

EUROPEAN CRIME-MARKETS AT CROSS-ROADS

EXTENDED AND EXTENDING CRIMINAL EUROPE



Petrus C. van Duyne Jackie Harvey Almir Maljević Klaus von Lampe Miroslav Scheinost

European crime-markets at cross-roads

Extended and extending criminal Europe

Petrus C. van Duyne

Jackie Harvey

Almir Maljevic

Klaus von Lampe

Miroslav Scheinost



Table of contents

Petrus C. van Duyne

Crime-markets are forever: from the criminal mushroom market to the crime-money scenario

Klaus von Lampe

Organised crime research in Europe: development and stagnation

Jon Spencer

Media constructing organised crime concepts in an extended criminal Europe:
Trafficking women for sexual exploitation

Anja Logonder

Who is “Yugo” in “Yugo-mafia”? A comparative analysis of the Serbian and Slovene offenders

Miroslav Scheinost and Simona Diblikova

Criminal conspiracy from the perspective of the Czech Republic: The legal framework, definition, prosecution, and offenders

Anna Markovska and Colleen Moore

Stilettos and steel toe-caps: Legislation of human trafficking and sexual exploitation, and its enforcement in the UK and the Ukraine

Darko Datzer, Almir Maljević, Muhamed Budimlić, Elmedin Muratbegović

Police corruption through eyes of bribers: The ambivalence of sinners.

Georgios A. Antonopoulos

The cigarette smuggling business in Greece

Tom Vander Beken and Kristof Verfaillie

The vulnerability of economic markets to crime in 2015

Brendan Quirke

EU Fraud and new Member States. The case of the Czech Republic

Konstantin Pashev

Cross-border VAT fraud in an enlarged Europe

Maarten van Dijck

Finding the needle: shifting responsibilities in the fight against money laundering and the financing of terrorism

Jackie Harvey and Siu Fung Lau

Crime-money records, recovery and their meaning

Vesna Nikolić-Ristanović and Sanja Čopić

Money laundering: possibilities and problems in the law enforcement in Serbia

Petrus C. van Duyne and Stefano Donati

In search of crime-money management in Serbia

Thomas Schulte and Martin Boberg

‘Criminal Money Management’ as a cutting EDGE between profit oriented crime and terrorism

List of contributors

Georgios A. Antonopoulos

Senior lecturer in criminology, School of Social Sciences and Law, University of Teesside, UK

Martin Boberg

Kriminalhauptkommissar at the Organised Crime Intelligence Unit of the Landeskriminalamt Nordrhein-Westfalen (LKA NRW), Germany

Muhamed Budimlić

Senior lecturer in Methodology and Criminal Policy at the Faculty of Criminal Justice Sciences, University of Sarajevo.

Sanja Čopić

President of the Executive board of the Victimology Society of Serbia and a researcher at the Institute for Criminological and Sociological Research, Belgrade

Darko Datzler

Senior lecturer in Criminology and Criminal Policy at the Faculty of Criminal Justice Sciences, University of Sarajevo, Bosnia and Herzegovina

Simona Diblikova

Researcher at the Institute for Criminology and Social Prevention, Prague, Czech Republic

Petrus C. van Duyne

Professor of empirical penal science, Department of Criminal Law, Tilburg University, the Netherlands

Stefano Donati

Economic Transparency Advisor at the OSCE Mission to Serbia

Maarten van Dijck

Senior Advisor Intelligence & Analysis / FIU at the Security and Fraud department of ABN AMRO Bank NV, the Netherlands

Siu Fung Lau

Senior Researcher, Newcastle Business School, UK

Jackie Harvey

Principal Lecturer, Newcastle Business School, UK

Klaus von Lampe

Assistant professor at John Jay College of Criminal Justice, New York, USA

Anja Logonder

Criminal Inspector at the General Police Directorate, Ministry of the Interior, Slovenia

Almir Maljević

Senior lecturer in Criminal Law at the Faculty of Criminal Justice Sciences, University of Sarajevo, Bosnia and Herzegovina

Anna Markovska

Lecturer in Criminology at Anglia Ruskin University, Cambridge, UK

Colleen Moore

Lecturer in Criminology at Anglia Ruskin University, Cambridge, UK

Elmedin Muratbegović

Senior lecturer in Criminal Policy and Crime Prevention at the Faculty of Criminal Justice Sciences, University of Sarajevo.

