissance, for it remains no more than that, suggests that more voices should be heard.

References

- Alexander K., The International Anti-Money Laundering regime: The Role of the Financial Action task Force. *Financial Crime Review*, 2000, Autumn, no 1, pages 9 – 27
- Alldrige P., *Money Laundering Law: Forfeiture, confiscation, civil recovery, criminal laundering and taxation of the proceeds of crime*. Hart Publishing. Oxford, 2003
- Bovenkerk F and M. Levi, (eds.), *Pecunia non olet? The control of money-laundering revisited*. The Organised Crime Community, New York: Springer, 2007, pp. 161-182
- Brown C. and P. Jackson, *Public Sector Economics*. 4th Edition, Blackwell, 1991
- Chong, A. and F. López-de-Silanes, *Money laundering and its regulation*. Inter American Development Bank January 2007
- Demetis D. and I. Angell, The risk-based approach to AML: representation, paradox and the 3rd directive. *Journal of Money Laundering Control*, 2007, vol. 10, no 4, pp 412-428
- Duyne P.C. van, M.S. Groenhuijsen and A.A.P. Schudelaro, Balancing financial threats and legal interests in money-laundering policy. *Crime, Law and Social Change*, 2005, vol. 43, 117 – 147
- Duyne, P.C. van, Money laundering policy: Fears and facts in: P.C. van Duyne, K. von Lampe and J.L. Newell (eds.), *Criminal finances and organising crime in Europe*. Nijmegen, Wolf Legal Publishers, 2003
- Duyne, P.C. van, The creation of a threat image: Media, policy making and organised crime. In: P. C. van Duyne, M. Jager, K. von Lampe and J.L. Newell (eds.), *Threats and phantoms of organised crime, corruption and terrorism*. Nijmegen, Wolf Legal Publishers, 2004
- Duyne, P.C. van, Criminal finances and state of the art. Case for concern? In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe. The dirty linen of illicit enterprise*. Nijmegen, Wolf Legal Publishers, 2007; 69-98
- Favarel-Garrigues G, T. Godefroy and P. Lascoumes P (2008) Sentinels in the banking industry; private ctors and the fight against money laundering in France. *British Journal of Criminology*, 2008, vol. 48, p 1-19
- FATF, *Review of FATF Anti-Money Laundering Systems and Mutual Evaluation Procedures 1992 – 1999*. 16 February 2001

- Available at: <http://www.fatf-gafi.org>.
- Fleming M., UK Law Enforcement Agency use and management of suspicious activity reports: Towards determining the value of the regime. University College London. 30th June 2005
- Harvey, J., An Evaluation of Money Laundering Policies. *The Journal of Money Laundering Control*, 2005, vol. 8, no. 4, pp 339-345
- Harvey J. and S.F. Lau, Crime-money records, recovery and their meaning. In: P.C. van Duyne, J. Harvey, A. Maljevic, K. von Lampe and M. Scheinost, (eds), *European crime-markets at cross-roads: Extended and extending criminal Europe*. Nijmegen, Wolf Legal Publishers, 2008
- Harvey J., Just how effective is money laundering legislation? *The Security Journal*, 2008, vol. 21, pp 189 - 211
- HM Inspectorate of Court Administration (HM ICA), (2004) Payback Time: Joint review of asset recovery since the Proceeds of Crime Act, 2002. Available at www.hmica.gov.uk/files/Full.pdf
- H M Treasury, The Financial Challenge to Crime and Terrorism, February, 2007
- Kennedy, A., An evaluation of the recovery of criminal proceeds in the United Kingdom. *Journal of Money Laundering Control*, 2007, vol. 10, no 1, pp 33 - 46
- Lander, S., Review of the suspicious activity reports regime (the SARs Review) March. SOCA, 2006
- Levi, M. 'Pecunia non olet?' The control of money-laundering revisited. In F. Boverkerk and M. Levi, *The organised crime community*, New York: Springer, 2007 pp. 161-182. Levi, M. and P. Reuter, Money Laundering. *Crime and Justice*, 2006, vol. 34. pp 289 – 376.
- Sproat P., *The new Policing of assets and the new assets of policing*” (2007) *Journal of Money Laundering Control*, 2007, vol. 10, no 3, p 277-299
- Verhage, A. Compliance and AML in Belgium: a booming sector with growing pains. *Journal of Money Laundering Control*, 2009 forthcoming

The beauty of grey?

AML as a risk factor for compliance officers

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“Operational AML is actually real police work. The report to the FIU implies that we discover the unusual, that we are insecure and worried about client behaviour” (cpl 8).

“In my opinion we are judges, not police officers. We have to assure ourselves of the good faith of the client” (cpl 15).

Introduction

Investigating suspicious transactions in order to report money laundering activities to the authorities has been an important task of Belgian banks ever since the introduction of the anti money laundering legislation in 1993. This legislation obliged banks to implement anti-money laundering measures, from the viewpoint of protecting economic stability and fighting (drug) crime (Thony, 2002). Since 2001, in Belgium, this task has been designated to the compliance officer within financial institutions who, as the person responsible for the implementation of money laundering regulation in the bank, is also the person that reports to the FIU. These compliance officers (or AML officers) are sometimes referred to as ‘integrity watchdogs’ (De Bie, 2001) or financial deputy sheriffs’ (Levi, 1997). Today, even in the middle of the credit crunch, when one would assume that other risks would be prioritised (Van Duyne, 2008), AML-activities remain crucial for banks (Freis, 2008), partly because of an increased perceived risk of fraud in the current economic climate.

In an ongoing research project, the compliance function is put under the microscope, aiming to map compliance practice, resources, methods and dilemmas.²

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This research aims at identifying the circumstances in which compliance officers carry out their tasks. After all, compliance officers are working within a highly commercially oriented environment, trying to implement government policy that may contravene entrepreneurial logics. Keeping in mind that Sutherland already noted that “*the policy of corporations is general public adherence to the law and secret defections from the law*” (Sutherland, 1983) we may suspect that the context in which a compliance function is embedded, represents a duality between commercial goals and law-abidance. This duality has been studied during a four-year research project, by giving the compliance officer a central position within this research.

In this chapter, a particular research phase – more specifically the interviewing phase – is discussed, focusing on an important task within AML and compliance: the detection and subsequent investigation of suspicious transactions. After a short explanation of the basic questions of this research and its methodology, we describe the phases that a client or transaction passes before the financial institution decides to report a case to the authorities and/or end the client relationship. As many cases remain ‘grey’ – difficult to assess – as a result of lack of information or lack of insight in the case in itself, we conclude by raising a few questions on the challenges a compliance officer has to cope with.

The AML complex and the compliance industry

The anti money laundering framework unites a number of organisations and institutions in its battle against money laundering and terrorist financing. Both public (police, judiciary, FIU’s – on a national level) and private (banks, exchange agents, casinos, etc) actors are engaged in this ‘crusade’, aimed at the prevention and detection of money laundering. We have called this combination of public and private actors the ‘anti-money laundering complex’ (Verhage, 2008). This AML complex, in which every partner plays its role, puts a primary goal first: to fight money laundering through the reporting of suspicious transactions, potentially linked to money laundering. Flanking this AML complex, we observe the existence of a market of AML

² ‘The anti-money laundering complex and its interactions with the compliance industry: an empirical research on the private actors in the battle against money laundering’. UGent, funded by FWO Vlaanderen, 01/01/2006 – 31/12/2009

support, developing and selling AML detection, training and advice. This market, ‘the compliance industry’ can only function in conjunction with the AML complex; they are mutually reinforcing and interdependent. Between these two configurations, we find the financial institutions and their compliance officers, forming part of the AML complex and purchasing services from the compliance industry. Within the ongoing research we aim to map these three viewpoints and strive to get a grip on the different interests involved on the one hand, and how these interests are balanced in a micro-perspective (that of the compliance officer), on the other hand. We do this by focusing on the compliance officer. In this chapter, we will discuss precisely this micro perspective by focusing on the manner in which 1) transactions or clients are filtered by the system and 2) the investigation of a selection of these cases is carried out. We will conclude by trying to assess the consequences of these processes for the battle against money laundering in general.

Semi-structured interviewing

In the initial phase of this research, a questionnaire was sent to all Belgian banks in the spring of 2007 in order to gain a first insight into the compliance sector and of their opinions and strategies. The questionnaire was filled out by 74 compliance officers.³ The second research phase builds on these results and consists of an interviewing phase, aimed at gaining a more in-depth view on how compliance officers work in practice and, more specifically, how they make their decisions. Convincing compliance officers to contribute to this research was not very difficult, as most of them were enthusiastic about research in this domain. The tricky part of the preparation for the interviews was actually finding the compliance departments in the banks. A considerable amount of time was therefore devoted to reaching the right person in the right place and arranging meetings with compliance officers. Important to note was that in this research phase, not one compliance officer refused to participate in the research.

³ For more information on the results of this questionnaire, please see “Verhage, A. (2008). ‘Between the hammer and the anvil? The anti-money laundering-complex and its interactions with the compliance industry.’ *Crime, Law and Social Change*. Published online 26 November 2008”

The results of the questionnaire had given us a first impression of several compliance related issues. We gained insight in the practices of compliance officers and deduced from their answers that the dichotomy between commercial goals and law-abidance (compliance) actually exists in practice; during their activities compliance officers are regularly confronted with this dilemma. The compliance officers noted that in compliance, the good reputation of the bank is a primary concern, by preventing the bank from getting involved in criminal activities. This can be summarised as a risk prevention approach, mainly focused on reputational and regulatory risks. However, we were not able to find out from the interviews how they make decisions in their daily activities, which information they employ to do this or which dilemmas they are confronted with on a more practical level. Therefore, during the interviews, compliance officers were asked to answer questions on items such as the practical functioning of a compliance department, the absence or presence of cooperation within the AML complex, their opinions on the effectiveness of the current anti money laundering framework, and their view on Belgian legislation regarding money laundering. On a more individual level we also asked compliance officers to describe the way in which they make their assessments of atypical transactions and how they carry out their investigations. This topic is particularly interesting, as it sheds light on how decisions are taken in *ad hoc* cases, and which kind of policy (if any) banks develop with regard to anti money laundering practice. It is this specific theme that will be elaborated on in this chapter, based on the results of the interviews with 23 compliance officers, working for both large and smaller-scale banks⁴. Of course we are aware of the fact that this kind of information is often confidential and difficult to discuss overtly. Our aim is therefore to make a construction of the system and the processes that are used, by filling in the blanks and reconstructing issues and strategies that are not made explicit during the conversations.

⁴ The compliance officers were working for either large banks (11 respondents), medium-sized (7 respondents) and small banks (5 respondents).

Why are compliance officers detecting and investigating a-typical transactions?

By means of introduction to this paragraph, a short overview of the grounds on which financial institutions are supposed to investigate atypical transactions, is needed. After all, why are financial institutions investing time, effort and resources in an activity that in itself is not contributing to their core-business? The answer to this question can be found in the current arrangements of the Belgian anti money laundering system. We therefore briefly describe the Belgian framework surrounding the institutions that are obliged to report suspicious transactions. This framework consists of an obligation to detect, investigate and report suspicious transactions.

The legislator's view on detecting and reporting

The Belgian AML-legislation is rather broad, and does not specify in detail in which cases banks are supposed to report transactions (i.e. clients) to the FIU. More precisely, the law states: *“when the institutions know or suspect that a transaction is connected to money laundering or terrorist financing, they will notify the FIU, before the transaction is carried out”* (art. 12, Law 1993). Article 20 specifies that any report should be made ‘in good faith’: *“no civil, penal or disciplinary claim may be instituted and no professional sanction may be executed with regard to the institutions that have provided information in good faith.”*⁵

Both articles more or less confirm that there is room for discretion in deciding whether or not to report a transaction to the FIU. After all, to be able to assess whether a report is made ‘in good faith’, a compliance officer is supposed to have at least a preliminary insight in the case, which itself excludes the possibility of an automatic reporting system.

In 2007, a number of indicators were introduced to enhance uniformity in reporting (Programmawet 27 April, 2007). The ‘indicators’ were announced as a method to enable institutions, who are subject to the reporting obligation, to make more and more profound reports in relation to money laundering funds based on serious and organised fiscal fraud. These indicators were seen as a first step towards objective reporting standards, on the basis of

⁵ Law of 11 January 1993 on the prevention of the use of the financial system for the laundering of money and financing of terrorism, B.S., 9 February 1993

which banks were supposed to be supported in their reporting practices.⁶ The use of indicators was also expected to result in a rise in the number of suspicious transactions that reach the FIU. To what extent these objectives have been met, however, is under debate, as to date a heated discussion is ongoing with regard to the degree of obligation in reporting cases based on these indicators. The Minister of Justice has stated in 2007 that institutions are supposed to report a case when one of the indicators is present (De Standaard, 3 November, 2007). The professional organisation of financial institutions has, however, taken the stand that these indicators will be used as *indicators* (in the actual sense of the word) of potential money laundering (De Tijd, 9th November, 2007), implying a higher alertness for these cases, and a need to further investigate the case, but not *per se* an automatic report to the FIU. This viewpoint is based on the observation that was made by financial institutions, claiming that the indicators are too vague and broad, which would mean that a number of unnecessary reports would be made to the FIU, something that would undermine the system of ‘intelligent reporting’ (as opposed to automatic reporting).

Recently, the State Secretary for coordination of the fight on fraud has pleaded for using the indicators as a *complementary* source (Trends, 16 October 2008), which also is how the Constitutional Court interpreted the indicators in its Decree in July 2008 (102/2008; B.S. 6th August, 2008). This is also the current viewpoint of the financial institutions, which means that the presence of one or more indicators in a case will lead to a higher alertness and further investigation of the client, after which a decision will be made on the need to report the case to the FIU.

Taking these recent developments into account, we can state that apart from the recent introduction of these indicators, the Belgian legislator has chosen an AML system in which the reporting entities are given room for discretion and appraisal on a case by case basis. This also implies that any institution that is willing to take this reporting obligation seriously has to invest in developing not only an AML policy, but also a framework in which investigations of atypical transactions can take place. The pros and cons of this system will be discussed in the following paragraphs.

⁶ The indicators can be found in the Royal Decree of 3 June 2007 - Royal Decree for the execution of article 14quinquies of the law of 11 January 1993 on the prevention of the use of the financial system for the laundering of money and financing of terrorism.

The regulator's view on detecting a-typical transactions

A second source on which the Belgian financial institutions need to base their AML arrangements, are the circulars from the regulator for the Belgian financial sector, the CBFA. The Belgian regulator has devoted considerable attention to the battle against money laundering (for example by assigning the task of AML reporting to the compliance officer by circular of 2001 – a function that is obliged in every Belgian bank). In its circulars of 2004 and 2005, the CBFA also specifies the way in which banks are supposed to accomplish detection of suspicious transactions (CBFA, 2005). According to these circulars, banks need to install a first and second line of detection of money laundering, in order to achieve an optimal discovery of a-typical transactions and clients. The first line consists of the vigilance of employees: employees need to be alert, trained and able to recognise suspicious clients and transactions, based on a number of procedures. The second line consists of a monitoring system that allows for continuous monitoring of all transactions carried out within the bank (CBFA, 2004; CBFA, 2005). According to the circulars, both systems will ultimately lead to a number of 'alerts' that need to be investigated by the compliance officer or the compliance department.

In general, both the legislator and the regulator remain vague on the subject on when exactly to report and which cases need to be reported. Legislation and regulation also demand an investigative effort from the banks ('report in good faith'). Next to this observation, it can be stated that the current framework leaves relatively much room for discretion. And precisely this discretion forces banks to investigate cases themselves before reporting them to the FIU: they do not want to 'over report' or 'under report' (as both may lead to a reputational risk and/or commercial damage) and therefore conclude that a thorough investigation is needed to assess the potential suspicious transactions.

Results: how to know whether it's 'white' or 'black'?

After the brief review of the legislation and regulation surrounding the detection, investigation and potential reporting of suspicious transactions, we now turn to the compliance officers and their experiences with -typicality

and/or suspiciousness. We try to describe how they experience the translation of these rules and regulations into practical and workable practices and which concerns they express in this respect. In 2007 and 2008, 23 compliance officers were interviewed, of which 11 were working for large, international banks, seven for medium-sized banks and five for small banks.⁷ These conversations, some of which lasted for several hours, are reflected in the following paragraphs, by describing one of the topics that was an important subject of discussion: the investigation of suspicious transactions. Though the interviews showed that every bank has its own procedures, priorities and working methods, we have tried to look for a connecting thread throughout the interviews. We are aware of the fact that by doing this we cannot do justice to the diversity of expertise, methods and viewpoints on AML in the compliance sector. The goal, however, is to paint an overall picture of AML and AML investigations.

First line: client identification, acceptance and due diligence: filtering out the ‘black’

Financial institutions make use of several strategies to detect atypical activities of either clients or accounts. All the banks that took part in this research project actually have installed a first and a second line for the detection of atypical activity. Compliance officers state that detecting atypical activity is not as easy as it may seem. *“Belgian legislation makes it difficult for us (. . .) we are supposed to report any atypical activity, but what is atypical? You have to sort that out for yourself”* (cpl 1). In general, this quote accentuates the difficulties that compliance officers encounter when they try to develop procedures for AML arrangements. The lack of clarity in legislation and guidelines is emphasised by the fact that the majority of respondents refer to relying on an ‘instinct’ or ‘intuition’ in decisions on whether something is suspicious or not.

They emphasise the importance of the first-line detection and prevention of potential money laundering cases. After all, next to reporting, also procedures developed for preventing criminal elements to be accepted by the bank as a client, play an important role in preventing and detecting money laun-

⁷ The quotes in this article are followed by ‘cpl’ and a number. These numbers reflect the interviewees, who, of course, remain anonymous. I would like to thank all compliance officers that were willing to take and make the time to contribute to this research.

dering. These procedures take place within the first line of the AML practice in financial institutions and entail the client identification, KYC (know your customer) and client acceptance policies.

AML, as some state, starts at the beginning of the client relationship. An AML-policy is not only evidenced by the investigation and subsequent reporting of suspicious transactions, but actually consists of multiple procedures that are intertwined with the daily activities of every employee. Most of them have followed training on this subject, while software and other procedures are put in place to support these first steps in the AML policy. It is important to note that – even when we only take the first line into consideration – anti money laundering has a huge impact on company systems and internal working procedures.

“It’s very important that staff is well-trained (. . .) They are able to see that someone has already deposited the same amount of cash for many times within the last two or three weeks. I would not be able to see this for myself.” (cpl 13).

The first line is fully based on the cooperation and alertness of employees who are working at the front office and actually meet the clients in person. The front offices are expected to carry out a first check on the clients, to map their background and activities and to ask the right questions when needed. *“They have face to face contact with the client and can signal anything that may seem suspicious, abnormal or that raises questions”* (cpl 2a). In this same rationale, they are supposed to ask clients about the origin of the funds they want to deposit, which needs to be substantiated by documents.

“We have been pushing employees to ask for documentary evidence for the origins of cash deposits, which has encountered resistance. Now we notice that branch offices, when we ask for more information, often know what the background is and very often have copied the statement of account of the Fortis bank (especially today)”. (cpl 17).

When employees have suspicions, they ought to report these to the compliance department, who will undertake action and if needed, investigate the client.

Client identification

Client identification is carried out whenever a new client wants to open an account at the bank. Identification is also a continuous process (in most banks an overnight control of all clients is carried out), and can also be car-

ried out retrospectively, such as in 2005, when several Belgian banks were forced to block accounts for those clients who did not provide a copy of their identity card. In 2007, some 200.000 accounts remained blocked (De Standaard, 20th November 2007).

In many cases the identity card or passport of the client will simply be photocopied to obtain identity details of the client (name, address, place of birth, date of birth), while in the case of corporations (among other documents), a copy of the most recent articles of association or the details of the general board need to be handed over to the bank. By making use of these sources of information, banks are able to identify clients and make a first assessment of the level of suspicion that is needed. All names of (new) clients are also monitored through a comparison with existing lists of persons convicted, suspected of or related to for example terrorism or other crimes, or people who have political mandates (PEPs). These blacklists are made available and updated by a number of organisations (such as the EU or OFAC) but there are also a number of private enterprises that provide databases of names and persons on sanction or embargo lists, such as World-check. These name-matching tools are rather costly, but serve an important objective: preventing the bank from starting (or continuing) a client relationship with people that may pose a high risk to the bank.

“Earlier this year, one of the software providers found during an investigation that the bank of Osama bin Laden was only seven steps away. Well, then you can stop discussing the cost of Worldcheck, than you’ve had a positive return on investment for the next ten years.” (cpl 12a).

Still, when it comes to identification and the role of front office employees in this matter, a number of reservations are made by compliance officers. How will an employee know whether the client is telling the truth or whether the documents he provides are real or fake? *“When it concerns a new client, the passport has been copied and they do not see that it is fake, can you blame them? It’s an interpretation at a given moment”* (cpl 16). The question is: how far should they go and how deep are they supposed to dig?

Know your customer

Know Your Customer or KYC entails asking the client a number of questions that need to be answered in order to get to know the client, his or her activities, background and family relations, financial status, assets, etc, (Shields, 2005), in order to gain a comprehensive picture (a ‘profile’) of the

client and his or her needs. Starting from a risk-based approach, this should enable banks to have some insight in the client – which is not only needed in relation to AML (banks need to know what is ‘normal behaviour’ for a client in order to detect ‘abnormal’ activity) but also very useful from a commercial perspective. After all, knowing who your client is, what he/she does, what their family situation is and so on, also allows for the provision of a tailor-made service. To know whether your client is married, has children, or not, may determine which services you can offer the client and whether you can approach the client to sell insurance policies or mortgages.

“Before we open an account we need to know who we’re dealing with: compliance and commerce go hand in hand at that moment. If you don’t know if anyone is married or not, how do you know whether you should start talking about prenuptial saving? These things are important for commercial cross-selling; you need to be able to offer the right services” (cpl 10).

The extent of KYC may differ in relation to the size and activities of the bank: for many banks it is simply impossible to know all their clients personally (large banks may have several million clients and over 1.000 offices), while in other banks this is perfectly realistic. In practice, this implies that banks which know their clients personally, may have a better view on the circles in which a client moves, his activities, his family etcetera, because of the personal contact and the gossip or other information from informal networks that are present in small villages. The focal point of the KYC procedures is to build a profile of each customer by outlining an overall picture of the client’s normal activities and connections on the one hand. On the other hand, this profile provides the opportunity to at least get an idea of the degree of the clients’ trustworthiness, which will determine whether the banks is willing to take one’s chance with this client.

“We always check whether there is a link with Belgium. When a potential client is not living in Belgium, not working in Belgium, has no income from Belgium, does not rent any property here, has no company in Belgium, but is born in Rumania and is living in France . . . what then is connecting him to us? Is there a justification why they should open an account with us?” (cpl 13).

In this respect, knowing a client’s activity also implies being able to estimate whether the amount of cash he offers at the desk, fits into his daily routine or not.

“We evaluate: when someone comes in with 10.000 in cash and that person owns a total capital of 15.000 euro, and it’s a garage owner who deals in second hand

cars . . . or a client with a portfolio of 10 million euro who deposits 10.000 euro, it's a totally different case.” (cpl 16)

Client-acceptance policy

Another mechanism that functions as a filter regarding customers of financial institutions is the client acceptance policy. Financial institutions can decide to reject specific clients. For example, in the case of a mortgage application, clients may be refused because of the fact that he or she represents a disproportionate financial risk or may not be able to repay their loans, banks are allowed to reject any client that poses a (non-financial) reputational risk for the bank. This can also be seen in the view of corporate ethics, which implies not doing business with certain types of corporations. Some banks are rather clear on this issue and follow a strict and limited client acceptance policy, to rule out a number of risks. Still, we must note that this policy varies between banks. One of the respondents gave the following example:

“We state: we don't want to come into contact with blood diamonds. Not because we are not allowed to deal with diamond importers. But because we are not able to perform a proper compliance function in those branches: we will not know where those diamonds come from or where the money comes from and therefore are not able to execute our compliance function” (cpl 10).

This observation also suggests that every decision whether or not to accept a client, funds, or stocks influences the degree of alertness that is needed (after client acceptance) within an institution. After all, a number of risks can be eliminated by simply refusing to engage in commercial relationships with certain clients – the danger and risks are simply averted. One example:

“We have sent out a clear signal to the commercial network: we don't want to serve as a cash deposit for money that was received under the counter. You will find no clients in our bank that solely consist of cash money”. (cpl 16)

Other banks may decide to allow certain types of clients, but try to closely observe them, to be able to take prompt action whenever something suspicious occurs.

Risk level

After the stages of identification, knowing the customer's background and acceptance of the client, the financial institution has an overview of the client at its disposal. This general image of the client will be used to assess the

risk the client represents. In general, every client that is accepted for a client-relationship with a financial institution will be allocated a risk level (or ‘AML rating’). “*AML has a tremendous impact on your corporate systems, it has far-reaching impact: sales managers for example, are obliged to give an AML rating for every client*” (cpl 3). Depending on this risk level, the client will be monitored. High risk clients (when accepted, such as politically exposed persons or PEPs) will be monitored more intensively and according to other parameters than ‘medium’ or ‘normal’ risk clients. These risk levels are also used to make a prioritisation in the cases that need to be investigated. Risk levels are assigned on the basis of several parameters, such as geographical risk, sector or types of activity of the client, types of products the client is willing to trade, antecedents of the client or his/her network, etc. When a client poses a higher risk, the compliance or AML unit will perform a check on the client, to see whether there are any connections to other cases that are known within the bank. Compliance will have to give a positive or negative advice on whether or not to continue the client relationship and in the case of a continuing relationship whether the client due diligence will be enhanced or toned down – based on the risk level.

First line: conclusion

This first line not only helps to detect atypical activity, it also allows for the prevention of starting client relationships with clients that may have dubious objectives. The first line model also implies that the responsibility for detection and prevention within the first line is transferred to the lower ranks of the organisation. People working at the front offices have to carry out these tasks. Compliance officers admit that this is a very difficult task, specifically for employees who do not have ‘compliance’ as their only concern, but have to be alert while performing their daily tasks, working with commercial objectives. “*Will the client tell you everything? A real fiddler or money launderer who has a perfect appearance, wearing a suit, driving a nice car, . . . the story may seem plausible*” (cpl 16). It might be very difficult for employees to recognise a potential money launderer or money laundering transactions. Chances are that they will expect and look for the ideal typical image of ‘the criminal’: either a bad guy who looks ‘criminal’ or a very nervous person, who is afraid to get caught.

“The way to unmask them is at the opening of the account. Someone who has something to hide and has to answer a lot of questions, will become nervous and

will not answer; when someone who means well has to answer a lot of questions, he will interpret this as a personal interest in himself as a human being” (cpl 10).

However, although there well may be such money launderers, this is not the majority and there is a possibility that only the stereotypical cases will be filtered out.

Second line control

The second line of control is the subsequent filter that should enable the detection of potential money laundering transactions. This filter takes place at the level of the compliance department. This second line implies that a monitoring system should be installed in the bank, constantly checking and investigating all clients' transactions, trying to find atypical transactions, strange patterns, or dubious beneficiaries. The circular of the CBFA obliges financial institutions to make use of an automated system, unless banks can make a reasonable case for being able to do this manually (CBFA, 2004).

Monitoring software

All compliance officers in this research state that they make use of (some kind of) software to perform the monitoring of transactions: “*400.000 transactions on a daily basis, you cannot succeed in convincing them that you do this manually*” (cpl 17). Some of the respondents only have a few years of experience with this automated monitoring system, as they carried out the monitoring manually until recently. Other banks have a complementary system, next to the monitoring software, through which certain transactions (for example large international transactions) will be investigated independent of the results of the monitoring.

The monitoring software determines whether transactions are atypical on the basis of parameters converted into scenarios (if . . . then scenarios) that are built in the system. The input for this software – the ‘rules’ that determine when a transaction is atypical – is on the one hand delivered by the software provider (of which there are many: SAS, Norkom, Erase are some examples), and the other hand by the bank – as a result of AML expertise within the bank. “*We have made use of the expertise of the company and our own expertise (which cases do we look at, what are recurring cases, what are the triggers) and we have translated that into a number of scenarios.*” (cpl 7). The information

provided by the FIU and the FATF (the typologies) is also used to build scenarios and parameters. This also implies that large, international banks, which can rely on the expertise of many years' standing, may have an advantage regarding knowhow of and insight into the money laundering issue and are therefore more able to supply information for the software. There is near to no input from the FIU or the regulator, on these scenarios, apart from the yearly report or *ad hoc* feedback, for example during an audit by the regulator. This implies that there is an imbalance between banks regarding the amount of information that can be applied in the software. The scenarios that are applied in the monitoring software are based on several parameters and methods. One of the methods is to compare transactions and features of a client, to 'normal' transactions for that client. Atypical transactions, a large amount of cash-transactions, variations in behaviour, and other variables are put side by side, taking into account recurrent variations that may be for example seasonally-related (such as considerable expenses in December, holiday allowances or new year's bonuses). These variations may lead to a 'hit' the first time they occur, but they will be saved in the programme, which implies that next time a holiday allowance is received by the client, this will not lead to an alert. Comparisons are made over time (for example transactions in May 2007 will be compared to transactions dating from May 2006) in order to detect sudden changes in transaction patterns. "*The most important aspect is: we need to assess what is atypical. In order to do that, you need to know what is typical. Everything that is not . . . is de facto suspicious*" (cpl 9).

Alerts

The result of these scenarios is a number of alerts that need to be investigated. Each morning, an AML- or compliance officer starts his day by checking these alerts and deciding which ones need to be investigated more thoroughly. The number of alerts varies according to the size of the bank, the clientele and the services the bank provides. Based on these differences, the number of alerts can vary between twenty to hundreds of alerts on a daily basis. An important issue regarding these monitoring systems is fine-tuning these programmes in such a way that a 'controllable' number of alerts result. It therefore also depends on how well the software is fine-tuned and which parameters are processed. By adjusting the parameters, the 'acceptable' number of alerts can be obtained. 'Acceptable' in this respect means the

amount of alerts or hits that can realistically be checked by compliance employees. After all, although alerts are often false –some state that 999 out of 1.000 alerts are false– all alerts still need to be checked and someone has to decide whether it is necessary to pay more attention to one or more – which implies an investigation – or to ascertain that an alert was false – which results in ‘white listing’ the client. In the majority of cases, this decision is made using a risk-based approach: clients or transactions that pose the highest risk will be investigated.

“The number of alerts is higher than you can manage. We follow a logical approach: we look at the client related to the alert, the risk level he represents but also the weighing that the tool gives to a certain alert of a certain amount of money. There are different criteria to prioritise which alert we will investigate” (cpl 2b). Not all compliance officers are convinced of the usefulness of these systems. *“The problem is that we have to build scenarios and we get a lot of alerts and we have to check all of them to see if these are legitimate alerts. And people who really want to launder money, still can: they know that kind of software, they know how . . . We need to have this software . . . but really . . . it’s ok to have it, but as for the time it consumes . . .”* (cpl 13).

Furthermore, simply having a software programme at your disposal does not automatically mean that you are ‘safe’ or that your reputation is protected: *“It’s a magnificent system, but it is also dangerous. Everything is in there, but if you haven’t seen it, you still get blamed for it.”* (cpl 12b). The degree of usefulness also depends on the way in which the system is fine-tuned and whether the alerts that are generated are of high or low quality.

“I can say to our IT-department: make sure that the system gives us 20 alerts per day. You can do that! You can put your parameters so high that nothing will come out. And at the end of the day we can say: we have processed 100% of our rules. Good job! But what kind of risk are you taking?” (cpl 12a).

In Belgium, the regulator carries out checks on these systems, although the interviews seem to insinuate that these checks are mainly procedural controls, not in-depth tests of the system that was put in place or of the way it is fine-tuned.

Other sources of information that may lead to investigations

Before discussing the investigation process, we need to clarify that the first (alertness by employees) and second (monitoring transactions) line do not

give the only input to the investigative process. There are also other sources of information that may give some hints as to which cases or clients need to be looked into more closely: the questions or information requests by the FIU, the appeals from the magistrates, the media, warnings from other financial institutions etc., may all provide reasons to investigate a client more intensively. Although the banks are usually not informed about the reasons for requests of information by the authorities, an official request of course suggests that something might be seriously wrong.

Deciding on black, grey and white: the investigation process

After all these sources of data (first and second line, informal information and formal requests) have resulted in a number of alerts, the compliance department has decided which cases will be investigated and which will be 'whitelisted', the real investigation process starts. Compliance and AML officers are supposed to investigate those cases that could be most harmful (reputation wise) or most threatening (in terms of risk, scale or type of crime). How do they carry out these investigations and which sources of information are used?

Sources of information

The different types of input result in a number of alerts that are generated and sent to the AML/compliance officer. These alerts need to be checked. The sequence of actions that are undertaken are: 1) checking the alert (what has caused the alert: which client and which rule has generated the 'hit'); 2) gathering information on the case through searches on the Internet, and by using databases that provide information on individuals and corporations and 3) contacting the front office and ask them for more information on this client and the transaction (possibly by asking them to contact the client and make enquiries about the client's activities). These three phases can be summarised as 'information management', through which the compliance department tries to gather as much information as possible on the client, his or her network (e.g. business partners, family or other social networks), activities and history.

“In fact, we try to put together the information of the branch office, the information we have here based on the overviews of the accounts and the information found on the internet, we see if this adds up and, if necessary, we look for complementary information” (cpl 5).

All available information may be useful during an investigation. After all, the compliance department should be able to assess whether a client is actually laundering money or whether the suspicion is undeserved. Still, as compliance officers are not granted access to ‘official’ sources (such as the register of births, deaths and marriages or police information), they are obliged to be rather creative regarding the ways in which they collect information. However, although they lack access to the official sources, the financial institutions’ own databases also provide for a richness of data on specific clients, their family situation, assets, business partners, economic activity, financial status and financial network (the ‘usual’ transactions). This information is crucial during AML research, as it is this data that will allow for a first assessment of the transaction, which leads to either an explanation for the activity or makes clear that there is no explanation at all, in which case further investigation is required.

The absence of official data also implies that compliance departments resort to open sources for their data gathering. Open sources, primarily Internet sources (Google), are of main importance for AML investigations. Virtually all compliance departments have access to information databases such as Graydon, Euro DB, Dunn & Bradstreet, business information bureaus that gather all kinds of information on businesses, management structures, board of directors, annual accounts, and so forth. Business information bureaus in general combine several databases on corporations and corporate activity and analyse the available data. Based on this information, such bureaus are able to give a rather detailed picture on customers’ or suppliers’ financial situation, reliability and solvency. Another type of database that is often mentioned is World-check, a database combining information on persons and companies for the screening of customers, partners, transactions and employees. According to World-check, their database covers:

“money launderers, fraudsters, terrorists and sanctioned entities, plus individuals and businesses from over a dozen other categories. It also covers Politically Exposed Persons (PEPs), their family members and potentially high-risk associates worldwide”⁸.

⁸ www.world-check.com/overview

A third source of information is the client him/herself. In many cases, the compliance department will contact the branch office with a view to gather information on the client. After all, the branch office may know the client personally and will be able to provide more detailed information. When questions remain, the branch office will be asked to contact the client (without telling the client that he or she is under investigation on account of money laundering) and get him or her to come up with explanations, more information and possibly documentation that corroborate his or her story.

“Most of the time it takes a few days before we have gathered all the necessary information and are able to pass a judgement. We will not ask the client directly for information that will pass through the branch office. We have to proceed with caution, and that may take a file to drag along for a while”. (cpl 2b)

Front offices face a difficult task: they have to ask clients questions, questions that sometimes may interfere with personal information, while not being able to explain the reasons why these questions are asked. *“As an employee you have to be creative to find excuses: we have a problem in the procedure, or a document is missing. They are not allowed to tell the client anything, not even when their accounts are blocked”* (cpl 6b). Front offices do not only obtain information from the client himself, but can also make use of more informal information channels. Rumours that were overheard by front offices or employees, for example, may also be a relevant source of information, as well as media attention.

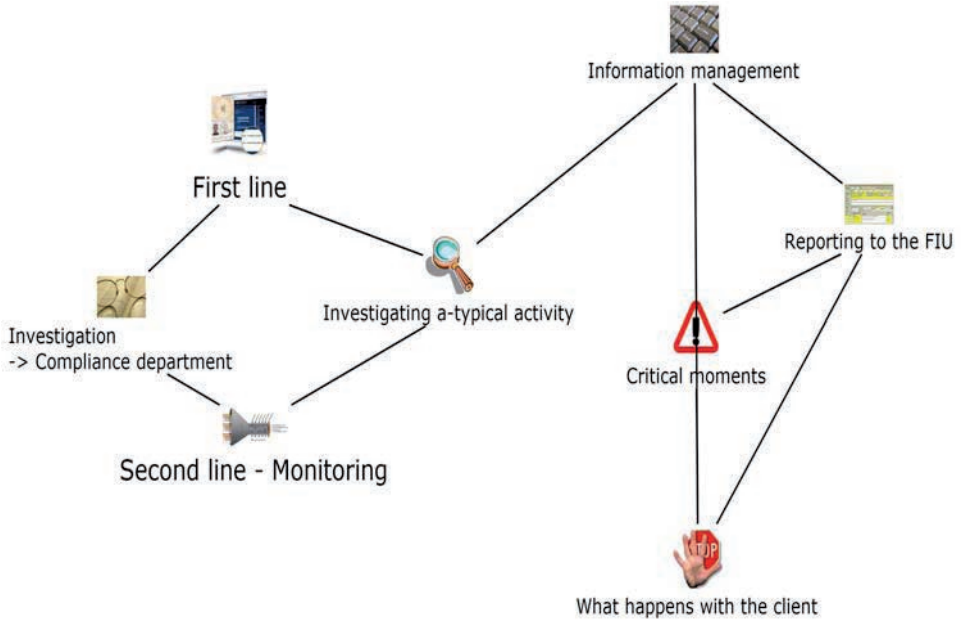
Alternative sources of information that can be used by the compliance department, are informal contacts with police services or the FIU on the one hand, and informal information exchange with other compliance officers on the other hand. Although the first type of information gathering is relatively exceptional and highly dependent on the size of the bank and personal contacts that were developed between compliance department and law enforcement authorities, the latter is a more widespread phenomenon. This is illustrated by the fact that this is generally accepted by the sector and everyone is willing to talk about this, though emphasising and regretting the informal nature of these contacts.

“One time we had someone at the desk with a lot of money, cash deposits. The branch office calls us because they felt uncomfortable. It soon was clear that the same client had collected cash from another bank. I immediately contacted the compliance officer from the other bank who said: yes, they have collected that here. And why do clients act like this, because the client does not want the other bank to

know that his savings are now going to our bank. The compliance departments, amongst themselves, are perfectly aware of this. Then you cannot believe that people are willing to go outside carrying 200.000 euro". (cpl 1).

Both types of information-exchange, however, seem to remain limited to *ad hoc* communication, primarily based on personal contacts.

Figure 3: Investigation procedure



Investigation

After the phase of information gathering, an analysis of this information needs to be made. In some cases, the software that provides the monitoring system is also applicable during investigation. Some software, for example, has the ability to map clusters of transactions, detect networks (clients with similar clusters), outline the beneficiaries of transactions, and so on. This allows for a broad investigation, taking several transactions, persons or corporations into account.

The length of the investigation may vary from one day up until several weeks or even months, all depending on the amount of information that is available. Internal information is used as the primary source, while open

source information (a professional search on Google, for example) will be used only as secondary data, for reasons of reliability of the information.

“We receive an alert and we have to investigate, to reconcile the information we have on this client with the transaction. If this cannot be reconciled, it becomes an atypical transaction and we have to apply a suspicion of money laundering. First, we will see whether we have all the necessary information on the client, then we will look for informal identification: what do we know of this client, about his activities, the origins of the funds, why is he transferring money abroad, etc. We will approach the branch offices, the commercial employees, what do they see of this client and what could justify this transactions. We will also look at the accounts, the products, we will check statements of account, see if there is some continuity – is this transaction abnormal? We will check the internet: is this person known in newspapers, does he have a good or bad reputation . . .” (cpl 5).

Some compliance officers state that their investigations are rather thorough, other state that they do not have the time nor the means to invest months in one case. As a result, the latter will decide to report cases to the FIU in an earlier stadium, compared to those compliance departments that are able to invest a lot of time and effort. The number of staff, the type of software and the amount of money that banks are willing to spend on compliance therefore determines the level of AML investment by the compliance department. Still, apart from the priority that is given to AML and compliance, at the end of the day, put irreverently, a large part of AML remains guesswork. All of the respondents emphasise that the decision made, is always based on a personal interpretation of the information that is gathered. *“You’re making a puzzle of the client to have an idea of the client and to see whether the transaction that was carried out, fits the profile of the client.”* (cpl 12a). Several compliance officers refer to using their common sense, or even intuition, when deciding on a case.

When asked for criteria or common denominators in AML files, the respondents give some examples. ‘Atypical’ turns into ‘suspicious’ for a number of reasons. Although it is difficult to distil concrete criteria from the several conversations with compliance officers, there are some corresponding principles. First of all, the level of suspicion may depend on the risk level that was allocated to the client. The higher the risk level, the more a compliance officer will be inclined to report the case to the FIU. Secondly, but this is also related to this risk level, the sector in which a client is active and the countries involved in the transactions may also impact the decision to report

or not. Some of the examples that compliance officers give are cases in which transactions cannot be explained in the financial context of a client, when many rapid international transactions are carried out or when persons are linked to ‘known perpetrators’. Criteria that may give an indication of the level of ‘suspiciousness’ are for example: the age of the client, the economic activity, profession, sector (for example, prostitution, second-hand car dealers, . . .), the amount of money involved, the countries that are involved (f.e. African countries, Pakistan, India).

AML-files

During and after the investigation, the compliance department makes a report on the investigative actions that were taken, which searches were carried out, what the results of these activities were and which decisions were taken during the investigation.

“The relevant documents, possible pieces of evidence that the client has provided, things we find in external sources, will be printed and put in the file, just like the reflection of the report to the FIU. This is information that is in our database also.” (cpl 2c).

This report is not only useful for internal purposes, it is also a necessary part of the compliance task. After all, in case of a judicial investigation, the compliance department must be able to show which stages were completed during the investigation and why specific decisions were made. The file therefore also serves as a justification and protection to potential complaints afterwards.

“Because, when the federal police knocks on my door and they want to have a go at me, they will say: where is that file. They will accompany me to the cabinet, take the file out of it and I’m not allowed to take anything out of it”. (cpl 12a).

This also implies that not all of the information that was gathered during the investigation will be put in the official file: informal contacts or information exchange will not be written down.

Reporting to the FIU

Once all information sources are analysed and put together and a file has been drawn up, a decision on whether to report or not needs to be made by

the compliance department. The procedure for this differs from bank to bank: in large banks, where specific AML officers are employed, the files that arouse (a lot of) suspicion will be discussed in a committee, specifically assembled for this task, on a weekly basis. In other cases, the decision whether or not to report a case to the FIU is taken by the compliance department, whether or not in consultation with the management. In the majority of cases, however, the compliance officer does not decide this by himself, but the decision to report is made in consultation with colleagues.

“Especially when you’re in doubt, what should I do with this case, we always have the principle of looking at this with two persons. We will definitely not trifle with reporting. We have the feeling that we report relatively many cases. You don’t know, there is no benchmark, you get no information about it, there are FIU statistics but these cover the whole year.” (cpl 17).

In smaller banks, this decision will be made on a more *ad hoc* basis through consultation and deliberation with (commercial) colleagues. In other cases, the input from the business units is very small to non-existent. However, each bank has developed its own procedures for this.

Follow-up

Instead of reporting directly to the FIU, some compliance officers also choose to follow a case before reporting the client to the FIU. Following up a case/client, based on stricter parameters and criteria (such as for other higher risk-clients) may also provide the necessary information: *“it is also possible that we follow certain clients for a while, their transactions, to see what happens in that account. On that basis we can decide whether we’ll make a report or not, or we’ll keep an eye on him.”* (cpl 2c). This routine is confirmed by other compliance officers, some of whom state that these clients will be entered into a risk database. Being in a risk database or on a watch list as a client, implies that

“When any branch office wants to execute a transaction for this client, or the client himself or herself wants to make a transaction, we will be informed and we need to give them the go-ahead to execute the transaction.” (cpl 12b).

