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Organized Crime and Anti-Crime Policies

Letizia Paoli and Cyrille Fijnaut

Since the early 1990s, organized crime has become a 'hot' topic in public debate and on the political and scientific agenda. To control organized crime, far-reaching legal and institutional reforms have been passed in all European states and *ad hoc* instruments have been adopted by all major international organizations, ranging from the European Union (EU) to the Council of Europe and the United Nations.

The apparent consensus now dominating much European official and media discourse is in itself astonishing, since – until the mid-1980s – the scientific communities, political leaderships and public opinion of virtually all European countries (aside from Italy) considered themselves largely unaffected by organized crime. This perception began to change in the late 1980s. Several long-term processes and a variety of both far-reaching and localized historical events contributed to the European and international success of the concept of 'organized crime'. Some of these were directly related to the activities and perpetrators typically associated with organized crime; others are related to them only indirectly. Among the former, the rise of the illegal drug and human-smuggling industries are the most prominent. Among the latter, the most relevant are the worldwide processes of globalization, the fall of the Iron Curtain in 1989 and the completion of the internal market and abolition of internal border controls within the countries of the EU.

These wider societal processes have affected not only the organization and functioning of illegal markets, particularly in countries previously belonging to the communist bloc, but also the general perception of organized crime. Throughout Europe, organized crime – particularly its transnational variant – has become one of the most frequent and successful labels for expressing the growing sense of insecurity caused by the sudden collapse of the bipolar world and, more generally, public

anxiety at living in the increasingly uncertain world of 'late modernity'. Specific events reinforced this change in perceptions. Of particular impact were the murders of Judges Giovanni Falcone and Paolo Borsellino in Sicily in 1992 and the bomb attacks in mainland Italy in 1993, which were organized by the Sicilian *Cosa Nostra* mafia organization and received widespread media attention throughout Europe. Following these and other unrelated events, organized crime has been stigmatized as a 'folk devil' (Cohen, 1972) and become a powerful political instrument to justify criminal law and criminal justice reforms.

That the European (and world) perceptions of organized crime could change so abruptly in less than a decade is certainly due also to the ambiguity of the concept itself. In the first section of this chapter, we therefore reconstruct the trajectory of the concept of organized crime, which was coined in the United States at the end of the nineteenth century and was used almost exclusively there until the 1970s, before spreading rapidly to and across the 'old Continent' at the end of the twentieth century. In the following section we sketch the main patterns of organized crime in both the 'old' and 'new' Europe. In the final section we summarize the major policy developments at both the EU and national levels. For the last two sections we draw extensively on Fijnaut and Paoli (2004b), the first comparative assessment of organized crime concepts, patterns and control policies in 13 – Eastern and Western – European countries.

The history of the concept

Since it was first adopted over a century ago, such a wide variety of different meanings have been attributed to the term 'organized crime' that we are now left with an ambiguous, conflated concept. As Mike Levi (2002: 887) puts it, organized crime is like the psychiatrist's Rorschach blot, whose 'attraction as well as . . . weakness is that one can read almost anything into it'. In Europe as in the United States, public, political and even scientific debates still oscillate between thinking of organized crime as referring to sets of criminalized activities, or to sets of people engaged in crime. In other words, the concept of organized crime inconsistently incorporates the following two notions: (a) the provision of illegal goods and services; and (b) a criminal organization, understood as a large-scale entity primarily engaged in illegal activities with a well-defined collective identity and subdivision of work among its members.

The American debate: from 'alien conspiracy' to 'illegal enterprise'

The phrase 'organized crime' was probably first used in the late nineteenth century but, despite a couple of landmark empirical studies in the 1920s (see Landesco [1929] 1968), it did not become really popular until the early 1950s. Since that date several US congressional bodies set out the terms of an Italian mafia-centred view of organized crime, which remained the US official standpoint for almost three decades. This identified organized crime with a nationwide, centralized criminal organization dominating the most profitable illegal markets, which allegedly derived from an analogous parallel Sicilian organization and was headed by and, to a great extent, consisted of migrants of Italian (and specifically Sicilian) origin. In its 'Third Interim Report' of 1951, the Kefauver Senate Investigating Committee famously concluded: 'There is a nationwide crime syndicate known as the Mafia, whose tentacles are found in many large cities. It has international ramifications which appear most clearly in connection with the narcotics traffic. Its leaders are usually found in control of the most lucrative rackets of their cities' (US Senate, 1951: 131). In 1963 the testimony of former *Mafioso*, Joe Valachi, before the Senate Permanent Subcommittee on Investigations further established the terms of this paradigm and gave a new name to this menacing criminal association: *La Cosa Nostra*. Thanks to extensive television coverage, Valachi's view became popularized among the American public (Smith, 1975).