Vesna Nikolić-Ristanović

Director of the Victimology Society of Serbia and professor at the Faculty for special education and rehabilitation, Belgrade

Konstantin Pashev

Professor in Public Finance at New Bulgarian University in Sofia and Senior Economist at the Center for the Study of Democracy, Bulgaria

Brendan Quirke

Lecturer at Liverpool Business School, Liverpool John Moores University, UK

Miroslav Scheinost

Director of the Institute for Criminology and Social Prevention, Prague, Czech Republic

Thomas Schulte

Kriminalrat at the Organised Crime Intelligence Unit at the Landeskriminalamt Nordrhein-Westfalen (LKA NRW), Germany

Jon Spencer

Director Anglo-Baltic Criminological Research Unit, School of Law, University of Manchester, UK

Tom Vander Beken

Director of the Institute for International Research on Criminal Policy (IRCP), Ghent University, Belgium

Kristof Verfaillie

Researcher at the Department of Criminology of the University of Brussels, Belgium

Crime-markets are for ever

From the criminal mushroom market to the crime-money scenario

Petrus C. van Duyne

The mushroom and nutmeg market scenario

Mushrooms are a mysterious product of nature, whether for good or bad. They can be nutritious as well as mortal, healthful and sought-after but also mysterious. Some types grow in mysterious circles, which in England are known as ‘fairy rings’. This denotation sounds sweet, but does not capture the dark side of the fungus which seems to be what it is not. Actually, what we see –the stem and the hat– are not the real fungus at all. That is the invisible mycelium, essential for the recycling of nature, and mysteriously emerging at unexpected places. The old Dutch population saw this dark side of the mushroom better and called these circles ‘witch rings’ (heksenkring), evil and magic. And that has not changed in modern times. Indeed, at present many still consider them magic, others evil, because they are magic. Not in the sense of the old times of witchcraft, but in the modern sense, because of the magic of creating effects in the mind with mild hallucinations.

That is not new: the old witches knew that also. What is different is that these old witches did not traffic magic mushrooms, because there was no market in such products. That is a recent phenomenon and for some time a licit and lively trade in magic mushrooms developed in the Netherlands. This was much resented by the authorities, because of that ‘magic’, mild hallucinatory effect. In the Netherlands magic mushrooms could be bought in so-called ‘grow shops’, together with equipment and manuals for cannabis growing. This was also a thorn in the authorities’ flesh, particularly of Christian Democrats preaching a return to ‘norms and values’. Indeed, drug policy and Christianity are deeply connected: drugs are an evil to the soul (Van Duyne and Levi, 2005: ch. 1-2). Hence, the smouldering resistance against the present state of affairs was politically mounting and any voice raised against the blind-alley anti-drug policy, raised by some mayors struggling against ‘drug tourism’, was smothered. Then in the summer of 2007, a young French woman –allegedly under the influence of a magic mushroom– involuntarily rushed to the aid of the authorities: she jumped from an Amsterdam bridge and drowned. The tragic incident received wide media attention and gave prohibitionists in Parliament a majority for criminalising magic mushrooms. With this political support, the Christian Democratic Minister of Health felt confident enough to cast aside a contrary medical expert report warning¹ against criminalising magic mushrooms: he duly introduced a bill against traffick-

¹ *Risicoschattingrapport betreffende paddo's (psilocine en psilocybine)*, Coördinatiepunt Assessment en Monitoring nieuwe drugs (CAM), Den Haag, 2007

ing of magic mushrooms and, alongside, also against selling cannabis growing equipment. Medical and psychiatric professionals protested in the media against this rough treatment of their expert report², but they were not heeded. The experts should have known better: the prohibition history of the drug markets is not expert or ‘evidence based’, but framed in a firm belief system. Indeed, expert opinions and their statistics never win from belief systems.³ Eighty years ago, the death of a well-known actress in London because of cocaine use was also sufficient to clamp down on the cocaine market, though at that time it was still really tiny. Are we witnessing a similar scenario becoming reality, again?

This volume is about crime-markets in Europe. It is also about scenarios, as a method for mental-political mapping and strategic decision making. It is therefore relevant to think of a future crime-market scenario. For this reason it is relevant to elaborate a scenario developing out of the penal mushroom policy. Let us therefore follow the article of the medical experts, who indicated that magic mushrooms are just a product of nature: “Do you want to asphalt the whole of nature?” they exclaimed exasperated. That is a far-away scenario, though the automobile lobby is diligently working on it. A more likely scenario is an underground market of magic mushrooms. Some will grow them at home and others will comb parks and woods for their precious fruits. That will be countered by arming the foresters with new powers against anybody suspected of gathering mushrooms while new ‘mushroom detective squads’ are established. Visitors in woods and parks are no longer considered as innocent walkers and the foresters get orders to pay attention to ‘suspicious walks’ and to inspect the bags of anyone leaving a park or wood. Because eating the wrong mushrooms can be lethal, an illegal expertise develops (giving advice is also penalised). Advisers on internet become chased and websites giving advice on how to prepare magic mushrooms are shut down by a new Europol Mushroom Squad.

This is not the only scenario. In their comment the experts pointed at a nutmeg scenario. Nutmeg also has psycho-active potentials. So why would youngsters not make a shortcut and plunder mom’s spice rack? Indeed, it is a matter of time before drug pioneers have invented a nutmeg extract, forcing the authorities to intervene again by resorting to criminal law measures and creating another crime-market: the criminal psycho-active nutmeg market.

