

## Tilburg University

### Introduction

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*Published in:*  
The organisation of crime for profit

*Publication date:*  
2006

[Link to publication in Tilburg University Research Portal](#)

*Citation for published version (APA):*  
van Duyne, P. C. (2006). Introduction: Counting clouds and measuring organised crime. In P. C. van Duyne, A. Maljevic, M. van Dijck, K. von Lampe, & J. Newell (Eds.), *The organisation of crime for profit: conduct, law and measurement* (pp. 1-16). Wolf Legal Publishers (WLP).

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# Introduction:

## Counting clouds and measuring organised crime

*Petrus C. van Duyne*

If we were to ask a man, standing motionless in a meadow looking up at the sky what he was doing and if he answered: "I am counting the clouds", we would think him a bit peculiar. Clouds come, disappear, fuse, split up or become a fog. What is the point in counting them? As this is a harmless exercise, we would be inclined to leave the eccentric in peace. However, if we were to come across a functionary in a police head quarters or in Europol working through a pile of police reports to determine the extent of organised crime, few of us would think this an eccentric undertaking. But what is the difference?

If it may be that there is little difference between the weird cloud counter and the many organised crime counters, then we face a most interesting social phenomenon. Of course, not one concerning the lonely cloud counter but conall those educated professionals who are collectively engaged in assessing the organised crime phenomenon. This involvement has acquired a history of its own: in the USA at least since the Kefauver Committee of 1950<sup>1</sup>; in Europe since the 1980s and in international organisations at least since the Naples world conference of 1994.<sup>2</sup> Let us say that organised crime as a recognised 'phenomenon' is with us for between half a century (USA) and two decades (Europe). Given this long-term involvement, we would be justified in expecting there to be more than 'organised crime cloud counting' and a solid body of knowledge instead.

How solid is the state of the (knowledge) art today? The 'serious' organised crime literature is vast, though the amount of strictly empirical

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<sup>1</sup> This was an historical event which started with local concerns about interstate crime. It was almost hijacked by Senator McCarthy, who did not succeed and instead indulged himself in hunting domestic communists (Abadinsky, 1991:469).

<sup>2</sup> Unfortunately the ceremony of this event was marred when two gentlemen in black walked into the conference tent to notify the chairman, Mr. Berlusconi, that public prosecutors had initiated a criminal investigation against him.

research is modest.<sup>3</sup> Aside from its volume, to what extent does the research literature shed light on (a) the nature of the purported phenomenon and (b) on its extent? That depends in the first place on the methodological quality of the research and particularly on the definition on which it is based. If there is no unity of definition or if it fails to delineate unambiguously what the research or assessment is about, the findings are hard to compare. The resulting reports all portray their own cloudy skies. Together they may yield a fascinating collage, but they are far from determining the existence of something, let alone *measuring* its extent. And if this is true, then threat assessments which are assumed to be derived from preceding descriptions have no basis either.

Therefore, the comparison with the cloud counter is not so far-fetched after all. However, there is a difference. Organised crime studies are usually also about estimations of the dimensions of threats. In terms of our metaphor, they are about *threatening* dark clouds looming over society, not only nationally, but in the current common parlance, 'transnationally'. For the organised crime discourse this threat connotation is more than an undertone. It leavens the whole debate, in the political arena as well as in the more analytical setting of academic research. Researchers are not only charged with the task of determining the extent and nature of 'organised crime', but they are also expected to give their authoritative 'scientific' opinions about the nature of the threat (a task which most accept without demur). If only they would restrict themselves to 'organised crime cloud counting' their endeavours could be met with methodological scrutiny (Van Duyne and Van Dijk, 2007; Black et al., 2000). But by additionally accepting the task of threat assessment they engage in the interpretation of clouds as *threatening*, as thunderstorm clouds, or clouds with thunder *potential* as a risk assessment (Vander Beken, et al., 2004). This is carried out despite the continuous and widespread disagreement about the definition of the intended phenomenon itself in the first place. Thus, while European policy makers and researchers have decided energetically to pursue 'Organised Crime Threat Assessment' (OCTA)<sup>4</sup>, the basic question 'What does a threat assessment of something undefined mean?' remains unanswered. From the perspective of measurement methodology this constitutes a basic neglect of elementary research principles. What do the authors of this volume tell us on this and related issues?

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<sup>3</sup> Most empirical research is based on either police or court files or interviews with law enforcement agents. Interviews with criminals are somewhat rarer (but not exceptional) and so are studies based on participant observation (Von Lampe, 2004a).