Despite its media and political success, the identification of organized crime with mighty mafia-type organizations – and the related idea of an alien conspiracy polluting the economic and social life of the United States – has been rejected by the majority of American social scientists since the 1960s. Scholars have dismissed the mafia-centred view of organized crime as being ideological, serving personal political interests, and lacking in accuracy and empirical evidence. However, there may also have been some overreaction, with many scholars up to the early 1980s categorically denying the existence of the Italian American mafia as a structured and longstanding criminal organization (Hawkins, 1969; Smith, 1975 – by contrast, see Jacobs and Gouldin, 1999).

After the early 1970s scientific attention was redirected to the most visible and non-controversial aspect of organized crime: the supply of illegal products and services. In order to eradicate ethnic stereotypes of crime and direct attention to the marketplace, several authors have advanced the expression 'illicit' or 'illegal enterprise' as a substitute for the ethnically-loaded term 'organized crime'. As Dwight Smith, one of the earliest proponents of the new approach, expressed it, 'illicit enterprise is the extension of legitimate market activities into areas normally

proscribed – i.e. beyond existing limits of law – for the pursuit of profit and in response to a latent illicit demand’ (Smith, 1975: 335).

More often, however, organized crime itself has been equated with the provision of illegal goods and services. Hence, according to Alan Block and William Chambliss (1981: 13), ‘organized crime [should] be defined as (or perhaps better limited to) those illegal activities involving the management and coordination of racketeering and vice’. Organized crime has thus become a synonym for illegal enterprise. According to a review of definitions carried out in the early 1980s by Frank Hagan (1983), a consensus by then existed among American criminologists that organized crime involved a continuing enterprise operating in a rational fashion and focused toward obtaining profits through illegal activities.

The European debate

Since the mid-1970s the ‘illegal enterprise’ approach has acquired a dominant position in the European scientific debate, influencing not only a series of studies on the Italian mafia (Arlacchi, 1983; Catanzaro, 1992) but also, even more deeply, the conceptualization of organized crime in all those European countries that long considered themselves immune to the problem. As early as the mid-1970s, for example, Hans-Jürgen Kerner and John Mack (1975) talked about a ‘crime industry’ and, in an earlier report written in German, Kerner (1973) subscribed even more explicitly to the view of organized crime as an enterprise.

Notwithstanding scholarly conceptualizations, since the late 1980s the spectre of mighty mafia-type criminal organizations – primarily the Italian mafia, but since the early 1990s the Russian and other ethnic ‘mafias’ as well – has time and again been raised with varying degrees of good faith by European media, politicians, law-enforcement agencies and, more recently, international organizations to increase the power of domestic law enforcement agencies and to enhance international police and judicial cooperation. Since the early 1990s the transnational dimension of organized crime has also been strongly emphasised, obscuring the fact that most organized crime activities are anchored locally (Paoli and Fijnaut, 2004b).

Despite the popular identification of mafia with organized crime, the emphasis on illegal market activities has remained largely unchallenged in the scientific debate of all European countries except Italy. Thus, for example, according to Dick Hobbs (1994: 444–5), ‘the master context for professional and organized crime is the marketplace . . . [and] the marketplace can be seen to define and shape professional and organized criminal activity’. Likewise, the Dutch scholar Petrus van Duyn

(1997: 203) points out that organized crime results from illegal market dynamics: 'What is organized crime without organizing some kind of criminal trade; without selling and buying of forbidden goods and services in an organizational context? The answer is simply nothing.'

Only in Italy have several scholars variously emphasized the differences between Italian mafia groups and other, more business-like forms of organized *qua* enterprise crime. In the early 1990s Diego Gambetta (1993: 1) proposed a variant of the long-dominant enterprise approach, conceptualizing the mafia as 'a specific economic enterprise, an industry which produces, promotes, and sells private protection'. From different perspectives, other scholars have then reassessed the cultural and political dimensions of the mafia phenomenon. As one of the present authors has pointed out (Paoli, 2003), southern Italian mafia organizations are ritualized secret brotherhoods that have traditionally employed the strength of mafia bonds to pursue a plurality of goals and to carry out numerous different functions. Though mafia groups have engaged, directly or through their members, in a plurality of legal and illegal entrepreneurial activities, one of the most important functions they have historically played is the exercise of political dominion within their communities. More radically, Henner Hess (1995: 63) has gone so far as to conclude that 'the mafia is a power structure and, as such, completely different from what is commonly called organized crime (and which is usually a cooperation aimed at gaining material advantages)'.