Before one considers this a too unlikely scenario, one should consult the erratic history of the drug markets (Van Duyne and Levi, 2005). That history demonstrates that the authorities do not merely fight illegal drug markets and their accompanying ‘organised crime’ entrepreneurs. The authorities are –in a distorted way– their very corner stone by first creating and then fighting illegal markets. Of course, this interaction in market creation is not drug specific. Human smuggling and trafficking (the illicit migration and sex-service market) can also be approached from this angle. One may wonder whether we are not at cross-roads by expanding crime-markets in Europe.

² E. Pennings and F. De Wolff, *NRC-Handelsblad*, 17 juli, 2007

³ Unless the statistics are fabricated to lend support to such a belief system. See: Courtwright (1982) on US addiction statistics and Van Duyne (1994) on the FATF drug money figures.

Side-markets and market players

As is known from the economy, markets never come alone, and so with crime-markets. Any (illegal) industry entails many surrounding commercial activities, which constitute the (criminal) 'side-market' phenomenon. The adjective 'side' does not indicate something of minor importance. Actually side-markets may even develop larger proportions than the basic market itself. Naturally, the most important side-market of the crime-economy is the law enforcement market. Of course, crime must precede law enforcement, but once established the law enforcement market will never go away, targeting, defining and chasing ever new objectives. It is a colossal market with an international momentum of its own. Think of the anti-drug market, the anti-money laundering and terrorist financing markets or the international 'organised crime' market. This does not imply that for each kind of criminal conduct a flourishing law enforcement market comes into being. For example, the enforcement market surrounding fraud, economic and environmental crime never succeeded in obtaining the scale and the longevity of the anti-drug market, even if the financial damage exceeds most other forms of profit oriented crime.

Not all side-markets are formed by penal-law enforcement agencies. Some are 'civilian'. For example, the drug market is surrounded by many medical, human science and treatment markets. An interesting side-market supposedly overarching all this is the research market, neatly divided in (overlapping) disciplines. The participants are supposed to hover 'objectively' above the sublunary world of crime and cops, aiming to describe detachedly 'reality-as-it-is'. 'Organised crime' is one of the present main markets, and researchers have carved out a corresponding research market.

This organised crime research market has been succinctly described by *Klaus von Lampe* in his chapter "*Researching organised crime: development and stagnation*". The marketing aspects of this sector look really convincing: it has specialised journals, centres for research, some of which are 'government embedded' like the Dutch Research Centre of the Ministry of Justice. Very importantly, there are research *funds* to be obtained, either at national or European level. Particularly important has been the funding by the European Union through its 6th Framework Programme. Under this Programme practical as well as fundamental research has been carried out. Unfortunately, the EU research fund market did not prove to be a stable one: the 7th Framework Programme narrowed the funding formula and thereby market opportunities. Instead it reoriented it funds on the competitiveness of the European industry. Organised crime research proposals were downgraded accordingly.

Against this background it remains to be seen how the organised crime research market will develop. After all, it is not a very large market and a substantial part of its output concerns all kind conceptual hair-splitting. Therefore, there is a danger of conceptual and empirical saturation, while law enforcement customers hardly buy these 'products'. Why should they? Law enforcement has its own financial market dependency on politics. And politicians are not waiting for detailed 'cold' scholarly analysis, but 'warm' emotive (short) stories and grim threat images as delivered by Europol (OCTA 2006; 2007). In addition, as the author remarks, in the face of a shortage of sound empirical data and proper theoretical underpinning, the various

approaches “merely reproduce existing assumptions and perceptions”. For any market, whether licit, criminal or intellectual, saturation is lethal. Therefore the author poses three challenges:

- maintaining innovative continuity,
- access to empirical data (the fuel of the research engine) and
- keeping intellectual independence upright.

Given the preponderance of governmental funding of research, the latter challenge is important, as much of the common assumptions and perceptions are implicit components of the authorities’ *Weltanschauung* or more mundane political interests. Doing research funded from that perspective would entail the continuation of scientific saturation under governmental funding, which is often the hallmark of scientific ‘mainstream’ works. No economist would advise such a market policy.

A powerful side-market is the *media* market in the field of organised crime interacting closely with policy makers, law enforcement and researchers (Van Duyne, 2004). This is a very old market (Stephens, 1988) serving all those who are yearning for attention and recognition, if not fame – criminals and policy makers alike. It is very much a market with prices for timeslots and square centimetres in news papers. Space is scarce and ministers of Justice or Public Prosecutors must compete for attention to ‘organised crime’ with disasters and family tragedies. The most valuable media timeslots and square centimetres are those in which there is a confluence of interests and emotions. This is elaborated by *Jon Spencer* in his chapter on the media constructing ‘organised crime’ concepts, particularly concerning *women trafficking*. This is a subset of the problem of illegal human migration, also one of the authorities’-made markets: the criminalisation of realising one’s desire to find a better life elsewhere. In defining this market, identifying the victims and the perpetrators, the media play an important role. It succeeds in that effect by confirming imageries known to the public, such as ‘organised crime’. This adds coherence to the human trafficking narrative: if the trafficking is large, it must be organised, affecting innocent victims (sexually exploited girls). This contrasts with the many trespassing income-seekers entering voluntarily into the illegal sex market.