Which criteria determine whether a report will be made to the FIU? This question is difficult to answer, and most respondents emphasised the diversity of cases and the case-by-case approach that is needed in this field.

“Normally we will take up our responsibility and say: anything that we have not reported can and will be used against us. Will we therefore report more cases? No, we will consider the quality of the case and look at the facts. On the basis of those facts we will report it, or not” (Cpl 11a).

Standards for reporting vary and some banks will go very far in their research before reporting a case to the FIU. What also became clear was the risk assessment that is carried out: in the decision to report the case to the FIU, the reputational hazard also plays an important role. When a case, once discovered, can result in a scandal with important reputational consequences, this will also be a reason to report the case to the FIU. After all, the interest of the bank remains self-protection and damage control.

Number of reports

The yearly report of the FIU in Belgium states that in 2007, 4.200 reports were made by banks to the FIU. Banks state that they are processing from twenty to hundreds of alerts per day. Both of these observations combined implies that there are probably many ‘false’ alerts on the one hand, but also indicates the use of a reporting strategy within the banks on the other hand.

Banks are looking for a balance in this respect, some compliance officers say that they keep an eye on the ‘average’ number of reports that are made by banks (through the yearly report of the FIU). Reporting too much will result in a large number of false alarms and raise questions with clients, but reporting too little implies that the regulator and the FIU will be alarmed and that too many cases can pass trough without being noticed. Banks therefore look for a ‘modal’ position in reporting, allowing them to report precisely enough cases, not too many, nor too little.

“If I understand the FIU correctly, they want us to report immediately in case of any doubts. We are not supposed to perform a due diligence. That, however, is not how we work. Before we make a report, it is a very serious case. But, if we want to, we can make over 1.000 reports a day. If we do that, we will laugh and they won’t.” (cpl 15).

This does not imply that compliance officers are ‘counting cases’ and stop reporting after their limit has been reached, but it does suggest that remaining close to an assumed average is the most comfortable option. One of the explanations for this attitude is the lack of official feedback (in case of the FIU this is due to an enhanced confidentiality), which results in the search

for other benchmarks, of which the number of reports by other banks is just one example.

Reasons for hesitance in reporting

There are several reasons why banks may hesitate in reporting a client, which also explains why banks are investing so much time and effort in investigating cases and clients. After all, it is not only non-reporting of cases that may lead to reputational damage. Reporting a client can also imply a reputational risk for the bank, apart from the fact whether the report was made in good faith or not.

“The FIU says: when you have a suspicion, when you’re not sure, you make a report, as they are the filter in the whole process. All the same, in some cases we establish that after we have reported a client, the FIU freezes the account and reports the case to the public prosecutor . . . who decides to drop the case after a few months. Then one of the problems is: the client often knows who has reported him: either he has an account with only one bank, which makes it clear, or there’s a leak in the investigation. And at that moment, it becomes our problem. The government has stated: we have done our job, while the client says: you have wrongfully reported me. The client then knows. And that is one of the bottle-necks of the system, because then it is our problem” (cpl 2b). This means that banks also become vulnerable when cases are reported, as their reputation may be harmed. “Lawyers for example are difficult clients because they know the law very well and they know how far they can go and how far we can go. It amuses them to challenge us a bit. And sometimes we risk having problems regarding reputation because the client may complain and go to the ombudsman.” (cpl 4.)

This vulnerability however, is not only linked to reputation, reporting can also in other aspects result in liability and vulnerability: several banks indicate that their employees have been threatened by (former) clients who knew that they were reported by the bank in question.

“There have been threats. Clients or former client who came to branch offices and said: I know your address and I will come by. That has happened, and creates a lot of fear, because this news travels fast”. (cpl 6b) “A number of times our bank employees have actually been threatened. The day after he was released, the suspect goes to the branch office and make threats like: I will find you, I will destroy your children . . .” (cpl 9).

These threats have been mentioned by several compliance officers and appears a very problematic phenomenon. After all, when employees are afraid and intimidated, the willingness to report will decline. It is difficult to assess how many of these examples there are, but in theory one case suffices to frighten employees. The world of financial institutions is a relatively small world, in which this kind of news travels fast.

In view of the phenomena described above, banks have an even a higher interest in making a realistic assessment of the seriousness of the case and the criminal intentions of the client. In order to avoid further risk, the bank will avoid reporting too many cases. A consideration of the pros and cons, with caution, is needed. In this respect will the lack of information be an extra impediment adding to the difficulty in deciding whether a case is criminal case or not.

“Not only is there a doubt about the origins of the funds and about the facts, there’s also doubt about the interpretation and definition of these facts. It’s not our job to define crimes, but even so we have to do that due diligence.” (cpl 15).

The relative lack of input from FIU, regulator and legislation makes it difficult for banks to decide when the report – that they do not want to send when it is not a vital necessity – should be made or not. Therefore, it is important to look for that benchmark – as described in the preceding paragraph – that indicates how many reports on average are made by banks each year, in order to position themselves in the medium-range. In my view, this can be explained as a reporting *strategy*, developed as a result of the current strait-jacket in which banks (and other reporting institutions) are forced.

What may be the outcome for the client?

What became clear during the interviews was that the reporting of a case to the FIU does not necessarily have a direct connection with the question whether a client relationship will be ended. Both decisions can be made separately. This is partly the result of the absolute absence of feedback by the FIU. Banks are not informed about the outcome of their reports to the FIU, which implies that they have to decide for themselves what to do with the client they have just reported. This is another reason why compliance departments are ‘forced’ to investigate a case rather thoroughly: they need to be

able to assess the level of risk the client represents, in order to judge the necessity of ending the relationship.

This means that it can be perfectly possible that a client is reported, but still retains his accounts with the bank. Terminating a client relationship can pose a major business dilemma, depending on the type of client and the assets he or she represents.

Respondents state that from time to time, this may lead to discussions between commercial and compliance employees. *“When it concerns a very remunerative customer that has to leave, business will try to convince us to adjust our advice. The higher in the organisation, the sooner one will say: reject. Persons who have direct contact with the client, will always want to defend them and I understand that, that they don’t want to lose the client immediately. For us this is easier: out.”* (cpl 9).

Ending the client relationship

In some cases, when the case is very clearly linked to criminal activities (“when it’s black”) the client relationship will be discontinued. The reputational risk in these cases is very clear.

“We will not report everything, of course. And we also go a few steps further in the investigation to decide on the consequences for the client. Will we keep them or will we end the client relationship. This only happens in cases . . . when we really . . . When it’s black. There’s white, black, and the beauty of grey. And in cases of the beauty of grey, we really need to be watchful. We’re only a bank, not a police service.” (cpl 12b).

In other cases, the reputational risk is not that clear. As we discussed above, there are many cases in which reputational damage may result anyhow, no matter which choice is made: it works both ways. When there is no report and the client relationship is continued, but the authorities state that there should have been a report, this may lead to a judicial claim. On the other hand, when a report is made, resulting in the blocking of the accounts of the client, but the file is dismissed by the authorities, this may also lead to a claim – from the client. In practice, this may result in the compliance department choosing the lesser of two evils. *“The reputational risk is certainly the sword of Damocles.”* (cpl 13).

Ending the client relationship in the case of dubious activities is dependent on the policy of the bank. Some banks refuse all clients that may have

some connection with ambiguous affairs, while others make a calculation of the risk that this client poses versus the income the client represents. This is highly dependent on the type of bank and the policies in this field. Another dimension in these types of decision making is the connection with the US, which also results in different attitudes and risk assessments. US regulation is more strict, and a sanction by the US regulator may have serious consequences for banks. This is an important factor in the cost-benefit calculation. Other banks say that they will only terminate the client relationship when the case is patently obvious.

“We have become very careful in this respect. I now take the stance that it has to be black. 100% certain black. This implies that we have been confirmed that it actually is black, though we cannot use this confirmation. But it’s black. Then the next step is to see whether we actually can get rid of the client.” (cpl 12b).

Continuing the client relationship, but . . .

In those cases, when the bank decides that there is not enough information to end the client relationship, this relationship will be continued, even though a report has been sent to the FIU. This does not imply that the client can simply go his own way. The client will be followed up as to make sure that when he carries out any future ‘suspicious’ activities, this will be detected as soon as possible.

“When it’s black, we will end the relationship. But the grey is not so obvious. We will not let them go loose, we will take one step further and put them in a risk database, (. . .) this is a type of permanent control.” (cpl 12b). This decision can also be seen in the view of reputation protection.

Although this was not stated that clearly, and the attitude towards this varies largely on the type of bank in question, the main philosophy was that the client relationship will not be ended unless something was clearly very wrong with the client. In several interviews the compliance officers said: yes, we ‘once’ ended an account, or ‘in some cases we end the account’, but the overall impression was that this will be the last resort for a bank, mainly because of evident financial interests. In cases where a client has a mortgage or a credit, the bank will have to take the loss on these accounts. In some cases, the account is not that profitable (specifically when it concerns a client who mainly transfers money around the world through several accounts, or in the case of ‘dormant accounts’) and the interest of the bank is not that large.

These kinds of relationships can be stopped without any loss of income, which means that there is no commercial dilemma.

Problems and challenges for compliance officers: the grey area of risk assessment

Grey cases

The most important challenge for compliance officers is when cases –after thorough investigation– remain in a grey area. The obvious cases (the stereotypical cases) are easy: they will be reported and the client-relationship will be ended. When cases remain in the grey area, in which there is no certainty about the criminal intentions of the client, the decision is much more difficult, specifically because each decision (either way) may result in reputational harm. The lack of input and information from the authorities plays an important role in this respect. The compliance department, and at large the bank, is more or less left to their own insights. The compliance officer who is working with limited information and very little certainty, needs to assess the level of risk in a case. As such, he may find himself stuck between preventing harm for the financial institution, protecting his own liability as well as commercial interests and may not be able to predict the outcome of either reporting or not reporting, as both may be harmful.

“We have to be able to prove that we have done our job. But how will a judge react in case of a problem? You may never know. Maybe, for a judge, simply the fact that the money comes from Luxembourg, is sufficient to be suspicious. But that’s for the judge to decide, and we will not know this for another few years, when something goes wrong.” (cpl 15).

Indeed, in some cases, a compliance officer may feel they are in a straight jacket.

Fortis-alerts

Secondly, the current credit crunch has highlighted the absurdity of the system, loading all responsibility for reporting on the private sector. Some of the interviews were carried out in September and October 2008, in the

middle of these financially turbulent times. This gave a new outlook on the AML issue, as the problems related to (amongst others) the Fortis bank, have led to new kinds of AML obstacles. As one of the indicators for potential money launderers is the occurrence of many and/or high value cash deposits, the credit crisis of the last months has led to a number of alerts as a result of this indicator. After all, as a result of the turbulent bank climate, many panicking clients were withdrawing their money from their accounts at Fortis or Dexia, and depositing these funds on accounts of more 'reliable' banks. This resulted in a number of 'cash alerts' being generated. How are compliance departments supposed to cope with these alerts and what does this mean for the investigation of other, potentially criminal, cash deposits? How should they be able to make the difference between both, especially when they have no authority to keep the evidence of withdrawal with them which implies that the client can go to every bank with the same Fortis voucher (including those who have less noble intentions). Does this mean that the credit crunch leads to massive opportunities for money laundering? *"We mainly have families as clients, someone that transfers more than a few 100.000 euro, is exceptional. Apart from the last few weeks (smiles). But normally, that is exceptional."* (cpl 17).

Information and feedback

A third challenge is the lack of information. On the one hand there is little information provided by the authorities, on the other hand compliance departments are not granted access to official data. All compliance officers complain about the absence of feedback from the authorities, both after a specific case and regarding the input for their systems and scenarios. Hence compliance departments are forced to use second-hand or general information, such as the annual report of the FIU. The report of the FIU, however, is based on the reports of the reporting institutions. This means that the compliance departments actually base their systems on the results of their own reports (or of sister-institutions) and thereby confirm their own typologies and scenarios. Or, to put it more bluntly, the AML system is a self-fulfilling prophecy.

"There are no definitions. What a 'shell company' is, is not defined. Or what is an offshore area, or a financial haven. There are absolutely no definitions. We have asked the FIU, as they have prepared these indicators, but they say: we have written the indicators on the basis of your reports. So . . . we are actually doing the

job of the judicial police?” (cpl 15).

This may result in the fact that compliance departments keep focusing on the investigation of the ‘usual suspects’: stereotypical cases based on previously identified stereotypes. This worrying observation is not typical for the Belgian case. Levi also noted this several years ago with regard to the US reporting of suspicious transactions (Levi, 2002). If this remains the case, an opportunity for building expert knowledge on money laundering methods is missed.

The burden on front-office-employees

Fourthly, another problem that was raised by several compliance departments, relates to the protection of employees in both a physical and a more general sense. The employees are burdened with the responsibility for detecting, knowing and reporting suspicious activities, and can also be held responsible in case of non-detection. This implies the shift of the burden of the AML legislation towards lower ranks of the financial institution, more specifically to those working at the desks, physically meeting the clients. Apart from the responsibility that compliance officers carry with regard to AML, these employees also carry the weight of AML. The AML system as it is designed today creates a need for self-protection and results in shirking one’s responsibility to others, either in the same organisation or in other institutions. Secondly, the reports on the threats from clients that employees already have received also need more attention. Some respondents signalled the need for protection and anonymous reporting in AML cases. After all, when employees are vigilant and report clients in case of suspicious activity, their name can be in the criminal file. In some cases, this has led to problematic situations: when the client is granted access to his court file, he also is able to identify who has reported him, which is not only the compliance officer, but sometimes also the desk employee. Some compliance officers also signal that police officers may sometimes use names of compliance staff or the name of the bank during interrogations, in order to pressurise the suspect. As a result, there have been accounts of threats of front office employees by suspects who were released. These are important issues, as these kinds of incidents may have a huge impact on the willingness to report. It is therefore in the interest of the authorities to make sure that the chances of such leaks in information are minimised.

Risk management

Finally, the risk that accompanies anti money laundering activities or more concretely the risk of being accused of money laundering as a financial institution, combined with the (administrative) sanction, reputational damage and potential commercial loss, is the focal point of the compliance officers' usual discourse. Every compliance officer knows that money laundering can never be ruled out completely. AML is a matter of risk management, trying to prevent the largest risks while hoping to see the smaller risks also. The most important task is therefore to show the regulator and the judiciary that the compliance job was well done, irrespective of whether or not a money launderer was caught. Many of the procedures are designed for this goal: to be able to cover yourself against possible allegations of assistance with money laundering. One of the examples is the monitoring software that can be fine-tuned until it results in the the right number of alerts. This self-protection reflex is not strange, seen from the point of view of a commercial financial institution. It does not mean that banks are not trying to prevent money laundering, on the contrary. It does, however, make something clear about the atmosphere surrounding the battle against money laundering, and the question is whether it is an effective starting point.

“The only thing you can do is write a sound policy, communicate it and try to prevent as much as possible, monitor, but you can never be 100% certain that you will not be sanctioned for laundering money, that is impossible. You can only try to prevent it to the largest extent possible, make reports of high quality and prove the court that we are actually doing our job. That’s the risk of working in a compliance function.” (cpl 12b).

Conclusions: walking the tight-rope across a maze of risks

Risk calculation

The compliance departments are balancing risks and interests on different levels. The trick is to find precisely the appropriate level of risk, in combination with the controllability of AML-efforts: the right number of alerts, an accurate number of reports and a correct way of dealing with clients, irre-

spective of the reporting. The uncertainty for compliance officers is: how much is enough and what is needed to be ‘covered’? We can identify the use of an explicit risk discourse during the conversations with compliance officers. During their tasks, there is a continuous search for security, and constant efforts to channel those dangers that may ultimately lead to losses (Ericson & Haggerty, 2002). On the other hand, there is a tendency to focus, not on obtaining something good (preventing money laundering, catching criminals), but on preventing something bad (reputation damage, sanctions, financial loss). This implies that financial institutions and their compliance officers in their own risk oriented environment mainly work from a negative or defensive impulse (Beck, 1992), weighing all costs and benefits, instead of adapting a more assertive attitude, which could possibly lead to more results with regard to crime prevention. In addition, the current AML system promotes this defensive attitude by placing reporting institutions in a very difficult and ambiguous position.

Holding on to discretion

Although the lack of certainty in reporting cases leads to certain feelings of discomfort, this does not imply that compliance officers are pleading for a system of objective reporting. Given the current circumstances this would not resolve their problems on what to do with a client’s account or how to deal with a client after reporting. Objective or automatic reporting would also imply that they would have no insight whatsoever in their own clientele, something that has already proven to be very useful and valuable. Furthermore, they state that the compliance sector has developed an expertise on AML and are best suited to carry out the investigations, simply because they have access to internal information that allows them to create a rather clear picture on the client’s transaction behaviour. The room for discretion now granted to compliance officers therefore also carries possibilities and potential. On the other hand, it also implies a larger vulnerability for the banking sector as they state themselves: “*We are balancing on a very tight-rope.*” (*cpl 12b*). It is very difficult to assess whether they have done a good job or not as a result of lack of information. Feedback from the FIU or the other authorities would be – to say the least – a very useful instrument in this respect. We must note that this is not a Belgian problem: other authors have referred to the lack of feedback by the authorities, hindering information exchange and more importantly, development of AML-expertise (Levi &

Reuter, 2006; Harvey, 2007; Van Duyne, 2007). In a recent study, the Netherlands Court of Audit also established the lack of feedback by the FIU, although this is obliged by law. One of the recommendations of this report was precisely related to the provision of feedback by the FIU to the banks to enable the latter to make more profound risk analyses. (Algemene Rekenkamer, 2008)

Benchmark

Another issue on a more general level is the benchmark for the level of AML compliance and investments. Some compliance officers have stated that banks try to place themselves in the middle range of compliance level and – investment– trying not to be at the top, nor at the bottom. But where is ‘the middle’? Who decides on the benchmarks? The benchmark may vary according to the investments that financial institutions are willing to make in anti money laundering compliance, which is often related to the level of activity of the regulator and the FIU or after a scandal has occurred. Levi notes that the same observation can be made on an international level, leading to the creation of an ‘unlevel playing field’ (Levi, 2002). In one of the banks, for example, impressive investments were made in compliance departments and programs after the regulator (in this case the US regulator) had sanctioned the bank for non-compliance on AML issues. These sanctions have an important impact, not only on the bank in question, but also on the sector at large. After all, these massive investments by one of the banks raise the benchmark for the whole sector. One of the most decisive factors for the level of the benchmark is therefore the activity of the regulator and the subsequent response by the bank. Another influence in this respect is reputational damage in relation to a specific case, which also may lead to higher AML investments and elevates the benchmark.

Another benchmark does not relate to the level of AML compliance in a general sense, but is associated with the intensity of the monitoring and checking within the bank: the criteria and parameters that are used during monitoring. The interviews make clear that there is a difference in the level of information that banks have at their disposal: international banks are able to use information and expertise that was built up on an international level, due to a larger variety of cases, which implies that they have an advantage in relation to local banks. This implies that there are differences in knowledge and strength of parameters, which may lead to an unbalance between banks

with regard to know how and expertise. This is something that needs to be taken into account when thinking about levelling the playing field on AML.

Pygmalion

The role of private organisations within the battle against money laundering is crucial: without reports from the reporting institutions there is no input in the AML chain. The authorities have expressly chosen for a responsabilisation of the private sector, which is not a new phenomenon (Garland, 2001). The deresponsabilisation of governmental actors with regard to this type of crime, however, is much more extensive in comparison with other crimes: the AML approach has gotten to the very heart of the financial institution. AML does not only result in the implementation of changes in procedures, but also requires a shift of mentality within the financial institution, from all its components. However, simply shifting the reporting task towards the private sector does not imply that the authorities are completely released from their duty in preventing money laundering. After all, as the preventive approach of money laundering depends for a large amount on the input of private organisations (who do not have crime prevention as their core business), the authorities have the task to make sure that these reporting institutions are actually able to carry out their assignment. Considering the fact that banks have been obliged to carry out these tasks – after all, they were not volunteering for it – one would at least expect the authorities to give some kind of input on reporting dilemmas and problems as well as a proper feedback on the STRs. Other authors have also noticed this lack of feedback by the authorities with regard to other national systems (see van Duyne & De Miranda, 1999, for the Netherlands). Now it seems that financial institutions are left to their own devices, which results in an AML system with a high level of absurdity: burdened with the duty to report suspicious transactions, financial institutions search for criteria and typologies that allow them to recognise a-typicalities. For this they resort to the yearly reports of the FIU, which are based on the reports that they themselves have made the year before. In doing so, they actually corroborate their own assessment of ‘suspicious’. In an earlier article, we referred to the story of Pygmalion when discussing the AML system (Verhage, 2008). The interviews merely reinforce this impression: the Pygmalion effect of the reporting system (Rosenthal, 1995) – in the meaning of the self-fulfilling prophecy of the system – is striking. Stereotypical images of money launderers, based on limited information

from the partners in the AML complex result in catching exactly those criminals that we expected to catch while others slip through the mazes of the system.

The compliance officers or AML investigators are not solely to be blamed for this: they must manage with whatever sources they have available. Maybe the expectations of the authorities should be weighed against the means that they provide on the one hand, and the sanctions they prescribe on the other hand. The limited amount of information and feedback in the first phases of the AML chain contrasts sharply with the activity of regulators and other authorities, with regard to the sanctioning by regulators of those corporations that do not fulfil the expectations. The question then remains whether the authorities' expectations really are that high, or that authorities and policy-makers are aware of the self-fulfilling prophecy of the anti-money laundering system. This would imply that they realise that the limited information that they provide for the reporting agencies in the AML complex, will result in the same output, over and over again.

References

- Programmawet van 27 april 2007, B.S, 8 mei 2007
- Algemene Rekenkamer, Bestrijden witwassen en terrorismefinanciering Tweede Kamer, 2008
- Beck, U., *Risk Society. Towards a new modernity*. New Delhi, Sage, 1992
- CBFA, Reglement van 27 juli 2004 van de Commissie voor het Bank-, Financie- en Assurantiewezen betreffende de voorkoming van het witwassen van geld en de financiering van terrorisme (regulation of 27 July 2004 of the CBFA regarding the prevention of money laundering and terrorist financing) B.S. 22.11.2004
- CBFA, Gecoördineerde versie dd. 12 juli 2005 van de Commissie voor het Bank-, Financie- en Assurantiewezen betreffende de voorkoming van het witwassen van geld en de financiering van terrorisme. B.S. 12.07.2005
- De Bie, B. and T. Carion, Van compliance naar integriteitsmanagement." *Managementjaarboek*, 2001, 1-6
- De Standaard (3 November 2007). Indicatoren witwassen zijn bindend. (Indicators are binding)
- De Standaard (20 November 2007). Banken blokkeren 200.000 rekeningen. (Banks Block 200.000 accounts)
- De Tijd (09/11/2007). Banken negeren witwasrichtlijn (Banks ignore money laundering directions)
- Duyne, P.C. van, Criminal finances and state of the art. Case for concern? In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe. The dirty linen of illicit enterprise*. Nijmegen, Wolf Legal Publishers, 2007
- Duyne, P.C. van, Serving the integrity of the Mammon and the compulsive excessive regulatory disorder. *Crime, Law and Social Change*, 2008
- Duyne, P.C. van, Money Laundering. Pavlov's dog and beyond. *The Howard Journal*, 1998, nr. 4, 395-374
- Duyne, P.C. van and H. de Miranda, The emperor's clothes of disclosure: Hot money and suspect disclosures. *Crime, Law and Social Change*, 1999, 31(3): 245-271
- Ericson, R. and K. Haggerty, *Policing the risk society*. Oxford, Clarendon Press, 2002

- Freis, J., *Promoting information sharing in our global anti-money laundering/counterterrorism finance efforts*. 10th Anti-Money Laundering and Financing Terrorism International Seminar, 2008
- Garland, D., *The culture of control. Crime and social order in contemporary society*. Chicago, University of Chicago Press, 2001
- Harvey, J., Just how effective is money laundering legislation? *Security Journal*, 2007, 1-23
- Levi, M., Evaluating the 'New Policing': Attacking the money trail of organized crime. *The Australian and New Zealand Journal of Criminology*, 1997, 30, 1-25
- Levi, M., Money laundering and its regulation. *The ANNALS of the American Academy of Political and Social Science*, 2002, 582(1): 181-194.
- Levi, M. and P. Reuter, *Money Laundering* Chicago, University of Chicago, 2006
- Rosenthal, R., Critiquing Pygmalion: a 25-year perspective. *Current Directions in Psychological Science*, 1995, 4(6): 171-172
- Shields, P., When the 'information revolution' and the US security state collide: Money laundering and the proliferation of surveillance. *New Media Society*, 2005, 7(4): 483-512
- Sutherland, E. H., *White-Collar Crime: The Uncut Version*. New Haven, Yale University Press, 1983
- Trends (16 October 2008). Geen verklikkers meer (No more tattlers)
- Thony, J., Money laundering and terrorism financing: an overview, International Monetary Fund, 2002
- Verhage, A., Between the hammer and the anvil? The anti-money laundering-complex and its interactions with the compliance industry. *Crime, Law and Social Change*, 2008, published online 26.11.2008

Bricks don't talk

Searching for crime-money in real estate

Petrus C. van Duyne, Melvin R.J. Soudijn and Tessy Kint¹

An old concern

Real estate is in principle a neutral thing: it is there, immovable and massive. Nevertheless, or perhaps because of these characteristics, it is a coveted item and often a cause of dispute. Not all property related disputes are settled in court. In August 2003, *Bertus Lüske*, a 59 year old wealthy property dealer in Amsterdam, was dining together with his wife and daughter at a restaurant. He was approached by two men, one of whom fired at him with an automatic gun. Lüske died just before he could get into his car. From then until 2008 six more businessmen in the unregulated real estate market were shot down in broad daylight in front of their house, car or restaurant. Despite rumours and suspicions, none of these 'real estate' connected murders has been prosecuted successfully. With so many unsolved cases in which we can only speculate about motives (Money laundering gone wrong? Blackmail? A lover's dispute? Gangland revenge?), we can at least conclude one thing: dabbling in the unregulated property market is not without risks. Or is there a sinister connection to wealthy criminals who felt they had been badly served by these property dealers?²

We do not know and maybe we are presented with a distorted picture of crime-money and real estate. That connection is old and not nearly as violent as these recent incidents. If a visitor took a walk from The Hague old centre to the Yugoslavia Tribunal along the historical road from 17th Cen-

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² Property dealers or salesmen differ from house agents, who are only intermediaries and do (should) not buy and sell property.

tury, he would pass the well-known neo-romantic Peace Palace. It had been built just before the First World War as the residence of the International Court to prevent war – without success though. Nevertheless, the ideal was supported by many, including the multi-millionaire Andrew Carnegie. He could allow such expenditure because he had amassed enormous wealth after having pushed his competitors out of the railway business, using various criminal means like deceit and fraud. What does that imply? With the usual wisdom of hindsight and if our criminal law were to have retrospective effect, we would say that the palace has (partly) been built with crime-money. Criminologists would waste no time in using this as a perfect token of an underworld-upperworld nexus. Now we witness a peaceful scene of a neo-romantic building embellished with a fairyland tower in front of which are a couple of young students eager to visit the place, some of whom are wearing a Stanford University t-shirt. Stanford? Was he not one of the other robber barons, who ruthlessly struggled his way up, succeeding due to corruption, land speculation and investing crime-money in railway building (Abadinsky, 2007). No doubt about that. Nevertheless, this high-ranking university is there, just like the Peace Palace, irrespective of the colour of the founding funds.

These observations are not meant as a ‘happy ending’ conclusion concerning the ‘better’ or ‘socially responsible’ ways of investing crime-money. The violence mentioned in the first section indicates that for some there was no ‘happy ending’. Nevertheless, the examples of crime-money gentrification make clear that we are facing a very old phenomenon around which in the last two decades a severe international penal regime and tough organisations have been draped: the Anti-Laundering and Compliance Complex (Verhage, 2009; Van Dijck, 2007). Among others, these reflect a genuine concern about the social and economic importance of crime-money, particularly if invested in real estate. These investments differ from other forms of crime-money investments –whether or not through anonymous bank accounts in exotic tax havens– because property is a ‘legal thing’ in the public space, with rights and duties with which the local authorities have to deal daily. Therefore the concern about the relationship between crime-money and real estate is justified.

Given this justified concern, it is of interest to find out what evidence is available and in what way the law enforcement authorities responded to the threat of the crime-money and real estate relationship. Such a response can be in the form of a policy paper, regularly issued, announcing actions to be

taken. Underlying this we would expect a 'mapping of the problem' on which we can build. From the perspective of 'knowledge based policy making' both should be intertwined. Actually, the policy papers, like the one issued by the Dutch Ministry of Justice, expressed a broad concern about the whole financial and economic crime phenomenon in which the real estate concern is embedded (Joldersma *et al.*, 2008). However, while conveying all shades of worry, it is devoid of any underlying facts or figures. The same applies to other countries: much concern and very few facts. This raises the question: "Where is the mapping of the crime-money-real-estate-threat?" After all, 15 years after the introduction of the crime-assets recovery and anti-laundering regime it is reasonable to ask for some tangible findings in order to match these with the past and present stated concern.

Past concerns and initiatives

In the second half of the 1980s, in the Netherlands and Germany, and in the beginning of the 1990s in other countries of Europe, a general concern emerged about 'organised crime' (Von Lampe, 1999; 2001). Read: global drug syndicates supposedly generating staggering amounts of money. This image was fostered in the United States, at the time experiencing a cocaine boom and facing the defects of the ineffective Bank Secrecy Act of 1970. Hence tougher laws were enacted, the most relevant here being the Money Laundering Act of 1986, the principles of which the US administration successfully exported. The USA were not alone: concern about crime-money emerged also in Europe, though unevenly spread in time and place. For good reasons, in 1978, Italy took the initiative (even before the USA) in focussing on the assets of the Mafia (Paoli, 2002). In the Netherlands a task force (*Werkgroep Ontnemings art. 36e Sr.*) studied the legal and organisational defects in the criminal assets recovery law (that has existed since 1983) and in 1987, issued a report on financial aspects of serious forms of criminality. In the gradually growing literature on this subject, real estate was not absent, but yet did not figure as a special topic. Alongside other subjects, it was mentioned in the first Dutch organised crime research reports (Van Duyne, 1990;

1995; 2006)³ and the report of the Van Traa Parliamentary Commission of Enquiry (Fijnaut *et al.*, 1996).

Observations about crime-money being invested by various manifestations of a ‘Mr. Big’ in real estate can be found regularly, but thus far, it has never gone beyond the level of anecdotes. Surveying these anecdotal case histories, it is striking how the identified property is either spread without recognisable strategy or just concentrated in ‘usual’ –red light– areas. The geographical spreading of property did not reflect much coherent strategy (unless a very secret one), stretching from the Belgian border to the north of the country, as could be observed with one of the leading crime-entrepreneurs, *Bruinsma* of the late 1980s (killed in 1991). The Amsterdam Chief Superintendent (gu)estimated the assets of this crime boss at € 67 million – and was believed. He appeared to be presenting a myth instead of a reality, as the latter proved less impressive. After the murder of Bruinsma the first author obtained access to the two removal boxes containing all the remaining paper work belonging to the deceased entrepreneur. Based on this evidence he assessed the value of Bruinsma’s possession at 22 million euros at the height of his power (1988), which shrunk to € 9 million in 1990–1991, of which € 8 million was mortgaged. In the summer of 1991 this ‘empire’ was liquidated and sold. Two weeks later Bruinsma was shot. His ‘heritage’ was a shadow of his once claimed fortune: two antique lifeboats and two villas (in Spain and US).

The concern expressed by the Parliamentary Commission had its effect, albeit modest. Together with the University of Amsterdam the police carried out an investigation of real estate in that city (Hoff *et al.*, 1998). In their report the authors provided six case descriptions of wealthy crime-entrepreneurs (in the drug market), who (might) have acquired real estate (based on ‘soft’ information, i.e. criminal intelligence reports). In addition they interviewed a number of expert informants. The latter expressed many suspicions but did not come forward with tangible facts which prevented the authors from arriving at firm conclusions. Of course, there are crime-entrepreneurs who invested their ill-gotten profits in real estate, but the extent and the social or economic impact remains elusive.

At about the same time the first author was invited for discussions with managers of the Department of Social Housing who wanted to start a project

³ Financial aspects of the last report was elaborated in Van Duyne (1997), comparing the high (police) estimates with the actual financial and economic conduct, which turned out to be much more modest.

on the potential penetration of 'dubious figures' within the social property sector. The Department regularly sells blocks of flats and there were concerns that these might be bought by dubious figures eager to split the property into units to be sold separately for a handsome profit. Nothing was heard of this project anymore: it simply disappeared. An earlier research project on crime in the construction industry did little more than to lightly touch on the topic of crime-money and construction without mentioning any concrete examples (Meyer, 1995). In the late 1990s the University of Tilburg started a research project on the financial and social meaning of crime-money (Van Eekelen, 2000), which was continued by the research section of the Dutch National Police. In their research report the authors (Meloan *et al.*, 2003) also devoted attention to the acquisition of property by wealthy crime-entrepreneurs whose criminal income had been assessed at a minimum of € 450.000. They observed a huge diversity of property, ranging from small plots to villas and rental blocks of flats, small pubs as well as hotels, in the Netherlands and abroad (in the UK and Turkey), depending on ethnic affiliation. Though these observations were very much fact based, due to the low frequencies it remained difficult to come to unambiguously social or economic impact conclusions.

Abuse and fraud was also the focus of a pilot study by the Erasmus University while the Utrecht School of Economics pointed to the great vulnerability of this sector (Unger *et al.*, 2007). As this warning was not based on the authors' own observations, it did little more than repeat a two decades old concern. Ferweda *et al.*, (2007) carried out a pilot study of 'irregularities' in the real estate sector. They mentioned potential forms of property related laundering though only based on indirect indications. The Dutch Financial Expertise Centre was somewhat more concrete and studied six criminal cases in order to provide a picture of how 'big' crime-entrepreneurs could deal (financially and fiscally) with property (FEC, 2008). The report confirmed mainly existing and known (fiscal) abusive practices.

Given the 'global' nature of the money-laundering and its relationship to real estate one can expect such concerns to be found equally world wide. But to what extent are these corroborated by solid research? In 2008, the Financial Action Task Force (FATF) issued a report on the threat of criminals to the real estate sector (FATF, 2008). It contains eight 'typologies' of getting crime-money into the real estate sector, all rather traditional, from 2002 onwards, with the majority of cases provided by Belgium and the Netherlands. The US agency FinCen (2006) also issued a report on illicit

financial activities and the commercial real estate sector, covering a 10-year period of its data base of Suspicious Activity Reports (SARs). What does it tell about our subject? Basically little, except that the frequency of reporting increased during the last year, “likely attributable to the steep decline in interest rate charges on real estate loans, which occurred contemporaneously with the increase in filings.” (FinCen 2006: 3) A substantial part (28%) of the incidents was related to tax evasion. 38% concerned “*suggestions of*” forms of laundering: layering, structuring and political exposed persons (21 incidents). Of the random sample of 960 SARs related to “commercial real estate related transactions” this amounts to 2,2%. If we extrapolate this to the whole population (9.528) we arrive at 190 SARs-with-potential-laundering in the commercial real estate sector during 10 years in the whole of the US. Compared with the raised threat, even if we would add some other categories related to but not strictly being laundering, the frequency remains impressively low. Furthermore, it is unclear whether the potential laundering concerned property itself or the estate *agents’* financial dealings.

In 2008 FinCen carried out a new analysis of SAR filings, now concerning the residential real estate (747) of which 20,2% (151) described suspicions of structuring or laundering. Of those, 17 described specific suspected illicit activities: mainly fraud and tax evasion. Given the sample period of 1996-2006 it does not represent a threatening wave of crime-money flowing into the property market. FinCen explained this low reporting by indicating that money-launderers have no interest in victimising the lending institution and pay interest and instalments in a timely manner. Consequently the financial institutions have few stimuli to report. Given this observation, one may wonder what kind of threat money-laundering poses to the lending institutions (FinCen, 2008).

Even if money-laundering through real estate does not pose a financial threat to the financial sector (we abstract from moral aspects), the nexus between real estate and crime-money has obtained some notoriety, at least in the Netherlands. As mentioned in the introduction, since 2003, seven real estate agents (not brokers) have been killed: shot at close range on the public road. One victim, killed in 2004, was publicly known for his involvement in laundering operations, allegedly through real estate. About the involvement in crime-money by the other murdered realtors, little is known: only one case has been solved and brought to trial. Understandably, these unsolved killings were grist to the media mills and a seed-bed for endless speculations and worries. What was going on? Apparently some realtors manoeuvred

themselves into a criminal danger zone, where the stay was noticeably dangerous, if not lethal. Was the 'underworld' penetrating or even taking over the (real estate) upperworld? A Parliamentary Committee investigated the matter and issued a report full of opinions and concerns but with no more facts than already known (Joldersma *et al.*, 2008).

At any rate this repeated violence provided a justification for the concern about crime-money, laundering and real estate.

It goes without saying that this is not the whole picture, but it approaches pretty well all we know empirically and *systematically*: in the UK the old database of the erstwhile Asset Recovery Agency still waits for deeper analysis while other jurisdictions have not opened their gates yet, with the exception of German *Landeskriminalamt* in North Rhine Westphalia. The rest consists of anecdotes, recycled cases and hunches of the gruesome shady property world served by law enforcement agencies to a gullible audience of politicians and policy makers by law enforcement authorities. At first sight this (poor) state of factual knowledge clearly mismatches with these generally expressed grave concerns and official threat images. However, the nature of and reasons for this mismatch are still unclear, though sheer incompetence, as will be illustrated below, should certainly not be ruled out. Therefore we set out to address this mismatch by continuing our search for facts initiated 10 years ago.

Method of research

Thanks to the Dutch Prosecution Asset Recovery Agency (PARA), we were given access to their database covering almost 15 years of confiscation activities. Was this database the information 'goldmine' we were looking for or would it be another example of the proverb that all that glitters is not (laundered) gold?

As happens so often with old proverbs, they prove to be true most of the time. This public prosecution data source was punctuated with flaws: inaccuracies and missing data haunted the researchers in every phase of analysis. Facing the choice of adjourning the research and pursuing, we decided to persevere. After reporting the first part of the project in the *Journal of Money Laundering Control* (Van Duyne and Soudijn, 2009), the project was extended with a new round for more accurate data. This choice was supported by the

Ministry of Justice, allowing us access to recovery files and the Central Judicial Recovery Agency, who gave us all assistance we needed and much hospitality for our stay in their office up-north.

Given the international concern for this proclaimed ‘global’ threat, which thus far did not result in any comparative research project, we also started to explore possibilities abroad. Except for the welcome by the *Landeskriminalamt* of North Rhine–Westphalia mentioned above, we were not overwhelmed by official enthusiasm, let alone curiosity. Nevertheless, a comparison with North Rhine–Westphalia looks promising: it neighbours the Netherlands and has similarities in many social, economic and criminal aspects. This phase of the extended project is still in progress.

Short description of the database

The PARA database runs from 1993 up to the present and is fed by the input of the 19 Prosecution Offices to the District Courts. The items concern seized assets to be sold (at auctions) after the completion of the recovery procedure, unless the convicted person fully pays the amount of money to be recovered. Each object has an identification number, which is linked to a district court number of the offender. This means that in principle one can follow a seized object as well as a case through the whole trial procedure (‘processing chain’) until the verdict has become final. “In principle”, because some time ago, the Courts of Appeal thought differently: they installed their own numbering system for their appeal cases. This creates a ‘statistical hole’ as these Appeal Court numbers are not used by the other organisations in the justice processing chain. Hence, the flow of data dives into the ‘Appeal Court hole’ to surface again in the Supreme Court database with their original number.⁴

The PARA database contains the required temporal data like the beginning and end date of the case, date of seizure and description of the assets. It also contains a column to insert the value of the seized assets, though this brought us a disappointing surprise. At this point the database appeared to contain numerous flaws. Some of these concern human errors: typing and computational errors. Others were determined by ‘labour efficiency’ and were more systematic.

⁴ This historical anomaly has never been addressed: till today the management of the Appeal Courts has resisted any linking up with the whole system.

Calling something a 'human error' does not imply that it is just a trifle. As a matter of fact, the conversion of the guilder into the euro after 2002, proved to have caused a massive 'inflation' because of frequent shifts of the decimal comma two (sometimes 'only' one) positions to the right. As this was an unpredictable error, corrections had to be carried out manually.

Systematic errors concerned among others the pricing in cases of 'multiple objects seizures'. This means that if a number of objects had been seized the whole collection was estimated at a certain sum, for example € 65.000, after which in the database for *each* of these objects € 65.000 was inserted as a kind of nominal 'summarizing name'. Evidently this cannot be used for calculation purposes. Hence, a confiscated bicycle, its headlight, the car and the bumper, the stereo and the two speakers (each with a separate number if the lamp, bumper and speakers were not inseparably attached to the main object) were all valued at € 65.000, creating a 'total value' of $7 \times € 65.000 = € 455.000$. Of course, the human eye can spot such implausible outcomes, but computers cannot, creating a huge inflation if the column is added up automatically.

In addition, the wording of the asset description was frequently quite misleading or simply wrong. For example, bank accounts are labelled as 'claims', which is formally correct as it is a claim against the bank holding one's saving (hence, it is a bank account.) But this wording creates confusion with a claim against a legal or natural person stemming from some kind of business relationship. Hence one cannot make an automated search for 'claim'. The search word 'real estate' also led to confusion. Real estate, under Dutch law, is called 'registered good' ('registered object'), but this denotation also comprises (house)boats, caravans, trailers or a parking lot. As an additional column contained supplementary explanatory free text descriptions, we could in most cases re-categorise such entries.

The most important defect concerned the 'missing values'. For some 40% of the seized items, no value was inserted. The source of this defect was not the PARA, but the Prosecution Offices at the District Court, where the clerical staff as well as the management apparently had little idea of orderly data management. These flaws only came to light because we had to analyse this database. Thus, after 13 years.

Concentrating on the topic of real estate, many additional inconsistencies came to light. The value of the property was to some extent determined ambiguously. Sometimes the value is determined by subtracting the mortgage from the market price, or acquisition price. However, the value of the

mortgage is usually not indicated. That means that with a 100-125% mortgage the value of the property may be set at ‘€ 0’, because ‘there would be no money left’ as the mortgagee has preference in the case of forced selling. Consequently, someone mortgaging his property by means of a loan-back construction would reclaim his house through the off-shore mortgagee of which he is the hidden beneficiary owner. Other relevant details, such as the date and value of acquisition (accessible at the public registers), remained unknown “as there are no columns for these data”.

In short, the data hole at the Appeal Court appeared not to be the only flaw and the reader may wonder whether there is any point in continuing with the analysis of such a database. We respond to this question with a very careful ‘yes’. Not only is this the only data we have, we also assume that the statistical likelihood of a purported large financial phenomena (as the authorities claim), to remain systematically hidden is pretty low, even within a polluted database. Statistically we look through a frosted glass door hiding details but (hopefully) still allowing us to discern the contours of the larger objects.

Naturally, the next step is to go through that frosted glass door to get a proper picture of the object themselves. This we did in the second phase of the research project in which we retrieved underlying criminal files. As criminal file analysis is time consuming, we set a ‘criminal value threshold’ of € 100.000, being the demand submitted by the Public Prosecutor Office.

Findings

Data discipline

Given the warnings about the many caveats in the previous section, needless to say that we first have to inspect the data discipline (or the lack thereof) of the prosecution offices. The period covered is from 2000 onwards, measured according to the year of seizure. A rough survey is presented in Table 1.