<sup>4</sup> Council of the European Union, 14959/1/01, CRIMORG 133, Brussels, 10 December 2001.

## **The disorganisation of measuring**

The broader framework within which this impossible undertaking takes place has been set out by the combined research team of *Tilburg University*, the *Freie Universität Berlin*, the *University of Ghent*, *Durham University* (later replaced by *London School of Economics*) and the *University of Tartu*. Within the European Commission's 6<sup>th</sup> Framework Programme<sup>5</sup> the research team set out to survey the huge number of definitions and conceptualisations of organised crime. They applied a meta-theoretical classification to the existing literature to get hold of the breadth of the diversity of approaches to the conceptualisation and to assessment 'organised crime'.

Needless to say, that this was a huge undertaking. The organised crime literature is vast consisting of thousands of titles, expanding daily. Apart from that, many authors are not very explicit in the way they use concepts, assuming that 'we all understand what we mean when we talk about organised crime'. This suggests some kind of common 'discourse family' engaged in the same language game (I will discuss that later). Therefore, after surveying their predecessors' (failed) attempts to create some order in the conceptual chaos surrounding the study of organised crime –whether by designing models, creating typologies of components of definitions– the authors refrained from piling another typology or definition on top of the existing ones. Instead, they analysed a substantial sample of the European and international organised crime literature (66 titles) to determine how it is conceptualised. Their classification 'tool' consisted of what they called 'basic dimensions': individuals, structures, activities or systemic conditions.

The outcome was as disorganised as 'organised crime' can be. Not much conceptual order could be discerned. For example, the concept of 'criminal structures' was found to be used in terms of market relationships, groups, networks or all of them. In addition, the clarity is often obscured by the loose and imprecise way in which the key words are used. The four basic dimensions of organised crime form no coherent pattern connected to other aspects, like type of crime, instruments or causes. Worse, there is considerable arbitrariness in the ways categories are used. For example, on the one hand, 'organised crime' is portrayed as 'business' (as in the case of drug trade), but on the other hand, it is connected to predatory crime which is a rather anti-business affair.

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<sup>5</sup> Research project: Assessing Organised Crime. Testing the feasibility of a common European Approach (CIS8-CT-2004-501767).

The authors formulate their opinion about the state of the knowledge diplomatically, indicating “a lack of common theoretical understanding”. Given the nature of the conceptual juggling and the careless mixing up of concepts –frequently non-delineated and therefore fuzzy– one may rather speak of a fundamental lack of scholarly discipline (Van Duyne and Van Dijck, 2007). There is not a scientific debate between identifiable ‘schools’ or certain streams or a thoughtful building on predecessors. Of course there is no lack of citations. But after this customary quotation ritual and display of wide reading, authors follow their own course. Because they use the same or similar words, it looks as if they are talking about the same subject. Still, each stares at a cloud formation of his own.

This isolated cloud staring is not a strange scholarly trait. *Barbara Vettori* of the Catholic University of Milan provides an intriguing account of the study that was undertaken to develop a body European Union ‘organised crime statistics’ to measure organised crime (‘EUSTOC’). The general idea is that a proper survey of the organised crime situation in Europe will contribute to more harmonised and effective policy making. As every criminologist engaged in international comparative studies knows, this is not a sinecure. The disciplinary requirements necessary to make such an instrument work are strict and once put into place it must be maintained continuously. A watered down statistical data base is a nightmare for every researcher. And what does Dr. Vettori convey to us?

It goes without saying that there are no statistics without definitions of phenomenon as a whole, its component parts and all of its accompanying features. No bird flu definition, no bird flu statistics. Bird flu is very much dreaded, so we know much about it. What about the dreaded ‘organised crime’? Yes, there is a ‘politically agreed-upon definition’ of organised crime.<sup>6</sup> The emphasis is on ‘politically agreed-upon’, because as an *empirical* definition it does not cut much ice. This aspect is not discussed, perhaps because in the European context questions about validity are rarely raised. Whether or not the ‘agreed-upon’ definition is a valid one, the author sharply observes that member states in the EU only partly adhere to it. And if they do so they apply it in such varying ways that the results are incomparable nonetheless. Sometimes the deviation is a conscious policy decision, in other cases deviation simply slips in. This nonchalance contrasts strongly with the rhetoric surrounding the organised crime debate.