The author’s analysis of cases as they appear from the files on the one hand, and the ways they are reported in the media on the other hand, reveals the difference between sex employment with ‘minor coercion’ (the findings in the criminal file) and the ‘Sex Slave Ring’ imagery (the news paper screaming headlines). To underline the seriousness it helps if the sex employment organisers and the victims are from some sinister Eastern European countries like Albania or Moldavia. This again adds to the even more sinister ‘transnational organised crime’ association. Naturally, this sells.

This compares badly with the other side of the coin: the truths which do not sell so well. These concern the ‘motivators’ (push and pull factors) in the countries of origin and the more or less usual organisational measures for running one’s illegal business. For example, most organisational measures concern risk reduction. Therefore it is hardly surprising that crime-entrepreneurs prefer to engage relatives to non-family associates for sensitive aspects of the smuggling enterprise. And if there is an extended family one has an extended ‘family organisation’. This human factor – ‘human, all too human’ – does not find its place in the media side market, which has a

large impact on the imagery of the main crime markets and on the law enforcement market.

It would be an exaggeration to attribute this inflated crime imagery to the media and authorities alone. Some criminal organisers also participate in this media interaction and indulge in broadcasting their fame, or what they consider as such. From the perspective of a criminal risk manager it may seem foolish, though there is also a rational background for being known as a ‘tough guy’. If one wants to establish and maintain a proper criminal market position one has to become known and respected for being strong (potential of violence), ‘criminally’ honest and reliable. It is the formula the mafia seeks to uphold (Gambetta, 1993). Of course, a combination of these features can help, though one can doubt the positive correlation between such a reputation and criminal longevity. A negative correlation between reputation and age can certainly be observed with the alleged ‘members’ of the ‘Yugo-mafia’ as described by *Anja Logonder* in her chapter on organised criminals in Serbia and Slovenia: *Who is ‘Yugo’ in the ‘Yugo’ mafia?* She reveals different images as far as the Serbs and Slovenes are concerned.

The violent reputation of ‘Yugos’ –mainly Serbs– was established in the 1970s and has been fostered well after the break-up of the Republic of Yugoslavia. Not primarily in their own country (that came later), but abroad where they moved in search of better paid (criminal) work. In the previous socialist republic they were kept short by the State Security Service, employing their talents for the ruthless execution of covert ‘political jobs’, for example against political enemies abroad. These assignments were frequently carried out with much bravado, which became part of the hallmark of these criminals. The most infamous and characteristic example was the international bank robber Arkan. The wars accompanying the break-up of Yugoslavia consolidated and extended this use of criminals, many of whom became rich (Judah, 1997). With the breakdown of the rule of law they could ostensibly display their criminal wealth (no laundering needed), being photographed with guns in their belt or hands. The media loved them as much as they loved the media, warming themselves in the attention of the press and television-shows.

What has remained of these flashy criminals, living up to their own clichés? Most are dead or incarcerated. Some consider a more bourgeois entrepreneurial life, being no longer interesting for television shows. In the end, only the media seem to have gained from these flamboyant crime-entrepreneurs and their lethal life style.

In contrast to the Serbian media crime market, the Slovenian fellow criminals had little to offer on the side-markets of violence and media. Though their basic crime-market functioned properly, there were no hit men, public shootings or exciting crime bosses eager to present themselves in talk shows. Of course, they displayed their criminal wealth but avoided creating a criminal side-market based on short-sighted demonstrations of fearlessness in order to market their reputation. Actually, the Slovenian crime-entrepreneurs down-sized to the size of their small country, displaying as much introvert personality traits as their compatriots. “Crime-markets never come alone”, was the opening sentence of this section. The Slovenian crime-market landscape demonstrates that this thesis has no absolute validity.

‘XL’ enforcement, management and sinners

Despite the given circumstance that crime-markets and its operators are part of society, the usual rhetoric is about *fighting* this phenomenon. From the angle of criminal market interactions, as set out in this volume, it would be more appropriate to look at all this crime and crime fighting from a market management point of view. Even if it is the correct businesslike stand, there is an inherent tension: ‘organised crime’ and everything within its orbit is considered big and threatening. It is a kind of emotive wrapping which has always been indispensable in selling the fight against the organised crime-market politically. However, managing such worries, there is the underlying human reality at the sublunary level mainly revealing banalities of ‘human all too human’. This is discrepancy, which legislators and law enforcers seek to disguise by dressing the phenomena in ‘big size’ garments, like thin youngsters, wearing a too large hunter’s outfit to impress: ‘XL’.