Table 1
Data discipline concerning value of property per prosecution office

| <i>Office</i> | <i>N. Property</i> | <i>Missing value</i> | <i>% mentioned</i> |
|---------------|--------------------|----------------------|------------------------|
| Den Bosch | 43 | 35 | 81 |
| Breda | 21 | 11 | 52 |
| Maastricht | 18 | 17 | 94 |
| Roermond | 62 | 37 | 60 |
| Arnhem | 56 | 44 | 79 |
| Zutphen | 8 | 8 | 100 |
| Zwolle | 29 | 21 | 72 |
| Almelo | 26 | 21 | 81 |
| Den Haag | 151 | 121 | 80 |
| Rotterdam | 26 | 19 | 73 |
| Dordrecht | 1 | 1 | 100 |
| Middelburg | 32 | 23 | 72 |
| Amsterdam | 52 | 42 | 81 |
| Alkmaar | 67 | 56 | 84 |
| Haarlem | 46 | 44 | 96 |
| Utrecht | 17 | 13 | 76 |
| Leeuwarden | 13 | 7 | 54 |
| Groningen | 39 | 21 | 54 |
| Assen | 10 | 6 | 60 |
| Total | 717 | 547 | 76% |

The Prosecution Offices of the Court District have been grouped together in *Appeal Court Districts*. Comparing the total range of missing values over all the offices as well as between the five Appeal Court Districts and within these districts suggests that the data discipline behaves mainly like a ‘random variable’, the exception being the northern Appeal Court District *Leeuwarden* with the best average performance. There is no correlation between the size of the offices and their performance: small offices and big ones are equally distributed in the missing value range from 52% to 100%. Given this equal spread of missing values, we take as our working hypothesis that these findings are roughly representative. Nevertheless, the property sub-database with *known* property values has shrunk from 717 to 170 records.

Nature of the property

To assess the relationship between crime-money and the real estate sector it is not sufficient to look at the hypothetical total sum of money. Of equal importance is to look at the real estate sub-sectors. If criminals only buy big

villas we have a different situation than when they invest in rental blocks of flats or shopping malls. Therefore we have categorised the property, again hindered by the failing data discipline: as remarked above, some property was only denoted as ‘registered good’.

Table 2
Categories of seized property and known values

| Category | Number of premises | Value known | Total value | Average value |
|--------------------------|---------------------------|--------------------|--------------------|----------------------|
| Dwelling + garden etc. | 354 | 109 | 23.415.638 | 214.822 |
| Shop building*) | 17 | 7 | 593.138 | 84.734 |
| Flat | 32 | 6 | 683.908 | 113.985 |
| Recreation house/boot | 20 | 2 | 19.076 | 9.538 |
| Garage | 23 | 1 | 12.590 | 12.590 |
| Parking place | 10 | 1 | 2.500 | 2.500 |
| Building lot | 13 | 2 | 31.395 | 15.698 |
| Agricultural land | 19 | 1 | 124.200 | 124.200 |
| Office | 12 | 0 | 0 | 0 |
| Pub, restaurant, hotel | 8 | 3 | 639.812 | 213.271 |
| Business building | 24 | 12 | 946.973 | 78.914 |
| Shed/barn | 8 | 5 | 344.893 | 68.979 |
| Garden/yard | 8 | 0 | 0 | 0 |
| Other registered objects | 169 | 21 | 4.328.735 | 206.130 |
| Total | 717 | 170 | 31.142.858 | 183.193 |

*) 6 shop buildings consist of a floor on the ground floor and an upstairs apartment

The average value of the property is € 182.116 with a range of € 3.200.000 to € 170, both for a dwelling.⁵ The median is € 90.765. The number of objects in the higher price category from € 400.000 onwards is 16, four of which are above one million euros: three dwellings were with garage and grounds. One property concerned an industrial site.

If we only look at the part of the property used for *living* –without the low priced house boats, caravans, recreation houses and combination of dwelling and firm– the average value comes to € 204.403.

Property for *entrepreneurial* use comprises sheds, restaurants, pubs, shops, but also meadows and a building lot. The average value amounts to € 117.772. The top three are formed by a café with upstairs flat (€ 330.500),

⁵ € 170 is implausibly low, and it is difficult to determine why this value has been inserted. It can be the remaining sum after subtraction of the mortgage, the monthly rental value in case the property was let or just a typing error.

followed by a hotel (€ 263.934) and a shed (€ 192.857, a bit high for a shed, though the surrounding premises may be included).

The multiple property owners

The 717 property objects are not equally spread over the 717 persons. It appears that a number of offenders possess more dwellings and commercial premises. Maybe this represents the subpopulation with some financial and economic leverage.

Table 3 provides a picture of the distribution of property over the offenders, revealing again a skewed distribution of wealth (see Van Duyne and De Miranda, 1999).

Table 3
Distribution of property over offenders

| N Persons | % | N possessions | Total | N value mentioned | € Value mentioned |
|------------------|----------|----------------------|--------------|--------------------------|--------------------------|
| 269 | 69 | 1 | 269 | 96 | 20.990.487 |
| 65 | 17 | 2 | 130 | 36 | 2.791.077 |
| 18 | 5 | 3 | 54 | 13 | 4.829.714 |
| 12 | 3 | 4 | 48 | 7 | 385.248 |
| 10 | 3 | 5 | 50 | 6 | 463.829 |
| 5 | 1,3 | 6 | 30 | 6 | 406.500 |
| 1 | 0,3 | 7 | 7 | 0 | 0 |
| 3 | 0,8 | 8 | 24 | 6 | 1.275.000 |
| 1 | 0,3 | 9 | 9 | 0 | 0 |
| 3 | 0,8 | 10 | 30 | 0 | 0 |
| 1 | 0,3 | 11 | 11 | 0 | 0 |
| 2 | 0,5 | 15 | 30 | 0 | 0 |
| 1 | 0,3 | 25 | 25 | 0 | 0 |
| 391 | | total | 717 | 170 | 31.141.855 |

As can be observed in the licit upperworld, few own much and many own little: of the 391 offenders 269 (69%) own one piece of property (38% of the objects), while setting the dividing line at 6 and more property, 17 offenders (4%) jointly own 166 properties (23%). Due to the prevalence of missing values it is difficult to determine the total value of the property for each multiple owner. Nevertheless, some of the offenders looked like having played 'Monopoly' with their property. One offender owned seven premises in the same street; another four office units with the same number of parking lots; a

third offender owned six flats in the same block and a fourth 17 garages, a dwelling and office premises. With another offender the possession was subdivided in a farm, meadow, shed, a reed border and a part of a lake. Though all this looks impressive and could be considered a dangerous token of an economic leverage in society, these examples are spread thinly over time and space. In addition, how are we properly to interpret letting a number of flats or parking lots as ‘leverage’?

Relationship to other seized items

Properties were not the only assets which were seized for confiscation or recovery. The database also contains lists of many seized movable objects, cash money and frozen bank accounts. It proved not to be meaningful to quantify all the different possessions of our population of property owners because of the disorderly way of keeping records. In some cases, for example, a collection of 130 Swarovski crystal objects, every single item was described and inserted (with a number); or of a car repair shop where all the tyres, bumpers and hubcaps were described and numbered. Sometimes a (summarising) value was inserted. Therefore we focused at the most relevant categories like cash money, bank accounts, cars and other valuables.

In total, € 74 million of assets were seized from our real estate owners, apart from their properties. More than 50% of that sum consisted of accounts in Dutch banks: about € 42 million. However, this is a biased picture as € 22 million was actually a loan belonging to one person. Foreign bank accounts came to a modest figure of about € 3.800.000. These accounts were in banks in Luxembourg, Isle of Man, Barbados and Spain. In addition to this there were four stock accounts with a total value of € 460.000. The fleet of ‘rolling stock’ amounted to € 4.000.000, to which should be added that the missing value rate was 40%. This also applies to the many jewellery and watches, amounting to € 400.000 with a missing value rate of respectively 17 and 30%.

Given the unequally spread criminal wealth we separated the upper tail of the distribution which constituted of 30 individuals with the highest recovery claim filed by the Prosecution, implicitly following the general belief that these might constitute the ‘highest threat’. Then we compared the Prosecution’s claim with the total value of seized assets and the values of the seized property.

Table 4
30 offenders in the highest recovery categories:
Claims and known property

| Number and year of registration. | Recovery claim euro | Total value seized euro | N property | Value of property |
|-----------------------------------------|----------------------------|--------------------------------|-------------------|--------------------------|
| 01 - 2000 | 26.225.820 | 715.709 | 5 | 0 |
| 02 - 2003 | 19.924.352 | 1.640.365 | 6 | 0 |
| 03 - 2005 | 18.052.200 | 1.357.332 | 3 | 572.000 |
| 04 - 2003 | 18.015.283 | 902.404 | 2 | 0 |
| 05 - 1999 | 13.190.473 | 238.291 | 1 | 213.269 |
| 06 - 2004 | 13.190.228 | 117.687 | 1 | 0 |
| 07 - 2003 | 13.000.000 | 346.058 | 15 | 0 |
| 08 - 2005 | 12.589.111 | 27.007 | 2 | 0 |
| 09 - 2001 | 11.260.885 | 0 | 1 | 0 |
| 10 - 1998 | 5.980.228 | 60.000 | 2 | 60.000 |
| 11 - 1999 | 5.020.501 | 254.116 | 1 | 241.258 |
| 12 - 1999 | 4.927.267 | 477.484 | 1 | 453.780 |
| 13 - 1997 | 4.771.637 | 286.047 | 1 | 0 |
| 14 - 1998 | 4.659.634 | 1.181.566 | 1 | 192.857 |
| 15 - 2003 | 4.155.180 | 19.964 | 2 | 0 |
| 16 - 2001 | 3.776.914 | 1.168.973 | 1 | 66.070 |
| 17 - 2003 | 3.300.856 | 78.431 | 1 | 2.500 |
| 18 - 1998 | 2.861.155 | 603.238 | 1 | 330.000 |
| 19 - 2004 | 2.775.415 | 53.275 | 4 | 297.406 |
| 20 - 1998 | 2.750.277 | 1.000.000 | 1 | 1.000.000 |
| 21 - 1999 | 2.739.375 | 71.535 | 1 | 0 |
| 22 - 2003 | 2.710.126 | 3.694.259 | 3 | 3.519.624 |
| 23 - 2005 | 2.536.000 | 2.744.333 | 1 | 0 |
| 24 - 2001 | 2.400.000 | 1.474.440 | 5 | 379.189 |
| 25 - 2000 | 2.399.239 | 5.110 | 2 | 45.042 |
| 26 - 1997 | 2.200.799 | 1.236.302 | 1 | 0 |
| 27 - 1998 | 2.035.179 | 501.163 | 5 | 0 |
| 28 - 2004 | 1.908.400 | 284.101 | 1 | 150.000 |
| 29 - 2003 | 1.906.279 | 13.083 | 1 | 0 |
| 30 - 2005 | 1.905.986 | 76.954 | 2 | 0 |
| Sum | 213.168.799 | 20.629.227 | 73 | 7.522.995 |

As the Table shows, the Prosecution has high recovery claims against these convicted wealthy offenders: € 213 million. To secure payment the Prosecution seized more than € 20 million of movable assets and money, less than 10% of the recovery claim.

In only 15 of the 30 cases, the property was valued, which can be considered a fairly equally spread selection. The claim against this subpopulation was € 72 million while the value of its seized property amounts to € 7,5 million.

Still, a high recovery claim is no guarantee that the full sum is awarded by the judges. In the next section, we take a look at the success rate of these prosecutors' claims.

The 'harvest'

Though it is easy to make sweeping statements about crime-money, it is not easy to determine where it exerts its –undesirable– social and economic leverage. The same applies to the purportedly threatened 'integrity of the financial system': how much crime-money makes the system falter? The Public Prosecutor presents his claim concerning a certain amount of ill-gotten advantage, the judge considers how much of that claim can be sustained and pronounces his recovery order, often lower than the claim of the Prosecution. Given these different assessment moments, what accurately represents the potential financial threat to society: the Prosecutor's claim or the amount of money according to the recovery court order? Finally the recovery order is sent to the Recovery Agency. Is the amount of money finally cashed by the Recovery Agency (not always the full amount) the really threatening crime-money? Depending on one's assumptions there are various answers. But despite all the methodological and juridical annotations and caveats, it is the Recovery Agency which finally collects the real 'crime-money', though based on what the courts consider as revenues from crime and which subsequently "flows back into the community".⁶

In order to get a better view on this question we passed our property database to the Recovery Agency for detailed (per file number) comparison with their input from the courts. The comparison per 1 October 2008 of our total of 391 persons (see Table 4) holding one or more pieces of property with the Recovery Agency database produced only 85 hits of cases for-

⁶ This is a strange way of formulating the position of crime-derived assets. As a matter of fact, the relevant assets are already in society: the car has been paid to the licit dealer and drives on public roads, the property is located in the public space and the bank account is in a bank which lends its licit money as a mortgage to the crime-entrepreneur who again monthly pays his interests and instalments.

warded from the courts. This smaller number may be due to the circumstance that most cases are still pending appeal, but also to the deviating appeal court file numbering system or to an out-of-court settlement by the Prosecution Office.

The results of this matching of 85 file numbers are presented in Table 5. The figures in the second column concern the total amount of money to be recovered of which the property is a part.

Table 5
Total amount of money according to the recovery orders

| Year recovery order | N | Total recovery claim | Amount according to court orders | Difference | Difference in% |
|----------------------------|----------|-----------------------------|-----------------------------------------|-------------------|-----------------------|
| 2000 | 5 | 614.408 | 382.378 | 232.031 | 38 |
| 2001 | 3 | 108.299 | 45.291 | 63.008 | 58 |
| 2002 | 1 | 28.180 | 14.430 | 13.750 | 49 |
| 2003 | 5 | 515.152 | 98.818 | 416.334 | 81 |
| 2004 | 5 | 2.551.348 | 482.663 | 2.068.685 | 81 |
| 2005 | 2 | 148.698 | 100.393 | 48.305 | 32 |
| 2006 | 24 | 15.639.983 | 2.415.707 | 13.224.276 | 85 |
| 2007 | 31 | 11.728.024 | 3.245.470 | 8.482.554 | 72 |
| 2008 | 9 | 7.859.845 | 2.552.257 | 5.307.588 | 68 |
| Total | 85 | 39.193.938 | 9.337.407 | 29.856.531 | 76 |

As can be deduced from the Table, it appears that the claim of the Prosecution is reduced by about three quarters. It goes without saying that this finding is hard to interpret without in-depth file analysis. Taken from a few samples, we get the idea that courts rule in favour of the defendant if the prosecution keeps a case on hold for an ‘unreasonable term’. A reduction of the recovery can also be the consequence of successful defence concerning the illegal turnover/profit or the intervention of the tax service which has its own recovery preference.

Naturally, the proverbial “the proof of the pudding is in the eating” applies here too. Hence, what has actually been received in the recovery procedure? The following Table provides us some insight.

Table 6
Recovered and unpaid claims at the Recovery Service

| Year recovery order | Received Euro | Unpaid at the RS Euro | N cases |
|----------------------------|----------------------|------------------------------|----------------|
| 2000 | 378.821 | 3.557 | 5 |
| 2001 | 35.985 | 9.305 | 3 |
| 2002 | 14.430 | 0 | 1 |
| 2003 | 98.818 | 0 | 5 |
| 2004 | 355.890. | 126.773 | 5 |
| 2005 | 88.393 | 12.000 | 2 |
| 2006 | 902.931 | 1.512.776 | 24 |
| 2007 | 1.829.128 | 1.416.341 | 31 |
| 2008 | 602.318 | 1.949.938 | 9 |
| Total | 4.306.715 | 5.030.690 | 85 |

As is to be expected, the outstanding amount increases in the more recent years. This may depend on all sorts of circumstances: there is a long term on-going settlement with the debtor; the auction has not been settled or the debtor has disappeared and the amount to be recovered exceeds the confiscated assets.

Finally it is of interest to look at the time span of the recovery procedure. How much time passed in these recovery cases involving property, before the last instalment was received? Table 7 provides us a first glimpse.

Table 7
Time span of property cases from Prosecution to Recovery Service

| N years procedure | N cases | Prosecution claim Euro | Average. Euro | Recoverable Euro | % Dif. | Average Euro |
|--------------------------|----------------|-------------------------------|----------------------|-------------------------|---------------|---------------------|
| 0 | 4 | 42.348 | 10.587 | 31.425 | 26 | 7.856 |
| 1 | 22 | 1.712.314 | 77.832 | 724.017 | 58 | 32.909 |
| 2 | 14 | 1.972.372 | 140.884 | 379.229 | 81 | 27.087 |
| 3 | 6 | 3.559.215 | 593.202 | 795.890 | 78 | 132.648 |
| 4 | 8 | 3.385.388 | 423.174 | 658.824 | 81 | 82.353 |
| 5 | 12 | 5.326.356 | 443.863 | 2.860.550 | 46 | 238.379 |
| 6 | 9 | 5.979.829 | 664.425 | 856.893 | 86 | 95.210 |
| 7 | 6 | 11.585.101 | 1.930.850 | 1.400.689 | 88 | 233.448 |
| 8 | 1 | 278.472 | 278.472 | 60.345 | 78 | 60.345 |
| 9 | 2 | 692.909 | 346.455 | 508.319 | 27 | 254.159 |
| 10 | 1 | 4.659.634 | 4.659.634 | 1.061.225 | 77 | 1.061.225 |
| | 85 | 39.193.938 | 461.105 | 9.337.407 | 76 | 109.852 |

As could be expected recovery cases with a large financial interest are characterised by a longer processing time span. Though it is not a clear linear correlation, the bulk with a low average (< € 150.000) is recovered in two years, while cases lasting three years or more are mainly above the total average of € 109.852. Of course, this begs for an in-depth file analysis, but it is likely that in cases of more than € 150.000 it pays to continue contesting the Prosecution's recovery claim, though investigating cases with large financial interest may be time consuming itself.

To assess the potential economic impact on society (assuming that a person who does not spend, invest and save, does not exist economically), we also tried to take stock of the actual case files themselves. What did we find?

Getting closer at the recovery

As remarked at the beginning of the methods section we extended our exploration with a closer inspection of the underlying files from the Prosecution Asset Recovery Office. As before, we did not sample from the whole set of recovery cases, but we set a threshold beyond which some 'life of financial importance' was to be expected. Based on findings from previous research (Van Duyne, 2003; Meloen *et al.*, 2004), we requested a sample of fully finalised cases with a recovery threshold of € 100.000 or more and the possession of property (irrespective whether that has been obtained from legal sources or from crime-money). This provided a more reliable basis than the PPO database in which even the prosecutor's recorded demand can be unreliable: changes during trial are sometimes not recorded.

We saw to it that the variables like the nature of the charge and the kind of property and procedural data were included in the subset of the Recovery databases. This cross-break is of interest, as the police have repeatedly expressed its concern that profits from wholesale cannabis growers are 'threatening the real estate sector'. From this perspective it is of interest to have a closer look at the time the property was bought (before or after the year of offending) or whether it was mortgaged. We realise that this approach on statistics alone does not answer all questions, but it does indicate how likely such 'threat claims' are and whether it will be useful to consider an in-depth criminal file analysis and a direct interview round.

In the next Table we have grouped the offences according to rough categories, but singling out cannabis growing, apart from other drug trafficking and fraud because of the expressed concern and some supporting claims of researchers and the police (Spapens, 2008). Over time, when the samples get larger, it will be possible to extend this approach.

Table 8
Recovery cases with property, buying prices and mortgage.
1991-2006

Recovery threshold: > 100.000 euro

| Offences | N cases | Final re-covery | Total known price property | Objects price known | Average | Mortgage known | N |
|--------------------|----------------|------------------------|-----------------------------------|----------------------------|----------------|-----------------------|-----------|
| Cannabis growth | 15 | 5.956.367 | 2.629.546 | 23 | 114.328 | 1.301.898 | 9 |
| Other drugs traff. | 26 | 49.931.628 | 3.460.860 | 24 | 144.203 | 2.693.080 | 11 |
| Fraud and M.L. | 9 | 29.452.014 | 563.389 | 4 | 140.847 | 996.954 | 6 |
| Other offences | 5 | 4.667.786 | 1.313.376 | 5 | 262.675 | 54.454 | 1 |
| Total* | 55 | 90.007.795 | 7.967.171 | 56 | 142.271 | 5.046.386 | 27 |

*Because of variation of missing values across variables, totals differ from previous tables.

The preliminary figures of Table 8 represent the relationship between property, total known price of the property and the known mortgage.

As is the case with the whole PPO database, the known recovery cases are widely spread over time (from 1991 onwards), with the drug traders being the single largest category, followed by the cannabis growers. It is fair to assume that this rather reflects the law enforcement priorities than the crime-economic reality. Their average buying price of the property of this subset is just above € 142.000, with a wide range from a € 680.000 villa in a high-level earning popular village to a dwelling annex garage in Turkey of € 10.000. Of the convicted persons 23 possessed another property: 22 another house (often shared property), a shed or greenhouse (cannabis growing) and a hotel (Turkey). One convicted person possessed 10 dwellings, partly as

shared property, in addition to four coffee shops in the name of legal persons.

The data concerning mortgages are only partial: sometimes the mortgage is known, but not always the buying price, sometimes it is the other way round: a buying price with a remark “mortgage” without a corresponding figure. More often the figure of the mortgage was lacking. Of some property it was positively known that the possession was not burdened with a loan. Whether these mortgages are the outcome of some laundering scheme, is unknown⁷ because this matter does not appear to have been thoroughly investigated. However, strange lending practices between family members, the forwarding of large sums of money and loose interest rates do indicate that ‘triple A banking’ was not always involved. The sizable portion of the total mortgage related to the buying price (a ratio of about 5 : 8) certainly warrants a better recording.

To assess the impact of crime-money on the real estate sector it is important to look at what kind of property the convicted persons acquired: whether it is intended for their own living, has a business function or represents just a plot of land, perhaps as investment.

Our analysis of the total database shows that that investment in real estate concerns mainly the principal dwelling, ranging from modest four room flats and a caravan of € 20.000 to villas in the higher price category: one of € 953.00 and € 680.000. One convict with a preference of living in a trailer had it rebuilt for a value of € 257.000; another trailer dweller owned a plot of land on which he installed a trailer which he redecorated for € 227.000, both apparently demonstrating their acquired wealth.

The category business property ranges from sheds, a share in a greenhouse, to storage facilities, hotels, to a 50% share in a business complex. Around an average recorded buying price of € 68.000 the prices ranged from a garage in Turkey to the shareholding in a business complex of € 438.000. It is no surprise that sheds, and greenhouses were owned by cannabis growers (four items), who only owned property in the Netherlands.

In seven cases the database mentioned foreign property, four of which in Turkey (Turkish drug importers); one in Spain and Morocco (owned by hash importers) and an infamous UK citizen (cocaine wholesaler), whose £ 15.000 property contrasts with his numerous flats in Liverpool and elsewhere

⁷ From the perspective of the Recovery Agency such money laundering is irrelevant: whatever the ‘colour’ of the property, it is confiscated anyhow and sold if the convicted person does not comply with the recovery verdict.

which he used among others for money laundering by manipulating the payment of rent.

The categories fraud, deceit money-laundering and the 'rest category' are of a very diverse composition and a breakdown leads to small numbers. In two cases the criminal profits to be recovered are well over 2 million euros, in one case with an expensive plot of land, mansion and other facilities such as a swimming pool: € 680.000. In this mixed category here were only two properties with a commercial function: a café-restaurant with a plot of land facing one of the popular lakes in South-Holland (€ 794.000) and a share in a business complex building (€ 438.000). In both cases it was the second property. Except for one plot in Morocco (€ 29.000), all recorded properties in these two categories were located in the Netherlands.

Though the literature about organised crime abounds with 'globalisation', it is not very convincingly reflected in the location of the property as documented above. What about the money itself, floating from one exotic tax holiday to the other? Apart from Dutch bank accounts in eight cases foreign bank accounts were recorded: accounts were held in Luxembourg (3), Spain, Germany, Morocco and the UK. The accounts in these banks were modest: the highest being a German bank account of € 59.000.⁸ And the Dutch cannabis growers? They had no foreign bank accounts; they were just Dutch.

Related to this observation is the question to what extent this group of well-to-do offenders acted with some dynamism on the real estate market or represented more or less satisfied owners? Naturally, a database and a collection of criminal files do not contain references to satisfaction with offenders' possession. However, we can inspect the data to find out whether and to what extent the offenders' real estate investment went beyond a nice place to live or some facilities for their crime-enterprise, like a greenhouse to grow cannabis or a shed as a storage facility.

Information on this behavioural-economic point is not abundant. Most convicted persons have only one property and of most of those who bought a second property or more, bought just another dwelling or a facility suitable for their basic trade. Six crime-entrepreneurs showed more entrepreneurial conduct in acquiring more extensively real estate for either investment or establishing new, 'licit' enterprises. One crime-entrepreneur running four coffee shops in Amsterdam –already referred to in our comments to Table 8–

⁸ The Recovery Agency feared that this account may have been evaporated in the present credit crises. As there are not many indications that shares and bonds are not very popular among criminal investors, they may have been less affected by the

bought between 1992 and 2004 ten properties: six of them are intended for 'industrial purposes'; four have a combined dwelling and business intention. Together this series of investments amounted to € 635.000. All are located in or near the same provincial town in North-Holland. Additional social and economic information is not available.

The conduct of four 'ethnic entrepreneurs' may have more to do with taking care of their family than amassing property for commercial purposes. Two Turkish entrepreneurs (families) did not intend to reinvest their surplus criminal savings in the Netherland but invested these in hotels in Istanbul and a parking lot or garage. A Moroccan crime-entrepreneur invested his saving in a pub in Morocco in addition to a house for his wife and two flats. He also bought a taxi license, maybe for another relative. A second Moroccan entrepreneur, whose Dutch records showed only a plot of land and a house (with garden and garage), owned additionally four more dwellings in Morocco which could not be confiscated. It looked rather like a family housing project than a 'real estate activism'.

Finally, the English crime-entrepreneur may be considered as an unusual display of active crime-money investing in the real estate sector (in the UK) and the kind of 'worst case scenario' in a threat assessment story of the police.⁹ The convicted person is alleged to own 200 flats in the UK, apartments in Spain, Ghana, a firm with property in Turkey the nominal ownership of which is spread over a number of off-shore companies in tax havens. Thus far the UK receiver succeeded in recovering £ 30.000 of the recovery order of 4.3 million pounds.

Apart from the English convicted crime-entrepreneur and the hash entrepreneur with his ten properties, it is difficult to deduce an active real estate market orientation from the pattern of data displayed thus far.

It is tempting to relate all this property to profits from crime. However, that is taking for granted what still has to be proved, as the confiscation of the property is neutral as far as the origin of the assets is concerned. Given the difficulty in determining whether assets are accrued from licit sources – criminals will preferably try to claim a licit source – there is no easy way to discriminate between properties paid for by crime-money or legally earned money. A potential approach to this issue is to look at the date of acquisition:

⁹ The exploits of this crime-entrepreneur, Curtis Warren, are described by Barnes *et al.* (2000). Mr. Warren felt the heat in the UK, despite alleged corruption of a senior detective, and fled to the Netherlands. He underestimated the alertness of the Dutch police and the effectiveness of Dutch-UK cooperation and ended up in a maximum security prison.

did that happen at or after the time the profit directed offending started? As the police often claim that determining the date of first offending is little more than an opportunistic starting point in a longer time series of offending, it is a debatable approach. One should also take into consideration that assets acquired before the new recovery law of 1993 were frequently left in the possession of the convict, particularly real estate. Nevertheless, we thought it appropriate to compare the year of acquisition with the first year of offending as far as that was recorded in the database

Table 9

Property, known to be acquired before and after year of offending

| | Cannabis growers | Drug traders | Fraud and deceit | other | Total |
|--------|------------------|--------------|------------------|-------|-------|
| After | 6 | 12 | 2 | 5 | 25 |
| Before | 4 | 10 | 4 | 1 | 19 |

We do not conclude that the 19 properties bought before the offending of these recovery cases have been paid with licit money. Even property bought 10-16 years ago could have been derived from crime-money (three properties had been acquired more than 10 years before the first year of offending, one 16 years before). Of course, it is tempting to assume that the properties bought in the beginning year of offending, or later, has been bought with crime-money. However, that does not need to be the case: the offender could have obtained a mortgage. Indeed, in four cases this proved to be the case. This was also the case in eight cases in which the property has been bought before the year of offending. The mortgages amounted to a value of:

- after offending: € 686.419
- before offending: € 3.128.495

This rough presentation is connected to many caveats. In the first place, the 'first year of offending' represents often a pragmatic investigative selection of a point in time from which evidence can be gathered. In the second place, obtaining a mortgage does not imply that it has been obtained on the basis of a legitimate declaration of one's income or financial position or that the mortgage has not been the product of some laundering scheme.

For example, a mortgage was provided by an offender and duly registered in the mortgage registry for a mansion in which his mother lived. However, she never paid the monthly instalments or interests, nor had she the means to do so. In another case a loan on mortgage of about € 300.000 was advanced

by a small company for just one year (30 years is usual) with a deviating high interest, while a clear commercial rationale was lacking.

It is clear that also duly registered mortgages can be phoney, but it would be jumping to conclusions to state that all property owned by these convicted offenders are derived from crime. Indeed, the road of criminal finances to the real estate sector passes often through the normal financial channels, even if this road may sometimes be twisting.

The crime-money threat reconsidered

Our research endeavour set out with something that still is a hypothesis to us but a positive truth to law enforcement and policy makers: crime-money threatens our society economically and financially, a threat which is particularly prominent in the real estate sector. In the history of 'big crime' this is not a new given: it cannot even be excluded that the Peace Palace has been partly financed by crime-money. From time to time policy papers remind society of this threat. The latest letter of the Dutch Minister of Justice to Parliament is a good example of such a periodic reminder. As these papers (also the one of the Minister) hardly contain precise, quantitative foundations, we started to sieve the very empirical material which was in principle available to Ministry of Justice and the Public Prosecution Office. Of course, such an important policy paper cannot float around in a kind of 'empirical emptiness', we thought naively. While sieving the Prosecution Office data the second narration line forced itself upon our work: the data management and the related 'knowledge policy' to which such a management is instrumental. Both narration lines started to intertwine as we progressed. During the process the narration line of the 'Prosecution data management' became stronger and increasingly an impediment for obtaining a clear sight on our initial Leitmotiv: "The threat of the big crime-money". In order to get clarity within this confusing entwinement, we will attempt to disentangle them and reconsider the threat.

We have two juxtapositions: on the one hand, the recurring policy statements and the grounds given in the recovery judgements about the threat of the crime-money against "the integrity of the financial system". These are cast in highly ritual wordings and seem to be applied irrespective of the seriousness of the case. On the other hand, we have the findings from systematic

analysis of *available* raw data. Both components appear to match badly. Indeed, it cannot be denied that there is a small group of crime-entrepreneurs who have become wealthy and who do ‘something in the economy’ with their acquired assets, like letting their property or running a pub or reinvesting (part of) their crime-money in existing licit companies (Meloan *et al.*, 2003).¹⁰ Apart from a few crime-entrepreneurs rising above this economically flat landscape, this does not look impressive. A counterargument is: “There must be much more, because we do not see everything”. That is true, but on the other hand, we may also wonder how many confiscated assets in our database were acquired from licit sources? The database does not differentiate between properties bought with crime-money or acquired from an inheritance¹¹ or earned in a previous job. To make that differentiation, we should at least have a much more precise observation of the dates of acquisition and the beginning of the relevant crimes than we have from this database. Many confiscated properties were owned well before the time of offending, though we have indicated that this does not necessarily imply a legitimate financial basis. Nor does an acquisition of assets after or during the time of offending imply a full payment from crime. Therefore, based on the presently available knowledge, the extent and nature of the financial and economic impact of crime-money remain indeterminable.

Given this indecisive outcome, we are facing the question whether we are underestimating the situation or whether our findings are actually reassuring. Though neither law enforcement agencies nor policy makers like to be reassured in this matter we must withhold a firm answer given the many data uncertainties. Comparison with the situation in other countries and in-depth research could pencil the blanks of the present charcoal picture. After a first multi-country reconnaissance (Van Duyne, 2007), we are in the process of doing so. But soon we struck again upon the second narration line, this time internationally: failing data management. Our lamentation about the gap between the ‘great concern’ about crime-money on the one hand, and responsible data and knowledge management on the other hand, may be

¹⁰ As matter of fact, these ‘licit firm investments’ happen less than one would expect, also with defrauding entrepreneurs in the underworld. Such business criminals took the gains from fraud *out* of their firms rather than reinvesting into it. Only the moneys from social security contribution fraud remain in the firm in the form of savings on labour costs. The same applies to withholding VAT payments and returns, unless the fraud scheme involved bust-firms, non-existing goods and the like. In these cases the hot money ‘had to run’ (Van Duyne, 2002).

¹¹ This is not completely correct: in one case the offender inherited his property from his brother who was killed. Lacking additional information, it would not stretch the imagination beyond reason to suspect a criminal heritage.

repeated for virtually every country. It is the story of 'global database pollution' against 'global criminals', a testimony of the international incompetence of law enforcement agencies and policy makers concerning the quantitative aspects of their work and lip service to 'knowledge based policy making'.

There is one methodological issue we could not elaborate: the potentially biased composition of the population of this confiscation database. It cannot be excluded that there is an overrepresentation of the 'usual suspect' from the underground (mainly smuggling) economy. That would imply that cases concerning business criminals (for example, (tax) fraud schemes) may be less represented. Therefore the potential 'threat' may be bigger if we could take account of the crime-monies of 'white collar' criminals (though policy makers hardly target this criminal population).¹² We have already seen that the property owners in our database showed little entrepreneurial zeal as far as the real estate market is concerned. Most own a house, perhaps a very expensive villa, some have a second property or more. Moroccan and Turkish drug-entrepreneurs owned property in their home-countries, which rather looked like a family affair. For the time being, the 'threat' to this sector from 'usual criminals' seems to end with these observations. White collar criminals with more knowledge about the sector may be more threatening, but the law enforcement does not present many cases of this category.¹³

How does this relate to the killings of seven the real estate dealers within five years with which we started this article? If we follow the speculations around one of the best well-known victims, Mr. Willem Endstra, we arrive at an alternative, less threatening hypothesis, albeit for the real estate sector, not for the victims or criminal investors. The core of the hypothesis is the tension between trust and the 'tangible nearness' implying direct control of the criminal revenues. A criminal lives in a world with a chronic shortage of trust. If financially so successful that his revenues far exceeds his already lavish expenses, this shortage becomes acute. Whom to trust his surplus money to? Not being very acquainted with investment in shares and bonds, real estate is much more familiar. He can buy property himself, in the name of a third

¹² As far as real estate is concerned, one should not exclude the possibility the business criminals owned already legally acquired property, but due to their criminal profits could move on to more expensive price levels, by transferring and increasing their mortgage. Such transactions will not result in a suspicious transaction report!

¹³ During this research project (2007-2009), suspicions of an extensive fraud scheme were raised: the Philips Pension Fund acquired real estate from a Dutch Construction Fund for inflated prices, due to the intermediary activities of its own (ex-)directors who first bought and resold the property three times before selling it to Philips Pension Fund. The investigation and prosecution is still in progress.

person or off-shore company, hence keep it in his own control or entrust it to a known realtor who invest it on his behalf. This trusted person is a kind of 'personal bank'. But this personal bank has fewer reserves than a normal bank and when the investment loses its value or when the criminal depositor reclaims his money, it is no longer immediately available. The criminal investor has little understanding of 'rising or falling share prices', and wants his money back, *now*. Also, he is not used to settling such disputes in court, apart from the risks of bringing the results of his laundering into the open. This dilemma could have contributed to the observed violence. Granted, it did not represent the solution of the problem, as it is difficult to retrieve debts from the diseased personal banker's heritage. If this hypothesis is plausible, the connection between crime-money, real estate and violence is a much more indirect one.

We scraped together the scattered rubble of evidence and combed carefully through it to see whether the 'big money' phenomenon forced itself statistically through the frosted glass of the authorities' data management (our 'big phenomenon-statistical-likelihood assumption'). The outcome of this evidence combing and subsequent closer examination does not contradict earlier findings or our assumptions. Therefore, we are leaning more towards the reassuring side. We have already mentioned the findings of the research project of Meloen *et al.*, (2003). Spread over time and place, there are examples of financial 'criminal successes', but under closer scrutiny their purported impact appears to evaporate (Van Duyne, 2002). Research in Germany did not yield a much different picture. Suendorff (2001) collected what was known about criminal investments in Germany. Unfortunately the researcher could not carry out a quantitative analysis as no proper databases were available. Hence, she held interviews with knowledgeable detectives about criminal investments particularly by 'organised criminals'. Assuming that detectives are usually not in a 'reassuring mood' and would therefore be inclined to present 'heavy cases', the presented criminal investments nevertheless look pretty meagre. The picture in the UK does not differ much from the findings elsewhere. Harvey and Lau (2007) inspected the database of the UK Asset Recovery Agency 2002-2005 and did not present a terrifying picture. The average value of the confiscated real estate amounted to £ 159.000 (total value £75.024.408). Drug offenders possessed property in a somewhat higher price category: £ 177.840. The author's methodological remarks correspond with the one elaborated in this article: a highly questionable reli-

ability due to an irresponsible lack of data management discipline. Authorities' irresponsibility seems to be as global as criminality.

As law enforcement agencies are so keen on reversing the burden of proof regarding money-laundering, we would like to follow them in this tendency concerning the threat of the global crime-money. We have dug up all possible empirical evidence, gone through the available databases, where possible trying to extrapolate a plausible picture. When despite these findings the official claim about the 'big crime-money threat' persists, we challenge such claimants: "Prove it". We think such a challenge appropriate: it will force the authorities to pay due attention to the gap between their political high-flown claims and the database churchyards of their own making.

References

- Abadinsky, H., *Organised crime*, 8th ed., Belmont, CA, Thomson Wadsworth, 2007
- Dijck, M. van, Finding the needle: shifting responsibilities in the fight against money laundering and the financing of terrorism. In: P.C. van Duyne, J. Harvey, A. Maljevic, K. von Lampe and M. Scheinost (eds.), *European crime-markets at cross-roads: Extended and extending criminal Europe*. Nijmegen, Wolf Legal Publishers, 2007
- Duyne, P.C. van, Criminal finances and state of the art. Case for concern? In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe. The dirty linen of illicit enterprise*. Nijmegen, Wolf Legal Publishers, 2007
- Duyne, P.C. van, Money-laundering policy. Fears and facts. In: P.C. van Duyne, K. von Lampe and N. Passas (eds.), *Upperworld and underworld in cross-border crime*. Nijmegen, Wolf Legal Publishers, 2002
- Duyne, P.C. van and H. de Miranda, The emperor's clothes of disclosure: hot money and suspect disclosures. *Crime, Law and Social Change*, 1999, nr. 3, 285–317
- Duyne, P.C. van, R. Kouwenberg and G. Romeijn, *Misdaadondernemingen. Ondernemende misdadigers in Nederland*. Den Haag, Gouda-Quint, 1990
- Duyne, P.C. van, *Het spook en de dreiging van de georganiseerde misdaad*. Den Haag, SDU-uitgeverij, 1995
- Duyne, P.C. van, The phantom and threat of organized crime. *Crime, Law and Social Change*, 1996a, vol. 24, 341–377
- Duyne, P.C. van, Organised crime, corruption and power. *Crime, Law and Social Change*, 1997, no. 26, 201–238
- Eckelen, J.T.M., *De neerslag van het misdaadgeld. Motregen, onweersbui of zonvloed*. Universiteit van Tilburg, 2000
- Fijnaut, C., F. Bovenkerk, G.J.N. Bruinsma and H.G. van de Bunt, *Eindrapport georganiseerde criminaliteit in Nederland*. Bijlage VII, Inzake Opsporing. Enquêtecommissie Opsoringsmethoden. Den Haag, SDU Uitgevers, 1996
- FATF, *Money laundering and terrorist financing through the real estate sector*. FATF Secretariat, Paris, 2008
- Ferweda, H., R. Staring, E. de Vries Robbé, J. van de Bunt, *Malafide activiteiten in de vastgoedsector. Een exploratief onderzoek naar aard, actoren en aan-*

- pak*. Rotterdam, Erasmus Universiteit/Arnhem, Advies- en Onderzoeksgroep Beke, 2007
- Financieel Expertise Centrum, Rapportage Project Vastgoed, Amsterdam juli 2008
- Financial Crimes Enforcement Network, *Money laundering in the commercial real estate industry. Assessment based on suspicious activity report filing analysis*. Washington, 2006
- Financial Crimes Enforcement Network, *Money laundering in the residential real estate industry. Assessment based on suspicious activity report filing analysis*. Washington, 2008
- Harvey, J. and S. Fung Lau, Crime-money records, recovery and their meaning: In: P.C. van Duyne, J. Harvey, A. Maljevic, K. von Lampe and M. Scheinost (eds.), *European crime-markets at cross-roads: Extended and extending criminal Europe*. Nijmegen, Wolf Legal Publishers, 2007
- Hoff, M., Y. Loof, M. Plantinga, M. Scholtes, *Criminele investeringen in onroerend goed in de regio Amsterdam-Amstelland*. Universiteit van Amsterdam/Politie Amsterdam-Amstelland, 1998
- Joldersma, C., F. Teeven, J. de Wit, T. Heerts, E. Anker and R. de Roon, *Verwevenheid van de bovenwereld met de onderwereld: Rapport van de parlementaire werkgroep verwevenheid onderwereld/bovenwereld*. Den Haag, October 2008
- Lampe, K. von, *Organised Crime: Begriff und Theorie organisierter Kriminalität in den USA*. Frankfurt am Main: Peter Lang, Frankfurter Kriminalwissenschaftliche Studien No. 67, 1999
- Lampe, K. von, Not a process of enlightenment: The conceptual history of organised crime in Germany and the United States of America. *Forum on Crime and Society* 1(2), 2001, 99-116
- Meloen, J., R. Landman, H. De Miranda, J. Van Eekelen en S. Van Soest, *Buit en besteding. Een empirisch onderzoek naar de omvang, de kenmerken en de besteding van misdaadgeld*. Den Haag, Reed, 2003
- Meyer, F., *Criminaliteit en de bouw- en vastgoedsector*. Onderzoeksinstituut OTB, 1995
- Paoli, L., Italien. In: M. Kilchling (ed.) *Die Praxis der Gewinnabschöpfung in Europa*. Freiburg, Max-Planck-Institut, 2002
- Spapens, A.C.M., De wereld achter de wietteelt in Zuid-Nederland. In T. Decorte (ed.), *Cannabisteelt in de lage lande: Perspectieven op de cannabismarkt in België en Nederland*. Leuven/Voorburg: Acco, 2008

- Suendorff, U., *Geldwäsche: Eine kriminologische Untersuchung*. Neuwied, Luchterhand, 2001
- Unger, B., M. Siegel, J. Ferwerda, W. de Kruijf, M. Busuioic, K. Wokke and G. Rawlings, *The amounts and the effects of money laundering*. Report for the Ministry of Finance. Utrecht: School of Economics, 2007
- Verhage, A., *Between the hammer and the anvil? The anti-money laundering-complex and its interactions with the compliance industry*. Forthcoming
- Walker, J., *How big is global money laundering?* *Journal of Money Laundering control*, 1999, nr. 1
- Werkgroep Ontnemings art. 36-e Sr, *Financiële aspecten van ernstige vormen van criminaliteit*. Den Haag, Ministerie van Justitie, 1987

Money Laundering in the Norwegian Securities Market

On the Conditions of Money Laundering

Karsten Ingvaldsen and Paul Larsson¹

Introduction

The Norwegian authorities often claim that the financial sector, and especially the securities market, is particularly vulnerable to the activities of money laundering: “*Traditionally the financial sector is held to be especially exposed to misuse for the purposes of money laundering*” (Ot.ptp. no. 72 (2002.2003): 19). Money laundering is a recurrent theme in the Norwegian media. Usually the media tend to present the forms and extent of money laundering in simple and rather vague terms. One of the NRK’s (Norwegian Broadcasting System) internet stories represents an illustrative example: “*The amount of money laundered in Norway each year is NOK 140.000 million*”.² This is approximately equal to 20% of the Norwegian state budget and thus sounds very dramatic. The figure of 140.000 million correspond to the amount of untaxed “black” money which Norwegian authorities claim is circulating each year. The terms “black”, “dirty money” and “shadow economy” are themselves rather imprecise. The estimate encompasses everything from gains from crimes to untaxed work and the informal economy (Schneider and Enste 2003).