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<sup>6</sup> For a rough selection of the organised crime definition literature: see: Maltz, 1990; Dobovšek, 1996; Van der Heijden 1996; Fijnaut et al. 1998; Levi, 1998; Finckenauer 2005. For a detailed overview of OC definitions, visit the website maintained by Klaus von Lampe, <http://www.organized-crime.de/OCDEF1.htm>.

If the imprecise application of the imprecise definition leads already to uninterpretable statistical outcomes, the underlying methodology of database building is sufficient to render vain all hopes of developing any reliable organised crime statistics. Databases are based on counting units: no counting units, no statistics. What do member states do? The author provides us a penetrating insight on this point. Member states use *offence* based or *offender* based systems or a combination of both. An offence based system weighs the 'seriousness' and 'complexity' of the crime and subsequently concludes it must be 'organised crime', *because* it is serious and complex. The offender based system starts the circle of reasoning from the other end: suspects 'known' to 'commit organised crime'. Hence the crimes committed by these suspects is 'organised crime'. So, we can choose between offence or offender based circular data collection, or a mixture of the two circular reasoning systems. At least, the circle will be round. If databases can be built on these principles at all, one may wonder how useful they will be for the purpose of comparative analysis.<sup>7</sup>

An aspect of database building is defining the variables that denote the distinctive features of the criminal activities or offenders. These range from 'person variables' (like age, gender, marital status), previous convictions, modus operandi to external relationships etc. Many variables are common, but that does not entail comparability. Variables (with the same name) may be coded differently, while the data collection techniques may be different too. In simple research terms: lists of identically worded variables but with different 'code books' (if present at all) yield different databases. In that case there is nothing to compare, because statistically these are different statistical 'populations'.

The author optimistically concludes by putting forward a list of improvements, which would certainly make sense, if only that stubborn definition problem could be solved. Thus far this has not happened, despite all the political resolutions aimed at doing just that.

## Financial and economic crime problems

Though the existence of organised crime is usually presented as an obvious fact, albeit one that is somewhat difficult to assess as soon as more clarity is

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<sup>7</sup> A proper database can easily be built on (a) offenders *and* (b) offences. Actually, most databases of money-laundering are based on suspects and suspected transactions.

required and a proper methodology is applied, the organised-crime status of financial and economic crime has always been an unclear and uneasy matter. Even when we do not add the adjectival clause 'organised crime', financial and economic law breaking is fraught with conceptual difficulties. The director of the Czech Institute of Criminology and Social Prevention, *Miroslav Scheinost*, leads us through this hazy economic crime landscape. From a legal and law enforcement perspective it is an 'old landscape' and one would have expected that most of the difficulties would have been sorted out by now through a process of legal and conceptual 'maturing'. However, Scheinost's elaboration destroys this illusion. Though economic crime has a longer legal and criminological history than 'organised crime', there is much conceptual disorder in this field. This is as foggy as 'organised crime' which makes the counting job just as meaningless. Despite this, it is remarkable that in the area of economic crime there is no definitional controversy, nor anyone who proclaims to have coined the only correct definition as 'organised crime thinkers' are sometimes prone to do (Maltz, 1990; Fijnaut et al., 1998; Finckenauer, 2005). Economic crime researchers recognise the ambiguous nature of any economic crime definition and move forward to more important matters like selecting and defining a topic for research.

Selecting economic crime research topics is not just a methodological issue. Surrounding the research topic are broader social and economic issues, that turn economic crime research into something more than the processing of tables of official statistics. While in the area of 'organised crime' the authorities succeed in evoking some kind of 'threat feeling' (however imprecise), this does not work to the same extent in the field of economic crime. It depends on what is at stake. If the authorities intervene in market relations by making coveted goods more expensive, customers have other things to worry about than 'organised crime'. It requires little imagination to see that tripling the prices of coveted consumer goods, like tobacco in the UK or alcohol in Norway, does not contribute to depicting the related smugglers as 'organised crime' bogeymen (Johansen, 2005). Nevertheless, as soon as such criminal entrepreneurial activities are upgraded to the category of 'serious crime', it is also qualified as 'organised crime'. The author's discussion of organised crime and economic crime, trying to clarify the distinction between them, may convince the reader that the attempt to differentiate the two is as successful as keeping clouds apart. At certain moments one can say: 'Yes, they are apart' and at the next moment they fuse again.