The chapter written by *Miroslav Scheinost* and *Simone Diblikova* about the Czech Republic’s legal framework and the underlying reality in terms of offenders, prosecution and convicting, illustrates this XL discrepancy. The authors provide a description of the important changes to the Criminal Code, Criminal Procedure Code and the Czech Police Act adopted in 1995. Of course, a definition of ‘organised crime’ was adopted too. And what did these legal OC hunters in ‘XL’ green jackets bring home? The authors are realistic and avoid all sorts of sportsman’s yarn. They give a sober account of the yield under the conspiracy clause (a kind of OC-definition): 472 prosecutions, 18 convictions (4%) and no mafia around. True, the description of some of the cases demonstrate organisational cross-border ramifications, which is not surprising in cases of immigrant smuggling and human trafficking. The authors also concede that while in a number of cases the criminal conspiracy clause did apply, there were doubts whether it “was appropriate at all for the level of organisation and extent of criminal activity”. Indeed, taking off the ‘organised crime wrapping’ of the penal law merchandise revealed a much smaller product.

Problems in penal law crime-market management is not only due to wearing a too big suit and having too high expectations. Sometimes the relevant crime-market is really complicated, as is the case with human trafficking for sexual exploitation. If we abstract from ‘media wrapping’, as elaborated by Jon Spencer in an earlier chapter, *Anna Markovska* and *Colleen Moore* make clear how competing conceptualisations about forced or voluntary prostitution, legislation, know-how and priority setting play a role too. The authors compared the UK and the Ukraine in this respect. It is an interesting comparison, as the latter is a source country while the UK is a destination country for those hoping for a better life or lured by void promises and subsequently being forced to provide sex services under duress. Managing this market is difficult, as legislation is rather new, knowledge and experience has to be built up and conflicting interests related to the victims have to be harmonised (protection of witnesses versus removing illegal immigrants). While prosecution is getting under steam, in the UK as well as in the Ukraine, these common problems have to be solved. A problem not shared with the UK appears to be wide-spread corruption in the Ukrainian law enforcement which impedes effective prosecution (Osyka, 2001; 2003).

With the phenomenon of corruption we arrive at another law enforcement layer to be managed: the sinning authorities themselves. This is elaborated in the chapter on corruption in Bosnia-Herzegovina by *Darko Datzler, Almir Maljević, Muhamed Budimlić* and *Elmedin Muratbegović*. As a matter of fact, while describing police corruption, they also describe a common disease, which is shared by every layer of the population. Giving bribes is considered an aspect of a citizen's daily life: sometimes irksome when it concerns a service one is entitled to, often practical when one can mitigate or avoid a fine for a traffic offence or speed up procedures. It is valuable that the researchers direct their attention to the citizen's side of corruption, not only as victim, but also as perpetrator. Who are those citizens who do not object to corruption, but either resign to it or prove to be an active instigator, thereby sustaining an illegal exchange market of services, favours and gifts? Based the responses to their questionnaires they came to a meaningful categorisation the citizens' attitude to corruption: the '*flexible sinners*', (second highest educational level) tolerant towards small gifts but rejecting gratuities; the '*true sinners*', (low education) having few objections against corruption; the '*guardians of the state*' (higher education) taking a strong stand against corruption and the group of older and lowest educated citizens who –being used to a lifelong state of corruption– had become '*adaptive sinners*'.

There is no shortage of anti-corruption programmes in Bosnia & Herzegovina: three programmes were proclaimed since 1999, all with a high declarative value, size 'XL'. All top-down –from the highest level of corruption– and all failed. With so many complacent sinners in a small country with a long corruption history, the authors have good reasons to fear that it will remain a hostage of its past: the market of corrupt exchanges will continue.

If moral crusaders hold the view that the illegal market place is populated by 'sinners', most commit their sins against their own health and against the Tax Service. The latter makes a profit from unhealthy habits by taxing the substances consumed. Tobacco is one of these sinful consumer goods, which are enjoined while the state takes its cut. The biblical call: "Who is without sin throws the first stone", should certainly not be addressed to the state in the first place. This applies to the previous studies on the Belgian, Dutch, Estonian and German illegal cigarette market, published in previous Colloquium Volumes⁴, and by Hornsby and Hobbs (2007), as well as to the chapter on the Greek cigarette smuggling business by *Georgios A. Antonopoulos*. Granted, the tax burden on tobacco products in Greece is not as draconian as in the UK, one of the favoured destination countries of cigarette smugglers. Still the tax is high enough to further a thriving contraband market, either for transit or for the Greek customers. It is very much a 'normal' market with normal sinners: bootlegging students and housewives, illegal migrants alongside (or in the service of) larger organisers. Also for the Greek cigarette market, upperworld and underworld interact or even co-mingle if required, though corruption, like violence, is not an inherent part of this crime-market (nor of any other market). To put is at its most banal: "You do what you have to do".