The numbers circulating in the media are based upon the assumption that all proceeds are laundered, an assumption which makes the black economy virtually equal to money laundering. According to Reuter and Truman (2004), this approach reflects the extreme difficulty in estimating how much

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² <http://www.nrk.no/nyheter/okonomi>. Read 04.05.2005

money is laundered. Calculations³ by Unger (2007) and Walker (2005) tend to overestimate the proceeds of crime, especially drug related vices, and the need to launder money (the portion laundered). The basic idea that ‘criminal money’ must be laundered before they can be used is rarely questioned at all (Van Duyne 2003, Van Duyne *et al.*, 2005). This may be due to the fact that these authors adopt a narrow definition of laundering in the sense of ‘making dirty money white’. This contrasts with (usually legal) authors who adopt the definition of laundering as presented in international conventions and national legislation. These legal definitions encompass as laundering virtually every act following a successful crime-for-profit.

Our starting point is that every discussion on the forms and extent of money laundering must be based upon concrete empirical analyses of the conditions of money laundering and on a precise definition of this concept. This might sound obvious to researchers and scholars but it is far from obvious when it comes to (gu)estimates made by organizations as FATF, or in threat assessments (Van Duyne *et al.*, 2005). Money-laundering concerns money obtained from crime, but not all criminally obtained money is laundered (in the narrow meaning of ‘making white’) as it may be simply spent in daily life. In addition, there is not a universal need or opportunities for laundering. This depends on the nature of the law enforcement surroundings of the offender.

For this reasons it is relevant to analyse two conditions: who has *the possibility* and *the need* to launder money. Control is of major importance in this connection. Money laundering is a crime without a specific victim. Money laundering *per se* does not create new victims apart from those connected to the predicate offences. There is no prejudiced party that will have an interest to report the offence of money laundering to the police. Prevention and uncovering of laundering are completely left to the regulating system of banks, financial institutions and all other entities obliged to report unusual or suspicious transactions.

Furthermore, there are many economic sectors that offer opportunities for laundering: restaurants and pubs, real estate, or gambling. There is also concern about crime-money being laundered in the higher financial eche-

³ Their calculations are based on information about the criminal economy gathered from experts by a survey. These experts are police, police commissioners, analysts and researchers. The sad truth seems to be that very few experts have but the dimmest idea about the extent of crime money or costs or revenues of crime. Their assumptions are often based on the same common sense knowledge about the level of criminal money as most of us share.

lons: the securities markets. If that concern is correct we have to ask who really has the opportunity to launder money in the securities market, is this a way of laundering which is available to everybody? Then there is the question of the profitability of different crimes (Reuter and Greenfield, 2001) and the costs and reinvestments necessary for conducting crime (Van Duynes, 1996). Finally we investigate the need for money laundering with emphasis on organised crime in Norway.

Definition of money laundering and the purpose of surveillance

Criminologists define money laundering in a more restrictive way as the ways of transforming dirty money into seemingly legal money (Levi, 1997). The different methods have a common objective: re-integration of dirty money into the legal economy such that no suspicions are raised about its criminal origin. This objective may be achieved, for example, by trading stocks in the securities market or through investments in real estate. Specific legal institutions and markets may thus be deliberately used with the intention of making dirty money appear as legal. This limits in a fruitful way what can be considered to be money laundering. From a criminological point of view there is little sense in considering the mere use of dirty money for private consumption such as buying food and clothing and paying private bills without any financial construction, as money laundering.

The Norwegian authorities' understanding of money laundering differs from this. Money laundering is regulated through the paragraph of receiving (stolen property) (§317) in the Penal Law. However, money laundering is not a specific legal concept and is consequently not defined in this paragraph. The authorities' understanding and limitation of the notion of money laundering is contained in the Act on money laundering⁴:

The term "money laundering" is usually used about activity aiming at securing proceeds of criminal acts so that the proceeds may be used by the perpetrator or others. Such activity may consist of using, converting, transferring, taking possession of or holding assets or to hide or disguise the assets' true nature, origin, placement, beneficial use, movements, ownerships as well as trying to or contributing to the

⁴ "Law on precautions against money laundering of proceeds of criminal acts etc." The law was passed June 20, 2003 and came into force January 1, 2004.

same, when the acting person should have known that the assets originate from criminal acts or from participation in criminal acts. (Ot.prp. no. 72 (2002-2003): 17)

The authorities' understanding of money laundering thus comprises far more than the criminological delimitation indicates. All use of dirty money, including for ordinary private consumption, is qualified as money laundering. Based on this definition, currency smuggling in the form of physically moving cash across borders will also imply money laundering despite the fact that smuggling does not contribute to making the money appear legal. Smuggling does not integrate it into legal economy. It may be that the intention of the smugglers is not to disguise the origin of the dirty money at all, *but to hide its very existence*. Moving cash may for example be a part of buying narcotics abroad. The authorities' definition of money laundering thus includes most ways of handling or dealing with dirty money i.e. all methods considered suitable to make the money *unavailable* to the authorities in addition to simply using, receiving or possessing. In this way the money-laundering concept widens to encompass all subsequent actions after the predicate crime, except destroying the loot or handing it immediately in to the police (Van Duyne *et al.*, 2005).

Purpose of money-laundering control

Anti Money Laundering legislation has several aims: first, to enable the authorities to confiscate the proceeds from crime (Naylor, 2003). Second, to reduce the motivation for committing the crimes-for-profit. Third, by confiscating illegal gains, the authorities hope to limit the possibilities to commit new crimes since the money will not then be reinvested in new criminal acts. However, this applies only to a limited number of crimes. Many crimes-for-profit do not require much investment, like organised fraud schemes or environmental crime. Finally, the regulation of money laundering should also be an instrument for investigators, on the assumption that money laundering will leave traces one tries to reveal the initial crime via laundering. "Trace the money" is the adage. (Naylor, 1999).

The anti money laundering regime primarily aims at intercepting the proceeds of 'organised crime' with a historic special emphasis on drug offences. (Levi, 1991; Savona and De Feo, 1997). It is assumed that 'organised

crime' generates large illegal profits that in various ways are channelled into the legal economy. More recently, the aim is to address ill-gotten profits from white-collar crime. (Ot.prp. no. 72 (2002–2003)). As of 2001 the effort against terrorism has likewise become significant in order to substantiate the importance of controlling money laundering. Overarching all these specific objectives is the general aim to protect the 'integrity of the financial system'. An important cornerstone of the financial system is the securities market. However, the security market is not only about money, but also about power which may be exercised through holding the shares of corporations. Crime-money flowing into the securities market may therefore jeopardize the integrity of the management of corporations. For this reason it is relevant to investigate whether there is a threat to this financial sector and how it is protected. We will first elaborate the system and regulation of the Norwegian securities market.

The Securities Market

The trading of stock and bonds takes place in the highly regulated securities market.⁵ The brokerage firms are responsible for the trading of stock. This is a kind of individual service where they trade stock on behalf of different customers. Asset management firms trade various funds such as equity funds. Such funds enable a number of individuals to own shares in a single fund that itself invests in a range of different businesses. When the asset management firms are trading securities it is done collectively on behalf of all investors who own shares in a given fund. We shall concentrate on the brokerage firms. Nevertheless, the analysis in this article is also relevant to the asset management firms because the funds administered by them constitute an essential part of the securities enterprises' clientele.

Brokerage firms may roughly be divided into two categories. The first consists of larger companies with a great number of employees and extensive trading. Their customers are primarily major institutional investors. The

⁵ The market offers other services as well, for example in the form of "market making", i.e. trading with government bonds. Another kind of service is "investment banking". In that context it is arranged for issuing offers; a process where limited companies offer new shares for sale. Our choice to focus on the trade of shares and bonds is caused by the fact that this part of the market is the one to attract the greatest number of customers. Consequently it is the trade with shares and bonds which is primarily available for most people as a potential arena for money laundering.

other category consists of smaller firms with fewer employees and often less trading activity. Frequently these are ‘net brokers’ who keep in touch with their customers via the Internet. These securities enterprises focus to a larger extent on private customers. Their clientele consists mainly of minor savers.

The state is by far the largest individual investor in the Norwegian securities market, namely through the state pension fund. Other large customers are the finance and insurance companies.

The brokerage firms are intermediaries in the trading of listed shares. They also trade stock in non-listed companies. This takes place outside the official marketplace that is the Oslo Stock Exchange and is usually called the grey market. However, during recent years the trade on this market has been very low. At the Oslo Stock Exchange stock trading amounting to NOK 2.000 – 4.000 millions on a daily basis has been registered in 2008.

To be a customer in the securities market and trade stocks and shares it is obligatory to open an account with the Norwegian Central Securities Depository (VPS) where the ownership of securities is recorded. In addition, the transactions have to be linked to an ordinary bank account. This implies that if crime-money is being invested, it must already have entered the financial system as ‘non-suspect’, which is tantamount to having been already laundered.

A market thoroughly controlled

The securities market is a thoroughly regulated market. An interviewed informant⁶ in the Securities and Investment Board describes the market as “*more controlled than other capital intensive markets such as the buying and selling of boats and cars.*” The most essential feature when it comes to controlling potential money laundering transactions is that the securities enterprises are instructed through the Act on money laundering to monitor their customers and their transactions. It is mandatory to appoint an officer/department responsible to ensure that the securities enterprises are arranging for and carry out the following surveillance of the customers and their transactions:

⁶ This person is in charge of the very department in the Securities and Investment Board that supervises the securities market as well as controlling the securities markets’ handling of statutory provisions imposed on them. The person in question was interviewed by Ingvaldsen (2006) in connection with his research project on money laundering in the securities market.

- Identity control of the customers. When establishing a customer relationship, the customers are obliged to prove their identity through authorised identification primarily by appearing in person.
- Tape-recordings of all phone calls between the customers and the enterprise's brokers.
- Register electronically and save for 5 years all orders from and information about the customers.
- Examine dubious transactions more closely. If the suspicion is sustained, the enterprises are obliged to notify Økokrim (The National Authority for Investigation and Prosecution of Economic and Environmental Crime) about the transaction in question.
- Transactions appearing dubious and consequently subject to investigations can not be implemented until Økokrim is notified or gives approval.

The Banking, Insurance and Securities Commission of Norway keeps the brokerage firms under supervision by, among other things, controlling whether the enterprises comply with the regulations of the Act on money laundering. This is performed partly through random checks and partly based upon examination of documents submitted from the enterprises. The persons responsible within brokerage firms may be sentenced to prison for up to one year if they fail to comply with stipulations of the Act on money laundering.

In addition, the banks indirectly control customers on the securities market. This follows from the demands to make use of a bank account when trading stocks. In this respect all money to be laundered in the securities market has to pass the banks' initial control. Hence, if any money slips through this control gate, it is already laundered.

Nothing seen and nothing heard

How many and what kinds of manifestations of money laundering has the Norwegian anti money laundering regime detected? So far there have been no convictions of money laundering committed through the securities market. Nor can the two interviewed employees in the police force tasked with financial investigation refer to any money laundering case in the securities market (Ingvaldsen 2006). There are no cases in connection to companies listed on the Stock Exchange. According to the manager of the money laun-

dering team at The National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) their experience is the same. They have not come across the securities market during their work with any criminal cases on money laundering. The informant in the Banking, Insurance and Securities Commission of Norway states that they have not discovered any single incident of money laundering. The reply was “no” when questioned whether on one or several occasions they had a specific suspicion of money laundering. Nor, according to the director of surveillance at Oslo Stock Exchange, has the Stock Exchange discovered money laundering.⁷ The surveillance department at the Stock Exchange usually does not look specifically for money laundering. However, subsequent to the terror attack in the USA September 11, 2001, the Stock Exchange undertook a major retrospective investigation searching for dubious transactions. The aim was partly to reveal money laundering. The inspection did not uncover anything that Oslo Stock Exchange considered to be suspicious. The actors closest to the securities market and its buyers and sellers, the securities enterprises themselves, are furthermore reinforcing the impression that money laundering is non-existent. The number of suspicious transactions reports to The National Authority for Investigation and Prosecution of Economic and Environmental Crime from the securities enterprises reflects this. As from the years 2001 – 2005 inclusive, The National Authority for Investigation and Prosecution of Economic and Environmental Crime received 1, 1, 3, 2 and 2 such reports for each of the years respectively, which could have involved money laundering (Økokrim 2005). By comparison banks reported between 900 – 1000 suspicious transactions per year in the same period. (Økokrim 2005).⁸ This is in line with international findings. Gold and Levi (1994) have examined the British finance sector’s notification of dubious transactions. Compared to the banks the British securities enterprises reported very few suspicious transactions. Out of the total amount of suspi-

⁷ All these persons were interviewed by Ingvaldsen (2006) in connection with his research project on money laundering in the Norwegian securities market.

⁸ In the public debate in Norway it has to a considerable extent been argued that the securities enterprises are not sufficiently disposed to examine more closely their customers. This has been used as an explanation of the great difference in the amounts of reports between securities enterprises and banks. This however, is primarily caused by significant differences in the clientele of the two financial institutions. Compared to the securities market the banks have to a larger extent customers, whose transactions are much easier to discover. It then follows that the alleged unwillingness of the securities enterprises to control their customers is not a valid explanation of why no sources can refer to money laundering in the securities market. For further discussion of these two aspects of the surveillance situation see Ingvaldsen (2006).

cious transaction the reports from the securities enterprises constitute approximately 1 per cent. Van Duyne (2003) detected that in the assets confiscation database (1993–2000) the value of seized shares amounted to € 34.173, which is 0,1% of the total of seized assets. These findings do not support the fear that affluent criminals pose a serious threat to the securities markets.

Apparently, each and all sources tend to go in the same unambiguous direction. None has any money laundering to report. Does this signify that no money laundering is taking place in the securities market? It is highly unlikely that no money laundering what so ever takes place within this sector of the Norwegian financial system. We have to ask additional questions. One explanation, the one that has dominated the Norwegian public debate, is that the apparently non-existing money laundering is a result of the brokerage firms' lack of willingness to perform their control duties in accordance with the Money Laundering Act. Is this the case?

The findings make an affirmative answer hardly plausible, but do not exclude it. If not excluded, the next question is whether the existing approaches are capable of recognising on-going money laundering schemes.

If we accept the FATF approach of laundering consisting of three phases, i.e. placement, layering and integration; we could comment that in the securities market only layering and integration can really take place. In reality, the AML regime is focused on placement (and no wonder, considering that the other two phases are so much more difficult to uncover, unless you can trace up from uncovered placement).

Conscientious brokerage firms

During his study of money laundering in the Norwegian securities markets Ingvaldsen (2006) interviewed the head of the department in the Banking, Insurance and Securities Commission of Norway which is responsible for supervising the brokerage firms. He stated that their supervision shows that the brokerage firms' practice is compliant with the Act of Money Laundering. The brokerage firms are doing what they are supposed to do. Many companies, in different sectors of business life, often have a very pragmatic rather than normative way of approaching issues regarding regulation and control (Schlegel, 1990). This is also the case when it comes to the Norwe-

gian brokerage firms. The head of the department says that these companies are complying with their control duties. This is due to two main reasons. As long as the control duties that follow from the regulation on money laundering are mainly the same within the EU, the regulation does not create any kind of distortion of competition. Secondly, the brokerage firms have a self-interest in at least some of the control measures. When trading stock on behalf of their clients the brokerage firms regularly find themselves in dispute with one or more of their customers. These customers often claim that the brokerage firms have not been selling or buying stock to their best interest and therefore seek economic compensation. From such a perspective tape recordings of all phone calls between brokers and their customers come in useful.⁹ That way the brokerage firms are able to document what they have said and what they haven't said. In several cases this kind of documentation has contributed to the brokerages firms winning disputes based on formal complaint by their customers.

At the same time the Banking, Insurance and Securities Commission of Norway are unable to supervise the brokerage firms' practice when it comes to one crucial element of the Act on money laundering. The head of the department states that since they are not familiar with the brokerage firms customers' normal patterns of transactions, they are not able to determine whether or to what extent the brokerage firms investigate and report dubious transactions the way the law obliges them to. Of course this is the part of the brokerage firms' control duties that basically runs contrary to one of the prime traits of the financial sector. They definitely do not want to disclose information regarding customers' transactions. Further, in many cases there are legitimate business reasons for customers to appreciate secrecy. For instance, this applies when the buying of stock is a part of an acquisition of a company as a whole (Savona and De Feo, 1997). Furthermore, the brokerage firms do not want to risk putting their customer in a situation where they face suspicion of money laundering in public. That could cost both the customers and finally the brokerage firms a lot when it comes to both reputation and money. As such, one may assume that at least in a few cases some brokerage firms choose to look the other way regarding transactions that initially may appear as suspicious. This is probably especially the case when it comes to customers that have been part of a brokerage firms' clientele for a

⁹ Actually, the taping of conversation is one of the ways for confirming orders and it was introduced for that purpose: The broker officially informs the customer that the order is about to be recorded.

long time and also constitute the brokerage firms' major customers. In his study on the banking system in The UK Levi (1997) found that in a few cases the banks did not report transactions they themselves found to be suspicious. Even though, his main finding was that the banks' practice regarding investigation and reporting of dubious transactions was very conscientious:

“My interviews with major UK financial institutions make it very clear that a desire to have a good reputation, combined with fear of imprisonment, have generated a strong willingness to comply with the spirit as well as the words of the legislation” (Levi, 1997: 274).

There are strong reasons to believe that this is also the case regarding the Norwegian brokerage firms. This is particularly due to the fact that during the last years, this segment of the financial system has become increasingly more occupied with their public reputation. During the 1980s and the first half of the 1990s, the Norwegian brokerage firms' reputation were somewhat 'dodgy', among other things based on cases in which some brokerage firms had taken in cash from some customers. According to the aforementioned head of department within The Banking, Insurance and Securities Commission of Norway the brokerage firms are now very sensitive to the need to establish and maintain a good reputation

“The consciousness regarding reputation within the business are far greater now than just five years ago. Then only one in ten would have been interested in their reputation in the same way”.

Combined with the fact that the brokerage firms have been attacked in the Norwegian media for several years due to their alleged lack of willingness to investigate and report their customers, it is highly unlikely that these companies would risk being displayed in the media as a channel for money laundering.

The above considerations lead to the conclusion that it is unlikely that the apparently non-existing money laundering within the Norwegian securities market is a function of lack of effort within the brokerage firms to investigate or report their customers' transactions. Therefore, the next question is whether the existing approaches are capable of recognizing on-going money laundering schemes.

Know your customer: The selective controlling eye.

The control that brokerage firms are required to perform is based upon the principle of ‘know-your-customer’ (Ot. prp. No. 72 (2002–2003)). As a consequence of the identification duty they are obliged to know the identity of the person, his/her National Insurance number, where she/he lives etc. However, the principle of knowing-your-customer is to a large extent also a question of knowing the customer as a financial actor, i.e. knowing the customer’s normal transactions patterns. What kind of trading in the securities market does the customer usually perform, which amounts and which type of selling and buying will be natural for the customer within the scope of his business activity (if he is a businessman). The same goes for the banks. Their obligation is to know their customers so that they can be able to decide what will be the natural amount and the movements of the money coming from the customer’s account. Obligated by the Act on money laundering the banks are using IT solutions to perform this part of the money laundering work. The data processing system is made to search for and report deviations from the norm given to the customer in the system.

Levi (1997) points out that the principle of know-your-customer upon which the surveillance of money laundering is based, represents the traditional policeman’s eye, i.e. the controlling eye searching for and becoming suspicious when it notices something that *stands out*. However, for two reasons cases of money laundering operations may not stand out from the ordinary operations. Primarily, as stated by Levi (1997) because not much distinguishes money laundering from ordinary and legal financial transactions other than the purpose of the transaction, which is defined as illegal. If money laundering is embedded in on-going business routine, it takes place on the same financial arena as most other financial transactions. Secondly, white-collar crimes are frequently hardly distinguishable from ordinary legal transactions and by their very nature fit into the framework of an otherwise legal enterprise (Clarke 1990). We will not be able to recognise them if we are looking for something exceptional and unusual. In other words, they will not be spotted as aberrations from the legal routines of enterprise.

In our context this implies that some money laundering actions related to business activities which otherwise are legal, quite simply are not distinguishable. Consequently the application of “know-your-customer” controls will not detect money laundering since these controls are sensitive only to the

“exceptional and the different”. The following hypothetical cases will exemplify this: An actor usually operating within the securities market under the auspices of an investment company has committed insider trading. To hide the money’s illegal origin it is circulated onwards and interwoven with comparable business transactions in the same market.

How should an employee in a security enterprise or in a bank be able to suspect that the money on normal accounts originate from insider trading? (Unless he is aware of such trading) The transaction ordered by the actor to disguise the illegal origin of the money is a transaction he normally carries out by virtue of his role as a completely legal trader in the securities market. There is no reason to be alarmed. This also applies to some other kind of economic crime such as manipulation of exchange rates. The dirty money will not stand out when handled by regular business actors whose money laundering activities show no difference from their usual legal activities. This will be reinforced by good existing commercial reasons for transactions which would seem peculiar to the uninitiated. This includes share trading at a cut rate as well as overcharged shares, a usable method to give dirty money an apparently legal starting point. But sometimes there are valid business reasons for trading shares at a cut price or to overcharge for example to avoid taxation¹⁰ (Savona and De Feo 1997).

International studies showing reviews of suspicious transaction reports support the impression that surveillance does not catch transactions based on and within the framework of legal business. Gold and Levi (1994) have examined reports from the economic sector in Great Britain that clearly indicate what control based upon the principle of know-your-customer brings to knowledge and fail to bring to knowledge. One reason for failing to recognize suspicious transactions is that customers are already inside the legitimate system after initial clearance. The reports contained an evident majority of private persons who had acted precisely like private persons through their use of personal accounts. More than 50 per cent of the suspicious transaction reports were linked to cash bank deposits and to a great degree only one bank account was used. The reports represented very few transactions made in connection with legal business. Very few bank accounts belonging to companies were referred to and in these cases a personal account was most often involved. This contrasts with the general international statistical find-

¹⁰ As opposed to tax evasion that is illegal.

ings that revenues from economic crimes outnumber those from crimes in the cash based crime-economy (Van Duyne, 2007).

Despite this finding, attention is still being paid to the most unsophisticated money laundering committed by private persons with great cash bank deposits. What caused the transactions to be considered dubious was the fact that they did not correspond to the bank's knowledge of the person's private economy or the bank clerk's expectations of the economic status of the customers based upon their appearances as to clothing and ethnicity.

The same pattern comes to light in a review of suspicious transaction reports in the Netherlands during the period of 1994–1996 (Van Duyne and De Miranda, 1999). The reports referred mainly to individuals with cash deposits. The transactions were singled out because they did not match the person's employment income or the fact that they were benefit recipients. Business companies were more frequent among these reports than observed by Gold and Levi (1994) but still individuals and personal accounts were clearly in the majority.

The bank spokes persons support these findings. What very often aroused the bank's suspicion was the private person's cash deposits, which did not correspond to the bank's knowledge of their personal economic situation.

Another indicator of the surveillance's inability to discover money laundering within the framework of legal business activity comes to light in a survey made among stockbrokers in Norway (Axelsen and Hopsnes 2005).¹¹ More than 70 per cent of the stockbrokers claimed to be quite familiar with the customers' business structure. The National Authority for Investigation and Prosecution of Economic and Environmental Crime had in the period 1996 – 2003 only received one to three suspicious transaction reports from management/investment companies (Økokrim 2003). This indicates that the stockbrokers, even though according to the survey, they are claiming to live up to the principle of knowing-their-customer, do not discover existing money laundering.¹² Does that mean that they are simply missing most of the laundering transactions? It seems more plausible that in the light of this system of dense control not much laundering is going on.

¹¹ The survey is made by Axelsen in connection with his independent research project on crimes in the securities market.

¹² Included are some cases where the stockbrokers have limited possibilities of knowing their customers. Some customers' relationships are superficial and consequently do not enable the stockbrokers to form an estimate of which transaction pattern will be the normal for the customers (Axelsen and Hopsnes, 2005). This will also apply for the securities enterprises and the banks.

A selection of convictions comprising money laundering (Ingvaldsen 2006) is conveying the same impression. A few companies are involved in the offences, mainly because the defendants were employed in these firms. The legal structures of the companies were not used in connection with money laundering; the involvement was personal. The money laundering has not taken place based upon ordinary legal business transactions. For instance a man who assisted in laundering NOK 500.000 from taxation evasion by four Russians. This person entered into a fictitious tenancy agreement, apparently renting out a flat to the Russians. He was employed in a company not involved in letting property. The Russians paid in half a million kroner to an account that seemed to be the personal account of the Norwegian according to the sentence, claiming that this sum represented four years' prepaid rent.

A final empirical source confirms the observations above (Stedje 2004). She has analysed the 36 cases in 2001 where suspicious transaction reports were communicated to the Oslo police from The National Authority for Investigation and Prosecution of Economic and Environmental Crime so these reports could be used in ongoing criminal proceedings.¹³ Less than 20% of the reports involved a company account. In more than 60 per cent of the cases a personal account was involved.¹⁴

In other words, a distinct pattern is reflected as to what the principle of knowing-your-customer fails to catch. Money laundering taking place within the framework of legal business activities, i.e. transactions where illegitimate actions in the form of money laundering are difficult to separate from legal transactions, are to a very small extent being detected. This also applies to firms operating in the securities market. Surveillance of money laundering is very selective. Principally, private customers' simple transactions such as cash deposits are disclosed.

¹³ None of the reports led to anyone being convicted of money laundering (Stedje 2004).

¹⁴ In the remaining 20 per cent of the cases the reports did not have information about the kind of accounts referred to (Stedje 2004).

Money laundering and white collar crime

The way the money laundering regulation works makes laundering of money deriving from various white-collar crimes a quite natural consequence of the fraud technique (Van Duyne, 2003). This does not mean that all dirty money of such origin is being laundered in the criminological sense of the word. That is, giving the crime-money a legal appearance. On the contrary, in some cases the nature of white-collar crime is such that no money laundering is needed because the illegal profits are immediately integrated in the firm by the same documents used to defraud ('tinned laundering').

Sometimes the amounts are too small to require any laundering technique. Larsson's (1995) study on tax evasion committed by Norwegian hairdressers is illustrative. His estimation is that the hairdressing trade's tax evasion amounts to NOK 300 – 600 millions per year. But the procedure utilised by each individual is such that the dirty money amounts to small sums and consequently there will be no need for laundering. The hairdressers regularly 'cut' the payment from some customers. The amounts are so small that they disappear into ordinary daily consumption. This also seems to be the norm of proceeds for other forms of traditional, organised and low level white-collar crime. Though the total amount looks large, per unit it is little more than pilfering.

There are other sectors in the grey economy in which daily earned crime-money siphons off into the licit economy. Ellingsen (1991) has studied tax evasion in the Norwegian taxi business. Here too tax evasion is characterised by taxi drivers and owners lining their own pockets with a part of the customer's payment. Once again each sum is so small that there is reason to believe that money laundering is a non-existent topic among the trade representatives.

The restaurant industry's avoidance of taxes, rates and dues may also be considered as representing a grey zone in this connection. Axelsen (1995) has examined evasions in this business. According to the author's estimation which is partly based on the tax authorities' information on specific restaurants, it seems that some owners had an illegal profit up to NOK 100.000

during one week. Handling such large amounts of undeclared money over a relatively short period of time may create a need for money laundering.¹⁵

A major condition for laundering money from economic crime would thus be that the profit is too large for managing it undetected within a short time span. This reduces the number of suspicious transaction reports concerning economic crime and the volume of illegal money generated for which a need for money laundering is experienced.

It should be remarked upon, that applying the broad definition of money laundering, such as we find in the Convention of the Council of Europe or some authors like Walker (1995), spending *any* criminally obtained money in (daily) economic life is laundering. This virtually equates the (fiscally) unrecorded money flow to laundering, depriving it from any discriminatory meaning.

The Securities Markets: available to the few

Another factor limiting the dirty money supply to the securities market is that few individuals will be considering this market as a channel of money laundering available to them. Certainly, during the last years the securities market has been opened up to “most people”. Far more customers than before now constitute average wage earners (Larsson 2001). However, few people have the appropriate knowledge of the securities market that is needed to make use of it for the purpose of money laundering. Van Duyne (2002) emphasised that the method of money laundering to a great extent is subject to the individual’s social and cultural capital in the sense, for example, of knowledge. Few customers will launder money within a sector about which they lack sufficient knowledge in order to feel familiar and comfortable. Social capital in the sense of belonging to social networks is of great importance. Most people prefer to launder money in settings where they have friends and acquaintances who can contribute with both knowledge of and services for money laundering purposes. Against this background most people will choose to launder money in social circles familiar to them. Few will feel socially and culturally well-acquainted within the financial sector

¹⁵ It goes with this that some of the restaurant owners led a disorderly life that included a luxurious daily consumption pattern where a considerable part of the money was used on expensive clothes, jewellery and cars (Axelsen 1995). In our perspective this fact has essentially contributed to reducing the need of money laundering, at any rate in the meaning of integrating the money into legal economy through banks or other financial institutions.

and the securities market in such a way that this market appears as a natural arena of money laundering. For quite a number of persons the Register of Securities, Oslo Stock Exchange, shares and bonds will represent such an unknown world. How many people will know, for example, that to trade listed shares it is obligatory to open an account with the Register of Securities?

This mechanism is demonstrated in some of the descriptions given by the aforementioned police officers.¹⁶ The car and building trades are good examples of how the actors knowing these sectors will keep within the same networks when laundering money. The two police officers state:

“They don’t start companies of their own. They will buy existing companies in sectors familiar to them. The car and building trades are recurring actors here. Craftsmen buy themselves way into the building trade where they can buy invoices covering fictitious income.”

This is an important observation: contrary to the general idea that criminals find their way anywhere, criminals prefer personal direct contacts, this is also seen in the handling of their criminal finances. Against this background, the securities market may be too distant and too abstract.

Money laundering and organised crime¹⁷

Media, public officials and advocates of strong action against money laundering seem to agree that ‘organised crime’ is generating substantial amounts of ‘dirty money’ and that this money is frequently laundered in the financial market. In threat assessments made by Oslo police and Politidirektoratet (The National Police Directorate) (2003) it is emphasised that there exist links between Oslo’s financial world and organised crime. Well-known cases are those involving members of the biker gangs – notably of the Hells Angels and Bandidos – working as money collectors. The few cases uncovered indi-

¹⁶ The descriptions originate from an interview made by Ingvaldsen (2006) in connection with his research project on money laundering in the Norwegian securities market.

¹⁷ The term organized crime is highly politically loaded. It is used here in a way that covers the “common sense” meaning of the concept used by police, in politics and by media in Norway. The term covers mainly drug related crimes, trafficking and other traditional crimes committed in some organized way. Economic and financial crimes are rarely included and usually fall outside this “common sense” definition.

cate that there is some connection between notorious members of ‘organised crime’ groups and shadier exponents of the financial world.¹⁸

Most estimates of money laundering from ‘organised crime’ are based on meagre data if not on pure speculations, anedoctical “sensational” cases from abroad and extrapolations based on ‘conventional knowledge’, all intensely recycled until they become general truths. Nevertheless, such estimations remain very hypothetical and have repeatedly turned out to fail as the basis for statements on the extent and methods of money laundering (Van Duyne 1996; Van Duyne *et al.*, 2005), Naylor 2004, Reuter and Truman 2004).

‘Organised crime’ in Norway is limited to a few social circles and its scope is limited. The police estimate that there are between 103 and 125 criminal networks of some importance.¹⁹ The major types of violations connected with organised criminal groups in Norway are smuggling of prohibited or highly taxed substances (tobacco and alcohol) as well as violence (The Police Directorate 2005). To a great extent the estimate may actually reflect the priorities of the police themselves as well as their qualifications. The following well-known ‘organised crime’ networks²⁰ are recorded in Norway (Larsson 2008):

- *The robbery milieu.* The so-called robbery milieu in Norway consists of a small group of persons.²¹ They are specialists on robbery of transportation of valuables, banks and post offices. The average profit from a bank or post office robbery is usually limited while transportation of valuables might give larger profits. A number of the active persons belonging to this milieu are now imprisoned among other things in connection to the NOKAS robbery²².
- *Bikers.* Opinions differ as to whether groups like Hell’s Angels, Bandidos, Outlaws and the Pagans truly should be defined as groups of organised criminals or as an ‘alternative way of life’ (Junninen 2006; Rørhus 1999).

¹⁸ For instance related to Aker Brygge Invest, a company surrounded by scandals, see among others *Aftenposten* February 10, 2001.

¹⁹ These are of course approximate figures and are not supposed to be understood otherwise, but if nothing else, they are indicating that organised crime is of a limited extent.

²⁰ We will not define organised crime here but adopt the definitions regularly used in Norway, i.e. EU’s list of 11 articles (Larsson 2008 and Finckenauer 2005).

²¹ In “Project on organised crime” of the Police Directorate 18 important persons are connected with aggravated robbery.

²² The NOKAS robbery in Stavanger in 2004, named after the financial institution being robbed (Norsk kontantservice), is the biggest and best planned robbery in Norwegian history. A police officer got shot and the robbers escaped with 57 million Nkr (5,7 million pounds). The robbers were heavy armed and it was fired 119 rounds.

In Norway these groups count, with the exception of the Pagans who have no section here, less than one hundred full-members.²³ In Norway individuals are linked to import and trading of hash and amphetamine as well as being notoriously known as torpedoes.²⁴ Hell's Angels members have been convicted in connection with extensive cases involving smuggling of hash and amphetamine and there is every indication that their activities as the men behind the scenes, especially when it comes to smuggling of hash and amphetamine, can generate a considerable profit (Larsson 2006a).

- *Alcohol smugglers.* Today's smugglers are keeping up a tradition dating back to the days of prohibition 1917 – 1927 (Johansen 2004). Until the cases involving selling methanol in 2001 – 2002 that caused the death of 11 persons, smuggling was mainly linked to spirits. In the peak year 2001 254.000 litres of strong spirits were confiscated. A substantial quantity of this was produced in Spain and Portugal and the profits were large.²⁵ After 2002 – 2003 smuggling has mostly been diverted to beer and wine and new actors have entered the scene (Larsson 2008).
- *Drug smugglers.* The A- and B-gangs as well as the biker groups are among the most important actors when it comes to hash and tablets (amphetamine) There are also a number of minor and ephemeral groups involved in smuggling (Larsson 2006a). Hash and tablets are often smuggled simultaneously while heroin smuggling and dealing seem to be a separate market. Groups such as the Kosovo Albanians and the Nigerians have now and then played a prominent role within the heroin market.
- *The A- and B-gangs.* The A- and the B gangs are two gangs predominantly of Pakistani origin. These two gangs developed in the mid to late 80's as youth street gangs. With growing age these gangs have evolved into organized crime groups (Larsson 2008). The members of the A-gang are now mainly in their forties while members of the B-gang are more

²³ In the Police Directorate's evaluation of threats from 2003 is referred to figures that date back to 2001 in which year Hell's Angels had 36 members, the Bandidos approximately 25 and the Outlaws approximately 10. Lately the Outlaws have expanded considerably. Rørhus (1999) reports that Kripos had registered 200 members in 1997 but does not mention their status.

²⁴ The list of various types of criminality tied to these groups is a long one, but it is mostly traditional violations of the law and can to a small extent be linked to individual memberships in the clubs. The most interesting from a Nordic point of view is that they seldom seem to be involved in the market of prostitution.

²⁵ At times we are here talking about big money. Smuggling spirits and alcohol has always been more lucrative than narcotics. Taking into consideration the penalty level, from a rational point of view, everybody should be smuggling alcohol.

than 10 years younger. 24 members of the A-gang are identified and 29 in the B-gang. The gangs are notorious for violent clashes between the gangs. Of great interest is their profit making activities which in the main are supposed to be drug importation and dealing. The groups have good connections in the Netherlands and in Copenhagen and are engaged in the import and resale of hash. Sources in the police report that this generates substantial incomes that are then invested in Norway, Pakistan, Brazil and Thailand.

- *Foreign groups.* Some activity from Estonian groups has been observed, but the Lithuanian criminals seem to be the most active (Larsson 2006b). If they really are Lithuanian is often another case, they often have passports bought in the town of Kaunas, but much indicates that these persons come from many eastern countries. So far these persons have mainly committed thefts of mobile phones, razor blades, nylon stockings as well as boat engines. Even if each single object has been of little value, they have sent out large quantities of the commodities.

Prostitution and organised crime have attracted a great deal of attention. Until the new law that criminalised the buying of sex came into force on the first of January 2009, there were Nigerian and East-European girls (Bulgaria, Estonia, Lithuania, Romania, Poland and Albania) engaged in the highly visible street prostitution. When it comes to indoor prostitution mainly Thai girls are involved. The Nigerian prostitutes are linked to organised Nigerian criminal networks (Nicola 2005). Behind the Baltic prostitutes we often find Baltic networks. The extent of force and exploitation exerted by these 'assistants' seem to vary somewhat (Aromaa 2002). It also appears that there is a large range as to what extent the women are financially exploited. The whole range is represented from those running their own businesses to women economically exploited by pimps. For that reason it seems difficult to estimate how much money this activity generates that goes to organised criminal groups in Norway.

Where does all the money go?

It is worth noticing that most income sources of the 'organised crime' groups are mainly based on the smuggling of illegal or heavily taxed stimulants such as narcotics, alcohol and tobacco. Initially the money laundering precautions

were developed in the name of fighting drug offences (Levi 1991) which supposedly generated staggering amounts of crime-money. This is emphasised both in media and scientific literature (Dyrnes 2004; Van Duyne and Levi, 2005). Consequently it is noticeable that empirical studies on organised crime and illegal markets seldom find these activities to be as profitable as frequently claimed (Reuter and Greenfield 2001). It is well documented in international research papers that pushing of narcotics is far from representing a particular lucrative business. Desroches (2005) summarises research showing that “criminality doesn’t pay” and that the street pushers usually do not end up with an incredible profit.

“In short, most lower socio-economic dealers are involved only sporadically in drug sales, attempt to hold on to a conventional lifestyle, work at poor-paying jobs, and struggle with periods of unemployment and poverty.” (Desroches 2005: 4)

Not all illegal trade is fully commercialised. Dorn, Murji and South (1992) point to the fact that many dealers sell narcotics privately to their friends and acquaintances to finance their own drug abuse and partly as a friendly favour. This might seem old fashioned in continental Europe, but might still be a good description of the workings in Norway. The indications are that the greatest part of the drug dealing is not marketed to relatively distant traders, but among known contacts and friends (Parker 2000). The myth that the drug market should create extensive criminality because crimes-for-profit are financing drug purchases does not quite seem to fit in either. It might instead be more valuable to describe this market as a part of the irregular and informal economy (Ruggiero 1994, Gruppo Abele 2003). Brettville-Jensen has for years studied buying and selling of heroin in Oslo. She points out that the pushers are financing a lot of their own use through a combination of social security, begging and pushing. The main purpose of pushing is not to gain large profits but to finance their personal use. In any case, street pushing is not a glamorous life!²⁶

What about the big smugglers and drug wholesalers? They must surely make handsome profits? That is possibly so, but to have a realistic perspective on the supplies of crime-money one needs more knowledge of the function and structure of these markets. Smugglers are regularly presented as people making big fortunes. Estimations of the value of drug confiscations are

²⁶ This is a well documented fact in international research as well. See Vesterhav, Skinnari and Korsell (2007), Sandberg and Pedersen (2006) and Levitt and Dubner (2007).

mostly based on the street prices, while business expenses are rarely included (Van Duyne and Levi 2005, Reuter and Greenfield 2001).

In a study on hash smuggling into Norway, Larsson has tried to draw up a realistic calculation of this activity's profitability (Larsson 2006a, 2009). Hash is generally bought in the Netherlands. The price when buying large quantities is usually around NOK 15.000 per kilo depending on the quality. In Norway the selling price by wholesale of large quantities is approximately NOK 20.000 – 25.000 which would make it possible to earn from NOK 5.000 – 10.000 per kilo.²⁷ But in order to have the narcotics transported to Norway there will be expenses, which at times they may be substantial. These expenses will, to some degree be dependent on the smuggling technique, naturally cut back on the profit (25 – 50 %). Despite these operational costs it is possible to make large profits on smuggling of large quantities. Import of one hundred kilos could possibly give NOK 200 – 400.000 to be divided among the smugglers (mostly five or six persons). But this activity entails risks. There is always the risk of being swindled, of receiving bad hash, too small a quantity, occasionally friends are stealing from the lot or at worst disappearing with it all.²⁸ Junninens's (2006) informants reported how common it was to make a bad investment or a mistake. Besides there is always a possibility to be caught which in Norway will result in 10 – 15 years in prison for having smuggled 80 kilos of hash or more. These are the risks tied to hash smuggling.

Another significant element is that the hash market like any other drug market is primarily based upon credit. In practice this means that very few will be handling the big packets of cash that are so often described. This in turn implies that everybody will be owing money to somebody, that they often have to wait some time for the money and that some loss must be assumed. Van Duyne has used the term *aquarium economy* to describe this semi-closed criminal economy of credit. Practically it also means that somebody has to take on the task to physically be transporting the cash to the Netherlands. The arrangements are of course simpler when smuggling smaller volumes, however, the amount of money likely to be earned is smaller. Smugglers operating on a small scale and going to Copenhagen for half a kilo of weed are often operating in networks of friends who are both users and deal-

²⁷ The street price is estimated to NOK 100 per 0,7 gram, but the smugglers don't sell drug on the streets, they are selling to wholesalers who in turn will arrange for resales.

²⁸ In one of the cases in my material one of the couriers ran away with 420 kilos in Spain. Gross (1992) describes very well the dangers of this activity.

ers. They will not generate a great volume of money for money laundering techniques are required.

Johansen (1996, 2004) has analysed alcohol smuggling and illicit distilling in Norway describing shifting markets where it is more advantageous to be small and flexible than big and 'bureaucratic'. Smuggling of alcohol is a typically Norwegian kind of organised crime with a long tradition dating back to World War I or even earlier. He shows that a number of participants within this market are occasionally earning good money, but their ways of handling the money differ. Only a few will end up as wealthy and well established persons. A great deal live their lives based on high consumption and other such 'bad habits' and are spending as much as they are earning. Junninen's (2006) Finnish organised criminals are living likewise: many of them are handling and spending significant amounts but few will invest the money in something lasting.

Most sectors of organised crime markets do not generate the enormous amounts claimed.²⁹ And if they do, the surplus savings in the sense of accumulation of capital from these activities is far less than assumed. Granted, there are exceptions because the criminal wealth distribution is unequal but for most participants in the organised crime markets, their crimes allows them to finance their drug habit, obtaining status symbols and gaining acceptance or quite simply a way of financing their lifestyles.

Nevertheless, at times a few crime-entrepreneurs succeed in earning substantial money, especially within narcotics and alcohol smuggling. The question is then what this handful of organised criminals does with their money. Do they invest it in the open and legal economy laundering it through advanced financial arrangements?

²⁹ Walkers (1995, 2005) model 'refined' by Unger (2007) is probably the best known and developed calculus of the amount of money laundering. This models starting point is a calculation of the proceeds of crime in the nations and takes the broadest definition of laundering: spending crime-money = laundering. Already at this point it is on thin ice since such calculations normally is based on substantial guessing about both volume of crime and prices of drugs. The models is based on layers of guessing and taken for granted knowledge about the hidden and criminal economy. It also tries to estimate the level of laundering for the different crimes. There seems to be multiple flaws in the model the most important is the idea that there is a need for laundering money and that it must be used in the legal economy. Another is that the costs of crime are not calculated in. For drugs which is presented as the backbone of the criminal economy laundered money seems to be the same as the value of the smuggled drugs sold at street price, while many rightly point out that this is a wild exaggeration of the real value (Reuter and Greenfield 2001).