If all these conceptual endeavours fail to bring clarity to the distinction between economic and organised crime, the fight against economic crime should not suffer from this. This should especially not be the case at the European level,

where the financial stakes are very high, as the chapter of *Brendan Quirke* of Liverpool John Moores University makes clear. The positioning of the UCLAF, the European fraud watchdog, within the European Commission has failed to contribute to the intended clarity. It was felt that a watchdog should not be part of the environment it is supposed to watch. In addition, there was discontent with the handling of case files and intelligence. Hence, in 1998 OLAF, an agency within the Commission with independent operational powers was established to protect the European Union against any wrongdoing, like fraud or corruption, which may impair its finances. In order to realise that objective OLAF was given far reaching powers, such as the authority to carry out on-the-spot inspections and investigations without prior notice.

That would bring some clarity. However, a year after it was criticised for its slow handling of the *Eurostat* case, amendments to its statute diluted some of OLAF's powers. One of the amendments states that OLAF has to notify a EU institution when it comes under investigation; possibly to the delight of the EU institution being investigated, which may thus be induced to tamper with evidence. OLAF's powers in cases of external investigations imply a strengthening on the one hand, and a weakening on the other hand. Not all courts may accept the evidence collected by OLAF, which may nullify its efforts. Other aspects of the status and positioning of OLAF demonstrates that it is not easy to remain transparent while pleasing everybody at the same time. OLAF has its own budget, but it is still part of the Commission. It is unable to report to the European Parliament on its own account, but only as part of the Commission, which may entail some influence.

OLAF is not the only institution with powers to clarify investigate fraud against the EU financial interests. There is also EUROJUST, made up of national prosecution offices and other law-enforcement staff. It is accountable to the Council of Ministers, and hence independent of the Commission, though not financially. This was made quite clearly when the Commission reduced EUROJUST's budget request by almost three million euros. Though OLAF and EUROJUST should cooperate in a sunny synergy, their relationship is a troubled one. This is partly due to overlapping interests: OLAF is entirely devoted to the EU financial interests while EUROJUST covers a broader field, among them 'organised crime'. And here, at the unclear intersection of the undefined 'organised crime' and economic crime, obscuring clouds of legal competences and jurisdictions are pulling together. Given the earlier observations on 'organised crime' and economic crime, this not at all surprising after.

Where EU-policy makers have apparently failed to translate firm intentions into a crystal clear structures to fight economic and organised



crime, in the field of money-laundering, the blue prints have been transparently put into place. Actually this mainly applies to the *legal* lay-out, as is demonstrated by the paper of *Almir Maljevic*, lecturer at the University of Sarajevo, on fighting money-laundering in Bosnia and Herzegovina. The author describes how in a country still nursing its war wounds, a new phenomenon was addressed: money-laundering. One has to remember that this had to be achieved in a country which in all respects of law enforcement has come close to complete disintegration. In addition, the economy was a complete shambles, one in which transparency in matters of paper work was not an everyday virtue. Nevertheless, legislators in the Federation and Serbska Republica succeeded in passing a bill which complied with all the standards of the Financial Action Task Force on money-laundering. Given the high standards of transparency maintained by the FATF, this was quite a feat.

Apart from putting all the legal instruments into place, the authorities also established an organisational structure: a Financial Intelligence Department (FID) within the Ministry of Security of BiH. This body has wide powers of supervision and investigation. It sits at the centre of all public and private institutions that have anything to do with financial matters. All private enterprises engaged in any kind of financial service have to report suspicious financial transactions and/or all cash transactions above the threshold of € 15.000.<sup>8</sup>

What happened after this anti-laundering scaffold was erected? Did it work? Well, yes and no. The banks rushed to comply with the new legal requirement and reported a stunning volume of financial transactions: almost 109.000 in one year, with other institutions like the stock exchange and the tax office reporting a mere 700 transactions (less than 1%). What about the other institutions and enterprises obliged to report? One can say that 'darkness set in': probably due to a mixture of unwillingness and incompetence. Granted, the reporting 'tsunami' of the bank should not be considered as an unambiguous sign of success: only 0,01% of the reported input were related to something suspicious. In the end, there were six indictments and one conviction. To this it must be added that the FID was operational for only *one* year which is a too short time span to judge its effectiveness.