⁴ See www.cross-border-crime.net

Vulnerable to organised business crime: 2015 and now

Can criminology be a relevant futurology discipline? That depends on what aspects of the criminal market developments. Yes, I have already outlined a mushroom and nutmeg crime scenario, which is based on concrete parameters. But fuzzy aspects will lead to fuzzy future studies. 'Organised crime' is such a fuzzy aspect. To say something about the future developments of 'organised crime' is tantamount to forecasting the fuzziness of fuzziness. That is something one can sell only at political level, as did Europol with its OCTAs 2006 and 2007. But as far as real crime-markets are concerned, one should heed the policy of the insurance industry to determine what is real. Is organised crime or its future real? Not as far as the insurance industry is concerned: one cannot get an insurance against 'organised crime damage'. But one can get insurance policies against all sorts of other damages from crime, the vulnerabilities of which are real enough to trade with. Of course, to recognise vulnerabilities one has to project these against all sorts of scenarios in which they may become real. Therefore, the vulnerability approach of crime and scenarios studies are closely connected as demonstrated in the chapter on the vulnerability of economic markets to crime in 2015 by *Tom Vander Beken* and *Kristof Verfaillie*.

The authors apply their complex scenario study to the infringement of intellectual property rights in Europe in 2015 and give four potential scenario outcomes. European 2015 intellectual property rights enforcement can take place within a *resistance factor* mode, headed by the private sector; the *fortress Europe* mode with a strong role of the authorities; the *sieve*, with a weak public involvement and the public sector plugging the holes; and finally a *fragmentation vulnerability* scenario, in which lack of coherence is compensated by massive investments in security technology and artificial intelligence to the disadvantage of human intelligence.

Whatever vulnerability scenario becomes real, whether one could rather delete the redundant phrase 'organised crime' (unless recognised by the insurance industry), the approach sharpens the mind and forces one to make dynamic driving circumstances and context variable explicit. This does not mean that scenario studies should only look ahead: extrapolation from a carefully analysed present and past is just as important. Such an analysis of a present situation of enforcement and an economic criminal sector is provided by the following two chapters. The first concerns EU fraud and the new Member States, illustrated by the case of the Czech Republic. Though the author, *Brendan Quirke*, does not say so verbatim, reading his chapter after the preceding scenario chapter, the reader may involuntarily look for a scenario name of this policy of putting an anti-fraud structure in place. It would be surprising if the first flash would not be: the *bungling-fragmentation* scenario. The bungling ranges from flaws and delays in the ratification of the essential convention to not reproducing the Polish experiment of posting OLAF officials locally. The last omission was not only due the Czech government but also to 'Brussels'. The fragmentation of the information exchange in a relatively small country like the Czech Republic, was another remarkable finding. As these human 'mishaps' are so common, the reader may feel a desire to see Vander Beken's and Verfaillie's scenario methodology to be complemented by a standard 'bungling' scenario.

Is such a scenario recognizable in the next chapter on VAT fraud, written from a Bulgarian perspective by *Konstantin Pashev*? From his description one may deduce some elements. In the first place, it is an old but selectively recognised problem in the legal markets. In terms of the old fashioned ‘organised crime’ lingo: it is form of highly sophisticated organised crime, though rarely mentioned as such. The author complains that in the main stream literature one hardly find references (Aronowitz *et al.*, 1996).⁵ In the second place, historically it evolved within a well-trying scenario in the BENLUX countries, which was extended to the whole EU in 1993, despite grave warnings (Van Duyne, 1993). In the third place, while the vulnerabilities were recognised (given the regular concern expressed by the European Commission), the VAT system was (or had to be) extended to the new Member States together with its defects. Outside the fiscal authorities there is hardly any debate.

The fiscal damage due to VAT fraud is colossal, in Bulgaria as well as in the other Member States, which is mainly caused by the so-called carousel-fraud. This consists of exporting, importing and re-exporting of shipments of goods and reclaiming/evading VAT with every circle, while bogus companies went bankrupt or were missing (missing trader scheme). This implies an international network of cooperating or conspiring firms and a complacent licit market. The author observes a discrepancy: while the tax evasion literature focuses mainly on individual tax evasion, the organised crime literature pays no attention to the economics and organisation of VAT fraud.

Crime-money management at cross-roads

Human conduct belies the wisdom of many proverbs, like “riches alone make no man happy”. Perhaps it is just a proverb to console losers. Those who chase money, by legal or criminal means, have other proverbs in mind, like “money makes the world turn round”. However, this proverb applies to an ever growing group of people who chase other people’s money: the ‘crime-money hunters’. They are tasked to make sure people do not get happy from crime-money. However, judging from the steadily growing volume of publications, legislation, conventions, and frequently updated recommendations, together with an absence of rejoicing performance indicators, one can surmise that this crime-money pursuit does not make all involved really happy. Nevertheless, particularly on this junction of private and public law enforcement one finds one of the most thriving side-markets.