Why there is no need for laundering and why there is no possibility for it.

One of the problems of the “choose a number” calculation games that are continually presented in the money laundering literature has been the lack of knowledge about the relationship between legal and illegal economies and how illegal economy and the criminal markets are functioning (Naylor 2002, 2003). Knowledge about criminal carriers and diverging lifestyles and desires seem to be lacking as well. Those who make the calculations take it for granted that everybody thinks, acts and shares their set of values. It is assumed that the actors are acting according to a specific kind of rationalism that fit in with the economic models.³⁰ What if the criminals do not want to play this game or do not share the economists’ understanding of a good life?

A good deal of the aforesaid underlines that the lifestyle among many criminals is not merely governed by economic rationality, but substituted by a combination of opportunities at hand, interest in narcotics and alcohol, “wine, women and song”, the sweet life as well as money (Gross, 1992; Adler 1993; and Junninen, 2006). When money starts pouring in, consumption also usually increases. Having adapted to a life characterised by extensive consumption, it is difficult to change this. Money and private consumption often tend primarily to have symbolic status functions.³¹ Adler (1993) describes the lifestyles of the great marijuana smugglers in California. Their money spending, as well as their use of drugs is impressive. Along with high incomes come great expenses to hotels, restaurants, cars, narcotics and friends, not to mention gambling. She is describing something that can be called a hedonistic lifestyle. The same goes for the A- and B-gangs in Oslo.

“Expensive lifestyle: Elegant cars, narcotics, costly vacations, women whom are very generously treated and spending a lot of money in general”. (Norwegian Police 2006: 12)

Obviously this kind of life will attract quite a few, but it also has an important function as a symbol of success. Besides, it creates and strengthens bonds between those involved in organised crime. Big time smugglers will often be big time spenders and their lifestyles are expensive. Quite a number of

³⁰ The actors are usually made out to be typical utilitarians characterised by a purpose oriented rationality. See Larsson (1993).

³¹ Of course this is not a distinctive feature for criminals only, the same goes for a number of other economic actors such as for example, brokers within the financial world. Money gives status!

Adler's smugglers may be described as successful, but few of them managed to make a fortune or create permanent assets that they could use to withdraw from the scene. In fact it seemed as if very few took an interest in stashing away money, their concept of a good life being to avoid the trappings and boredom of a conventional life. Similar findings are reported in Junninen's study (2006). One of his sources declares:

“. . . at least one million per year is spent just on living. Suits and everything, they cost a lot. Everything is always the best that money can buy, like hotels and everything. That's what we are doing it for, so we can live like that. . . ” (Junninen 2006: 52)

Reuter and Haaga (1989) and Desroches (2005) confirm this. Besides, quite a few are forgetting that the illegal economy is to a great extent an economy based on cash and that it still is possible to live a life using cash, even if it is becoming increasingly difficult. Gross' (1992) book dealing with the life of a big smuggler provides interesting reading. Even though the book was not written recently, one would expect a chapter on money laundering. There is no such thing, but instead several chapters are devoted on how to live a life based only on cash. Almost everything can be bought with cash money although it occasionally demands some creativity. The book's mantra is never to leave a paper trail which the authorities can get hold of – “don't leave a paper trail”.

A major objection to the belief that criminals would want to convert into legal business is the fact that many of the decisive skills to survive in illegal economy frequently are of less value in the legal one. In Van Duyne's (1996) study on the economy of large organised criminal networks his findings showed that not many of the actors in the illegal economy managed to work within the legal one. Most of them were rather helpless in their effort to run a legal business, but exceptions existed:

“It has to be mentioned that most of the persons who were investing at a high profit in the legal economy had a background from ordinary legal business before they started their criminal careers!” (Van Duyne 1996: 367)

Nevertheless, there are a number of examples of financial investments made by criminals, but mostly these investments are in business activities they understand, have personal knowledge of, and experience with. First and foremost it is to be supposed that considerable amounts are re-invested in the informal, illegal and criminal economy (Naylor, 2002; Skinnari and Korsell, 2007). Gross (1992) emphasises that many criminal enterprises need initial

capital. As observed earlier, part of such investments is undertaken on mutual credit, even if it is risky. If no 'criminal credits' are available the smuggling of substantial quantities of hash, cocaine, wine or alcohol can be an expensive business and is often in need of financing. The gains when lending money to this type of expeditions use to be far better than the usual bank interest, but then again the risks can be considerable. The profit from the well-known NOKAS robbery estimated at NOK 57.000.000 partly ended up financing other crimes, among which 1000 kilos of hash were confiscated when imported to Norway. Why would someone invest their money legally when investment can be made in the illegal economy? The advantages of the illegal economy are numerous. There is no need to worry about being notified to the money laundering section at The National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim). Within the illegal economy the money is accepted without unnecessary questions and in general the money is paid back at an acceptable rate of interest. The risk is higher, but for persons accustomed to an exciting, risk-taking life this is not necessarily regarded as anything negative.

When money is invested in the illegal or grey market it seems, as mentioned earlier, that the favourites are pubs, restaurants, discos and companies that run business activities like selling cars, doing repairs etc. This corresponds very well to what the theory of routine activities preaches. These are enterprises the criminals often are familiar with, take an interest and are experienced in. Why should they invest their means in business activities they do not know anything about or are acquainted with? In a network perspective there are few, if any, reasons for an ordinary organised criminal to invest his profit in the financial market or securities market.³² They do not know these markets or anybody engaged in such business and generally has no idea on how the finance- and securities markets are functioning, so why rely on them? From our point of view this represents a major objection to the idea that organised criminals are investing substantial amounts in the securities market. Van Duyne and Levi (2005) summarising their own and Suendorff's (2001) observations came to similar conclusions.

Some will argue (Skinnari and Korsell, 2007) that they can make use of experts in money laundering to invest within this market. Few studies are able to prove that such utilization of experts is internationally widespread

³² Studies report that to be connected with central traders on the stock exchange is of vital importance if one wants to make a career there.

(Reuter and Truman 2004). As far as we know there is little evidence that such services have evolved in Norway.

Some of the most obvious effects of the increased effort towards fighting money laundering as well as confiscations are noticed in connection with the consumption patterns and lifestyle of members of ‘organised crime’ groups. Quite a number have reduced their use of visible status symbols such as Rolex watches, thick gold chains and expensive cars which will attract unwanted attention not only from friends but also from the police. In addition the police report that nowadays the money is invested abroad, in real estate in typical tourist areas such as Thailand, Venezuela and Brazil.³³ In criminological terms this represents a displacement effect and an adjustment to the new regulation.

The mixture of legal and illegal in the Norwegian business sector

However, there exists a way of laundering money from organised crime into “legal” companies. Seemingly legal companies can be used for dirty money to be invested in the ordinary and legal activities, or alternatively in activities altogether illegal. Using these “front companies” will give the dirty money an appearance of legitimacy. Basically a restaurant owner will for instance have the opportunity of putting dirty money into ordinary and legal trade unnoticed. He is acting in a sector which is more or less based on cash, and related substantial cash transfers on a regular basis are normal practice. The bank clerk will have little reason to suspect anything as long as the restaurant owner is not exaggerating his co-mingling of dirty money with ‘white’ turnover or exceeding the bank clerk’s conception of what will be normal business activity and earnings. Based upon his analysis of reports of money laundering from the British financial sector, Levi (1997) argues that money laundering regulation is only to a limited degree able to catch criminal money channelled into legal economy through front companies.

“ . . . , there is little evidence to suggest that financial institutions are very successful at spotting the misuse of ‘front’ companies for the intermingling of crime proceeds with legitimate takings.” (Levi 1997: 268)

³³ Since this was originally written there has been one of the biggest confiscation cases in Norway ever. Members from the A and B gang had invested millions in holiday houses and apartments in Brazil.

The mingling of the legal and the illegal within the framework of business activities varies from country to country. Some cases will show an extensive mingling. Ruggiero (1996) give some examples from Italy where groups of organised criminals are almost completely in charge of an entrepreneur business sector. Nothing supports such a picture when it comes to Norway. On the basis of empirical analyses on various forms of organised crime both in Norway and internationally, Johansen (1996) qualifies the mixture of the legal and the illegal economy within Norwegian business as limited. Compared to a number of other countries, the connection between organised crime and business life is small in Norway, especially when it comes to drug entrepreneurs. Even so, there are examples of amalgamations of money earned on illegal alcohol markets. On several occasions attempts have occurred to conceal illegal profit within business activity. Even if grey zones exist, primarily in connection with gains from the illegal alcohol markets, Johansen (1996) is of the opinion that as a whole the distinction between organised crime and business life is reasonably pronounced in Norway.

Johansen's (1996) empirical findings are somewhat old. Have things changed dramatically since his study? The police seem to think so. The aforementioned police officers that were interviewed as part of Ingvaldsen's (2006) study on money laundering in the Norwegian securities markets said the following when asked about criminals' connection to legal business:

“During the last three to five years we have seen a clear tendency towards a situation where every criminal has his own company, for instance people from the robbery milieu. This also applies to people involved in drug felonies. In general this development involves organised criminals responsible for a vast amount of crime and which are part of criminal networks”.

If taken as a statement on the overarching picture of the intermingling between business and organised crime in Norway, there is reason to treat the police officers descriptions critically. More recent studies of organised crime in Norway do not support the descriptions of the police officers. Both Johansen (2008) and Larsson (2008) concludes that there seem to have been a slight tendency towards more mixing of legal and illegal within business life. But their findings by no means support such a dramatic change that the police officers describe.

In accordance with Johansen (2008) and Larsson (2008) we can still say that organised crime has definitely not penetrated the legal economy in Norway.

Conclusion

We can draw some conclusions on what is stated above. The anti money laundering regime is based on the principle of know-your-customer. This means a controlling eye that will arouse suspicion whenever something different from the ordinary patterns is spotted. Money laundering in connection with legal business activities, will regularly not stand out. It will not leave the kind of traces that are presumed according to the methodology of “follow the money”. It certainly will leave a paper trail, but not one that has a suspicious character. In this respect neither the banks’ nor the securities enterprises’ control are likely to be aware of it, unless they carry out a deeper investigation. The regulators predominantly uncover simple transactions made by individuals, what is easily recognised because of the customer’s private economy and personal appearance. Then this selectively controlling eye also opens up for money laundering via apparently legal business activities with mixed legal and the illegal money flows. For the shrewd launderer this leaves room for channelling money from organised crime into the finance sector through business activities.

In the light of this there is reason to believe that money laundering in the Norwegian securities markets may happen, although there are no empirical sources to substantiate this threat. Concurrently our analyses of the conditions of money laundering are indicating that the authorities’ and the media’s suppositions and calculations as to the extent of money laundering are unrealistically high. In some cases economic crimes are committed in ways which will generate an illegal profit it may be big enough for all kinds of money laundering constructions. This applies also to a good deal of other forms of ‘organised criminality’. The illegal profit deriving for instance from drug felonies will for quite a few be very limited. To a good many people criminality represents business on the side, criminal expenses are incurred, the net profits are financing their own drug use etc. Some are making great money, but quite a few will be using the profit to live a hedonistic life with high daily consumption. Others have no wish to integrate the dirty money into the legal economy. It is safer to keep it within the underground economy. There is little reason to believe that money from organised crime is channelled into the financial sector by those wanting to launder their gains. The blending of the legal and the illegal in Norwegian business life is limited in scope. Lastly, to many people the securities markets are hardly accessible as

an arena of money laundering, both socially and culturally. That is why money is being laundered elsewhere, in settings which the actors have knowledge of and will rely upon.

Consequently the most likely money launderer in the Norwegian securities market will be characterised as follows: He is operating within legal economic activity, the dirty money comes from specific kinds of economic crime such as insider trading and currency manipulation, the illegal profit is relatively large and he knows the securities market very well. He has both *the need for* and *the possibility* to launder money through the securities market, where the money is already in some bank account.

If we return to the opening of this chapter we see that many of the assumptions that make the fundamental structure of the fight against money laundering do not seem to be well documented. There is the basic idea that criminal activity, and especially organised crime, generates vast sums that have to be laundered to be used or re-invested. Many forms of crime do not generate great profits per operation and further, what matters are the profits per business and not the accumulated profits for the whole criminal sector. The costs of crime and the reinvestment of whatever is leftover into new crimes are often underestimated. To a rather large degree the criminal economy can be seen as a rather closed, 'aquarium-like' economy. Many studies have also documented that the lure of a life in crime is often to be a big spender and live a fast life. Probably only few exponents of the criminal economy share the ideals preached in business schools around the world.

So here we are then, with a massive apparatus designed to catch certain forms of taken for granted illegal activity and big crime-money being washed in the securities sector. This big fishing net constructed to catch some types of fish does not seem to work that well. At the same time we do not say that there are not big fishes or even financial whales in this ocean. But how many of these are there and are these worth the huge efforts? If they exist, the system does not seem to catch them or even detect them. Instead we end up with the *same* well known figures, the easily detectable and highly visible 'usual suspects'.

References

- Adler, P. A., *Wheeling and dealing. An ethnography of an upper-level drug dealing and smuggling community*. New York: Columbia University Press, 1993 (second edition)
- Aftenposten, "Hells Angels-kontakt skremmer finansfolk." February 10, 2001.
- Axelsen, N. K., *Skifteretten på menyen – konkursskriminalitet og skatt- og avgiftsunndragelser i restaurantbransjen i Oslo 1992 – 1994*. Oslo: Norges Forskningsråd, report No. 24, 1995
- Axelsen, N. K. and R. Hopsnes, Hvitvaskingsloven. Er undersøkelses- og meldepliktreglene for advokater og fondsmeglere hensiktsmessig utformet? *Tidsskrift for strafferett*, 2005, (1) 9-46
- Barker, W. E., Floor trading and crowd dynamics. In: P.A. Adler and P. Adler (eds.), *The social dynamics of financial markets*. Greenwich: Jai Press Inc, 1982
- Clarke, M. (1990). *Business Crime. Its Nature and Control*. Cambridge: Polity Press, 1990
- Desroches, F.J., *The crime that pays. Drug trafficking and organized crime in Canada*. Toronto: Canadian Scholars Press Inc, 2005
- Dorn, N., M. Karjim and S. Nigél, *Traffickers: Drug markets and law enforcement*. London: Routledge, 1992
- Duyne, P.C. van, The phantom and threat of organized crime. *Crime, Law and Social Change*, 1996, (34): 341-377
- Duyne, P.C. van, Crime-entrepreneurs and financial management. In: P.C. van Duyne, K. Von Lampe and N. Passas (eds.), *Upperworld and underworld in cross-border crime*. The Netherlands: Wolf Legal Publishers, 2002
- Duyne, P.C. van, Money laundering policy. Fears and facts. In: P.C. van Duyne, K. Von Lampe and J.L. Newell (eds.), *Criminal finances and organising crime in Europe*. Nijmegen, Wolf Legal Publishers, 2003
- Duyne, P.C. van, Criminal finances and state of the art. Case for concern? In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe. The dirty linen of illicit enterprise*. Nijmegen, Wolf Legal Publishers, 2007
- Duyne, P.C. van and H. de Miranda, The emporor's cloths of disclosure: hot money and suspect disclosures. *Crime, Law and Social Change*, 1999, vol. 3, 245-271

- Duyne P.C. van and M. Levi, *Drugs and money. Managing the drug trade and crime-money in Europe*. London, Routledge, 2005
- Duyne, P.C. van, M.S. Groenhuijsen and A.A.P. Schudelaro, Balancing financial threats and legal interests in money-laundering policy. *Crime, Law and Social Change*, 2005, vol. 43, 117-147
- Dyrnes, A.M., *Inndragning. Hva må gjøres?* Oslo: Ciceron forlag, 2004
- Ellingsen, D., Svart arbeid i drosjenæringen. In: P.O. Johansen (ed.), *Studier i økonomisk kriminalitet*. Oslo: Institutt for kriminologi og strafferett. KS-serien (1), 1991
- Finckenaue, J.O., Problems of definitions: What is organized crime? *Trends in Organized Crime*, 2005, 8 (3).
- Gold, M. and M. Levi, *Money-laundering in the UK: An appraisal of suspicion-based reporting*. London: The Police Foundation and the University of Wales College of Cardiff, 1994
- Gross, K.H., *Drug smuggling. The forbidden book*. Colorado: Paladin Press, 1992
- Gruppo Abele, *Synthetic drug trafficking in three European cities: Major trends and the involvement of organised crime*, Final Report, Turin, 2003
- Ingvaldsen, K., *Verdipapirmarkedet og hvitvaskingsens betingelser*. Oslo: Norges Forskningsråd, 2006
- Johansen, P.O., *Nettverk i gråsonen. Et perspektiv på organisert kriminalitet*. Oslo: Ad. Notam, 1996
- Johansen, P.O., *Den illegale spriten. Fra forbudstid til polstreik*. Oslo: Unipub forlag, 2004
- Johansen, P.O., Organisert kriminalitet – HVA NÅ? *Nordisk Tidsskrift for Kriminalvidenskap*, 2008, 3.
- Junninen, M., *Adventurers and risk-takers: Finnish professional criminals and their organisations in 1990s cross-border criminality*. Helsinki: Heuni, 2006
- Larsson, P., *Rasjonalitets- og normbaserte forklaringer på økonomisk kriminalitet*. Oslo: Norges forskningsråd's report no. 11, 1993
- Larsson, P., *Svarte klipp. Om skatteunndragelser i frisørnæringen*. Oslo: Norges Forskningsråd's report No. 27, 1995
- Larsson, P., *Hvitere enn hvitsnippskriminalitet: en studie av reguleringen av kriminalitet i verdipapirmarkedet*. Oslo: Norges Forskningsråd's report No. 49, 2001
- Larsson, P., Organisert kriminalitet – myter og realiteter". In: P. Larsson and T. Myklebust (eds.), *Organisert og økonomisk kriminalitet – myter og realiteter*, Oslo: PHS forskning, 2004 (2)

- Larsson, P., Opp i røyk! En studie av hasjimporten til Norge. In: Thomassen and Bjørge (eds.), *Kunnskapsutvikling I politiet*, Oslo, PHS forskning 2006a: 3
- Larsson, P., International Police Co-operation: A Norwegian Perspective.” *Journal of Financial Crime*, 2006b, 13 (4)
- Larsson, P., *Organisert kriminalitet*, Oslo: Pax, 2008
- Larsson, P., Up in smoke! Hash-smuggling the Norwegian way. In: K. Ingvaldsen and P. Sørli (eds.) *Organized Crime*, Oslo: Unipub, 2009
- Larsson, P and D. Magnusson, Hvitvaskingsreguleringens kostnader, *Nordisk tidsskrift for kriminalvidenskap*, 2009, nr. 1. [The Costs of the money laundering regime]
- Levi, M., Regulating money laundering. *British Journal of Criminology*, 1991, (2), 1-25
- Levi, M., Money laundering and regulatory policies”. In: E.U. Savona (ed.), *Responding to money laundering. International perspectives*. The Netherlands: Harwood Academic Publishers, 1997
- Levitt, S.D. and S.J. Dubner, *Freakonomics, En vildsint økonom forklarer det moderna livets gåtor*, Stockholm, Prisma, 2007
- Naylor, R.T., Wash-out: a critique of follow-the-money methods in crime control policy”. *Crime, Law and Social Change*, 1999, (32): 1-57
- Naylor, R.T., *Wages of crime: Black markets, illegal finance and the underworld economy*. New York: Cornell University Press, 2002
- Naylor, R.T., Follow-the-money methods in crime control policy. In: M.E. Beare (ed.), *Critical reflections on transnational organized crime, money laundering and corruption*. Toronto: University of Toronto Press, 2003
- Nicola, A.D., Trafficking in human beings and smuggling of migrants. In: P. Reichel (ed.), *Handbook of transnational crime and justice*. California: Sage Publications, 2005
- Norsk Politi, 1. *Dette er A- og B-gjengen*, 2006
- Ot.prp. No. 72 (2002-2003). *Lov om tiltak mot hvitvasking av utbytte fra straffbare handlinger mv. (hvitvaskingsloven)*. Oslo: Ministry of Finance.
- Parker, H., How young Britons obtain their drugs: Drug transactions at the point of consumption”. In: M. Natarajan and M. Hough (eds.), *Illegal drug markets: From research to prevention policy*. New York: Criminal Justice Press, 2000
- Politidirektoratet (2003). *Nasjonal trusselvurdering*. Oslo: A report.
- Politidirektoratet (2005). *Prosjekt organisert kriminalitet*. Oslo: A report.

- Reuter, P. and J. Haaga, J., *The organization of high-level drug markets: An exploratory study*. Washington D C: Rand Corporation, 1989
- Reuter, P. and V. Greenfield, Measuring global drug markets. How good are the numbers and why should we care about them? *World Economics*, 2001, vol. 2, no. 4
- Reuter, P. and E.M. Truman, *Chasing dirty money. The fight against money laundering*. Washington D C: Institute for International Economics, 2004
- Ruggiero, V., Organised crime and drug economies. *The International Journal of Drug Policy*, 1994, 5 (2)
- Ruggiero, V., *Organized and corporate crime in Europe. Offers that can't be refused*. London: Dartmouth Publishing Company, 1996
- Rørhus, K., *Ride to live – live to ride. En oversikt over sentral forskning om outlawbikerkulturen*. Oslo: PHS Forskning 4, 1999
- Sandberg, S. and W. Pedersen, *Gatekapital*. Oslo: Universitetsforlaget, 2006 [Street-capital]
- Savona, E. U. and M.A. De Feo, International money laundering: Trends and prevention/control policies. In: E.U. Savona (ed.), *Responding to money laundering. International perspectives*. The Netherlands: Harwood Academic Publishers, 1997
- Schlegel, K., *Just desert for corporate criminals*. North Eastern University Press, Boston, 1990
- Schneider F. and D.H. Enste, *The Shadow economy: An international survey*. Cambridge University Press, 2003
- Skinnari, J. and L.E. Korsell, *Narkotikabrottslighetens ekonomihandtering. Från inköp till investering av kriminella vinster*. Stockholm: BRÅ, 2007
- Stedje, S., *The man in the street or the man in the suite: An evaluation of the effectiveness in the detection of money laundering in Norway*. MA dissertation, Faculty of Social Sciences and Law, University of Manchester, 2004
- Unger, B., *White money. The amounts and the effects of money laundering in industrialized countries*, Cheltenham: Edward Elgar (manuscript), 2007
- Vesterhav, D., J. Skinnari and L. Korsell, *Narkotikadistributörer. En studie av grossisterna*, Stockholm: BRÅ, 2007, [Distributors of drugs]
- Walker, J., *Estimates of the extent of money laundering in and through Australia*, Paper, Queanbeyan: John Walker Consulting Services, 1995
- Walker, J., *The extent of money laundering in and through Australia in 2004*, AUSTRAC, Paper, RMIT University, 2005
- Økokrim (2003). *Årsrapport*. Oslo: The money laundering team.
- Økokrim (2005). *Årsrapport*. Oslo: The money laundering team.

Romania and the fight against EU Fraud: A Balkan success story?

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Introduction

The purpose of this chapter is to consider the experience of Romania in working to establish and strengthen anti-EU fraud structures and measures, the problems she encountered and how she sought to overcome them as well as any wider lessons that can be drawn for prospective entrants to this still exclusive but perhaps not as exclusive as it once was “club”.

The methodology employed was a review of secondary materials such as European Union reports, reports of the Romanian anti-fraud office – DLAF, academic articles and semi-structured interviews with two Romanian government officials and two officials of OLAF – the European anti-fraud office. The interviews lasted seven hours in total and were not tape recorded.

Background

Romania joined the European Union together with its neighbour Bulgaria at the beginning of 2007. Like many of those countries which joined in the big expansion of 2004, it had made a rapid transformation from what is widely regarded as a particularly brutal communist dictatorship presided over by Nicolae Ceaucescu to a democratic market economy within a very short period of time. The European Union has been described above as a club, and just as with any club there are rules that members have to abide by. It is reasonable to assume that new members also want to create a favourable impression and make a positive contribution. This requires support from existing members and the senior members of the club. The paper will at-

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tempt to consider the kind of support Romania received in the time leading up to accession and since she acceded.

Romania has been subjected to many scare stories in the press and media and beyond, about the level of corruption in the country and whether this would lead to a widespread misuse of EU funds. Indeed officials of newly arrived member states in 2004 have spoken in less than complementary terms about the country and its efforts to build up effective anti-fraud structures: “Romania is a black hole into which billions of euros of EU funds will disappear”.² Also: “Anti-Fraud structures look good on paper, but the reality might well be something different”.³

The press in Western Europe abounds with stories about corruption and corrupt practices. In a recent special NOS news edition of the Dutch television at 8 May 2008 a summary about corruption in Romania was broadcasted. Among the features was that of a Romanian daily newspaper journalist who went undercover to find out about the local corruption situation. He pretended to be an official of a non-existent political party and “negotiated” with a number of mayors about the manipulation of upcoming elections. He suggested a price for rigging the election results in favour of the non-existent party and its fake candidate. Only one mayor refused to be bribed and none of the mayors checked up about the party or its “candidate”. Also, according to the journalist when his findings were published, they did not appear to have any great impact, nobody showed any concern. The broadcast also had consequences for the editor of a Romanian channel, broadcasting the undercover activities, who was dismissed because she allowed the programme to go forward despite counteraction from (politically) ‘higher-up’.

These observations are perhaps not too surprising, because if one consults Transparency Internationals’ Perception of Corruption Index, Romania has scored less than 4.0 for a number of years. The index scores countries on a scale of 0 to 10, 0 is the most corrupt and 10 is the least corrupt. Romania’s latest score is around 3,8 which appears to indicate that there is a problem with corruption (Transparency International, Perceptions of Corruption Index 2007). Yet Romania has done everything asked of it by the European Union in terms of adopting international protocols and passing domestic legislation and in terms of “beefing up” its anti-corruption and repressive institutions. The question could reasonable be asked, is Romania being asked

² Interview with Czech Academic colleague 2006

³ Interview with Maltese Officials 2007

to reach a standard in this respect that none of the established member states could possibly reach? Is this a case of double standards, or is it a case of politics and the desire to reassure domestic audiences that a tough line is being taken with so-called “corrupt” countries. The attempts by Romania to comply with the demands and strictures of the European Union will be considered below.

It would not be feasible, nor would it be sensible or appropriate to study the phenomenon of EU fraud in isolation. For a more complete understanding, one has to consider the broader context within which it operates such as the political, economic, social and historical circumstances (Scheinost 2006) which have coloured and affected Romania and its progress from a communist country to a democratic member of the European Union. Romania joined in 2007 as a very enthusiastic member.

The country still retains its enthusiasm for the EU this is evident, both at the top of government⁴, as well as with more humble members of society – the taxi drivers and waiters/waitresses of Bucharest⁵. There is no suggestion that this is a representative sample of the Romanian population and much of the “evidence” is anecdotal, but perhaps it would not be unreasonable to assume that this favourable view is more widely held. There are believed to be great benefits for the country both economically and politically by being members of the EU. There is a widespread belief that the country’s economy will expand, its infrastructure will improve due to help from the EU’s structural funds and Romania will play a part in international affairs as the EU is a global player. This can be contrasted with the experience of the Czech Republic where the initial enthusiasm for EU membership soon wore off and was replaced by a more Euro-sceptic attitude towards Brussels (Quirke, 2008).

In seeking to understand any form of economic crime, such as EU fraud, it is essential to understand the norms and mores that operate within a given society (Quirke, 2008). As Burduja (2006) outlines, the legacy of the Ottoman Empire has some significance when one considers present day Romania. The Ottomans ruled over the Romanian provinces of Moldavia and Wallachia which comprise almost two thirds of Romania’s territory, for several centuries until 1877. The Ottomans presided over a regime which tolerated corrupt practices such as bribing public officials. This became most severe in

⁴ Interview with Romanian Officials 2008

⁵ Interviews with Romanian people 2008

the nineteenth century when what was perceived as the extreme corruption of Ottoman appointed rulers led to popular uprisings. As Burduja (2006) observes, during the years of Communist dictatorship from after the Second World War until 1989, norms and mores developed whereby corruption became endemic in Romanian society. *“At the top level, the dictator practised ‘sultanism’ or ‘dynastic communis’, by appointing close friends and relatives to positions of power. These exclusive elites were extremely powerful and had a privileged status in society, as did other members of the nomenklatura. Considering the chronic shortages during the 1980’s in Romania, normal citizens were trying to win the favour of these elites in order to have access to better goods and services; thus, corruption and bribery became deeply rooted as an everyday affair at all levels of society . . .”* (Burduja, 2006: 57).

As Burduja (2006) has commented and indeed Henshaw (2006) confirms, whilst corruption did not begin with Romania’s transition from a communist to a democratic state, the change to a democratic system did create new opportunities for corruption. Henshaw quotes Ghitescu (2006: 644) After the Communist Party was pushed from power: *“it did not take long until a number of people identified the lack of legal regulations in certain areas – such as banking, commerce, foreign trade and so on – and started to exploit this vacuum for their own benefit”*. Henshaw (2006) observes that the immediate aftermath of the transition to democracy created an environment in which what can only be described as institutionalised theft became the norm rather than the exception. A minor example, although not for the victims of this particular crime, was the disappearance of a government bank account containing donations from millions of Romanians which had been earmarked to support victims of the Revolution.

An area that was heavily exploited for the purposes of corruption after the transition to democracy was the privatisation of state-owned enterprises. Privatisation was regarded as essential to transform the country from a communist centralised command economy to a market economy. As Gheorghe (2005) comments, there are standard and non-standard means of privatisation: the standard means used in Eastern Europe were: public auction, public tender and direct sell. The non-standard means are employed in general mass privatisation schemes like the voucher scheme employed in the Czech Republic or the manager employee buyout scheme applied to some extent in Romania. In Romania the preferred method of mass privatisation was the manager employee buyouts method (MEBO) for small and medium sized enterprises combined with standard methods for big size industrial giants.

Given that privatisation occurred during a period when Romania was ranked very poorly in terms of perceptions of corruption by Transparency International. In 1997, Romania was in 37th position with a score of 3.44 whilst in 2001 she had fallen to 69th position with a score of 2.8. Also at this time, according to Gheorghe (2005), Romania had the highest level of administrative corruption in Central and Eastern Europe, excluding the former soviet states. When this situation was combined with the most widespread method of privatisation applied in Romania, namely the MEBO, then this favoured in the view of Gheorghe (2005), further corruption, as favoured individuals could gather large blocks of shares which would enable them to take control. This could be achieved by paying bribes for example to officials of the government agency which oversaw the privatisation – the State Ownership Fund (SOF). The large privatisations of the big industrial enterprises were overseen by the SOF. This organisation was ranked in the World Bank Report on Corruption in 2001 as the third most corrupted institution after the customs authorities and the judicial and prosecution authorities. According to Gheorghe (2005), it was perceived as corrupt by 57% of enterprises, 52% of public officials and 44% of households.

Gheorghe (2005) comments that it was not difficult to understand why this fostered or favoured corruption, because putting the privatisation process under the control of a state institution suffering from the general weaknesses of many Romanian institutions was at best ill-advised. Secondly, the privatisation agency only dealt with the privatisation process leaving the investor afterwards alone in a jungle of bureaucratic institutions that asked for many different kinds of permits and authorisations. During 1999, a typical firm had to obtain between 23 and 29 different approvals, authorisations, licences, permits and so on. To complete the paperwork it needed 42 to 102 working days and to receive the results a further 34 to 101 working days. Inevitably, the investor would look to informal networks in order to speed the process up – thus creating opportunities to indulge in corrupt behaviour.

In addition to privatisation, another area of the economy which saw major corruption was the banking sector. Henshaw (2006) states that the standard pattern of corruption in this sector was for well-connected individuals to use weak regulations, personal and political influence and/or bribery to obtain sufficiently secured or unsecured loans from state banks, default on them and use their connections to avoid legal punishment. In the views of some commentators, corruption in the banking sector was so widespread

that, even as late as 2004, “insider-trading, self-loans, and theft appear more as systemic features rather than isolated incidents” (Cernat, 2004: 453 in Henshaw, 2006).

There has also been major high level corruption with a former prime minister under investigation for his general business affairs and suspected corruption such as paying/ taking bribes and the peddling of influence. Another questionable occurrence was the awarding of billions of dollars contract to the US Bechtel and a Franco-German-Spanish EADS consortium in a no bid, no public tender contracts issued in 2003 and 2004 to expand the road network.

All these incidences of corrupt behaviour together with all the numerous and often unreported incidents of low grade corruption involving ordinary citizens and officialdom, have had unfortunate consequences for Romania’s reputation abroad. Henshaw (2006: 6) makes the point that “*The EU has every reason to be wary about bringing Romania into the organisation and giving Romania’s corruption an opportunity to waste EU funds, or worse, become an infectious seed to spread corruption elsewhere within the EU*”. Surely, a honeypot of EU funds would prove to be very attractive to fraudsters and corrupt officials.

In such a sea of corruption, can there be islands of honesty, probity and good practice? Is this possible? The fact is that Romania’s efforts to join the European Union and to be seen as a “good citizen” in terms of how it manages EU funds and how seriously it tackles fraud and irregularity against them has had positive spin-offs. Romania’s EU anti-fraud office (DLAF) is respected by officials in Brussels⁶ and has been publicly praised by the Director-General of OLAF as providing an example of good practice for other countries to learn from (European Commission 2006). So, it does appear to be possible. Romania and its anti-corruption and anti-fraud efforts have not been subjected to the same criticisms and sanctions as have those of its neighbour and fellow recent entrant – Bulgaria! This is perhaps a sign of some progress having been made. The efforts of Romania to construct effective anti-fraud structures will be considered below.

⁶ Interview with OLAF Officials 2007

The influence of prospective EU membership on the fight against corruption

Romania first applied for membership of the EU in 1995, and there was widespread popular support, about 84% in 2002 for this policy (Burduja, 2005). With the high support for EU membership, accession became the number one objective and a policy priority of capital importance. This therefore gave the EU an opportunity to pressurise the Romanian government to try to tackle the problem of corruption and to take effective measures against it, both in the legal and administrative spheres. The influence and pressure of popular sentiment and desire for EU membership gave a tremendous weight to its demands allowing for an indirect enforcement of recommended anti-corruption strategies because politicians were desperate for favourable reports from Brussels. Yet it did take time for the politicians to seriously tackle the issue of corruption, because the EU did not exert enough pressure on this issue in the early negotiations on accession.

This situation changed with the European Commission's Agenda 2000 Report which called for yearly monitoring reports on candidate countries and gave significant importance to the issue of anti-corruption measures. Given that Romania up to 2002, had not devoted sufficient attention to this issue, the EU's Strategic Report of that year recommended ten candidate members for admission, Romania was not one of them, and the date for its admission was postponed. The carrot of EU membership was now going to be replaced by the stick which suggested that unless important changes were made, there would be no successful conclusion to the negotiations.

This hard nosed approach certainly had the desired effect, for in 2003 and 2004, there were significant changes to anti-corruption legislation, resulting in favourable commentary in the EU's Monitoring Report for 2004 which concluded that Romania's anti-corruption legislation was well-balanced and broadly in line with the relevant EU acquis. Romania increased the staffing levels of its anti-corruption agency – the National Anti-Corruption Prosecution Office (PNA) and lowered the threshold for fraud that the PNA could investigate. Romania also ratified the Council of Europe's Criminal Law Convention on Corruption and introduced an Anti-Corruption Act that made sentences for corrupt acts and behaviour more severe. Although as Burduja (2005) observes, a lot still needed to be done, especially at the level

of judicial corruption, this represented some achievements of the Romanian government in seeking to tackle and reduce corruption.

The general situation in Romania did give serious cause for concern to officials of the EU's Anti-Fraud office – OLAF.⁷ Given that corruption and other forms of economic crime appeared to be well embedded in Romanian society, the honey pot of EU funds would be likely to prove as attractive to economic criminals and corrupt officials as the pot of honey was to the bear – Winnie the Pooh in A.A. Milne's classic children's tale. There may not have been hierarchical criminal organisations seeking to swindle the EU with a Dr Evil at the head of them, for as Spencer (2007) and Van Duyne (2003) have noted, organisations can be loose and local and consist of criminal entrepreneurs on the lookout for opportunities, and it is likely that there would be chances for locally based fraudsters to make mischief. In order to counter this threat a system of financial aid and technical support was offered to candidate countries like Romania as part of the preparations for the enlargement of the European Union.

Impact of the expansion of the EU on the fight against fraud

Prior to the expansion of the EU in 2004, fraud has been a major issue. Academic commentators such as Tutt (1989), Sherlock & Harding (1991), Passas & Nelkin (1993), Sieber (1998), Quirke (2006) amongst others have all highlighted the issue and problem of fraud. When there were just fifteen member states, the fight against fraud was dogged by the fragmented response from a multiplicity of member state agencies operating within fifteen separate legal systems, all of which defined, investigated and reported it differently. The true extent of fraud against the European budget has never been quantified. Indeed, given that fraudsters like to keep their activities secret, this is not surprising. Estimates have ranged from 2% to 10% and above (Ruimschotel 1994). Now that EU membership has increased to twenty seven member states and with the likelihood of a further enlargement, this problem of fragmentation can only be exacerbated. An indication of the problems faced is that there are now twelve new legal systems for Community institutions to cope with – this hardly likely to improve the existing situation.

⁷ Interview with OLAF Officials 2005

Fraudsters exploit differences in legal systems and procedures, they operate in ‘real time’; they do not have to comply with legal protocols and agreements. There have been attractive sums of money for fraudsters to consider focussing their activities upon. In the pre-accession period, Romania received about 6 billion euros in pre-accession aid and between 2007 and 2013 she is due to receive non-reimbursable Community assistance of some 31 billion euros (DLAF Annual Report, 2006). In order to minimise the risk of fraud, the European Fraud Prevention Office (OLAF) which administratively is part of the European Commission, made checks and investigations in the candidate states, including Romania, and sought to ensure good cooperation between itself and the administrations of the new member states (Murawska, 2004). The role of OLAF is to protect the finances of the European Union and to support and liaise with national investigative bodies, particularly where investigations have a cross-border dimension (Illett, 2004).

Prospective member states like Romania made efforts to adopt the *acquis communautaire* (body of laws) in the protection of the Communities financial interests and the candidate countries were required to: “*create an efficient anti-fraud protection system with respect to funds provided in the framework of the Accession Partnership such as the programmes PHARE, ISPA or SAPARD*” (Murawska, 2004: 3).

Efforts of Romania to prepare for accession

Romania was obliged to comply its legal system with the *acquis communautaire*, under the first pillar of the European Union, as part of its preparations for accession. As Murawska (2004) comments, the Community measures about protection of the Community’s finances are fairly modest. These consist of three EC Regulations:

- Council Regulation (EC, Euratom) No. 2988/95 of 18 December 1995 on the protection of the European Communities financial interests⁸
- Council Regulation (EC, Euratom) No. 2185/96 of 11 November 1996 concerning on the spot checks and inspections carried out by the Commission in order to protect the European Communities financial interests against fraud and other irregularities⁹

⁸ OJL 312, 23/12/1995: 1-4

⁹ OJL 292 15/11/1996: 2-5

- Regulation (EC) No. 1073/99 of the European Parliament and of the Council of 25 May 1999, concerning investigations conducted by the European Fraud Prevention Office (OLAF).¹⁰

Also, the Romanian government was expected to incorporate into its legal system, the Convention on the Protection of the European Communities Financial Interests (the PFI Convention) together with its associated protocols. The PFI Convention is intergovernmental and lies within the third pillar of the European Union. The convention as Fenyk (2007) details, requires that members states shall incorporate frauds against the European Communities' financial interests into their criminal code and should take the necessary steps to ensure that fraudulent behaviour and conduct is punishable by criminal penalties that are effective and reasonable and also that heads of businesses and other senior executives that have the power to take decisions or exercise control "*to be declared criminally liable in accordance with the principles defined by national law in cases of fraud affecting the European Community's financial interests . . .*" (Fenyk 2007: 2).

The First Protocol to the PFI Convention requires that definitions on what is termed corruption, both active and passive (Articles 2-3) be assimilated into the criminal code and the Second Protocol to the PFI Convention requires national law to provide that legal persons can be held liable in cases of fraud or active corruption and money laundering that damages or is likely to damage the European Communities' financial interests (Fenyk, 2007).

Romania's National Anti-Fraud Strategy, which was adopted in 2005, stressed the importance of harmonising Romanian legislation with European regulations in the area of protecting EU financial interests and efforts were made to amend the criminal code to incorporate the PFI convention and its protocols into Romanian law. This progress can be contrasted with another relatively new member, the Czech Republic which has had grave difficulties in amending its criminal code (Quirke, 2008) and the issue of the liability of legal persons is a major omission from their code. So, Romania's progress in this respect is commendable and is a sign of the country's willingness and eagerness to prepare itself for membership. However, a major deficiency which the country has in common with the Czech Republic is that the PFI Convention was not ratified on accession. Ratification was only notified to the European Commission in December 2007 and the provisions of the PFI Convention only applied on January 1st 2008, one year after the country

¹⁰ OJL 136 31/05/1999:1-7

joined the European Union. This is unacceptable. In order to have a level playing field across such a diverse organisation it is imperative that all member states ratify and implement the convention. The fact that problems have been experienced with a country like the Czech Republic should have meant that ratification of the convention should have been achieved alongside the Treaty of Accession. Both documents should have been presented to the Romanian Parliament at the same time. Ratification and implementation are important steps towards reducing the fragmentary nature of the legal approaches to fighting fraud against the EU. Given that such concerns had been expressed about the general level of corruption and economic crime in Romania and the demands made by the EU for Romania to “clean up its act”, it is very surprising that ratification of the Convention was not made a pre-condition for entry. This is another example of a self-inflicted wound and yet again the EU needs to learn a lesson from this experience and not repeat it in further enlargements.

Establishment of the AFCOS Structure

In order to ensure effective co-operation between OLAF and the national administrations in the candidate countries as well as seeking to have in place organisational arrangements which would be capable of preventing and detecting frauds and irregularities as Murawska (2004) outlines, OLAF supported the creation of independent anti-fraud structures at a national level in then candidate countries. The rationale behind such structures was to ensure effective co-ordination between legislative and administrative measures dealing with EU fraud policy (Murawska, 2004). OLAF provided training and support and although some national officials regarded such support as not being sufficient¹¹ and some as fairly minimal¹², the Romanians on the whole appear to be satisfied with the support and training they received¹³. A country like Romania which is one of the poorest in the EU, with a nascent anti-fraud office with officials who did not have the experience of dealing with the complexities of EU policy regimes as well as perhaps not having the ex-

¹¹ Interview with Czech Officials 2006

¹² Interview with Maltese Officials 2007

¹³ Interview with Romanian Officials 2008

perience of investigating transnational frauds, obviously were in need of support and nurturing.

In the case of Romania, the designated AFCOS body in 2002, was the Prime Minister's Control Department. It was established as the sole liaison institution with OLAF. The reorganisation of the government in 2003 included the transfer of this liaison function to the newly established Government Control Department. Within the Government Control Department, fulfilment of the Anti-Fraud Co-ordination Service (AFCOS) function was delegated to the OLAF division (Sigma, 2004). This division was subordinate to the head of the Government Control Department, but for issues related to the protection of EU financial interests, the reporting line ran directly from the Director of the OLAF division to the Prime Minister.