When we survey this field of fighting money-laundering, we discover that the law enforcement yield is universally poor, even in countries with more than ten years' experience. It remains difficult to shed light on the underground economy, 'grey' or criminal. And yet, this is an important aspect of

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<sup>8</sup> In this volume all figures are in continental European annotation: the comma for the decimals and the point separating the thousands.

the threatening 'organised crime counting' undertaking. If we are ignorant of the crime-economy, how can we make statements about the level of threats it poses? (Reuter and Truman, 2004; Levi and Reuter, 2006)

## **Scenarios and reality**

One of the methods enabling us to make statements about potential organised crime situations is to draft scenarios, as described by the authors of the *Landeskriminalamt Nordrhein-Westfalen*. Drafting scenarios on the future state of organised crime in 2009 or later cannot be compared to a statistical extrapolation of a time series. Scenario building is rather an artful undertaking. Basically the 'method' hinges on experts' opinions, which are the 'counting units'. As a research design it would be objectionable, but the scenario game is not a validity and reliability contest. It helps a number of experts in a collective setting to identify a number of factors and to translate these into conditional 'if A, then B' statements.

The workshops in which 23 factors were differentiated produced (with a special computer programme) some 35 organised crime scenarios for Nordrhein-Westfalen, of which 3 were singled out as being distinct enough. The three scenarios for 2009 were redrafted into narratives and given the nicknames 'Neck and neck', 'Light and darkness' and 'ap-OC-alyapse'. The reader may sense already some kind of threat crescendo. Indeed, the 'neck to neck' scenario is relatively mild for Nordrhein-Westfalen. Organised crime (undefined) opportunities will increase, but the lag in investigative technology has not worsened, while legislative harmonisation in the EU (which is supposed not to expand anymore) has improved the justice system. The gap between rich and poor and Islam fundamentalism remain worrying.

The following 'light and darkness' scenario contains a bit more darkness than light. Fewer people benefit from the slow economic growth, unemployment (among migrants) increases together with polarisation and law enforcement agencies lagging behind in technology. This is but an intermediate position to the next, really gloomy scenario: the ap-OC-alyapse. With worsening economic conditions, retreating government, ghetto-isation, deficits in law enforcement, an expanding Europe and more globalisation 'organised crime' opportunities increase.

Scenarios may be interesting criminal weather forecasts. It would be interesting to wait a few years and to compare them with what the real

criminal situation is then. However, I doubt whether the variables are formulated with sufficient sharpness to allow such a test.

A gloomy scenario that has become a continuous grim reality is the one found in Italy. True, as far as organised crime counting is concerned, Italy represents a most transparent situation: it has only four criminal organisations – the Mafia, Camorra, N'drangheta and the Sacra Corona Unita. But that is where the transparency in Italy ends. This applies particularly to the muddy relationship between the Italian authorities and the Mafia, as the author, *James L. Newell* of the *University of Salford* describes in his contribution.

As far as the definition question is concerned, the author is perhaps correct in subsuming the Mafia under 'organised crime as popularly understood' (loosely denoting large powerful organisations having a complex division of labour). In the case of Italy this choice is not an easy way out of a fuzzy problem. The problem of the Mafia is the problem of the state. More precisely: the obscure relationship between the two. Most criminal organisations are involved in market transactions concerning illegal products and the way they organise themselves is to a large extent determined by the nature of the commodity and the social potential of the market. As far as most prohibited commodities and market relationships are concerned, developing large organisations can be risky, if not self destructive. Therefore the research literature has repeatedly indicated the ephemeral, shifting nature of criminal commercial enterprises, which are so difficult to assess (Levi, 2002). In contrast to this the Mafia's core business is not illegal trade but illegal protection, which requires stability. Since in a constitutional state the authorities are by law the only protectors of citizens, there is a direct competition with any organisation which offers protection too. To the extent that the state is weak and ineffective in its protection, illegal organisations may take over that task, as has also happened (partly) in Russia (Varese, 2001).

Newell describes how the Mafia has succeeded in defying the state-competitor by overcoming obstacles inherent in other forms of the crime-business. The key to its success is the wide-spread corruption in Southern Italy together with the accompanying deep distrust of the population towards the authorities. This applies particularly to Sicily where the state, considered an alien imposition, has never been welcome. But still the 'state' is there and is in need of support to get things done. Since it lacked popular support a secret (and toxic) exchange relationship developed between the state (or rather its officials and political parties) and the Sicilian Mafia. As the Mafia is (partly) embedded in the popular culture and values, these corrupt interactions are not considered as an alien phenomenon. In addition, the Mafia 'gives and takes': Locally it can give protection (scantily provided by the authorities), but it takes its share by extortion. It provides jobs, but also

forces entrepreneurs to accept useless staff. It can generate votes for politicians, but can at the same time exercise undue and uncanny influence. The Mafia thrives in a landscape of deep mistrust, while itself must operate on a basis of trust within the family.