The closing chapters of this volume on crime-money and related money-laundering reflect aspects of this unhappiness, though it is not all sadness as documented in the paper of *Maarten van Dijk*. As a matter of fact, the FATF has no reasons for unhappiness at all. It is the only unofficial organ with a global and uncontested reach, with a capacity to force its ‘recommendations’ on any government, while being unaccountable to no super-ordinate authority (Stessens, 2000). As Van Dijk remarks: “*One [country] after another were bent at the knee and lined up with the*

⁵ Only recently was organised VAT fraud mentioned in Europol’s OCTAs. The Organised Crime Situation Report 2004 of the Council of Europe was still silent on this subject.

regulatory proposals of the FATF". Perhaps money does not make happy, but power certainly does.

The author observes that the financial service sector will remain under strong pressure from the side of the FATF, which is predictable: who has unaccountable power will never let the reins slip from his hands. Being a realist, the author thinks criticism against the FATF is merely a rearguard action and advises compliance with the mainstream. Instead of grudging, he finds plenty of reasons to be happy. He argues: accept the 'finding the suspicious financial needle in the haystack' and continues to explain that we should realise that all this is part of an ethical movement towards a more ethical 'corporate citizenship'. This is good for 'reputation'. As a good reputation is the foundation of trust in the financial market, the financial sector should be happy to be seen to comply with the anti-money laundering global regime, irrespective of the expenses or whether it is cost effective. It is a proper marketing tool to evoke the image of trust.

This is a lofty appeal, but nevertheless, the financial sector has still no reasons to be happy, as can be deduced from the elaboration in the chapter written by *Jackie Harvey* and *Siu Fung Lau*. They do not stand alone. If the truth of the anti-laundry pudding is in the eating, and the eating consists of recovered criminal assets, the authors and other researchers (Van Duyne and Soudijn, forthcoming; Gelemerova, forthcoming) only found a tiny pudding. This compares badly with elevated financial expectations as they were put forward and fostered during the past two decades by the FATF in conjunction with the authorities. Has the financial market been deceived, this time not by crooks?

Not satisfied with this anti-laundry *haute cuisine* dish, the authors made a thorough attempt to decipher the ingredients of this pudding. In less metaphoric terms: they scrutinised the underlying databases of confiscated assets in the UK. The outcome of their analysis looks like a lining-up of discrepancies between the various databases. From this display the reader may deduce his impression of the degree of indifference prevailing within the responsible agencies and Home Office. Woe be-tides the bank which would manage its suspicious transaction records in a similar way! Apart from that unhappy state of affairs, the authors also addressed the *final* truth of the crime-money pudding: how threatening is the observed criminal money-management compared with the usually proclaimed threat image: the threat to the integrity of the financial system and other economic domains? The answer looks quite reassuring and in line with observations in the Netherlands (Van Duyne, 2003): the crime-money is mostly spent on the nice things of life without much display of the commonly expected financial sophistication. Of course, sophisticated operations do occur, but too infrequent to justify a related laundering scenario. Though this should be reassuring, it is noteworthy that the authorities are not happy with this outcome: it may undermine the foundation of their control system and thereby their acquired power.

The world of criminal money-management still knows many regions with unfulfilled tasks, such as in the Western Balkans, for example Serbia. As a rule the first tasks to be completed concerns the anti-laundry legislation and the organisational blueprint for the financial intelligence unit. Serbian efforts of putting into place or updating the relevant regulations are described by *Vesna Nikolic-Ristanović* and *Sanja Čopić*. By enacting three laws the Serbian legislator fulfilled its international obligations: the

new Law on the Prevention of Money Laundering; and related changes in the Criminal Code and Criminal Procedural Code. A new and improved definition of money-laundering was adopted, this time covering acquired assets from all forms of crime, including fiscal and economic criminal offences. Ambiguity still surrounds the *concealment of illegally acquired social property and social capital*, which was not adopted in the Criminal Code.

In addition to criminalising money-laundering, the new law also widely extended the categories of ‘obliged persons’ who must report unusual transactions, raising concerns about the unmanageable flow of reports to the FIU. This concern was not heeded, except for the Privatisation Agency: while all and sundry has a reporting obligation, this agency dropped from the table again. Against the background of all the improvement efforts and in view of the incomplete privatisation (the main battle of social property and capital still has to begin), this omission is remarkable.

Of course, if legal life of the books is not perfect, so is the life of law enforcement, whether in Serbia or elsewhere. *Petrus C. van Duyne* and *Stefano Donati* set out to search for crime-money management in Serbia and arrived at sobering conclusions. As there is only a handful of prosecutions and hardly any conviction, the authors had to comb through every database they could find. Naturally, they could not invent money-laundering cases where the prosecution cupboards were empty. But they found so much financial imbalance between (household) expenditure and money outflow (to Cyprus among others) on the one hand, and income and imported goods on the other hand, that they wondered how the deficits were to be bridged. In the absence of restoring this imbalance, they thought it more plausible that this outcome was indicative for an extensive underlying black economy. For example, Serbia should be covered by a mountain of Cypriot raisins, if the outflow of two billion euros (2003–2005) was for the payment of real goods. This reverse flow of goods did not exist.