Sigma, the consulting arm of the OECD in Paris, was commissioned by the European Commission to undertake an assessment of the anti-fraud structure in Romania and it reported in 2004. The objectives of Sigma's assessment in Romania were to: 'evaluate the operational and administrative capacities of AFCOS and its partner institutions in protecting the European Union's financial interests and, where needed, to put forward proposals and recommendations for strengthening these capacities' (Sigma, 2004: 7). Sigma's evaluation of the operational and administrative capacities of AFCOS and its partner institutions was made on the basis of AFCOS's basic functions which were and are: co-ordination, co-operation and communication (the 3 C's). These signify the ability:

- to co-ordinate within Romania, all legislative, administrative and operational obligations and activities related to the protection of the Community's financial interests;
- to co-operate with OLAF and its partner institutions whenever OLAF requires investigation assistance or, on the other hand, whenever OLAF assistance is required;
- to communicate with OLAF and its partner institutions, with regard to mandatory reporting and information exchange

The main findings of the Sigma report were as follows:

- There was an improving situation in Romania. Several laws had either been passed or had been drafted which were aimed at improving overall financial management and control to protect EU financial interests
- Although the Government Control Division of which AFCOS – the OLAF Division was an integral part, had its own budget and a high de-

gree of operational independence, it was still subordinate to the National Control Authority which was headed by a deputy minister and was responsible for initiating and ensuring implementation of the legal framework within which it co-ordinated control plans and exercised quality control functions throughout the public sector. The National Control Authority still took decisions on recruitment, appointments and dismissals with record to AFCOS and the Government Control Department, so independence was compromised to some degree

- Neither a national anti-fraud strategy nor a more specific strategy for protecting the financial interests of the European Union in Romania had been implemented
- There was no training programme to support the OLAF division of the Government Control Department
- A network of contact officials in partner institutions had not been developed
- The relevant ministries had not been given the OLAF reporting guidelines and the reporting format on suspected cases of irregularity detrimental to Community funds; no training had been given on the use of these guidelines
- The OLAF Anti-Fraud Information System (AFIS) had yet to be installed and linked by terminal to the relevant ministries
- The fact that there was no national anti-fraud strategy in place was problematic. As the Sigma experts noted, a strategy for fighting fraud in Romania would be useful in harmonising the various efforts undertaken by different ministries and bodies to protect both national and international financial interests, including the EU budget and own resources. Such a strategy would have emphasised Romania's commitment to take action in this respect. Romania did have a draft "National Strategy for Protecting the Financial Interests of the European Union in Romania" and this could serve as a starting point for the elaboration of a national anti-fraud strategy.

The lack of training for staff of the OLAF division of the Government Control Department (GCD) was very worrying. Fraud investigation is a complex process at the best of times, when this is coupled with the complexities of EU policy programmes such as the Common Agricultural Policy and the Structural Funds, then such complexities can only be compounded. The AFCOS structure should have recognised this and asked for more help from

Brussels in this respect. It should also have been obvious to the authorities in Brussels that a nascent anti-fraud service was going to have problems in terms of deficiencies in the skills set and expertise and the commission should have been far more pro-active in terms of addressing this issue. It is not always up to the member state to come with the “begging bowl” to Brussels. It is not the first time that this problem of inadequate training has been recognised. The same was true of the AFCOS structures of the Czech Republic. It appears that no lessons were learned from that particular experience.

The Government Control Department also had not developed written and structured procedures for disseminating information to the national authorities responsible for management of EU funds and revenue. The Sigma experts found that fraud and irregularities were defined in law, but not understood in practice, and the difference between an error and an irregularity had not been defined.

Also, there were no formal co-operation agreements with partner institutions. This was a major weakness. All the experience and analysis to date both from academic experts and practitioners has indicated that this whole area is bedevilled by the issue of fragmentation. As Quirke (2008) identified, in a small country like the Czech Republic, there were at least ten different agencies with an involvement in EU fraud investigations. The situation was not likely to be any less fragmented in a country like Romania. The potential for overlap and duplication of effort was enormous. This was a problem that needed to be addressed urgently.

Response of the Romanian Authorities

In response to these deficiencies, initially in 2004, the AFCOS role was taken over by the Prime Minister’s Department for Inspection and Monitoring of the Transparent Use of Community Funds (DIPM) in 2004. This department had responsibilities outside of the European funds dimension as it carried out controls and checks at the request of the Prime Minister and its operational competences regarding the control of European funds were limited, as the department’s representatives could only request documents and information and its control report had the value of a simple notification. There was no strategy, no clear vision and no concrete action plan as regards the fight against fraud (DLAF Annual Report, 2006).

The European Commission said in its Monitoring Report of October 2004 which dealt with the progress made by Romania towards accession that special attention must be paid to the protection of the Communities financial interests by means of:

- creating and implementing the legislative framework;
- establishing effective mechanisms for carrying out anti-fraud investigations;
- drafting and implementing an anti-fraud strategy (European Commission, 2004).

In response to these recommendations, the Romanian government in 2005, created a new department – the Fight against Fraud Department – DLAF, which was placed within the Prime Ministers office and would report directly to him/her. Also, the task of controlling Community funds was separated from investigations and the new department's role was exclusively in the field of protecting the Communities' financial interests and DLAF investigators were given the powers of conducting on the spot investigations, taking statements and retaining evidence. There are some police type powers here, yet DLAF is not a criminal investigation body, it conducts administrative investigations. There is the potential for confusion as well as the potential for errors and mistakes in the collection of evidence, which could potentially compromise subsequent legal cases.

As noted in DLAF's Annual Report of 2006, the number of members of staff was increased from 26 to 45, the majority of which were young – well under the age of forty! This could have been a conscious attempt to avoid employing older investigators who may have been compromised by a culture of corruption – Romanian officials were somewhat enigmatic when asked to confirm if there was any substance to this observation¹⁴. It may be the case that younger investigators do not possess the skills borne out of and honed by years of experience, although this is not perceived to be a problem by the Romanian authorities.¹⁵ Also, there was and still is a substantial difference in salary between DLAF investigators and other civil servants – DLAF investigators are paid around 75% more. Romanian officials admitted that this was a conscious attempt to ensure that they would not be tempted by offers of bribes or to engage in other corrupt activities.¹⁶ It is unfortunately a fact of

¹⁴ Interview with Romanian Officials 2008

¹⁵ Interview with Romanian Officials 2008

¹⁶ Interview with Romanian Officials 2008

life that low paid public servants are more likely to take the offer of a bribe than higher paid public servants.

As well as establishing this new anti-fraud office the government also adopted the National Anti-Fraud Strategy for the protection of the Communities' Financial Interests in Romania (SNLAF). The strategy emphasised:

- the necessity to harmonise Romanian legislation with European regulations in the area of protecting EU financial interests and to prepare the institutional, legal and operational framework for EU accession;
- the need for effective financial and fiscal control regarding EU funds;
- strengthening DLAF's role as operational and communications co-ordinator for the institutions involved in the fight against fraud (DLAF Annual Report, 2006).

The overall objectives of the strategy were the development of an integrated system for co-ordination of the anti-fraud fight and the strengthening of administrative capacity of those institutions involved in preventing, identifying, investigating fraud and seeking recovery of funds fraudulently obtained¹⁷.

The new anti-fraud office DLAF has agreed a number of co-operation protocols with bodies/ agencies which have a role in the investigation and prosecution of fraud cases. These range from the national Anti-Corruption Office (DNA) which would actually prosecute any alleged fraudsters to the General Inspectorate of the Romanian Police, to the Customs Service, to the Central Unit for the harmonisation of the Public Internal Audit (UCAAPI) as well as those bodies which manage funds such as CAP funds and so on and which have their own units for carrying out investigation of irregularities. These services are obliged to notify DLAF with respect to any identified irregularities. From this brief overview it is clear that there are many agencies involved in detecting/investigating EU frauds in Romania. It is possible to identify two sub-groups in these arrangements. In one, which could be called criminal investigation groups, there are well established arrangements for contact and co-ordination between the DNA and the Police and Customs. In the other sub-group, there are organisations which tend to undertake non-criminal investigations such as the Internal Audit Service, and these have no practical experience of liaising with the criminal investigative bodies. Just as Quirke (2008) identified in the case of the Czech Republic, here in

¹⁷ Interview with Romanian Officials 2008

Romania, there is potential for confusion, inefficiencies, duplication and misunderstandings.

A potential difficulty for any of the above agencies in terms of a fraud investigation is if there is a suspicion that politicians could be involved. The Romanian parliament has passed a law which would protect politicians from investigation and prosecution, as this would be contrary to the constitution, in their view. The view of DLAF is that because they are based within the Prime Minister's office and have the status which this placement confers, means that they would not be inhibited from pursuing any such investigations- there could be a problem though in terms of co-operation and access to documentation and so on. This issue needs to be addressed as a matter of urgency. It is surely axiomatic to say that: no one is or should be above the law.

Co-operation with OLAF

It appears on the surface at last, that there is a good level of co-operation between DLAF and OLAF. There have been a number of joint on the spot investigations in Romania in 2007 including investigating two projects financed from the pre-accession PHARE funds, a project financed by ISPA funds and one financed from a loan from the European Investment Bank – the total value of the projects amounted to more than 58 million euros. DLAF also carried out a joint investigation with OLAF of a case which constituted an example of defrauding funds from the Leonardo da Vinci programme. There were eight projects in total which had as their objective supposedly, the training of 120 young people in Germany in various professional activities. The sums involved were 268.000 euros. There were seven NGO's/commercial companies which were controlled by people who as well as having business relationships were also related by family. Investigations took place in Germany as well as Romania and involved OLAF and the German authorities. It was discovered that the foreign training partners were fictitious, Romanian citizens had not travelled to Germany, false documents had been submitted in order to obtain the financing. False documents were presented with the final report including copies of the trainees passports, false receipts, copies of diplomas and certificates. Such a fraud involves a high

degree of organisation. Reports were sent to the prosecutors in Romania and attempts were made to recover the funds fraudulently obtained and spent.

Also, the role of DLAF at the apex of the AFCOS structure is recognised by OLAF in a way that is not always the case in the Czech Republic, with all communication of irregularities to Brussels being handled by DLAF and there being no separate reporting by individual agencies.

An OLAF official had been based in Bucharest to assist DLAF at this formative period of time. Unfortunately the official has now been withdrawn and has not been replaced. This is unfortunate, as DLAF officials found the advice offered to have been very useful and it was very helpful to have such easy access to an experienced OLAF official.¹⁸ It is somewhat surprising that this should have happened given the concerns expressed by the EU about the general situation in Romania and the worries concerning the security of EU funds.

Co-operation with Bulgaria

The relationship of these neighbouring countries is somewhat difficult. There appear to be rivalries not least with the declaration on the DLAF website in 2007 that Romania is three years ahead of Bulgaria in terms of its preparations and arrangements for the investigation of EU fraud! The former head of DLAF, who later went on to become Minister of Justice, Mr Tudor Chiuariu when asked if whether any Bulgarian officials had ever contacted him for advice, experience exchange or sharing good practice replied that Bulgarian delegations participate in AFCOS meetings (www.europe.bg). This does not seem to be indicative of a close working relationship. Also, there have not been any instances to date of any joint investigations having been undertaken with the Bulgarian authorities¹⁹. It would be useful and highly desirable for both countries to seek to build up a good working relationship which can only add value to the investigative process. Perhaps there is a role here for OLAF to try to facilitate this.

A case which illustrates some of the problems of co-operation between the two countries dealt with a project which ironically sought to improve cross-border co-operation and was funded through the PHARE programme. The project was to be implemented by the private sector. The NGO manag-

¹⁸ Interview with Romanian Officials 2008

¹⁹ Interview with Romanian Officials 2008

ing the funds was also involved in implementing the contract. There was systematic fraud discovered at this NGO – activities hadn't been completed, false documents were submitted to show they had supposedly been completed. The expenditure had been 'exaggerated' and so a false claim was submitted with respect to this. Also, the person approving the funding owned one of the companies which had submitted a successful tender for the contract. The sums involved were in the region of 400.000 euros. As some of the projects had been implemented in Bulgaria, there was obviously a transnational element to the investigation. DLAF attempted to obtain co-operation from the Bulgarian authorities, but none was forthcoming – there was no response from Sofia to requests for assistance: "*Information had to be gathered and evidence assembled, using Romanian tools on the Romanian side of the border*".²⁰ In future cases which may well involve far higher sums and potentially organised criminality, is the situation going to be the same?

Wider lessons to be drawn from the Romanian Experience

There are a number of lessons that can be drawn:

- There is an issue of fragmentation which needs to be addressed. There is a multiplicity of organisations involved in the investigative process, some of which investigate on a criminal investigative basis and some which investigate on an administrative basis. There is the potential for misunderstandings and duplication of effort and a lack of efficiency in the investigative process. A more streamlined anti-fraud structure may well prove easier to manage and lead to a more productive and cohesive investigatory regime.
- The AFCOS structure should be pro-active in terms of analysing its skills deficiencies and seeking help from Brussels in order to bridge the skills gap. Brussels too should take a more active part in terms of offering additional training in the period leading up to accession.
- The reporting requirements for the communication of irregularities should be clearly explained to the relevant agencies. Again the support of OLAF if required in this respect, should be sought.

²⁰ Interview with Romanian Officials 2008

- For the foreseeable future, OLAF officials should be based in candidate countries and should stay there for some time after accession, in order to give national officials experience of working with a transnational organisation like OLAF and helping OLAF to gain a wider understanding of the issues facing national authorities
- At the earliest possible time, neighbouring countries should seek to build up a close working relationship in order to avoid some of the difficulties evidenced in the relationship between Romania and Bulgaria. This would avoid giving fraudsters the opportunity of exploiting such difficulties. The authorities in Brussels need to be more pro-active in this respect.
- There should be no immunity for politicians from any fraud investigation. This sends totally the wrong signal to society at large and in effect compromises the independence of anti-fraud agencies – as certain areas and individuals become in effect are beyond the reach of the law.

Conclusions

The entry of Romania to the EU was viewed with suspicion by some member states and by some commentators, yet she appears to have made genuine efforts to address those suspicions and concerns. Romania has been able to establish an AFCOS structure which has been lavishly praised by the Brussels authorities as offering a model for other new member states to follow. Despite this, it does appear to suffer from certain problems such as fragmentation and also a skills and knowledge gap which needs to be addressed by the national authorities working in conjunction with Brussels. The perceived high level of corruption in the country does mean that EU funds will be vulnerable to the nefarious acts of corrupt officials and DLAF and the other agencies will need to be on their guard. There does appear to be a genuine pocket of non-corruption in an environment which does look problematic. This situation is not helped by the attempt to protect politicians from fraud investigation and prosecution which does undermine the independence of the anti-fraud agencies and needs to be addressed as a matter of urgency. The relationship with Bulgaria is also fraught with difficulty. A good deal of effort will have to be expended in order to foster a more harmonious and productive working relationship. There are lessons to be learned by other candidate

countries in terms of reducing the degree of fragmentation and building productive working relationships with their neighbours.

Yet, a cynic might comment that Romania has had to make strenuous efforts to “get its house in some kind of order” because the eyes of the Brussels authorities and the other member states have been upon it, and it could not afford to be seen to be lacking in this respect, as EU funds may have been suspended or withdrawn. When the eyes of the EU authorities turn elsewhere to other prospective member states, perhaps the shores of this island of non-corruption, DLAF, may well be swamped by a ‘tsunami’ from the ocean of corruption surrounding it. Time will surely tell!

References

- Burduja, S.I., Assessing corruption in Romania. An integrationist story. *Stanford's Student Journal of Russian, East European and Eurasian Studies*, 2006, Spring, 51-69
- DLAF (2007), *The Fight Against Fraud 2006 Annual Report*
- DLAF (2008), *The Fight Against Fraud 2007 Annual Report*
- Doig, A., A fragmented organisational approach to fraud in a European context. *European Journal on Criminal Policy and Research*, 1995, Vol 3, no. 2, 48-64
- Duyne, P.C. van, Greasing the organisation of crime markets in Europe. In: P.C. van Duyne, K. von Lampe, J.L. Newell (eds.), *Criminal Finances and Organising Crime in Europe*. Nijmegen, Wolf Legal Publishers, 2003
- European Commission, *Need Assessment in Candidate Countries*, carried out on behalf of the Commission (OLAF and DG-Enlargement), Office of Official Publications of the European Communities: Luxembourg, 2003
- European Commission, *Monitoring Report on Romania*, Office of Official Publications of the European Communities: Luxembourg, 2004
- European Commission, *Report of the European Anti-Fraud Office Sixth Activity Report for the period 1 January 2005 to 31 December 2005*, Office of Official Publications of the European Communities: Luxembourg, 2006
- Fenyk, J., The Level of Implementation of the Convention on the protection of the EC's financial Interests and of the Follow-up Protocols in the Czech Republic. *European Law and National Criminal Legislation*, 2007 Vol 1, 116-121
- Gheorghe, L., Privatisation, institutional culture and corruption in Romania, 2006, accessed at www.10iacc.org/download/m1-02.pdf on October 20th, 2008
- Henshaw, C., *Corruption in Romania*, 2006. accessed at [www.talis.ca/essays/Corruption in Romania.pdf](http://www.talis.ca/essays/Corruption%20in%20Romania.pdf), on October 20th, 2008
- Illett, N., The European Anti-Fraud Office (OLAF)', *Journal of Financial Crime*, 2004, Vol. 12, No.2, 120-122
- Murawska, A., *Impact of the enlargement on the protection of the financial interests of the European Community against fraud*. Second Pan-European Conference Standing Group on EU Politics, Bologna, 24-26 June 2004

- Official Journal of the European Communities, C316, 27/11/1995, *Convention on the Protection of the European Communities Financial Interests*, pp. 1-8
- Official Journal of the European Communities, 312, Council Regulation (EC, Euratom), No. 2988/95 of 23/12/1995, *On the Protection of the European Communities financial interests*, pp.1-4
- Official Journal of the European Communities, 292, Council Regulation (EC, Euratom) No.2185/96 of 15/11/1996 *Concerning on the spot checks and inspections*, pp. 2-5
- Official Journal of the European Communities, 136, Council Regulation (EC) No.1073/99, *Concerning Investigations conducted by the European fraud Prevention Office (OLAF)*, pp.1-7
- Passas, N. and D. Nelkin, The thin line between legitimate and criminal enterprises: Subsidy frauds in the European Community. *Crime, Law and Social Change*, 1993, Vol. 19, 223-243
- Pujas, V., The European anti-fraud office (OLAF): a European policy to fight against economic and financial fraud?' *Journal of European Public Policy*, 2003, Vol. 10., no.5, 778-797
- Quirke, B., Economic crime and legal competence in the EU. In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J.L. Newell (eds.), *The Organisation of crime for profit*, Nijmegen, Wolf Legal Publishers, 2006
- Quirke, B., OLAF: the fight against EU fraud. *Journal of Financial Crime*, 2007, Vol, 14, no. 2, 178-189
- Quirke, B., EU fraud and new Member States: The case of the Czech Republic. In: P.C. van Duyne, J. Harvey, A. Maljevic, K. von Lampe and M. Scheinost (eds.), *European crime-markets at cross-roads*. Nijmegen, Wolf legal Publishers, 2008
- Ruimschotel, D., The EC Budget: ten per cent fraud? A policy analysis approach', *Journal of Common Market Studies*, 1994, Vol. 32, no.3, 319-342
- Scheinost, M., Some reflections on researching financial and economic crime. In: P.C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe and J.L. Newell (eds.), *The Organisation of crime for profit*. Nijmegen, Wolf Legal Publishers, 2006
- Sherlock, A. & Harding, M., Controlling fraud within the European Community. *European Law Review*, 1991, Vol. 16, no.1, 20-36
- Sieber, U., Eurofraud: organised fraud against the financial interests of the EU. *Crime , Law and Social Change*, 1998, Vol.30, no.1, 1-42

- Sigma, *Draft report of the Assessment of the Anti-Fraud system in Romania*, OECD Paris, 2004
- Spencer, J., *The illicit movement of people across borders*. In: P.C. van Duyn, A. Maljevic, M. van Dijck, K von Lampe and J. Harvey (eds.), *Crime business and crime money in Europe*. Nijmegen, Wolf Legal Publishers, 2007
- Tutt, N., *Europe on the fiddle: The common market scandal*, London Croom: Helm, 1989

Discrepancies between anti-corruption legislation and practice in Macedonia

Mladen Karadzovski¹

Introduction: developing interest in corruption

At present corruption is a highly prioritised political subject, albeit this attention has an uneven history, which does not seem to be determined by the phenomenon of corruption itself. Though there has never been any change in the nature and extent of corruption, before the mid 1980s it was virtually absent in most policy papers. In the course of the 1980s the attitude of organisations like the World Bank, the IMF and the OECD changed (Williams and Bear, 1999). For decades the US upheld any kind of corrupt non-democratic regime as long as it was anti-communist. With the thaw in the relations between the US and the Soviet bloc, the interest in ethical topics such as international corruption came out of the fridge. Or were ethics just a dressing and were other interests at stake; such as money? Indeed, one of the aspects of corruption is the dissipation of funds: corrupt regimes are considered as spendthrift. So, naturally, the international (US-dominated) organisations started asking questions about the handling (or disappearing) of funds donated or loaned to developing countries (Marquette, 2001).

In addition interest in corruption started to develop within the research community, though there was (and still is) a diversity of opinion about how to define corruption. As the main cause of concern stemmed from 'mal-governance', most definitions concentrated on the 'blameworthy' conduct of officials, pocketing from the public purse for themselves, their family and (political) friends. Against this background, organisations like Transparency International (Source Book, 2000) defined corruption as the misuse of en-

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trusted power for private benefit. According to the Report of the Commonwealth Expert Group on good governance and the elimination of corruption, corruption is generally defined as the abuse of public office for private gain, whether in the public or the private sectors.

These are not formal, but pragmatic working definitions. Many, which can hardly be qualified as formal definitions, contain elements that usually pertain to corruption but are not, however, specific for it. Examples are fraud and embezzlement. These can go hand in hand with corruption, but nevertheless, they are conceptually different. Looking for the elementary conduct underlying corruption, Van Duyne (2001) took *decision making* as the simplest core from where to construct a definition. He defined corruption is an improbity or decay in the decision-making process in which a decision-maker (in a private corporation or in a public service) consents or demands to deviate from the criterion, which should rule his decision making, in exchange for a reward, the promise or expectation of it. On the one hand, this approach narrows the concept, as it abstracts from all kinds of accompanying conduct. On the other hand it broadens it, because all sorts of decision making, in public as well as in private life, are included. This definition also places corruption in the centre of democratic processes: decision making should take place according to *knowable* criteria. This entails transparency and democratic accountability.

Corruption manifests itself in various ways and it is useful to distinguish between personal corruption (motivated by personal gain) and political corruption (motivated by political gain). This is merely conceptual, as both interests tend to fuse: political gains can be very personal. A further distinction can be made between individual corruption and organisational or institutional corruption. In the context of the state, corruption most often refers to criminal or otherwise unlawful conduct by government agencies, or by officials of these organisations acting in the course of their employment.

As mentioned above, in international relations, the issue of corruption has become important. This is not only the case with international organisations which have an interest in countries where they have provided financial support. But also political associations of states such as the European Union, show a keen interest in corruption, mainly directed to new or candidate Member States (corruption in the old Member States like Italy or Greece is

left untouched).² For this reason the situation of corruption in the Republic of Macedonia has become more than an internal matter: it determines its relationship to this important neighbour, and will also affect its status as candidate Member State.

Like most other Balkan countries Macedonia sensed the change of political climate and has started to enact laws against corruption. However, law on the books is something else than law in action, in real life. This means that in the end what matters is the practical implementation and enforcement of compliance in Macedonia. Consequently the focus of this chapter will concern the identification and analysis of discrepancies between the law on paper and the law in action.

Historical roots of corruption and local situation

After the dissolution of the Yugoslavian Federation, Macedonia gained its independence on 8 September 1991, and started the process of establishing both a market economy and a functional democracy. But the process of transition in the state generated many negative consequences, while also retaining some features from the socialist era, and one of them was corruption.

Macedonia is not unique in this respect, though corruption in the successor states of the Socialist Federal Republic of Yugoslavia differs from one state to other. For example, if we compare the level of corruption in Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, Serbia and Macedonia, we can note that Slovenia is leading the anti-corruption processes. That is due to many historical, cultural and other determinants. We cannot say that there is no corruption at all in Slovenia, but still, it is not a 'usual way of life', but an exception. Contrast this with Slovenia's neighbour, Croatia, a country that still has wide-spread corruption in the educational system (especially higher education: money for diplomas), in the judicial system, in the public administration etc. Although Croatia has made progress in the adoption and implementation of various anti-corruption measures, we can not consider the Croatian anti-corruption position as satisfying. Croatia shares a corruption

² For the development of corruption in Italy: see for first the attempt to 'clean up' by the Public Prosecutors (Alberti, 1995); the socio-political mechanics (Della Porta and Vannucci, 1997) and the way Berlusconi succeeded in getting the anti-corruption approach downhill (Newell, 2004). The Corruption Perception Index for Greece ranks at the 57^e place, with a score of 4,7 – just before Lithuania and Poland (both 4,6) (TI, Corruption Perception Index 2008).

index of 4.1 with the apparently equally corrupt Bulgaria (Transparency International, 2007). Bosnia and Herzegovina, Montenegro, Serbia and Macedonia demonstrate comparable weak institutional capacities for combating corruption. Although there are many laws enacted in all these states, there is a lack of institutional and personal will effective for their implementation. Penal law enforcement is slow and, in many cases, the punishments meted out are not severe enough.

In these countries we can not separate a sector which is most affected by corruption, because, unfortunately, it is spread through the whole fabric of the society. Lack of transparency in public procurement, political corruption, illegal provisions, nepotism, cronyism, 'exchange of services' system, corruption in the judicial system and in public administration is to be found anywhere. However, there are some specific characteristics in each of these countries. For example, in Montenegro there is an extensive intermingling between the public authorities and private companies, especially in the tourist sector, which is an area with very high profits. This diffusion of interests often generates corruptive activities, especially when a foreign investor wants to buy state owned land or a building site at the Adriatic Sea.³ The complicated inter-ethnic situation in Bosnia and Herzegovina (BiH) increases the possibility for corrupt activities in each of the three entities, generally, because of the lack of well-organised and unified control and law enforcement. The international representatives in Bosnia detected many anomalies related to corrupt activities, but their reports and suggestions are usually ignored in practice, or they are accepted by way of lip service.

Given the nature of corruption as a consensual crime, official police or judicial statistics are defective if not misleading: few perpetrators, even if dissatisfied, will report on their own corrupt acts. Therefore, given the extent of 'dark numbers', reported criminal offences, number of charges and number of verdicts cannot represent the prevalence of corruption (Maljevic, Datzer, Muratbegovic and Budimlic, 2006).⁴ As in all jurisdictions, it is not surprising that also in BiH there is a discrepancy between the official information, and the real level of corruption.

³ According to the CMI report (2008), 75% of the respondents in the coastal region reported that the local authorities were "always or often" asking for bribes, against 53% and 47% in the central and northern region (Trivunovic *et al.*, 2007).

⁴ Almir Maljevic, *et al.*, *Overtly about police and corruption*, Association of criminalists in Bosnia and Herzegovina, Sarajevo, 2006, p.23-24

Serbia also has a major corruption problem with the political elite in the country, the state institutions and the public servants, in general. Increasing poverty at the end of the last Century, generated by the NATO attacks and the Milosevic regime's mismanagement of the economy, 'forced' many employees to accept or ask for a bribe, while customers were forced or willing to pay services they should get free (law, medical, pharmaceutical, social, cultural, educational etc.). Also this is not unique: like in the neighbouring countries, although there is at the moment a democratic government dedicated to the Serbian integration in the European Union, the level of corruption is still worrying. The general attitude of the people in Serbia towards corruption, especially the public servants, is not very promising, particularly at the higher levels of society. (Pestic, 2007).

According to the Transparency International index for 2007⁵, Slovenia is situated on the 27th place with an index of 6,6, Croatia is on the 65th place with an index of 4,1, Serbia is on the 82nd place with an index of 3,4, and Bosnia and Herzegovina, Montenegro and Macedonia have indices of corruption of 3,3, and they share the 82nd place⁶ is the scale employed by Transparency International is from zero to 10, where ten indicates that there is no corruption in the state with this score, and zero that all is corrupt. In practice, there are no countries which have these extremes.

Research question

As Macedonia is a small country with around 2.000.000 inhabitants and a territory of 25.713 square kilometres, major support from the international community was needed for Macedonia to start the internal and external activities, which are typical for a recently established independent state. It was clear that there were few political perspectives without Macedonian's membership of the NATO and the European Union: the NATO being the organisation that guarantees the peace in the country (which is multi-ethnic, multi-confessional and multicultural), while the European Union furthers economic stability, progress and development in Macedonia, as well as multidimensional regional cooperation with the other Balkan countries. For these reasons, the NATO alliance and the European Union became strategic

<http://www.infoplease.com/world/statistics/2007-transparency-international-corruption-perceptions.html>

⁶ <http://www.infoplease.com/ipa/A0781359.html>

priorities for Macedonia. However, one of the fundamental criteria for entering these organisations is the reduction of corruption, because the country cannot reach the required economic and democratic standards if the corruption remains part of the social fabric.

Unfortunately, most of the reports issued by international organisations (OSCE, Council of Europe, NATO, EU etc.), record that only a very small amount of progress has been made during the (approximate) last two decades in the fight against corruption: concrete results appear to be meagre. The only recorded progress concerned legislation. But laws enacted can be regarded as justice on paper, not the law in action. There is no tangible success if the legislation is not implemented by competent institution building and enforced in practice.

The main goal of this paper will be to provide information about the areas and sectors in which corruption is incorporated in daily activities of the public administration, and consequently also of the daily life of the citizens. The emphasis will be on the public administration, because corruption in this area reproduces corruption in other areas and makes the administration ineffective and inefficient, while harming the economy. But, also, other areas, like legislation and the administration of justice will be analysed because of their connection with the executive branch, i.e. the public administration.

To provide a proper framework against which to project the corrupt landscape of Macedonia, we will first briefly survey other (socialist) countries.

A brief survey of some former socialist countries and one non-socialist country

Before we analyse in detail the situation of corruption in Macedonia, it is useful to make some comparative analysis between some of the ex-socialist countries and one non-socialist country, not only to see the differences in the level of corruption within them, but also to try to explain the development and the causes of corruption. In this analysis, we will make a brief overview of the corruption situation in the Ukraine, Bulgaria, Albania and Italy. The first three countries had a socialist regime in the past, and Italy is an interesting example of a non-socialist country in which there is a “successful cohabitation” between the mafia and the state.

a. The Ukraine

Corruption and bribery are not new problems in the countries which were part of the Soviet Union. Ukraine is one of these countries. Researchers think that criminals in the Ukraine can be divided in two groups: the syndicates of businessmen and the corrupted officials together with various criminal groups involved in crimes. According to some officials of the administration the main areas for financial crime and corruption were created by the transfer of convertible currencies in foreign banks, money laundering through investment in real estate and other legal commercial activities. (Transcrime report, 2000: 57).

As corruption undermined the economy, the main points of the Yuschenko Presidential Manifest (2004) were related to corruption. According to that Manifest, the country needs to take several measures, such as: separation of the state from the business, protecting entrepreneurs from public servants who want to benefit from their position, to stop the misuse of the Public Prosecution Offices which put businessmen under pressure, to clean the tax services of corrupted civil servants, to annul the tax policy and to require oligarchs to pay their debts to the state. Yuschenko also said that he was against redistribution of ownership, but still, he insisted that it was appropriate for such oligarchs to pay a realistic price for the enterprises they bought. Forcing the authorities to serve the people and to combat corruption, Yuschenko suggests a number of measures for the state institutions: to fire the corrupted servants which take bribes and to employ honest people in their position (assuming that they will not be corrupted in turn); to decrease the level of bureaucracy, because the 'cheap bureaucrat' can be very expensive for the citizens. In this context, an increase in the salaries of civil servants can be very useful. Every servant should sign an ethical codex; the state should fire the corrupted judges, so that the judicial system can work, respecting the rule of law, a change of priorities in the criminal judiciary should be made, i.e. the courts should not protect the wealthy people, but every citizen in the country. Political reforms should make ordinary people feel that the authorities work for them and their interests; the state should replace corrupted servants in the prosecution institutions and bodies with competent, qualified and honest people and the state should start a fight with organised crime (Markovska, 2007: 63).

Despite these lofty recommendations, the negative opinion of the people in Ukraine towards their administration and their public servants 'contami-

nated' with corruption, point at a disastrous corruption situation. This is confirmed by the corruption index in 2007, which is 2,7 (very low). The criminal landscape which was established during the Soviet era, has adapted itself to the new circumstances in the political and economic sphere in the Ukraine. There is much law on paper: there have been many anti-corruption laws and commissions but law in action is far less prominent, if visible at all (See Osyka, 2001 and Markovska, 2007).

b. Bulgaria

Bulgaria is a state which did not make any progress in the fight against corruption, during the last decade, while the situation changed only slightly after its entry into the European Union. In the 1990s, Bulgaria reached its 'corruption peak', because corruption had infiltrated every part of society and almost in every activity connected with the authorities. The employees at the customs, police, army, judicial institutions, public services (educational, health, cultural etc.) were on a daily basis, living and working with bribes by being paid for their services or forcing such payment.

The present Corruption Assessment Report offers an overview of the spread of corruption and of the current trends throughout 2006 and early 2007, a period marked by EU accession as a pivotal event in recent Bulgarian history. The report also outlines the new risks and challenges that the government and society will have to face in tackling corruption. The factors fostering corruption are of an increasingly international nature and need to be confronted by initiatives and joint participation of EU states, so as to produce an anti-corruption effect of corresponding strength.

The forms and dynamics of corruption in the last decade are rooted in several clusters of structural factors in present-day Bulgarian society, which are of a political, economic and judicial nature. The country's political model, the will of the political parties and elites and the available meagre mechanisms of civil society monitoring the authorities do not further the fight against corruption. The level of development of economic institutions and the rules governing economic sectors, and the level and dynamics of the overall economic development make corruption an alternative source of income. The sustainability and effectiveness of the rule of law, and the (in)efficiency of the judiciary and law-enforcement is evidenced in their (in)capacity to detect and punish offences. The level and scale of organised criminality is serious and the extent to which it has penetrated the institu-

tions of the public administration, political life, the economy and civil society generally raise grave concerns, particularly in the EU. Despite the lack of strength of civil society to counteract corruption, a reduction of the level of corruption will be achieved soon. This is important given a low level of economic development compared to any other EU country, which is an indication of the effects of rampant corruption.

Notwithstanding some positive developments, the rate of corruption remains high in Bulgaria and is well above the EU average. In contrast to the significant decline of administrative corruption among the general population and the business sector, political corruption in the elite, involving members of the government, MPs, senior state officials, mayors and municipal councillors remains a serious challenge yet to be tackled. Following the completion of privatisation and the decrease of discretionary customs control zones along the country's borders as it joined the Union in 2007, the management of state assets (including land, public works, and other property) together with public procurement and concession granting mechanisms are becoming the key areas of political corruption risks.⁷

Bulgaria had an index of corruption 4,1 in 2007⁸, which is not such a bad achievement, but, still much more has to be done in this field. For good reasons the European Commission gave the government a serious warning and froze part of its funds for Bulgaria.⁹

c. Albania

Many international organisations have identified corruption as one of the main problems of Albania's post-communist history. The country, rated Europe's second-poorest, following Moldova, has been urged to intensify its efforts against corruption and the threat this poses to development. Apart from the economic consequences, corruption could also mar Albania's prospects for EU and NATO integration. Recognising the significance of the problem, Albanian politicians have signalled a rare willingness to unite in the name of national interest. The government has consented to an anti-corruption programme proposed by the opposition, and contracted a foreign auditing company to inspect the bank accounts of senior politicians and offi-

⁷ Center for the study of democracy, *Anti-corruption reforms in Bulgaria-key results and risks*, 2007, p. 5-6

⁸ <http://www.infoplease.com/world/statistics/2007-transparency-international-corruption-perceptions.html>

⁹ <http://www.h-alter.org/vijesti/europa-regija/interview-with-maria-todorova>

cials, according to a report by the Institute for War and Peace Reporting (IWPR). On the basis of local media reports, IWPR concluded that corruption in Albania was highly evolved and ranged from gifts to politicians such as cars and apartments to smaller cash bribes for lower-level officials.¹⁰

Due to the fact that the corruption index for Albania was 2,9 in 2007¹¹, we can conclude that it is the most corrupt country at the Balkans (not including Kosovo), and the anti-corruption efforts and activities are weak and not well organised.

d. Italy

The previous analyses referred to ex-socialist countries, but if we analyse Italy as a capitalist country, we can note many differences with the countries mentioned above, but in some areas, also some similarities, the most important being the evidence of widespread corruption. When organised crime and corruption were surveyed in Italy, many interesting observations were made. On the one hand, together with Netherlands, Belgium, Luxemburg, France and Germany, Italy is one of the founding countries of the European Economic Community, which is now transformed in a European Union. On the other hand, corruption and organised crime are part and parcel of the daily life in Italy. Although the creators of the 'European policy' have emphasised the fight against corruption and organised crime as a priority, still, Italian society learned how to live with this forbidden phenomena. There is an unusual symbiosis among the democratic and constitutional state and its opponent, the mafia. One of the reasons for this is the low social capital outside the narrow family. Also, there is a substantial infiltration of the mafia in the society and political life in Italy, where the authorities are frequently ineffective in maintaining the law. One may even say that mafia is not treated as a criminal structure, but as a normal segment of the society or at least as a criminal service provider, as has been observed in the waste scandal around Naples. The mafia is a protector and extorter at the same time. Contract execution can be achieved more cheaply, executing by engaging the mafia rather than the law and lawyers, with the mafia achieving things more quickly than through the courts. But this 'service' has a black side: you can

¹⁰ <http://www.setimes.com/cocoon/setimes/xhtml/bg/features/setimes/features/>

¹¹ <http://www.infoplease.com/world/statistics/2007-transparency-international-corruption-perceptions.html>

not dismiss the services of the mafia, as you can do with the lawyers or courts. Dismissing the mafia can be disastrous.

In Italy public prosecutors have considerable power and in the 1990s some have to used their powers to combat corruption in what has become the famous 'Clean hands' investigations that led to the Tangentopoli scandal of Milan. However, precisely because of their power, public prosecutors tended to become the target of individual politicians and political parties keen to have friends in the judiciary in order that they themselves avoid becoming the targets of judicial initiatives. The judiciary, for its part, is also highly politicised, such that its members were often willing to turn a blind eye to acts of corruption in order to maintain their privileges. Many prosecutors tried to break through this system, but were always blocked during their investigations either by indirect political pressures on high level judges or by the non-cooperation of other colleagues. The majority of the population did not care: since time immemorial they have learned to live with corruption instead of fighting it.

Due to the fact that the corruption index for Italy is 5,2 for 2007¹², we can declare that Italy has a middle-level of corruption, according to the Transparency International reports. It means that Italy is not a quite good example for non-corrupt EU state. It means that the socialist or non-socialist past of one country, cannot be always a main determinant for its level of corruption. One does not need to live in the Balkans to have a corrupt prime-minister and to have to bribe a doctor to receive a better medical treatment.

General information about the corruption in Macedonia

Corruption as a phenomenon is spread all over the world, in all the continents, but there is a difference between individual and isolated cases of corruption and a 'corruptive way of life'. In Europe, one of the 'black spots' for this phenomenon (together with Italy and the Baltic states) is South-Eastern Europe, of which Macedonia is a part. In this region of Europe, the transi-

¹² <http://www.infoplease.com/world/statistics/2007-transparency-international-corruption-perceptions.html>

tional processes were (are) too long and slow, and as a result of this, organised crime and corruption are still widely prevalent.

For these reasons, the alarming situation regarding the level of corruption in Macedonia should be reduced to acceptable proportions in order to get a proper functioning public administration (regardless of how classified or in which branch they are situated).

Of the time when the Republic of Macedonia was part of the Yugoslavian Federation, i.e. during the socialist era, there is insufficient information available to determine the level of corruption before 1991. According to some general information, corruption at this time was also present (the level of corruption is unknown), but the consequences of talking about that in public could be fatal. So, in practice, we lack concrete information for this period. Also, political corruption during the socialist era was very secret and state-protected (especially if you were member of the Communist party). Every investigation related to the political corruption was smothered at the very beginning.

After obtaining independence (8th September 1991), both a functional democracy and market economy have been established and the opportunities for getting information about corruption have increased. But this new transparency itself was not able to prevent or to reduce the corruption, so strong measures by the authorities, were required. However, the lack of experience and the fragility of institutions diminished effectiveness. The level of corruption was increasing together with the privatisation of the enterprises (which were in state ownership during socialism), so its consequences were visible in every part of society. For example, many former directors reduced the value of the factories and subsequently bought them for a very small amount of money. Subsequently they fired existing employees and employed new people, who were either their friends, relatives or people who paid a substantial amount of money as a bribe in order to get a job in the privatised companies, factories and enterprises. In this way, many qualified people lost their jobs, and incompetent workers took or rather 'bought' their position by paying bribes to the directors, or to helpful political relationships.

These developments destroyed the image of the country in the international community, and serious reproaches were addressed to the authorities, regardless of their political provenance. As a consequence of these critical remarks, in 2002, the first concrete law related to corruption was enacted (Law of Preventing Corruption, 2002). This law established the special State

Commission for preventing corruption (at the beginning named as Anti-Corruption Commission).

Despite the fact that the Macedonian Parliament enacted a Law for state servants (Law for State Servants, 2000) in which the merit system is incorporated as a '*conditio sine qua non*', in practice the spoils system remained dominant. Regardless of whether the spoils system manifests itself as nepotism, cronyism, political influence peddling, business interest or something else, it is still the usual way of recruiting the servants in the public administration. Despite that state of affairs, some general progress has been made in this area, according to the Transparency International Corruption Perception Index that has moved from 2,7 to 3,3 during last few years. But this is a summarised score and is not an indication of a reduction of the spoils system. Clearly, a lot has to be done in Macedonia to approximate or reach the more developed states in the fight against corruption (with the exception of corruption).

Political parties have a dominating influence on a large section of the citizens, so their contribution for combating corruption is essential. Unfortunately, the political parties in Macedonia do not fulfil one of their most important obligations. They do not publish their financial donors, sponsors and supporters for the elections (no matter whether these are parliamentary, presidential or local elections), despite the fact they are obliged to do so, according to the Election Codex (Election Codex, 2006). We cannot expect from the political parties a sincere contribution in the fight against corruption, if they corrupt the rules themselves. Being a part of the spoils system they are a part of the problem.

The State Commission for preventing corruption (authorisations, activities, structure)

The State Commission for preventing corruption in Macedonia is an autonomous and independent body, consisting of seven members. They are nominated for period of five years, with no right of re-nomination. One of its members is elected President, by the others, for a one year period. All members have to be certified legal or economic experts. The finances for the work of the Commission are ensured from the state budget. The authorisations of the State Commission for preventing the corruption are:

“to initiate state programme for the prevention and repression of corruption; - to initiate annual programmes and plans for the realisation of the state programme; - to give opinions on draft laws related to the corruption; – to give initiatives in front of the competent and authorized institutions for a control of the financial and material work of the political parties, syndicates and civil organisations and foundations; – to give initiatives for creating processes in front of the authorised institutions for dismissing, changing, penalising and implementation of other responsibility measures of elected or denominated functionaries, public servants or responsible persons in state enterprises; – discusses cases of conflict of general and individual interests; collects evidence and follows the state of the property for the elected and nominated functionaries, the public servants and responsible persons in the state enterprises; - brings statute for work; submits an annual report for its realised activities to the Assembly (Parliament), President of the country, Government and medias; – cooperates with other state bodies and institutions in preventing the corruption; – cooperates with national bodies of other states, as well as international organisations, which work in the field of corruption; – educates the bodies competent for discovering and prosecution of the corruption and other forms of criminal; – brings acts for internal organisation and systematisation of the working places in the Secretariat etc.” (Law on Preventing Corruption, 2002).¹³

There are many reasons why Macedonia does not have a strong system for prevention and repression of the corruption. Some of them are:

- an insufficiently established functional system for sharing the power on legislative, executive and judicial branch;
- an insufficient number of bodies engaged in prevention and repression of corruption in the country;
- lack of a system for mutual and horizontal control between the institutions (system of national integrity);
- low level of engagement of the civil society and media in increasing the public awareness;
- insufficient participation of the “International community” in the support of the anti–corruption activities; and
- incompatibility of the national laws with the international standards.