As such an organised crime phenomenon is clearly identifiable as a 'cloud', there is little to count. Pointing at it is sufficient. That is true because the Mafia –as all other secret protection 'brotherhoods'– has a very restricted and well demarcated commercial market place: it is bound to static geographical perimeters and tends to loose cohesion as soon as it engages in the dynamics of trade (Paoli, 2003). Trade transcends the local base and thus creates uncertainty of control and the maintenance authority and respect. This is reflected in the difference between the two Palermo markets: the fish and taxi markets (Gambetta, 1993). The first is static and therefore pretty well controlled by the Mafia. The second market is not Mafia controlled, for the simple reason that the mobility of the drivers and distances involved in their affairs make it difficult for the Mafia to exert control. Outside the uncertain winds of illegal dynamic commerce 'organised crime' probably settles down and may be countable after all.

That may be a nice scenario for organised crime assessment, but the daily unfolding criminal reality takes mainly place against a commercial horizon as set out by *Petrus C. van Duyne*. He points to another cloud formation which usually floats by with little attention paid to it (with the exception of Scheinost in this volume): the organisation of *business crime*. In the organised crime literature this type of crime has received hardly any attention, perhaps because the offenders in this field are not of the 'usual suspect' type, the preferred focus of organised crime researchers. From the perspective of measuring 'organised crime' (and its threat), including this motley collection of 'organised' economic criminals in the set is quite disturbing. Because the variety of 'organised crime' types increases, the meaning of the 'organised crime' concept becomes even more diluted than it already was.

The author gives short shrift to the cobwebs created by scholastic debates about organised crime definitions (Van Duyne, 2003). If 'organised crime' is a topic for behavioural science research, what matters is to map and explain the variance of the organisational conduct of the law breakers under study. As the art of organising crime-for-profit is to remain out of the hands of the law, the first behavioural question is how crime-entrepreneurs interact with their environment to achieve that. If these environments differ widely it is likely that we will accordingly find accordingly different modes of conduct. We can try to subsume them under the common denominator 'organised crime', but such a subsumption is pretty empty lacking explanatory power.

To demonstrate this thesis the author compares the findings of the analyses of entrepreneurs operating in three markets: the illegal cigarette market, the illegal labour market and illegal cartel building. How do the traders operate, given the nature of the commodity and the entrepreneurial environment?

Taxes on coveted consumer goods are experienced as draconian and unjust. Therefore, illicit traders in the cigarette market find themselves in a popular, at least condoning environment (Von Lampe, 2005). In this market there are many small entrepreneurs and many small-time bootleggers, some of whom surprisingly develop into serious organised suppliers. Parallel and supporting them we find wholesalers, whose organisation is to a large extent determined by the bulky nature of the cargo (similar to hash). This requires a basic logistic know-how, shared by ad hoc networks of 'cooperatives'. Such know-how is required to develop successful '*criminal mimicry*'. This should not be equated with corrupt interaction with the upperworld. This term, borrowed from biology, denotes the art of surviving in a hostile environment by blending into it. Every criminal entrepreneur's environment is different. The wholesale cigarette smugglers must blend into the landscape of bona fide hauliers, which requires proper knowledge of customs procedures (and loopholes in the control system).

Illegal labour intermediaries, the Dutch '*koppelbaas*', operating from outwardly licit 'temp offices' have other more complicated problems of mimicry to solve. They must obtain contracts from principals, organise their labour force, escort them to the locations, maintain discipline and see to regular payments. Employees and employers have to play along with the game. In addition, there is the complicated paper work and the need to fend off the fiscal police by installing a straw man to evade criminal and fiscal liability. Against these obstacles the landscape has eased a bit because some licit entrepreneurs not only play along passively, but have set up their own *koppelbazen*: the licit upperworld has created its own economic underworld.

Compared to the usual smuggling, operating a *koppelbaas* firm is not a leisurely undertaking, either technically or from the point of view of personnel management.