Predictably, the authors had to cope with database inconsistencies. As we have seen in the chapter on the UK, this is not unique for Serbia. On the one hand, police data indicated that the extend of economic and financial crime should be extensive, while on the other hand, according to the figures of Tax Service Serbian tax compliance would be the highest in Europe west of the Ural: < 1% of GDP, even better than Switzerland! The output of the Serbian FIU was equally astonishing: of the almost 350.000 transaction reports (2002–2005) 0,2 % qualified as suspicious. The authors could not make a connection with the subsequent phases of prosecution, let alone trial, either for the predicate crime or money-laundering.

The authors concluded that the outcomes and their ‘groping in the dark’ was not due to legislative but to a fundamental human void: lack of curiosity – and not only among the Serbian authorities. The chapter by Harvey and Fung Lau contains a telling quote from a senior official of the Home Office: “*There is no need to understand the data*” and, more information is “*not required anywhere else in the Home Office*”. If this is a basic attitude of leading officials, one may wonder whether the adage ‘evidence based policy making’ is more than just a new incantation (Van Duyne and Vander Beken, forthcoming).

Though this intellectual inertia may be deplorable, the last chapter demonstrates a countermovement. The chapter returns to the theme with which this introduction started and which was also elaborated by Vander Beken and Verfaillie: scenario ap-

proach to crime-markets, here ‘criminal money management’ or ‘money-laundering’.⁶

The scenario method applied to criminal money-management has to process a multitude of variables: for example, political, social, cultural variables and the plausibility of certain positions on each of them, projected against the likely developments (or stagnation) on other variables. To process this all is a mentally complex process, which requires computer support and subsequent simplification. In this project the reduction was from 43 scenarios to three: ‘The Rift’, ‘European Highway’ and ‘Pragmatism on the Rise’. The ‘Rift’ represents the potential outcome of a scenario of social and economic polarisation between rich and poor (also internationally), compounded by a moderate law enforcement growth remaining behind criminal developments. This has an impact on options choices made in the criminal money management market.

Will the presented scenarios come true? As a matter of fact, scenarios are not drawn up for subsequently leaning back to see what is going to happen. They evoke people to look for alternatives after having tried to fill in the blanks of the typical scenario question “What if . . . ?” Indeed, we have to think through questions like: “What if we continue with the present European crime market . . . ?” Or: “What do people in the crime-markets do if we expand our regulatory and penal law control system to fend off each and every sin against ‘the system’ . . . ?” This does not answer the question whether European crime-markets are at cross-roads now: by hindsight that may be the case at every junction. One rather looks for the consequences of directions to be taken after these cross-roads, when Europe takes another step in the process of extension.

⁶ ‘Money laundering’ was considered a concluding construction, not an observable human conduct.

References

- Aronowitz, A.A., D.C.G. Laagland and G. Paulides, *Value-added tax in the European Union*. Amsterdam, Kugler Publications, 1996
- Courtwright, D.T., *Dark paradise; opiate addiction in America before 1940*. Cambridge, Harvard University Press, 1982
- 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, The creation of a threat image: Media, policy making and organised crime. In: P. C. van Duyne, M. Jager, K. von Lampe en J.L. Newell (eds.), *Threats and phantoms of organised crime, corruption and terrorism*. Nijmegen, Wolf Legal Publishers, 2004
- 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, Money-laundering; estimates in fog. *The Journal of Asset Protection and Financial Crime*. 1994, nr. 19, 103-142
- Duyne, P.C. van and M. Levi, *Drugs and money. Managing the drug trade and crime-money in Europe*. Londen, Routledge, 2005
- Europol, Organised Crime Threat Assessment 2006. The Hague, 2006
- Europol, Organised Crime Threat Assessment 2007. The Hague, 2007
- Gambetta, D., *The Sicilian Mafia. The business of private protection*. Cambridge, Massachusetts, Harvard University Press, 1993
- Hornsby, R., D. Hobbs, A zone of ambiguity: The Political economy of cigarette bootlegging. *British Journal of Criminology* 47(4), 2007, 551-571
- Judah, T., *The Serbs, history, myth and the destruction of Yugoslavia*. New Haven, Yale University Press, 1997
- Osyka, I., Anti-corruption policies in the Ukraine. 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
- 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 (NY), 2001
- Stephens, M., *History of news. From the drum to the satellite*. New York, Viking Press, 1988
- Stessens, G., *Money laundering: a new international law enforcement model*. Cambridge University Press, Cambridge, 2000