For these reasons, Macedonia needed some documents which will give the frame for the anti–corruption activities in the state. One of the most important anti–corruption documents is the State program for prevention and re-

¹³ See more in *Law on preventing corruption*, Official Journal of The Republic of Macedonia No. 07-1733/1, April 2002

pression of corruption enacted by the Assembly (Parliament) in 2003. The main goals of this Program are: adoption of a consensual system of measures for prevention and repression of corruption, postulated on a durable basis. The objectives are to create a societal atmosphere for “zero corruption” and to convert corruption from a low-risk and high-profit activity to a high-risk and low-profit one, while enhancing the system of measures for discovering and punishing the participants in corruption, as well as taking away the criminal incomes (property benefits, advantages etc.). Some of the principles of this Programme are: respect of human rights; prevention before repression; cooperation between the public sector, business sector and civil society; transparency of the Programme; steadiness of the Programme etc. As “the proof of the pudding is in the eating”, it remains to be seen how these aims will be implemented.

In 2007, this State Commission initiated a number of procedures against public functionaries which did not submit the required information about their property: what real estate they possessed and how they paid for it. (Annual Report of the State Commission for Preventing Corruption, 2007).¹⁴

Around 55 infringement processes have been initiated in 2007 at the Macedonian courts. However, the results proved to be disappointing: only 13 decisions have been made. In eight of them a judgment has been passed, four cases are closed by giving a warning only, and one is qualified as unfounded. Unfortunately, these results speak very clearly about the inefficiency of the Macedonian courts. This defect is a serious obstacle for reducing corruption, while it paralyses any preventive programme. Even if the administration does its job responsibly, but prompt judicial action is lacking, preventive measures against corruption will soon lose their effect.

Sectoral analyses of the corruption in Macedonia

If we make some sector by sector analysis of corruption in Macedonia, we will notice that almost every part of the society is “contaminated” with corruption. Public administration (comprising the state administration, public services, institutions for education, culture, social services, children and inva-

¹⁴ See also other useful statistical information in State commission for preventing of corruption, *Annual report, 2007*, pp. 21-23

lid protection, and the public enterprises), the judicial system, the legislative bodies, all these institutions are generators of corruption.

A special study has been made by the Foundation Open Society Institute Macedonia in 2003, about corruption in the higher educational system in Macedonia. The results from the study were very worrying. The researchers discovered many forms of corruption (taking money, requiring sexual and other services, black mailing), but they were also told that this process is bilateral, i.e. some of the students offer money or other kinds of services to pass an examination illegally and without any intellectual efforts. The survey was taken in the period 6th to 13th May 2003, with 2000 students from the three universities: St.Cyril and Methodius in Skopje, St.Kliment Ohridski in Bitola and the Southeast European University at Tetovo. The student sample was representative by faculty, year of study, sex and ethnic affiliation. Figures on the basis of which the sample had been developed are official data of the Ministry of Education and Science of the Republic of Macedonia.¹⁵

This is only one of the concrete examples of corruption, permeating the public administration. It does not mean that this phenomenon is not present in the other segments of the public administration like culture, science, social services etc., but is more extensively spread in the areas mentioned above.

The *judicial institutions* are also exposed to corruption, because the judicial power is probably the most important one in the country, regarding to the ultimateness of its decisions. The forms of corruption in the judicial system are very different, but the political and business influences are the biggest threat to the courts, representing the biggest share of the corruption in the judicial system.¹⁶

Corruption in the *legislative branch* is connected to the influence and pressure on the deputies by lobby groups, family or business friends, to introduce legislation which is to their advantage. There is not only pressure which in itself is not criminal, but also direct bribes: cash or different kinds of favours (employment, taking credits from the banks in privileged conditions, organised and financed trips abroad etc.).

Regarding the *health sector* there is also a very interesting corruptive “co-habitation” between some of the employed servants in the medical and pharmaceutical services, i.e. there is a scheme in which the doctor sells medicines that the patient should buy from a chemist. Also, there are many cases

¹⁵ Corruption in higher education in The Republic of Macedonia, summary of research data from survey, 2003.

¹⁶ *Interview with the Minister of justice Mihajlo Manevski on A1 tv*, A1 news, 15.10.2008

where in procurement procedures some pharmaceutical producers and producers of medical materials are favoured by the health authorities or other procuring bodies.

Customs officers “lead the top-ten” for corruption a long period in 1990s, and passing the borders for businessman was impossible without bribing them. This resulted in reduced state customs incomes and rapid enrichment of some customs officers. After the establishment of the integrated border management and the computerisation of the border control, there was a decrease of corruption in the customs.¹⁷

The institutions at *local level* have become more self-governing and have therefore acquired many competences and obligations due to new legislation in the past years. But with increased discretion in local decision making the opportunities for corruption have increased rapidly too. This was the observation of a delegation from the central authorities to the local administration in which they indicated the potential danger of abuse of power by the local self-governing bodies. Only by means of strict control and monitoring of the local public servants, as well as meting out severe penalties in case of law-breaking, can corruption at local levels be prevented. One of the suggested solutions was to bring in observers from other cities to monitor their colleagues and notice if something is against the norm.

Some of the practical measures that have to be taken by the authorities are: support for incorporation of anti-corruption clause (stipulation) in every contract made by the public institutions with institutions in the public and the private sector; establishing internal procedures for announcing cases where there is doubt of corruption; permanent training by the State Commission for preventing the corruption and non-governmental (NGO) sector, related to the risk of corruption in the private sector (active corruption); establishing mechanisms for more efficient functioning of the public sector and state institutions (system of awards, punishments etc.) (State Programme for Prevention and Repression of Corruption, 2003).¹⁸

¹⁷ *Annual report of the State Commission for preventing corruption for 2004*, January 2005, p. 15–23

¹⁸ See more in the State Commission for prevention of corruption, *State programme for prevention and repression of corruption*, Skopje, 2003

GRECO evaluation

GRECO (Group d'États contre la Corruption) made its first report related to corruption issues in Macedonia in January 2003, while the Macedonian authorities submitted their Situation Report on the measures taken to follow the recommendations in June 2004. GRECO in its evaluation report made 17 recommendations to the Macedonian authorities. (First Evaluation round, Compliance Report on the "former Yugoslav Republic of Macedonia", 2004).¹⁹

If we analyse in detail the recommendations and the compliance by the authorities, we can observe that most of them are 'nominally' endorsed, but difficulties start as soon as they have to be implemented in practice. There are many bills submitted to Parliament after these recommendations were submitted to the Macedonian authorities, like: the Law on preventing corruption; the Law on thwarting the conflict of interests; National anti-corruption strategy etc. These proposals intend to regulate the activities that should be carried out by various institutions and specialised bodies like: the State Commission for prevention and repression of the corruption as well as many units and departments in the ministries etc.

The media coverage of the anti-corruption fight is satisfying, generally due to the NGO-s which have helped to increase the awareness of the citizens of the social problems generated by corruption, indirectly enhancing their pressure on the authorities who were forced to be more transparent on this issues.

Much attention is given by the authorities to implement all laws and regulations with an anti-corruptive provision. But it is all 'on paper'. Problems arise as soon as relatives or friend-of-friends are operationally involved in implementing the measures. Then they practice the so-called 'Balkan manners', forget their obligations, cover their criminal relatives or friends and 'put the paper under the desk'. In that way, they become associates with the ones who break the laws and regulations.

Corruption is not only a state, but also a social problem. In a small country like Macedonia, it is almost impossible for officials responsible for the fight against corruption to be completely unbiased: they have corrupt friends

¹⁹ See the details in Council of Europe, *First Evaluation round, Compliance Report on the Former Yugoslav Republic of Macedonia*, Adopted by GRECO at its 21st Plenary Meeting, Strasbourg, 29 November – 2 December, 2004

and relatives too. So there is always room for corruptive activities or corrupting pressure. The human chain made by the people in the institutions from the legislative, executive and judicial branches and further down to the 'man-in-the-street' obstructs every kind of effective fight and reduction of the corruption.

Other problems noticed by GRECO are the extensive discretionary powers of the officials and their immunity (especially immunities of the deputies, which are constitutionally guaranteed). These discretionary powers are very often misused and the final 'product' of this misuse is corruption or –in the case of investigation– a frustrated prosecution. Because of the 'sensitivity' of this issue, Macedonian authorities have not yet implemented completely this recommendation from GRECO. Indeed, waiving immunity can be a threat to the whole political elite. It remains to be seen whether the political elite will opt for their cherished protection against the law and accept future negative reports.

Suggestions for improvement

Many measures have to be implemented if we want to have success in stemming the tide of corruption. First of all, we must have a sincere political will from all political parties in the country, because without national, religious, and ethnical consensus, the chances of successfully fighting corruption will be slim. Everyone in the country must understand that corruption hinders economic and social progress affecting the quality of life for them and future generations.

Improvements can come from outside and from inside, though without the latter, success is not likely to last. Nevertheless, outside pressure can have an effect in maintaining awareness, for example by organised monitoring. Monitoring by international organisations, like OSCE, EU, council of Europe etc., can support internal monitoring. Lacking of such control will lead to a petering out of anti-corruption programmes. This also applies to the '*ultimum remedium*': penal law measures. That should be clearly visible: sanctions should be effectively imposed and severe (prison, financial punishments, prohibition of office and recovery of proceeds), because if bribery is considered as a profitable and low-risk operation, more and more people will be motivated and stimulated to be corrupt.

A penal law system with proper financial and other implications should be established, and every political party which will not respect the anti-corruption regulations should be seriously punished (with commensurate fines or temporary prohibition of professional activities). Otherwise, we will again have just a strong declaratory support in combating corruption, but ineffective support when it comes to enforcement.

A new initiative called “Citizens Library” became effective at the end of 2007 and the beginning of 2008. It helps the citizens to control the work of the public servants, especially their effectiveness and efficiency, in this way protecting them against corruption in the public administration. With this “Library” they have the possibility of raising a complaint about the work of the public servants and this is seen to motivate the authorities to react promptly if any type of deviation is noticed by the citizens. Although there are many ethical codes of conduct for the public servants, these only have a declarative value concerning the principles and ‘guidelines’ incorporated in them. But in practical terms they do not reflect a clear will to reduce corruption. The Citizens Library can be effective in overcoming reluctance.

Corruption and fighting it is expensive. Therefore adequate financial support from the public fund and also from internal and external donors (brought as financial programmes, grants, credits or other financial instruments) will be necessary. Also, if the authorities spend more money on technical tools, experts and campaigns against corruption, the results will be more visible. The cooperation in the fight against corruption also has an international dimension. Macedonia has signed many conventions and agreements related to corruption, but in future many other agreements, with states from the region (South-Eastern Europe, all of them having the same corruption problem) will have to be made. This also applies to the international scene: international organisation like OSCE, NATO, Council of Europe and entities like European Union etc. Following the general global trends of fighting corruption is a *conditio sine qua non* for practical results in the country and for international recognition.

Addressing corruption is not only the concern of the authorities. We must not underestimate the role of the non-governmental organisations (NGOs) in the anti-corruption activities in Macedonia. Although they do not have formal powers, they contribute with expert help and are of importance because they represent the ‘voice of the people’. They make numerous studies, research projects and they address their recommendations and opinions to the competent institutions. Though we have observed that the latter

are frequently less than half-hearted, by making things publicly visible they force them to come forward with actions.

Conclusion

The only logical conclusion and summary of this paper must be connected with regrets and hopes. Regrets about the big discrepancies between the well-formulated legislation related to the fight against corruption in Macedonia, well designed institutional structures, and efforts for enhancing law effectiveness and efficiency on the one hand, and insufficient inter-institutional cooperation and coordination, large deficit in the concrete implementation of rules, and consequently almost no practical results and effects. These facts generate many negative observations and recommendations for the Euro-Atlantic integration of Macedonia, which can be observed in almost every relevant report of the international organisations. These anomalies destroy the international image of the country, inhibit the foreign investments and have a very negative influence on the future of the country.

Every part of the society is a possible source of corruption and responsible for it. Addressing this with credible criminal liability is important, but criminal law measures are not enough for fighting this phenomenon. A strong awareness and change of mentality in the Macedonian society is required, if we want to reduce the corruption rise above the usual Western Balkan country. Blaming and shaming of corruption can help in discouraging people from engaging in corrupt activities, because marking and labelling offenders by the whole society can be very painful for them and their families. However as long as citizens accept corruption as a normal way of live and just a component of their social landscape (and unfortunately, the majority of the citizens accept this logic of thinking at the moment), the consequences can be disastrous in every aspect.

The public servants and all the citizens in general, should understand that by fighting corruption, they fight for their future and the future of their children to live in a better and safer society. Public servants (as a target group exposed to bribery) have to know that their role is to serve the people, and that they exist for the people, but people do not exist for them. If they change the mentality and 'normal' way of work and functioning, they will

improve the general picture of the country in the battle for reduction and marginalisation of the corruption.

The closing sentence of this chapter will be: “*It is nice to be important, but it is more important to be nice*”. This is addressed to the political elite in the first place: corrupt dealings with ‘friends-of-friends’ is respected by no-one and is any thing but nice.

References

- Alberti, A., Political corruption and the role of public prosecutors in Italy. *Crime, Law and Social Change*, 1995, no. 4, 273-292
- Anticorruption*, Coalition 2000 & Center for the study of democracy, Sofia, 2003
- Anti-corruption in Southeast Europe: first steps and policies*, Center for the study of democracy, 2002
- Anti-corruption measures in South-Eastern Europe-civil society's involvement*, OECD, 2003
- Anti-corruption reforms in the judiciary*, Center for the study of democracy, Brief, No.1, October 2003
- Anti-corruption reforms in Bulgaria-key results and risks*, Center for the study of democracy, 2007
- A handbook on fighting corruption*, Center for democracy and governance, february, 1999
- A painful shift in Bulgarian anti-corruption policies in practice*, Center for the study of democracy, Brief, No.10, August 2006
- Begovic, B., *Corruption in Serbia: causes and remedies*, The William Davidson Institute, February, 2005
- Bicja,I, *Political corruption in Albania: legal developments and case studies*
- Bull.J.M., Newell.L.J., *Corruption in contemporary politics*, Palgrave Macmilan ltd., 2003
- Corruption and anti-corruption*, Center for the study of democracy, Sofia, 2003
- Corruption in the parliamentary practice and legislative process*, Coalition 2000, 1999
- Council of Europe, *Civil law Convention on corruption*, Strasbourg, 1999
- Council of Europe, *Criminal law Convention on corruption*, Strasbourg, 1999
- Crime without punishment, countering corruption and organized crime in Bulgaria*, Center for the study of democracy, 2009
- Della Porta, D., *The resources of corruption: some reflections from the Italian case*, Kluwer Academic publishers, 1997
- Duyne, P.C, van, Will A Caligula go transparent?@ *Corruption in acts & attitudes*, *Forum on crime and society*, 2001, vol. 1, 73-98
- Development of the second national anticorruption strategy for Bulgaria*, Center for the study of democracy, Brief, no.7, January 2006
- Evaluation report on Greece*, Council of Europe, Strasbourg, 17 May 2002

- Foundation Open society Institute Macedonia, *Corruption in higher education in The Republic of Macedonia*, Skopje, 2003
- Gilmore, W., *Corruption and organised crime in states in transition*, Council of Europe & Commission of the European communities, Strasbourg, October, 1998
- GRECO, *Compliance report on "The former Yugoslav Republic of Macedonia"*, Strasbourg, 2004
- Judicial anti-corruption programme*, Center for the study of democracy, Sofia, 2003
- Katsios, S., *The shadow economy and corruption in Greece*, South-Eastern Europe Journal of economics, 2006
- Lambropoulou, E., *The public discourse on corruption in Greece*, Internet Journal of Criminology, 2007
- Local anti-corruption initiatives*, Center for the study of democracy & Coalition 2000, Sofia, 1999
- Law on prevention of the corruption*, Official Journal of The Republic of Macedonia No. 07-1733/1, 2002
- Law on thwarting conflict of interests*, Official Journal of The Republic of Macedonia No. 07-2426/1, 2007
- Levelling the playing field in Bulgaria, How public and private institutions can partner for effective policies targeting grey economy and corruption*, Center for the study of democracy, May 2008
- Maljevic, A., D. Datzler, E. Muratbegovic and M. Budimlic, *Overtly about police and corruption*. Association of criminalists in Bosnia and Herzegovina, Sarajevo, 2006
- Markovska, A., The bitterly pill of the inherited corruption: corruption in Ukraine and the development of the pharmaceutical industry. In: P.C. van Duyne, A. Markina, M. van Dijck, K. von Lampe and A. Maljević, (eds.) *Crime business and crime-money in Europe. The dirty linen of illicit entrepreneurship*. Nijmegen, Wolf Legal Publishers, 2007
- Marquette, H., Corruption, democracy and the World Bank. *Crime, Law & Social Change*, 2001, 36: 395-407
- Mathisen, W., *Donor roles in face of endemic corruption-Albania in the policy debate*, Miguet, A., *Political corruption and party funding in Western Europe*, London School of economics, April, 2004
- Miller, F.R., *The difficult fight against corruption in transitional systems: the case of Serbia*, Transcultural studies, no.2-3, 2006-2007

- Monitoring of anticorruption reforms in Bulgaria*, Center for the study of democracy, 2006
- Newell, J.L., *Institutional reform and attempts to fight corruption: the Italian case*. In: P.C. van Duyne, K. von Lampe, K., M. Jager and J.L. Newell, *Threats and phantoms of organised crime, corruption and terrorism*, Wolf Legal Publishers, Nijmegen, 2004
- On the eve of EU accession: anti-corruption reforms in Bulgaria*, Center for the study of democracy, 2006
- Osyka, I., *Organised economic crime problems in the Ukraine*. In: P.C. van Duyne, V. Ruggiero, M. Scheinost and W. Valkenburg (eds.), *Cross-border crime in a changing Europe*. Nova Science Publishers, Huntington, 2001
- Pashev, K., Dyulgerov, A., Kaschiev, G., *Corruption in public procurement*. Center for the study of democracy, Sofia, 2006
- Pashev, K., *Corruption and tax compliance-challenges to tax policy and administration*, Center for the study of democracy, 2005
- Pesic, V., *State capture and widespread corruption in Serbia*, Center for European policy studies, CEPS working document no. 262, March, 2007
- Selingson.A.M, Baviskar.S., *Corruption in Albania:Report of comparisons between 2004 and 2005 surveys*. USAID, 31 March, 2006
- State commission for preventing the corruption, *State programme for prevention and repression of corruption with Action plan for implementation*, Skopje, 2003
- The fight against corruption in Serbia: an institutional framework overview*, UNDP, June, 2007
- The introduction of a specialised anti-corruption service back on the anti-corruption agenda*, Center for the study of democracy, Brief, no.9, June 2006
- Tisne, M, *Fundamental analysis of the documentation for the help given for the fight against corruption in Southeastern Europe*, SOROS foundations, 2004
- Transparency international Annual report 2007*, Transparency international, June 2008
- Transparency international Annual report 2006*, Transparency international, 2007
- Trivunovic, M., V. Devine and H. Mathisen, *Corruption in Montenegro 2007: overview of the main problems and status of reforms*, CHR. Michelsen Institute, 2007

Trivunovic, M., V. Devine and H. Mathisen, *Corruption in Serbia 2007: overview of the main problems and status of reforms*, CHR. Michelsen Institute, 2007

United Nations, *Anti – corruption Toolkit*, Office on Drugs and Crime, 2004

United Nations, *Convention against corruption*

Vukovic, S., *Corruption in Serbia*. Central and Eastern European library, 2002

Williams, J.W. and M.E. Bear, The business of bribery: Globalization, economic liberalization, and the ‘problem’ of corruption. *Crime, Law & Social Change*, 1999, no 32: 115–146

www.en.wikipedia.org

www.europa.eu

www.oecd.org

www.osce.org

www.transparency.org

www.un.org

www.vlada.mk

Safety crimes in the enlarged Europe

Between economic and social drivers

Barbara Vettori¹

Introduction

'Crime in Europe' is usually associated with 'common crime' for profit such as cross-border trafficking of prohibited substances (mainly drugs), highly taxed consumer goods (for example tobacco products) and property crimes committed by itinerant gangs.² However, how many citizens in Europe are affected by these common offences compared with (criminal) violations of regulations in trade and industry, which impact on the life and health of millions of European workers? We meet here *criminal* as well as *regulatory* victimisation, though it is a common observation among criminologists that in this field the label 'criminal' is parsimoniously used (Ruggiero, 1996; Ruggiero, 1997). But irrespective of which label one would like to apply, these are transgressions for substantial profits. For example, withholding social security contributions generates a saving of 30-50 per cent of the gross wage.

Despite the substantial impact of welfare legislation evasion, research in this area is scarce (see Van Duyne and Houtzager, 2005). This chapter will deal with a subset of these transgressions/crimes for profit: 'safety crimes'. This is an often neglected form of upperworld criminality, to be considered as a subcategory of 'corporate crimes'. In particular, these are crimes arising from employers' failure to comply with health, safety and welfare standards at work.

This article focuses on safety crimes in the enlarged Europe and on the challenges raised for European policy-making on occupational safety and

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² See the article by van Daele and Vander Beken included in this volume.

health by the accession of new Eastern European Member States. It is organised as follows. It first defines more clearly these crimes in terms of their impact and aetiology. Working conditions and illicit practices impacting upon workers' safety and health in the enlarged Union are then analysed, in particular by comparing the situation in old and new Member States. EU standards to respond to and prevent such illicit conducts are then considered, as well as their level of transposition and implementation in new Member States. Some ways to improve working conditions in Eastern European countries are suggested, together with some conclusive remarks concerning the transnational dimensions of these phenomena within Europe.

Fine-tuning the definition of safety crimes: really bloodless? Really accidents?

If corporate crimes are relatively invisible – socially, politically and academically – this is even more true for safety crimes. This notwithstanding their frequency in comparison with other forms of traditional crimes, that usually attract more political and media attention. In order to give at least a rough idea of the relative importance of the phenomenon, let us compare the number of deaths at work, which may be taken as an indicator of the extent of safety crimes in a given country, and the number of losses of life due to a traditional crime such as intentional homicide in the European Union.

Table 1.
Fatal accidents at work and intentional homicides recorded by the police in the European Union (15 MS).
Absolute numbers.
1995–2006.

| | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
|-----------------------|------------------------------|-------------|-------------|-------------|-------------|------|------|------|------|------|------|------|
| Austria | Fatal accidents at work | 412 | 252 | 243 | 239 | 236 | 222 | 218 | 227 | 213 | 214 | 187 |
| | <i>Intentional homicides</i> | 78 | 99 | 66 | 77 | 60 | 82 | 70 | 65 | 59 | 54 | 60 |
| Belgium | Fatal accidents at work | 142 | 117 | 112 | 120 | 113 | 115 | 120 | 103 | 108 | 83 | 84 |
| | <i>Intentional homicides</i> | <i>n.a.</i> | <i>n.a.</i> | <i>n.a.</i> | <i>n.a.</i> | 205 | 243 | 234 | 190 | 216 | 176 | 174 |
| Denmark | Fatal accidents at work | 86 | 75 | 82 | 82 | 69 | 68 | 52 | 57 | 44 | 56 | 58 |
| | <i>Intentional homicides</i> | 70 | 82 | 123 | 60 | 68 | 79 | 62 | 58 | 60 | 70 | 45 |
| Finland | Fatal accidents at work | 43 | 44 | 52 | 61 | 44 | 47 | 55 | 48 | 57 | 65 | 54 |
| | <i>Intentional homicides</i> | 146 | 153 | 139 | 113 | 142 | 146 | 155 | 131 | 144 | 114 | 111 |
| France | Fatal accidents at work | 848 | 900 | 912 | 912 | 876 | 851 | 852 | 803 | 782 | 593 | 545 |
| | <i>Intentional homicides</i> | 1336 | 1171 | 963 | 961 | 953 | 1051 | 1046 | 1119 | 987 | 976 | 879 |
| Germany | Fatal accidents at work | 1487 | 1377 | 1273 | 1155 | 1152 | 1018 | 981 | 947 | 804 | 678 | 773 |
| | <i>Intentional homicides</i> | 1373 | 1249 | 1178 | 975 | 1005 | 960 | 868 | 914 | 820 | 804 | 727 |
| Great Britain | Fatal accidents at work | 242 | 281 | 263 | 244 | 213 | 280 | 233 | 219 | 215 | 209 | 237 |
| | <i>Intentional homicides</i> | 753 | 679 | 739 | 750 | 766 | 850 | 891 | 1047 | 904 | 766 | 755 |
| Great Britain & Wales | Fatal accidents at work | 91 | 77 | 74 | 78 | 103 | 57 | 50 | 70 | 56 | 32 | 67 |
| | <i>Intentional homicides</i> | 151 | 169 | 203 | 176 | 155 | 158 | 139 | 108 | 122 | 127 | 109 |
| Greece | Fatal accidents at work | 77 | 27 | 47 | 47 | 59 | 30 | 54 | 53 | 47 | 65 | 45 |
| | <i>Intentional homicides</i> | 53 | 46 | 53 | 51 | 47 | 56 | 58 | 59 | 46 | 65 | 68 |
| Ireland | Fatal accidents at work | 1267 | 1128 | 1229 | 1300 | 1234 | 1202 | 1067 | 967 | 944 | 918 | 987 |
| | <i>Intentional homicides</i> | 1042 | 1001 | 924 | 918 | 854 | 818 | 765 | 691 | 767 | 648 | 663 |

| | | | | | | | | | | | | | |
|-------------|--------------------------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
| Luxembourg | Fatal accidents at work | 14 | 30 | 26 | 13 | 7 | 15 | 12 | 10 | 7 | 6 | 10 | 12 |
| | <i>Intentional homicides</i> | 2 | 4 | 4 | 4 | 6 | 4 | 6 | 4 | 3 | 2 | 4 | 9 |
| Netherlands | Fatal accidents at work | 110 | 110 | 109 | 109 | 99 | 103 | 83 | 91 | 104 | 83 | 75 | 100 |
| | <i>Intentional homicides</i> | 299 | 240 | 237 | 208 | 230 | 223 | 264 | 224 | 247 | 223 | 197 | 159 |
| Portugal | Fatal accidents at work | 232 | 261 | 228 | 228 | 236 | 354 | 346 | 339 | 298 | 294 | 283 | 243 |
| | <i>Intentional homicides</i> | 109 | 106 | 114 | 125 | 109 | 116 | 105 | 119 | 149 | 144 | 133 | 148 |
| Spain | Fatal accidents at work | 1088 | 783 | 840 | 832 | 782 | 803 | 739 | 805 | 722 | 695 | 662 | 680 |
| | <i>Intentional homicides</i> | 411 | 397 | 463 | 522 | 486 | 553 | 577 | 564 | 587 | 520 | 518 | 475 |
| Sweden | Fatal accidents at work | 90 | 87 | 89 | 56 | 52 | 58 | 56 | 60 | 56 | 57 | 68 | 68 |
| | <i>Intentional homicides</i> | 83 | 97 | 91 | 93 | 99 | 89 | 84 | 93 | 81 | 105 | 83 | 91 |
| EU (15 MS) | Fatal accidents at work | 6229 | 5549 | 5579 | 5476 | 5275 | 5237 | 4922 | 4790 | 4623 | 4366 | 4011 | 4140 |
| | <i>Intentional homicides</i> | <i>5906</i> | <i>5493</i> | <i>5297</i> | <i>5033</i> | <i>4980</i> | <i>5390</i> | <i>5333</i> | <i>5430</i> | <i>5142</i> | <i>5062</i> | <i>4735</i> | <i>4473</i> |
| EU (15 MS) | Fatal accidents at work / <i>Intentional homicides</i> | 1.1 | 1.0 | 1.1 | 1.1 | 1.1 | 1.0 | 0.9 | 0.9 | 0.9 | 0.9 | 0.8 | 0.9 |

Source: Eurostat.³

Legend: n.a. = not available.

³ Data on homicides have been downloaded from the Eurostat Database on Crime and Criminal Justice, <http://epp.eurostat.ec.europa.eu/portal/page/portal/crime/data/database>. In the framework of this data collection system, homicide is defined as “intentional killing of a person, including murder, manslaughter, euthanasia and infanticide. Causing death by dangerous driving is excluded, as are abortion and help with suicide. Attempted (uncompleted) homicide is also excluded”.
Data on fatal accidents at work have been downloaded from the Eurostat Database on Accidents at Work (ESAW), http://epp.eurostat.ec.europa.eu/portal/page/portal/health/health_and_safety_at_work/database.
In the framework of this data collection system, a fatal accident at work is defined as “an accident which leads to the death of a victim within one year of the accident”.

Though the comparison should be taken with caution considering the different national collection systems in relation to the two types of events, Table 1 shows that deaths at work outnumbered homicides in many Member States in the timeframe considered. Overall, in the EU (15 MS), the absolute numbers of the former category have been very similar to those of the latter: the ratio between fatal accidents at work and intentional homicides in the period 1995–2006 ranged from a minimum of 0,8 to a maximum of 1,1.

Notwithstanding this, why are safety crimes so invisible? There are two main reasons for this. First, despite their oftentimes ‘global’ impact, these crimes tend to be rated as less serious because of the social status of the perpetrators and because it is apparently ‘bloodless’: it is ‘just money’. Second, as the term ‘accident at work’ itself suggests, they tend to be seen as a natural consequence of working activities, as something that cannot be prevented and for which the (lazy or careless) worker alone should eventually be blamed.

But is it really true that they are bloodless? Certainly not. Though criminology so far has rarely looked at them as crimes of violence (Tombs and Whyte, 2007: 5), as a matter of fact they are. People get really hurt because of corporate neglect and violation of safety regulations causing or threatening sudden death or injury as a result of work-related activities (Tombs and Whyte, 2007: 1). To give an idea about the impact of such crimes, searching the databases of major newspapers in the Member States, one can find thousands of occurrences sounding like this (and similar results referring to non EU countries can be easily found):

- *Italy*: ThyssenKrupp is one of the world’s largest steel producers, with about 670 companies worldwide. On 6 December 2007, a fatal fire accident inside a plant in Turin caused the death of seven steelworkers. A damaged manifold burst and showered the workers with ignited coolant oil; they tried to extinguish the flames with water but created a burst of flame instead. The accident happened after four hours of overtime. When the workers tried to use nearby extinguishers, they found those depleted even though a technician had filled every extinguisher in the factory the previous day. The causes of the fire are under examination, with workers describing slack safety measures to investigators. CEO of the Italian division of Thyssenkrupp has been charged with reckless multiple murder;
- *Lithuania*: in May 2007, a metal pipe fell on two workers at the Mazeikiu Nafta refinery, an oil refinery. One worker died and the other was seri-

ously injured. The fatal accident occurred two weeks after Lithuanian prosecutors accused two American executives running the refinery of negligence that led to a fire few months earlier. The fire caused a damage of 131 litas (€ 37,9 millions, in addition to oil handling to plunge;⁴

- *Bulgaria:* Kremikovtzi is Bulgaria's largest plant involved in the extraction and primary processing of ferrous metals. In January 2004, the operator of monitoring equipment at Kremikovtzi's water-power department reported that the pressure in the water pipeline supplying the blast furnace's gas-purifying machinery was falling. A breakdown team was sent to the scene and started repairs to the pipeline, though without coordinating its action with the operational management of the blast furnace and the firm's 'gas-rescue' service. Gases from the blast furnace, containing a high level of carbon monoxide, started to escape from the broken pipe. Twelve fire fighters were sent in, without being given sufficient information on the concentration of carbon monoxide. More gases then started leaking due to a rapid decrease in the water level and the elimination of the machinery's 'water barrier'. As a result, the noxious gases killed three people, including one fire fighter. Another 22 suffered various levels of poisoning and were hospitalised.⁵ An investigation of the circumstances and the reasons for the accident drew several important conclusions. First, the gas escape could have been stopped if there had been proper coordination between the actions of the breakdown team, the specialists at the blast furnace and the gas-rescue service. There were two spare water pipelines that could have supplied water for the gas-purifying machinery and maintained a sufficient water barrier. Subsequent investigation revealed the failure by the company to implement health and safety legislation: the rescue unit's actions and equipment (including breathing equipment) was inadequate; the parts of the blast furnace where there was a danger of gas leaks did not have an automatic warning system; there were serious gaps in the education and training of the main technical workers responsible for the gas-purifying system; the necessary technical inspections of the condition of the fire fighters' breathing equipment had not been undertaken; and important labour inspectorate instructions on technical supervision and internal communica-

⁴ "One worker died and another seriously injured in accident at Mazeikiu Nafta refinery". *The Associated Press*, 22 May 2007.

⁵ Full information about this case is available at:
<http://www.eurofound.europa.eu/eiro/2004/02/feature/bg0402202f.htm>.

tions, as well as on equipment to cool and purify blast furnace gases had not been implemented.

These cases, and the other thousands occurring yearly, lead to another question related to the aetiology of these events. Are they really inevitable, just accidents? “*The use of the word “accident” to describe when a worker is injured or killed hides the fact that often this is a result of a criminal act by the employer [. . .] Words are being used to change the way we deal with health and safety*” (Robertson, 2004: 6). The language of ‘accidents’ is also victim blaming: it dates back to the 1920s with the idea of the ‘accident-prone worker’, a term being used to mean that “[. . .] accidents are caused by a few individuals who tend to have a large number of accidents [. . .] no matter the precautions that the employer takes” (Grayson and Goddard, 1976: 17).⁶ Though accidents at work may sometimes be due to actions of the person affected, these events may account just for a tiny fraction of the overall picture, the biggest part being the employers’ responsibility, mainly for inadequate work floor organisation or supervision (on this see, amongst the many: Decker and Borgen, 1993; Hofmann and Stetzer, 1996; Lewandowski, 2003), as the cases reported above also suggest. This is the reason why jurisdictions normally criminalise the conduct of those employers who recklessly, or with gross negligence, expose their employees to substantial risk of injury.

But why should corporations be grossly negligent or reckless, i.e. go ahead anyway, notwithstanding their awareness of the potentially adverse consequences of their omissions? Criminological explanations for these criminal conducts is that companies are oriented towards the future and make calculated decisions in terms of costs and benefits any time they infringe regulations (Braithwaite, 1989). This means that in most cases any time they do not implement safety regulations at the workplace they do so after having previously assessed in monetary terms the costs of their choice (e.g. likelihood of being prosecuted; projected total number of killed/injured people; compensation claims for a life/injury) against the benefits of the infringement (money savings in terms of time and resources). Especially considering that the key component of costs, i.e. law enforcement risk, is normally very low for these crimes, it does not come to a surprise that the expected benefits in most cases outweigh the costs and the crime is therefore committed. Frequently this consists of a crime by *omission*: costly regulations

⁶ The perspective of the accident-prone worker is discussed in detail in Tombs and Whyte (2007: 74-80).

are not implemented and prohibited situations are continued. This is accompanied by a widely shared institutional tolerance towards these practices, which is in turn largely promoted by the tolerance of the victims themselves, i.e. the workers. As the financial burden of occupational safety laws lays both on employers and workers, who share payment of social security contributions, deviance is economically profitable for both sides. Workers themselves, therefore, make a cost-benefit assessment too: to where the immediate benefits from deviance (higher salary) are valued higher than possible future costs in terms of extremely harmful events.⁷ As a result of this criminal symbiosis the victims disappear and safety crimes, that as discussed above are all but bloodless, are generally perceived as victimless.

Against this background, where economic drivers tend to prevail over social ones, the following sections examine safety crimes in the enlarged Europe and the challenges raised for European policy-making on occupational safety and health by the accession of new Eastern European Member States, and discuss in the end some possible ways aimed at impacting upon the rational decision making process conducive to most of these events.

Working environments and illicit practices in the enlarged EU

In recent years the European Union has greatly expanded its borders, with twelve new Member States since 1 May 2004, when the biggest enlargement took place. Ten countries (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia) joined the European Union, followed by Bulgaria and Romania on 1 January 2007. And the process is not yet completed, given that there are three candidate countries (Croatia, Macedonia and Turkey) while some Western Balkan countries (Albania, Bosnia and Herzegovina, Kosovo, Montenegro and Serbia) are potential candidate countries.⁸ As has been the case with previous extensions of the EU, existing regulatory and criminal law systems will have to be adapted to EU requirements. This also applies to differences in safety levels

⁷ This presupposes a 'rational decision maker'. However, most decision making is less rational, or rather, highly implicit, underestimating or denying future negative events and overvaluing immediate rewards.

⁸ Updated information on the enlargement is available at: http://ec.europa.eu/enlargement/index_en.htm.

and their enforcement between old and new Member States. But before moving to such legal issues, one question arises: are working environments and working conditions in new Member States similar to those present in old Member States or are there any distinctive differences in terms of workers' safety? Examining the contexts where safety crimes occur across the enlarged Union is a necessary starting point for understanding such criminal and regulatory offences, as well as for assessing the adequacy of EU policy in their regard.

One of the best indicators of the level of workplace safety is the number of fatal accidents at work. While data on serious accidents – i.e. accidents at work resulting in more than three days' absence – may suffer from different levels of underreporting across the EU, data on fatal accidents are more reliable, because death is a rather difficult event to hide and is less subject than non-fatal accidents to national definitional differences and recording practices. Harmonised data on accidents at work in the European Union have been collected by Eurostat, the Statistical Office of the European Communities, since 1990, in the framework of the European Statistics on Accidents at Work (ESAW). The database is primarily based on information received from national administrative agencies.⁹

The rate of fatal accidents – i.e. the number of workplace accidents causing the death of the victim within one year of their occurrence/the number of persons in employment in the reference population x 100.000 persons in employment – is presented below for the original 15 and the new 12 Member States (Table 2). Data are given as an annual index (with base year 1998 = 100) of the rate. To account for differences among the Member States in the distribution of workforce across the risk branches, an adjustment is performed to obtain what Eurostat calls “standardised” (or adjusted) rates. These are calculated by giving each branch the same weight at national level as in the European Union total.

⁹ For more detailed information on the ESAW methodology, see Directorate-General for Employment and Social Affairs and Eurostat (2001).

Table 2
Index of the number of fatal accidents at work
per 100.000 persons in employment (1998=100) in the
European Union. 1994-2005.

| | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|-------------------|-------------|-------------|-------------|-------------|-------------|-------------|------------|-----------|-----------|-----------|-----------|-----------|
| EU (27 MS) | n.a. | n.a. | n.a. | n.a. | n.a. | n.a. | 100 | 97 | 91 | 90 | 88 | 86 |
| EU (25 MS) | n.a. | n.a. | n.a. | n.a. | 100 | 88 | 87 | 85 | 81 | 80 | 76 | 72 |
| EU (15 MS) | 122 | 116 | 113 | 106 | 100 | 91 | 88 | 85 | 80 | 78 | 75 | 74 |
| <i>Bulgaria</i> | 122 | 116 | 120 | 116 | 100 | 96 | 100 | 104 | 85 | 83 | 84 | 85 |
| <i>Cyprus</i> | n.a. | n.a. | n.a. | n.a. | n.a. | 100 | 46 | 62 | 107 | 83 | 92 | 66 |
| <i>Czech Rep.</i> | 110 | 103 | 112 | 116 | 100 | 76 | 96 | 96 | 87 | 84 | 78 | 71 |
| <i>Estonia</i> | n.a. | 120 | 102 | 114 | 100 | 79 | 56 | 78 | 81 | 67 | 75 | 58 |
| <i>Hungary</i> | 106 | 117 | 101 | 97 | 100 | 107 | 95 | 71 | 109 | 80 | 96 | 73 |
| <i>Latria</i> | n.a. | n.a. | n.a. | n.a. | 100 | 115 | 90 | 140 | 123 | 66 | 98 | 74 |
| <i>Lithuania</i> | n.a. | 98 | 102 | 83 | 100 | 91 | 78 | 105 | 115 | 138 | 113 | 133 |
| <i>Malta</i> | 35 | 109 | 100 | 42 | 100 | 74 | 38 | 46 | 30 | 91 | 90 | 44 |
| <i>Poland</i> | n.a. | n.a. | n.a. | 109 | 100 | 83 | 96 | 92 | 89 | 90 | 86 | 81 |
| <i>Romania</i> | n.a. | n.a. | n.a. | 105 | 100 | 93 | 103 | 97 | 95 | 111 | 103 | 128 |
| <i>Slovakia</i> | n.a. | 96 | 109 | 81 | 100 | 89 | 71 | 71 | 65 | 75 | 64 | 64 |
| <i>Slovenia</i> | 90 | 118 | 118 | 130 | 100 | 113 | 102 | 122 | 141 | 136 | 77 | 84 |

Source: Eurostat (2007).¹⁰

Legend: n.a. = not available.

As Table 2 shows, the index for the EU-27 has been higher than that for the EU-15 in all the recent years for which data are available: 100 vs. 88 in 2000; 97 vs. 85 in 2001; 91 vs. 80 in 2002; 90 vs. 78 in 2003; 88 vs. 75 in 2004; 86 vs. 74 in 2005. Workplace deaths have therefore been and still are on average more frequent in the countries which recently joined the European Union, and this suggests that they have more deteriorated working environments than Western countries do. Looking more in details, the picture is, within the new Member States, quite differentiated. While in recent years most of them experienced a reduction in the accident rate, thus getting closer to the EU-15 average, a couple of countries, namely Lithuania and Romania, still display a much higher index than the rest of the Union.

This first impression is confirmed by other data sources, which are useful for further investigation of the features of the new Member States' working environments, and also for understanding the reasons for this higher occur-

¹⁰ Data downloaded from the Eurostat Database on Accidents at Work (ESAW), http://epp.eurostat.ec.europa.eu/portal/page/portal/health/health_and_safety_at_work/databa se.

rence of fatal accidents. In particular, relevant information can be collected by inspecting the subjective views of workers as expressed in the European Working Conditions Survey, which is conducted by the European Foundation for the Improvement of Living and Working Conditions. This survey, launched for the first time in 1990 to cover the then twelve Member States, is now in its fourth edition, which was carried out in 2005 in thirty-one countries simultaneously: the EU-27 (with Bulgaria and Romania still regarded, at that time, as acceding countries); the two candidate countries, Croatia and Turkey; plus some non EU countries (Norway and Switzerland). The 2005 survey's findings suggest that, compared to the fifteen original Member States, the situation in new Member States and acceding countries is characterised by the worst working conditions in terms of health and safety, owing to a variety of reasons and a concentration of risk factors.

First, unemployment rates are higher in Eastern European countries compared to those of Western Europe. The worst performers are Poland (18,3%), Slovakia (17,3%) and Croatia (14,1%), while other Eastern countries (e.g. Bulgaria 12%, Lithuania 10,7%, Latvia and Turkey 10,3%) have rates more than twice as high as those of the best EU performers, i.e. Ireland (4,5%) and the Netherlands (4,6%) (European Foundation for the Improvement of Living and Working Conditions, 2007: 4). This is a key labour market indicator which is likely to impact on working conditions. As unemployment rates rise, the position of people looking for a job and obtaining one grows increasingly weaker. High unemployment levels are also correlated to high levels of underground economy, and therefore of workers devoid of social rights.

Inspection of the distribution of sectoral employment shows that the importance of agriculture –a sector where workers are particularly exposed to physical risks and long working hours– is greater in the new Member States as well as in the candidate countries, with percentages in Turkey, Romania, Poland, Lithuania, Latvia, Bulgaria, Estonia and Slovenia well above the EU-27 average. In addition, manufacturing employs a higher percentage of the labour force in the Eastern European countries (European Foundation for the Improvement of Living and Working Conditions, 2007: 5). Also to be noted is that Romania, Bulgaria and the candidate countries (Turkey and Croatia) have the lowest percentages of public sector employment – a traditionally low risk sector– together with southern European and continental countries (European Foundation for the Improvement of Living and Working Conditions, 2007: 6).