When we subsequently turn to the 'real' upperworld, we can observe a different mimicry, at any rate in the conspiracies illegally to 'regulate' the market by cartel building. This phenomenon has an old history, though its *criminal* history in Europe is of a quite recent date. In some countries like the Netherlands and Germany it is not even a criminal offence, but an administrative transgression: 'illegal but not criminal'. Nevertheless, the stakes in secretly regulating the market, setting prices and limiting market entrance, are high, in terms of profits as well as penalties, either imposed by the national authorities or by 'Brussels'.

Illicit cartel building is basically organised cheating. The principals and the authorities are cheated into believing that they are tendering contracts in a free and competitive market setting; excluded market players must be cheated and above all, the organisation must be such that the conspirators do not cheat each other. When in a market like the construction industry the number of participants increases, keeping the conspiracy going requires a very professional organisation. And so did the Dutch constructors, elaborating a complicated system of stealth and deception. Apart from an elaborate bidding system, they set up an organisation to settle hundreds of hidden accounts for which they hired professional accountants who worked in a separate corporation only established for that task. If contracting authorities were not deceived, they were corrupted by pleasure trips, valuables or coveted services, libidinous temptations included. Were these gentlemen organised criminals? As a matter of fact the organisational sophistication of their activities exceeded that of most other forms of organised crime described in most narratives.

## Organised crime and mental history

We must now return to the odd personality describe at the beginning of this introduction, the one staring at the sky in an attempt to count the clouds and answer the question: is that weird man odder than the strategic analysts who are ordered by policy makers to assess organised crime? What insight would we obtain by counting the 'respectable' cartel builders together with the cigarette smuggler and the *koppelbaas*, plus the dope dealers (on at least four markets) and the illegal mafia protectors? What insights do we get into the threat supposedly stemming from all these manifestations of 'organised crime'? Illegal traders operate mainly in ephemeral shifting networks (McIllwain, 1999): small changing clouds fading in a fleecy sky.<sup>9</sup> On the other hand, cartels form solid cumulus clouds against a background of economic 'sunny' weather (hence few see them as a criminal threat and in some jurisdiction cartel building is only an administrative transgression). We end up with as many different threats as there are manifestations.

If many cannot help feeling (though without acknowledging it publicly) that it does not make much sense to continue along this path, one should wonder why so many nevertheless persevere in doing so. If the concept of

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<sup>9</sup> Von Lampe (2004) proposes to use networks as referents in organised crime research. That is valuable, but the operationalisation problems have not been solved, yet.

organised crime is mainly a political construct and otherwise ill-defined with no observational value or explanatory power, why is its use so tenaciously used, also among criminologists (Levi, 2004)? The answer is banal and simple, as with most of the human conditions: the word string is a core element of the word play of mainstream 'problem owners' and interested actors. Even if they all have different understandings in the way they discuss 'organised crime', they recognise a shared sing-song.<sup>10</sup> Those who do not hum the song are not part of the 'organised crime' research or policy making community. The reader just thumbs through the 'usual' organised crime literature, like the latest volume of Fijnaut and Paoli (2004) and counts the authors who deviate from that common sing-song (except Kinzig and Luczak, 2004). In this organised crime sing-song choir, 'measuring' the undefined organised crime, spotting vague threats and sensing fuzzy vulnerabilities is not weird at all. All participate and all have a few verses to sing.

However, researchers should not be part of such choirs. They have other tasks and responsibilities like independent behavioural research on the organisation of crime: how criminal market players operate in their hostile environment and succeed (for a while) in their criminal mimicry and how society responds.

Does this belittle the importance of the organised-crime theme itself? Certainly not. It is fascinating to observe how (international) policy makers, law enforcement officials and the public have reacted to the sonorously expressed concern aroused by an unmeasurable threatening something. It requires the interdisciplinary efforts of political science, sociology and psychology to interpret and explain that collective criminal cloud counting.<sup>11</sup> Woodiwiss (2003) has raised this question already, though with a strong emphasis on the role of the USA. If we follow this course, we will probably discover that with the passage of time the organised-crime theme may have become a major topic of interest for the students of history of the history of ideas, to whom it should be left.

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<sup>10</sup> This is accompanied by apparently unavoidable abbreviations, as can be found in the professional journals. For example TOC for 'Transnational Organised Crime' and ROC for 'Russian Organised Crime', which yields phrases like 'the TOC of ROC-criminals'.

<sup>11</sup> This is the more intriguing if we compare this methodology with the approach of a threat like the bird flu. Reflect on the many heads that would roll if policy makers would adopt the organised crime methodology in world health issues.

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