With reference to the type of employment contracts, the move from the EU-15 to the EU-25 has seen an increase in the percentage of the labour force that is self-employed: the share being highest in the candidate countries (20%) (European Foundation for the Improvement of Living and Working Conditions, 2007: 7). This has been a consequence of economic restructuring in those countries, with an increase in self-employed workers especially in hazardous industries (e.g. construction) (Woolfson, 2006: 157). But it is also linked to the widespread criminal practices violating workers' social rights and fiscal obligations that will be discussed below. Also, indefinite-term contracts are less frequent than the EU-27 average in most of the new Member States and in the candidate countries (European Foundation for the Improvement of Living and Working Conditions, 2007: 8), while Eastern European countries have the highest proportion of fixed-term contracts (17%), these being types of contract on which higher-than-average proportions of unskilled workers are employed (European Foundation for the Improvement of Living and Working Conditions, 2007: 9).

Although the length of working time exhibits a general downward trend, average weekly working hours are still above the EU-27 average in all the new Member States and in the candidate countries (European Foundation for the Improvement of Living and Working Conditions, 2007: 17). With the exception of Cyprus and Estonia, the same applies to working hours, with above-EU-27 averages of people working more than 48 hours a week in the new Member States and candidate countries (European Foundation for the Improvement of Living and Working Conditions, 2007: 18). This has direct implications for employees at work, because longer working time is strongly correlated with higher health and safety risks.

Another significant finding of the 2005 survey concerns levels of risk exposure, with workers of the EU-25 more exposed to certain physical risks (such as repetitive hand or arm movements and noise) than workers of the EU-15 (European Foundation for the Improvement of Living and Working Conditions, 2007: 29).

Moreover, in the new Member States and candidate countries there is a generally less widespread use of information/computer technology and a greater use of machinery compared to the old Member States, and this correlates with poorer working conditions (European Foundation for the Improvement of Living and Working Conditions, 2007: 44).

These data therefore show that Eastern European countries are in general characterised by riskier working environments than are the old fifteen Mem-

ber States. It is therefore not surprising that workers in the former countries are those reporting, on average, the highest levels of work-related impact (European Foundation for the Improvement of Living and Working Conditions, 2007: 61). In most of these more deteriorated environments the levels of training are below the EU-27 average (European Foundation for the Improvement of Living and Working Conditions, 2007: 49).

In working environments like these, illicit practices are widespread. As reported by many National Labour Inspectorates in these countries, the two main categories of such practices are:

- a) violations of labour legal relations, and
- b) breaches of occupational safety regulations, of either an organisational or technical nature.

Although the latter may seem to be those of greater importance in terms of health and safety, violations under category (a) are also extremely significant, as it will become clearer when more detailed examination is made of illicit conducts in each of these two categories separately.

a. Violations of labour legal relations

This category includes violations relative to labour contracts, labour payment and work and rest time, such as:

- *bogus full-time contracts*, with secondary or hidden supplementary contracts stipulating the surrender of employment rights (Vaughan-Whitehead, 2005: 11-12);
- *temporary contracts, although the work is in fact of a permanent nature*, to avoid tax and social security contributions;
- *various forms of probationary contracts* serving the same purpose of reducing labour costs at the expense of workers' guarantees;
- *bogus interim contracts* stipulated with interim agencies created by employers themselves in order to save on labour costs and contributions (Vaughan-Whitehead, 2005: 4);
- *abuse of self-employed status* in order to avoid obligatory social security contributions. This practice is particularly common in the restructured post-communist labour markets, where employers increasingly request employees to switch from regular to self-employment status. As noted by various commentators, this “*represents, like temporary work contracts, a new source of flexibility, often more convenient for employers since it allows them to attain maximum flexibility more easily, with maximum avoidance of social contributions and labour regulations. [. . .] Compared to the EU-15, this recourse not*

only seems to be more extensive already, but also to capture a different phenomenon, namely regular employees in effect remaining in the same job while shifting from a normal labour contract to a self-employment contract” (Vaughan-Whitehead, 2005: 5). The implications of this practice in terms of safety are huge: the normal labour contract is replaced with a civil contract, and these workers are no longer covered by the Labour Code and regarded as employees, but rather by the Civil Code and regarded as business units (Vaughan-Whitehead, 2005: 11). Therefore, they lose all workers’ rights. Another example of criminal abuse of the subcontracting scheme is given by the recourse to illegal labour subcontractors (such as the Dutch *koppelbazen*) used to evade social security contributions by the employers;¹¹

- *unwritten contracts or unregistered contracts*: no labour contracts are concluded with employees (or, if concluded, they are not registered) in order to evade all tax and social insurance payments (Vaughan-Whitehead, 2005: 11);
- *minimum wages supplemented by so called ‘envelope wages’*, which are off-the-books payments made in order to avoid social insurance and tax liabilities. A recent Eurobarometer survey on the extent of undeclared work in the European Union, defined as “*all remunerated activities which are in principle legal but circumvent declarations to tax authorities or social security institutions*”, examined, amongst other things, the frequency of envelope wages across the European Union. This is a variant of the supply of undeclared work relevant to dependent employees only. Receiving envelope wages means that the employer pays all/part of the salary and/or the remuneration for extra work on a cash-in-hand basis without declaring it. Findings from this survey show that this practice is more common in new Member States. In all the Central and Eastern European countries, except for the Czech Republic and Slovenia, the share of dependent employees who received all or part of their salaries as envelope wages in the last 12 months was above the EU-27 average of 5%. The highest shares were reported in Romania (23%), Latvia (17%), Bulgaria (14%), Poland and Lithuania (11% each) (European Commission, 2007: 29-30);
- *employers who declare bankruptcy in order to avoid paying compensation for fatal injuries and/or in an attempt to cover up workplace deaths*: these practices were recorded, for example, in Lithuania, before the 2000 reform which

¹¹ On *koppelbazen* see Van Duyne and Houtzager (2005).

eliminated the obligation on employers to compensate the families of fatally injured workers directly (Woolfson and Beck, 2003: 248);

- *delayed or irregular payment of wages and/or non-payment of overtime or night work* (Vaughan-Whitehead, 2005: 14);
- *violation of the rules on maximum permitted working hours* in order to meet production peaks with the same amount of labour, thereby limiting the payment of social contributions. Although this practice is mainly initiated by employers, it receives some support from employees as well, because “accumulating the number of hours during the week has become the main way of increasing low basic wages and supplementing family income” (Vaughan-Whitehead, 2005: 7). The negative impacts of longer working time on health and safety have already been discussed above;
- *failure to provide annual vacations (or financial compensation in lieu of them) or education leave to take examinations.*

To sum up the key aspects of these conducts from a criminological viewpoint, one may first note that while these violations entail a shortening of the rights of the employees and a jeopardising of their physical safety, the veiling of these transgressions in most cases requires accompanying criminal acts, like fraudulently tampering with the paperwork, therefore being typically associated with documentary fraud. Many of these conducts are actually directly based on fraudulent documents.

Another relevant aspect suggested by most of the practices reported above is the criminal symbiosis between employers and employees. Both categories of actors, in fact, and not only employers, have an interest not to be law abiding citizens in the context of labour relations. So, employees are willing to accept a complete or partial reduction of their safety rights in exchange of higher salaries. This is exactly because, “*as social security contributions are paid by employers as well as employees, both have an economic incentive to evade these expenses*” (Van Duyne and Houtzager, 2005: 163).

Notwithstanding the often consensual agreement to crime occurrence by both employers and employees, all these practices may have harmful impacts on workers’ health and safety by a) depriving them of their social guarantees, which are particularly important in the case of workplace accident, and b) as a consequence, by placing them in an extremely weak position vis-à-vis employers, which is conducive to very high levels of physical and psychological stress and, therefore, of safety risks. In addition, these practices make workers totally or partially invisible to society and the authorities, thereby

silencing their 'voice' and hence their active contribution to workplace health and safety policies and practices.

b. Breaches of occupational safety regulations

These practices have a more direct and immediately recognisable link with safety and health at work. They consist in the failure to prevent harmful or dangerous working conditions, and they include all violations of occupational safety regulatory enactments. Depending on the contents of the legal provisions violated, two types of irregularities can be identified:

- *breaches of occupational safety regulations of an organisational nature*: such violations concern the organisation and implementation of a qualitative labour protection system in the company. They include the following conducts: failure to assess the working environment's risk factors; failure to provide workers with the necessary instructions and training; failure to send employees for mandatory health examinations; failure to establish labour protection systems; inadequate internal surveillance of the working environment; lack of occupational safety specialists in the firm;
- *breaches of occupational safety regulations of a technical nature*, resulting in non-compliance with legal requirements relative to the procurement, servicing and maintenance of manufacturing equipment, machines, devices and other technical equipment, as well as to the technical supervision and inspection of dangerous equipment.

Though some of these conducts, as discussed, are more widespread in new Member States than in the old ones, they are undoubtedly not exclusive to the former. Indeed, all of them are well known in the latter as well. Their impact, however, is likely to be greater in the new Member States, given the more deteriorated working contexts of these countries. But gaining a more complete picture requires consideration of another key element, i.e. the capacity of these countries to combat these practices. In order to shed some light on this factor, the next two sections analyse the EU standards developed to respond to and prevent such illicit behaviours, as well as their level of transposition and implementation in new Member States.

The EU standards on safety and health at work

The key European standards on safety and health at work have been set by the Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, together with its amending acts.¹² This directive introduces measures promoting the prevention of occupational risks, protection of safety and health, the elimination of risk and accident factors, information, consultation, balanced participation and training of workers and their representatives.

Articles 5 to 12 of the Act require employers to ensure the safety and health of workers in every aspect relating to their work. They should adopt the measures necessary for the safety and health protection of workers, including prevention of occupational risks and the provision of information and training, as well as the provision of the necessary organisation and means. These measures should be implemented on the basis of general principles of prevention, such as, for example: evaluating and avoiding/reducing risks; adapting the work to the individual as regards the design of workplaces and the choice of work equipment and production methods; adapting to technical progress; developing a coherent overall prevention policy which covers technology, organisation of work, working conditions, social relationships and the influence of factors related to the working environment; giving appropriate instructions to workers (article 6). Employers should also designate one or more workers (external services, if there are no competent personnel in the undertaking) to carry out activities related to the protection and prevention of occupational risks (article 7), and take the necessary measures for first aid, fire-fighting, evacuation of workers and action required in the event of serious and imminent danger (article 8). Employers must also evaluate occupational risks and make provision for adequate protective and preventive services, as well as keep a list of, and draw up reports on, occupational accidents (article 9). Other employers' obligations are those of informing (article 10) and consulting workers and allowing them to take part in discussions on all questions relating to safety and health at work (article 11), and employers must ensure that each worker receives adequate safety and health training throughout the period of employment (article 12).

¹² These are a) Regulation (EC) No 1882/2003 and b) Directive 2007/30/EC, whose deadline for transposition is 31 December 2012.

Workers for their part are obliged to take as much care as possible of their own safety by making correct use of machinery and personal protective equipment; warning of any work situation presenting a serious and immediate danger; and cooperating with the employer to ensure a safe working environment (article 13).

This framework directive has been followed by many individual ones on specific safety and health issues.¹³

A key role in the recent developments of the EU policy in this area has been played by the European Council held in Lisbon in March 2000, whose Presidency Conclusions set a new strategic goal for the Union: “*to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion*”.¹⁴ In order to achieve this goal, a new method of policy cooperation –known as the “open method of coordination”– was suggested. This method embodies a new approach to policy making which involves fixing guidelines for the Union combined with specific timetables for achieving the goals which these guidelines set; benchmarking and exchanging experiences and best practices; periodic monitoring, evaluation and peer review as mutual learning processes. A fully decentralised approach with the active involvement of the social partners and civil society is also advocated. Close attention is therefore paid to soft law –voluntary improvements and self regulation– and to create a friendly environment to enhance the competitiveness of businesses by lowering the cost of doing business and reducing unnecessary red tape. In the next section we will see to what extent ‘lowering the costs’ amounts, as a matter of fact, to ‘criminal savings’.

It was in this context that the 2002 Commission Communication “Adapting to change in work and society: a new Community strategy on health and safety at work 2002-2006” outlined the options for promoting well-being at work (Commission of the European Communities, 2002). These are the key points of this Act:

- *it proposes a broader, global approach to well-being at work*, understood not merely as the absence of illnesses/accidents but, in more positive terms,

¹³ The complete list of individual directives can be consulted at this Internet address <http://osha.europa.eu/en/legislation/directives>.

¹⁴ The Presidency Conclusions of the 2000 Lisbon European Council can be consulted at the following Internet address http://www.europarl.europa.eu/summits/lis1_en.htm.

as physical, moral and social well-being (Commission of the European Communities, 2002: 4);

- *it considers a safe and healthy working environment and organisation in economic terms, i.e. as performance factors for the economy and for companies, stressing that “an ambitious social policy is a factor in the competitiveness equation and [. . .] that having a ‘non policy’ engenders costs which weigh heavily on economies and societies”* (Commission of the European Communities, 2002: 3-4);
- *it aims at promoting well-being at work by: a) strengthening the prevention culture through education, awareness training and risk assessment and management; b) promoting the better application of existing law by producing guidelines and closely cooperating with national authorities; c) encouraging innovative approaches, such as best practices benchmarking and their application by means of social dialogue and voluntary agreements concluded by the social partners.*

A brief passage in the Act is devoted to the topic of enlargement, and only to acknowledge that the candidate countries have “*a higher than average frequency of occupational accidents which is well above the average for the EU, mainly because of their higher degree of specialisation in sectors which are traditionally regarded as high-risk*” (Commission of the European Communities, 2002: 3) and that it is necessary to prepare for enlargement by promoting experience exchange, social dialogue and the collection of data on accidents at work and their analysis (Commission of the European Communities, 2002: 17).

More recently, the Commission’s new strategy on health and safety at work for the period 2007-2012 (Commission of the European Communities, 2007) has adopted the same principles.¹⁵ It defines a series of measures for an overall 25% reduction in occupational accidents at work in the EU. The main instruments with which to achieve this goal are, again, mainly soft law tools, including: risk prevention culture, best practices dissemination, better training and information, active participation and consultation of all interested parties, including the social partners.

¹⁵ For a comment see Woolfson and Calite (2007).

Safety and health at work in the new Member States: law in the books, law in action

a. Law in the books

The above-mentioned standards have been inserted into the *acquis communautaire*, so that candidate countries are required to incorporate them into their national legislations in order to meet the accession conditions. In particular, they have been inserted into Chapter 19 of the *acquis*, on social policy and employment, which sets minimum standards in the areas of labour law, equal treatment of women and men in employment and social security, and, most relevantly to this article, health and safety at work.¹⁶

As a result, over the past fifteen years, new Member States have largely revised their labour legislations. Legal alignment is almost complete, with the exception of some individual directives, the transposition of which is only partial.

b. Law in action

The available literature highlights a considerable gap between the law in the books, which generally meets EU standards, and the law in action, i.e. its concrete implementation. The implementation of the *acquis communautaire* in this area has been recognised as being “one great challenge” by the High-Level Group on Social Policy (European Commission, Directorate-General for Employment and Social Affairs, 2004: 13), because the relevant legislation is infrequently applied at enterprise level, especially among small and medium-sized enterprises (Vaughan-Whitehead, 2005:12). Some commentators have linked this with the “*legalistic approach that is still commonly found in Central and Eastern Europe, whereby a problem is regarded as having been solved if a law or regulation has been passed to deal with it*” (Weiss, 2002). There are many reasons why implementation is so unsatisfactory. These are the main ones:

1. *The administrative implementation structures have been set up but are understaffed, under-resourced and under-trained in terms of prevention:* accession to the Union requires not only the transposition of certain standards into national legislation but also the creation of appropriate administrative bodies responsible for its implementation. In the field of health and safety at work, these

¹⁶ See http://ec.europa.eu/enlargement/glossary/terms/acquis-chapters_en.htm.

bodies are typically represented by “*enforcement agencies in the field of health and safety at work, labour law and equal opportunities, such as labour inspectorates and occupational hygiene inspectorates with the competencies needed to ensure control and information leading to improved working conditions, as well as health and hygiene services, first aid services, fire prevention services, training services, and services for promotion and research*” (European Commission, 2005: 63–64).

National Labour Inspectorates have generally been created in the new Member States, but the task has not been taken very seriously. Compliance with regulations is in fact more formal than substantial, if one considers that in most cases these offices have not been assigned enough people nor sufficient technical facilities (e.g. a pc). Moreover, their inspectors are not given much training on new inspection methodologies based on the risk assessment approach. In short: the organisations to protect workers’ safety against exploitation and criminal negligence have been staffed with ‘two men and a dog’. Also a result of this, cooperation between the Labour Inspectorate and other authorities responsible for health and safety at work is weak.¹⁷

2. Regulatory enforcement is poor: because of under-staffing, under-resourcing and certain legal constraints (e.g. repeat offending is not always criminalised), enforcement by the Labour Inspectorates in these countries is limited, with low levels of administrative penalties for safety violations. For example, in 2007 the Latvian State Labour Inspectorate issued 2.418 administrative penalties, the great majority of them – 2.206 – in the form of pecuniary penalties (of which 1.485 for violation of labour law relations; 878 for violation of labour protection legislation), for a total of 287.483 Latvian Lats (State Labour Inspectorate, 2008: 11). Hence, an average penalty of € 186 is applied per violation, within a legal framework where the maximum fine imposable for an administrative violation of labour laws was increased in 2005 to € 1.400 for repeat offenders. Although the average amount of issued penalties has increased from year to year – in 2006 it was € 140 (State Labour Inspec-

¹⁷ These problems have been highlighted by the great majority of the monitoring reports produced by the Commission services to assess the achievements of each candidate country in their progress to accession. Although the situation has slightly improved since the time when the most updated versions of these reports was published, just before accession (2003 for Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia; 2005 for Bulgaria and Romania), most of the remarks they contain still apply. The monitoring reports can be accessed at these Internet addresses:
http://ec.europa.eu/enlargement/archives/enlargement_process/past_enlargements/eu10/index_en.htm for the ten countries that joined the EU in 2004;
http://ec.europa.eu/enlargement/archives/key_documents/reports_2005_en.htm, for Bulgaria and Romania.

torate, 2007); € 124 in 2005; € 109 in 2004 -, this is still trivial compared with the potential impact of such violations as well as the profits made due to non-compliance: 'criminal savings'. Moreover, although the maximum fine for employing a person without a contract is € 720, the average fine amounts to about € 100 (Woolfson, 2007: 204). Fines imposed by Polish labour inspectors in 2007 were of a similar amount: on average, € 230 per violation (Chief Labour Inspector, 2008: 4); € 169 in 2006 (Chief Labour Inspector, 2007: 4). Levels of investigation are sometimes low. In Lithuania, for example, only 9,8% of notified accidents were investigated in 2005. And criminal justice remedies are uncommon: for example, none of the 328 cases presented by the Lithuanian Labour Inspectorate to the public prosecutor in 2005 led to a conviction (State Labour Inspectorate of the Republic of Lithuania, 2006).

Also marked is the lack of support given to law enforcement agencies at the political level. This has induced some commentators to talk of institutionalised tolerance of non-compliance, with regulators giving priority to enterprise profitability needs over social security concerns. This amounts to an institutional endorsement of criminal conduct in labour relations because of commercial interests (Woolfson, 2005: 32).

3. The poor implementation of formal regulations is not off-set by self-regulation, owing to the weakness of the social partners and social dialogue: as said, social dialogue and voluntary initiatives are regarded at the EU level as key instruments for the development of a modern approach to workplace safety and health. However, in most of the countries that have recently joined the Union, the social partners are still far from a modern understanding of health and safety issues, also because these issues have until recently been within the remit of the socialist trade unions, which performed labour protection control on behalf of the state. Since the collapse of communism in the early 1990s and the transition to a liberal economy, trade-union membership has declined and any form of workers' protection has been regarded with increasing hostility (on this see, for example: Woolfson, 2008: 21; Woolfson, 2007: 205; Woolfson, Calite and Kallaste, 2008: 329; Woolfson, 2006a: 346). As a result of this historical development, in most of the new Member States the marginalisation or exclusion of the trade unions, especially at workplace and sectoral levels, are still quite common. Moreover, although the institutional and administrative framework for social dialogue is in place, the administrative capacity of both the social partners and the government

does not reach the level at which serious work can be done. In most of the new Member States, bipartite social dialogue is limited at both sectoral and enterprise level, due to its restricted coverage in terms of the labour force and enterprises covered by collective agreements.¹⁸

4. Cultural attitude towards compensation, rather than towards risk assessment and prevention: it should be added that, especially in these countries, which in the past few years have experienced the highest rates of economic growth, market-led imperatives make the role of domestic enforcement agencies somewhat problematic (Woolfson, 2006: 165). Employers, especially in small and medium sized enterprises (SMEs), are largely indifferent to best practice models, and even less interested in promoting a participative safety culture. They do not regard health and safety as good for business and focus on short-term profitability, whereas workers prioritise employment security and wages over safety concerns. A feature shared by most of these Member States, especially those with a communist tradition, is the payment of risk premiums for hazardous working conditions. This is a practice that can be taken as indicative of a cultural attitude that emphasises acceptance of risk over risk assessment and prevention; and it is a practice, moreover, supported by workers themselves, who see it as compensation for low wages. We are back, again, to the idea of criminal symbiosis already expressed in this article: a mutual profiting from law breaking for both employers and workers, with the latter valuing the immediate and tangible economic benefits of deviance higher than its future and uncertain costs in terms of death/serious injury (Woolfson, 2006b: 204).

The problems discussed above in the enforcement of the EU standards and the obstacles against successful implementation of the soft law approach in new Member States warrant even closer attention in light of the future enlargement of the European Union. Candidate countries as well as potential ones will no doubt face very similar problems. As highlighted by the 2008 progress reports with which the Commission services monitor the achievements of each country, although legal alignment in this area is in progress, social dialogue is still in its infancy, administrative capacity to ensure proper implementation and enforcement of labour law is not sufficiently developed, and cooperation between the relevant institutions is scarce. Evidently there is

¹⁸ These problems have been highlighted by the great majority of the monitoring reports produced by the Commission services to assess the achievements of each candidate country in their progress to accession.

a wide gap between the law in the book and endorsed policy and the practical implementation in terms of staff and an effective execution of a working plan. Instead of regarding a safe working environment as a factor enhancing competitiveness by reducing heavy costs, as suggested by the Commission's strategies on health and safety at work, companies seem to think and act differently. They still consider safety mainly as a burden, thereby responding to the EU invitation to lower the cost of doing business by violating safety regulations. Law in the book is patient, but in the plants and fields money must be made – if necessary by 'criminal saving' – and that counts. The rest is lip service.¹⁹

Possible ways forward

What, therefore, are the means available to increase levels of safety and health at work in new Member States, as well as in candidate and potential candidate countries to the EU? There are three main ones:

1. Increase the costs of non-compliance by promoting the stricter enforcement of existing regulations: for the reasons discussed above, a pure soft law approach to health and safety at work is unlikely to be successful in new Member States, and in candidate countries as well. A more legalistic and formal approach is required. This should strengthen the enforcement of existing regulations for non-compliance by increasing a) the probability of inspections for any given employer and b) the certainty and severity of sanctions. Relevant actions in this respect are an increase in the material and human resources of National Labour Inspectorates and in their training, as well as improved interagency cooperation. All this should help reminding employers that they are liable for their (criminal) negligence;

2. Reduce the costs of compliance by means of economic incentives: economic incentives for compliance should be increased in order to encourage prevention efforts by businesses. Because the cost of safety improvements and the lack of *ad hoc* expertise within enterprises can deter improvements, incentives may take three main forms: a) state subsidies, grants, financing, i.e. financial payments or favourable economic conditions (e.g. bank loans) for companies

¹⁹ The 2008 progress reports for each candidate and potential candidate country can be consulted at this Internet address

http://ec.europa.eu/enlargement/press_corner/key-documents/reports_nov_2008_en.htm#1.

that improve working conditions, as well as low-cost advice and support; b) incentives based on tax systems, which reduce taxes on employers investing in safety; c) insurance premium variation, linking the insurance premium paid by a company to its safety and health performance (European Agency for Safety and Health at Work, 2008; European Agency for Safety and Health at Work, 2005);

3. Increase the awareness of the benefits of compliance: in parallel, action should be taken to spread awareness of the benefits of compliance, and in particular awareness that it is profitable for businesses in economic and competitive terms. Compulsory expenses related to occupational health and safety are, on the employers' side, indubitably high, particularly in small and medium-sized enterprises. Costs are even higher in new Member States owing to the modernisation of the existing industry structure. However, research undertaken by, amongst others, the European Agency for Safety and Health at Work and by the US Occupational Safety and Health Administration shows that a) the costs of a lack of safety at work are huge, and that b) prevention of accidents pays off and has more benefits than mere damage reduction.

Lack of safety costs a great deal, even at company level, in terms of medical expenses; indemnity payments to the injured/ill worker; costs of training and paying a replacement worker; expenses incurred in repairing/replacing damaged/destroyed property and structures; the rental costs of temporary equipment, machines, buildings or vehicles; production losses due to stops/slow down; the administrative costs of handling the case, facilitating the return to work, reorganising production; lower morale; loss in terms of image; loss of customer orders; court expenses; etc. (Eurostat, 2004: 8; US Department of Labour, Occupational Safety & Health Administration, 1996).

Moreover, *“preventing work accidents, occupational injuries and diseases not only reduces costs, but also contributes to improving company performance. [. . .] healthy workers are more productive and can produce at a higher quality; less work-related accidents and diseases lead to less sick leave [. . .]; equipment and a working environment that is optimised to the needs of the working process and that are well maintained lead to higher productivity, better quality and less health and safety risks; reduction of injuries and illnesses means less damages and lower risks for liabilities”* (European Agency for Safety and Health at Work, 2002).

From an economic viewpoint, the prevention of accidents pays off²⁰ and has more benefits than does compensating for an accident after its occurrence. The returns on investment in occupational health are as high as 12:1 (€ 12 profit for every Euro invested) (European Agency for Safety and Health at Work, 2008a). By contrast, the practice of compensating for risk hazards widespread in Eastern European countries has been assessed by the International Labour Organisation as costing twice as much as improving risky working conditions (Woolfson and Beck, 2003: 246).

Conclusions: from the national to the transnational dimension of safety crimes in the enlarged Europe

In the past few years, some progress has been in the three directions just described. Hence, as noted above, the amount of sanctions issued has slightly increased. Moreover, the International Labour Organisation and the European Agency for Safety and Health at Work have already made great efforts to spread the message of the benefits of prevention, and the importance of economic incentives for it, in the new Member States. However, there is still much room for improvement, and efforts in these directions should therefore be continued, also with a view to the future enlargement of the EU borders. Safety crimes still remain a forgotten issue, both by policy makers and law enforcement agencies as well as by criminologists. The cycle is vicious, with scarce policy attention conducive to limited research funding and researchers rarely involved in empirical research capable to attract public attention on the topic.

Wider public attention and academic interest to the topic are even more necessary nowadays if one considers the transnational aspects of safety at work. Globalisation – particularly the flow of migrants moving East to West in Europe – has provided business managers of Western European countries with increasing opportunities to maximise their profits at the expense of workers' rights –including their right to a safe working environment– by engaging in so called 'social dumping' practices. Social dumping "is a prac-

²⁰ That prevention pays off has been shown by many case studies. One example is the German car manufacturer, Volkswagen, which implemented an extensive health policy which reduced absenteeism and cut the cost of medical examinations by some € 120.000 a year. See http://ec.europa.eu/employment_social/social_model/2_en.html#22.

tice involving the export of a good from a country with weak or poorly enforced labour standards, where the exporter's costs are artificially lower than its competitors in countries with higher standards, hence representing an unfair advantage in international trade. It results from differences in direct and indirect labour costs, which constitute a significant competitive advantage for enterprises in one country, with possible negative consequences for social and labour standards in other countries".²¹

A number of high profile labour disputes decided by the European Court of Justice well illustrate the exploitation of underpaid and under-protected workers from Eastern countries in Western countries, and the contradictions of a European Union where it is hard to find a balance between economic and social goals, with the former still prevailing on the latter, though. Three key cases in this respect are the Viking case, the Laval Case and the Dirk Rüffert case.

The first case, the Viking case, was referred by the Court of Appeal, England and Wales, to the European Court of Justice (ECJ) in November 2005. Viking Line is a Finnish passenger shipping company. It owned and operated a ferry, Rosella, under a Finnish flag and with a predominantly Finnish crew who benefited from a collective agreement negotiated by the Finnish Seamen's Union. Legal proceedings started when Viking decided to reflag the Rosella to an Estonian flag, to enable it to acquire cheaper Estonian labour to work on the ship. The Finnish Seamen's Union, while accepting that the company had the right to employ the workers, insisted that these workers must be employed under the terms of the existing Finnish collective agreement. When the company refused to accept this position, the union commenced its collective action. The company consequently brought a legal claim against the trade unions, basing the claim on its right to free movement of goods and services. The case was referred to the ECJ and on 11 December 2007 the Court gave its ruling. The case involved a conflict of rights: the first is the employer's rights to the free movement of goods and services (Article 43 EC and Article 49 EC), the second is the workers' right to strike (Article 28). The ECJ held that the industrial action did constitute a restriction on the Article 43 right. While this restriction might in principle be justified by an overriding reason of public interest, such as the protection of workers, the

²¹ See:
<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/SOCIALDUMPING.htm>.

ECJ held that such restriction should not go further than what is necessary to achieve that legitimate objective.

Similarly, in the *Laval* case, the ECJ held that industrial action to impose the terms of an existing collective agreement on an employer, based in another Member State, amounted to an Article 43 restriction. In this case, Swedish unions took action against the Latvian construction company, *Laval*, over the working conditions of Latvian workers refurbishing a school in the town of *Vaxholm*. *Laval* refused to sign a collective agreement, and a blockade of the work place was therefore initiated by the trade unions. The Swedish Labour Court referred the case to the ECJ. In December 2007 the ECJ ruled that the right to strike is a fundamental right, but not as fundamental as the right of businesses to supply cross-border services.

A third relevant case is the *Dirk Rüffert* case. The company *Objekt und Bauregie GmbH & Co* secured a contract for building work in Germany, which subcontracted it to a Polish firm, with an undertaking that it would ensure compliance with wage rates already in force on the site through collective agreement. The contract was withdrawn when it was discovered that the 53 posted workers were earning 46,57% of the applicable minimum wage for the construction sector, and the *Niedersachsen* authority issued a penalty notice. The company took legal action as a result. The German Court of Appeal referred the case to the ECJ on 18 July 2006 in order to determine whether public procurement rules in *Niedersachsen* are incompatible with the freedom to provide services in the EU. The Court suggested that Article 49 of the Treaty prohibits the demand to pay wages “that are at least at the level of the wages that are foreseen on the basis of the collective agreement that applies to the place where the work is done”, because these may be higher than the minimum wage that would otherwise be applicable, and more in general that this kind of public procurement obligation would prevent foreign service providers from competing on the basis of lower wages. On 3 April 2008 the ECJ ruled that the restriction on the freedom to provide services resulting from the obligation to pay the collectively agreed wage rates was not justified by the objective of ensuring the protection of workers. It has therefore ruled that Article 49 EC precludes an authority of a Member State from adopting a measure of a legislative nature requiring the contracting authority to designate as contractors for public works contracts only those undertakings which, when submitting their tenders, agree in writing to pay their employees at least the remuneration prescribed by the collective agreement in force at the place where the services are performed.

The combined effect of these rulings is to impose stringent limitations on many workers' rights which could limit the rights under Articles 43 and 49 EC. These decisions, that have been criticised by the European Trade Union Confederation as "a licence for social dumping", are another far from favourable expression of the above described institutional compliance towards safety crimes. This "licence for social dumping" is unfortunately likely to contribute to a downsizing of the workers' safety interest, thus feeding, even if unconsciously, a criminogenic tendency already in progress.

All this shows once again how safety at work is such an underestimated issue, to which much more critical and scientific thinking should hopefully be devoted in the years to come. 'Labour crime', like illegal hiring of staff, black payments, unregistered personnel, illegal subcontracting, in fact, goes hand in hand with neglect of safety, which is about 'life and limb' instead of money only.

References

- Braithwaite, J., *Crime, shame and reintegration*. Cambridge, Cambridge University Press, 1989
- Chief Labour Inspector, *Report on the National Labour Inspectorate's activity in 2006 – Executive Summary*. 2007, available at:
http://www.pip.gov.pl/html/en/doc/2006_en.pdf
- Chief Labour Inspector, *Report on the National Labour Inspectorate's Activity in 2007 – Executive Summary*. 2008, available at:
<http://www.pip.gov.pl/html/en/doc/01050701.pdf>
- Commission of the European Communities, *Communication from the Commission "Adapting to Change in Work and Society: a New Community Strategy on Health and Safety at Work 2002-2006"*, COM(2002) 118 final. Brussels, 2002
- Commission of the European Communities, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Improving Quality and Productivity at Work: Community Strategy 2007-2012 on Health and Safety at Work"*, COM(2007) 62 final. Brussels, 2007
- Decker, P. and F. Borgen, Dimensions of work appraisal: Stress, strain, coping, job satisfaction, and negative affectivity. *Journal of Counselling Psychology*, vol. 40, 470-478, 1993
- Directorate-General for Employment and Social Affairs and Eurostat, *European Statistics on Accidents at Work (ESAW). Methodology 2001 Edition*. European Commission, 2001, available at:
http://ec.europa.eu/employment_social/publications/2002/ke4202569_en.pdf
- Duyne, P.C. van and M.J. Houtzager, Criminal sub-contracting in the Netherlands: the Dutch 'Koppelbaas' as crime-entrepreneur. In: P.C. van Duyne, K. von Lampe, M. van Dijck and J.L. Newell (eds.), *The Organised crime economy. Managing crime markets in Europe*. Nijmegen, Wolf Legal Publishers, 2005
- European Agency for Safety and Health at Work, *Factsheet 27. Inventory of socioeconomic costs of work accidents*. Luxembourg, 2002, available at:
<http://osha.europa.eu/it/publications/factsheets/27>
- European Agency for Safety and Health at Work, *Forum 14. Effectiveness of economic incentives to improve occupational safety and health*. Luxembourg, 2005, available at:

- <http://osha.europa.eu/en/publications/forum/14>
- European Agency for Safety and Health at Work, *Factsheet 76. National economics and occupational safety and health*. Luxembourg, 2008, available at: <http://osha.europa.eu/en/publications/factsheets/76>
- European Agency for Safety and Health at Work, *Factsheet 77. The business benefits of good occupational safety and health*. Luxembourg, 2008a, available at: <http://osha.europa.eu/en/publications/factsheets/77>
- European Commission, *Guide to the Main Administrative Structures Required for Implementing the Acquis*, 2005, available at: http://ec.europa.eu/enlargement/pdf/enlargement_process/accession_process/how_does_a_country_join_the_eu/negotiations_croatia_turkey/adminstructures_version_may05_35_ch_public_en.pdf
- European Commission, *Undeclared work in the European Union. Special Eurobarometer 284/ Wave 67.3 – TNS Opinion & Social*. 2007, available at: http://ec.europa.eu/public_opinion/archives/ebs/ebs_284_en.pdf
- European Commission, Directorate-General for Employment and Social Affairs, *Report of the High-Level Group on the Future of Social Policy in an Enlarged European Union*. Luxembourg, European Communities, 2004, available at: http://ec.europa.eu/employment_social/publications/2005/ke6104202_en.pdf
- European Foundation for the Improvement of Living and Working Conditions, *Fourth European Working Conditions Survey*. Luxembourg, European Foundation for the Improvement of Living and Working Conditions, 2007, available at: <http://www.eurofound.europa.eu/pubdocs/2006/98/en/2/ef0698en.pdf>
- Eurostat, *Statistical Analysis of Socio-economic Costs of Accidents at Work in the European Union*. Luxembourg, European Communities, 2004, available at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-CC-04-006/EN/KS-CC-04-006-EN.PDF
- Grayson, J. and C. Goddard, *Industrial safety and the trade union movement. Studies for Trades Unionists*, 1976, vol. 1, no. 4
- Hofmann, D.A. and A. Stetzer, *A cross-level investigation of factors influencing unsafe behaviors and accidents. Personnel Psychology*, vol. 49, 307-339, 1996

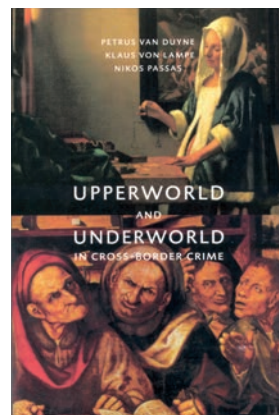
- Lewandowski, C.A., Organizational factors contributing to worker frustration: the precursor to burnout. *Journal of Sociology & Social Welfare*, vol. 30, no. 4, 175-185, 2003
- Robertson, H., Bad Language. *Hazards*, vol. 86, 6-7, 2004
- Ruggiero, V., *Organized and corporate crime in Europe: Offers that can't be refused*. Aldershot, Dartmouth, 1996
- Ruggiero, V., Criminals and service providers: Cross-national dirty economies. *Crime, Law and Social Change*, vol. 28, no. 1, 27-38, 1997
- State Labour Inspectorate, *Annual Report – 2006 Latvia*. Riga, 2007, available at:
[http://www.vdi.gov.lv/admin/files/dokumenti/SDO_2006_atk.%20Engl.\(1\).pdf](http://www.vdi.gov.lv/admin/files/dokumenti/SDO_2006_atk.%20Engl.(1).pdf)
- State Labour Inspectorate, *Annual Report – 2007 Latvia*. Riga, 2008, available at: http://www.vdi.gov.lv/admin/files/dokumenti/SDO_2007SLI-report.pdf
- State Labour Inspectorate of the Republic of Lithuania, *Annual Report of the Labour Inspectorate: Year 2005*. 2006, available at: <http://www.vdi.lt/>
- Tombs, S. and D. Whyte, *Safety crimes*. Portland, Oregon, Willan Publishing, 2007
- US Department of Labor, Occupational Safety & Health Administration, *Safety pays*. 1996, available at:
<http://www.osha.gov/SLTC/etools/safetyhealth/images/safpay1.gif>
- Vaughan-Whitehead, D., The world of work in the new EU Member States: Diversity and convergence. In: D. Vaughan-Whitehead (ed.), *Working and employment conditions in new EU Member States. Convergence or diversity?* Geneva, International Labour Organisation, 2005
- Weiss, M., How EC Directives Produce Changes. The Impact on the New EU Members. *Mitbestimmung International Edition*, 2002, available at:
http://www.boeckler.de/92462_28968.html
- Woolfson, C., Health and safety at work after enlargement: a 'New European strategy', or more of the same? *Policy and Practice in Health and Safety*, 2005, vol. 3, no. 2, 21-40
- Woolfson, C., New modes of regulation for health and safety: Post-enlargement policy perspectives for the European Union. *New Solutions*, 2006, vol. 16, no. 2, 155-173,
- Woolfson, C., The "conventionalization" of safety crimes in the Post-Communist new Member States of the European Union. *Critical Criminology*, 2006a, vol. 14, no. 4, 339-364

- Woolfson, C., Working environment and 'soft law' in the Post-Communist new Member States. *Journal of Common Market Studies*, 2006b, vol. 44, no. 1, 195-215
- Woolfson, C., Labour Standards and Migration in the New Europe: Post-Communist Legacies and Perspectives. *European Journal of Industrial Relations*, 2007, vol. 13, no. 2, 199-218
- Woolfson, C., Working environment in the New EU Member State of Lithuania: examining a 'worst case' example. *Policy and Practice in Health and Safety*, 2008, vol. 6, no. 1, 3-29
- Woolfson, C. and M. Beck, Occupational health and safety in transitional Lithuania. *Industrial Relations Journal*, vol. 34, no. 3, 241-259, 2003
- Woolfson, C. and D. Calite, New European Community strategy for health and safety: the Elephant in the Room. *International Journal of Occupational and Environmental Health*, 2007, vol. 13, no. 3, 342-355,
- Woolfson, C., D. Calite and E. Kallaste, Employee 'voice' and working environment in Post-Communist new Member States: an empirical analysis of Estonia, Latvia and Lithuania. *Industrial Relations Journal*, 2008, vol. 39, no. 4, 314-334



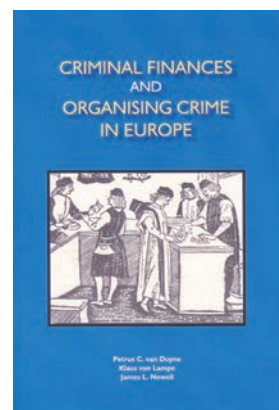
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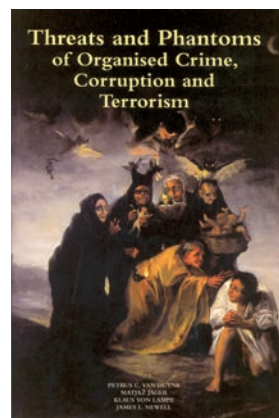
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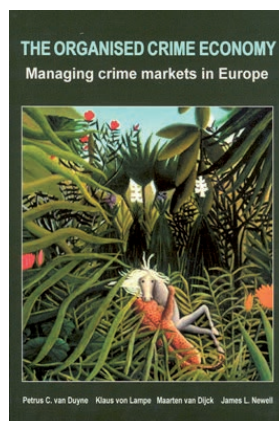
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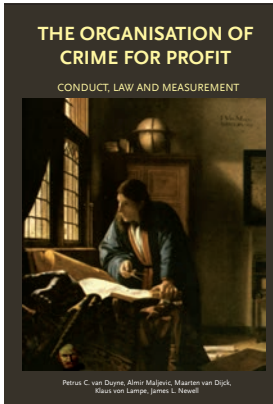
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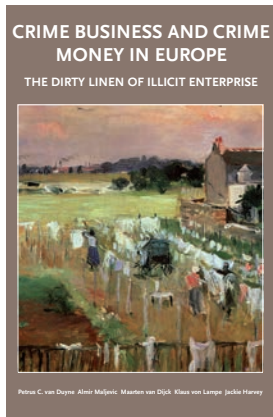




The organisation of crime for profit

Conduct, law and measurement

Petrus C. van Duyne, Almir Maljevic, Maarten van Dijk, Klaus von Lampe, James L. Newell



Crime business and crime money in Europe

The dirty linen of illicit enterprise

Petrus C. van Duyne, Almir Maljevic, Maarten van Dijk, Klaus von Lampe, Jackie Harvey (Eds.)



European Crime Markets at Cross-Roads

Extended and Extending Criminal Europe

Petrus C. van Duyne, Jackie Harvey, Almir Maljević, Miroslav Scheinost and Klaus von Lampe

Europe has the image of a slow moving old lady. However, this is a misleading picture. As a matter of fact, the 'Old Continent' is bristling with life and mobility, and many fear that much of this is of a criminal nature. This criminal mobility is supposed to be aggravated by the accompanying movement of crime-money.

It is true, Europe is 'on the move', legally and criminally. But this is all but a new phenomenon. Europe has always been an open space in which people were moving around looking for (illegal) opportunities. This has not changed basically. Some of the wandering luck seekers operate as predators, looking for objects to steal. Others offer services which are prohibited, either itself or in the way in which they are organised. The oldest of those services being sex. Naturally, the crime-moneys from these flexible criminal economic activities have to move too. To block this financial movement an elaborate defence system has been established: the anti-laundering chain of financial 'fortresses'. In addition to the crime-money threat there is the threat of corruption: though the 'old' Member States of the EU have their corruption affairs too, there is a real concern about corruption in the new or candidate Member States.

In this ninth volume of the Cross-border Crime Colloquium twenty experts from leading European institutions shed light on the various aspects of crime, money-laundering and criminal mobility in Europe. They present the outcomes of their research projects and the analysis of mobile criminal groups in Europe, the organisation of sex service between Eastern and Western Europe, surprising aspects of the money-laundering regime and corruption in new and candidate Member States. This Colloquium volume deals with these facets of criminal Europe as well as with the emerging crime in a licit market: abuse and unsafety in the labour market, the forgotten but largest mobile crime-market in Europe.