National and international definitions: broad and unbinding

The legal definitions of organized crime adopted by most European states also hardly reflect the mafia fixation of much political and media discourse. Most of these definitions are very broad, if not vague, so much so that they – and the special powers granted to organized crime investigators, prosecutors and judges – can be applied to a wide range of criminal phenomena and suspects (for a review, see Paoli and Fijnaut, 2004b).

Thus, many European governments and international organizations pursue a sort of 'double-track' approach, by emphasizing the scale and threat of organized crime on the one hand, and adopting minimum common-denominator definitions on the other, with no strict criteria in terms of number of members and group structure. This strategy has been pursued by the European Union and by the United Nations to back its 2000 'Convention against Transnational Organized Crime'.

To justify its intervention in this area, the EU Council has repeatedly presented organized crime as a new threat, whose novelty lies in the

increasing involvement of criminal organizations in the supply of criminal goods and services. Such a view is clearly stated in the first programmatic document dealing with organized crime, the 'Action Plan to Combat Organized Crime', which was adopted in April 1997. Its opening statement maintains:

Organized crime is increasingly becoming a threat to society as we know it and want to preserve it. Criminal behaviour no longer is the domain of individuals only, but also of organizations that pervade the various structures of civil society, and indeed society as a whole. (European Union Council, 1997)

In the Joint Action adopted by the European Council on May 1998, a criminal organization is defined as

a structured association, established over a period of time, of more than two persons, acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty. (European Union Council, 1998)

If only three people are sufficient to form a criminal organization, one might justifiably ask if the (alleged) increasing presence of these entities in the illegal arena really represents a major innovation with regard to the past and the threatening menace that the Action Plan assumes it to be.

Organized crime patterns

Despite the lack of regular and reliable data on organized crime and poor cooperation between public agencies and independent researchers in most European countries, the main outline of the picture emerging from assessments of organized crime patterns in 12 European countries is fairly clear.

The organization of organized crime: adieu to the Italian mafia model

Though much of the concern about organized crime was initially dictated by fear of the expansion of the Italian mafia to the whole of Europe and its becoming a model for others, this pessimism have proven to be unfounded. Despite the possibilities opened up by the fall

of the Iron Curtain in 1989, Italian mafia groups seem to have representatives and, less often, branches only in those countries – Germany, Belgium and France – that attracted consistent migration flows from southern Italy since at least the 1950s. In no European country except Italy – nor in northern or central Italy itself – do Italian mafia groups control a significant portion of local illegal economies or exercise a systematic influence over the legal economy or political system (Paoli, 2004).

Nor does any other criminal group, at least in Western Europe. Contrary to the exaggerated predictions of the early 1990s, other organized crime groups have not shown any interest in imitating the culture and structure of the Italian mafia. Nor are the average perpetrators involved in European organized crime interested in, or capable of exercising, a quasi-political power similar to that of the largest and most stable mafia associations in Southern Italy (that is, the Sicilian *Cosa Nostra* and the Calabrian *Ndrangheta*). As even Europol recognized in its 2003 European Union Organized Crime Report (2003: 10), ‘politically, few Organized Crime (OC) groups pose a direct threat to Member States’.

Most organized crime groups active in Europe are simply too small and ephemeral to be able to exercise such political power. To quote Europol again:

the traditional perception of hierarchically structured organized crime groups is being challenged. There is now a development suggesting that a greater percentage of powerful organized crime groups are far more cellular in structure, with loose affiliations made and broken on a regular basis and less obvious chains of command. (2003: 8)

Whereas it is disputable that non-Italian mafia groups have ever complied with the ‘traditional perception of hierarchically structured organized crime groups’, Europol’s departure from the Italia mafia model can only be welcomed.

The 12 country reports on organized crime published in Fijnaut and Paoli (2004b) show that the great majority of illegal exchanges in Western European countries are carried out by numerous relatively small and often ephemeral enterprises. This is because all illegal market actors are subject to constraints deriving from the enforcement of prohibition. As a result of these constraints, illegal market entrepreneurs are obliged to operate both without and against the state.

First, since the goods and services they provide are prohibited, illegal market suppliers cannot resort to state institutions to enforce contracts

and have violations of contracts prosecuted. Nor does the illegal arena host an alternative sovereign power to which a party may appeal for redress of injury. As a result, property rights are poorly protected, employment contracts cannot be formalized, and the development of large, formally-organized, long-lasting companies is strongly discouraged (Reuter, 1983).

Second, all suppliers of illegal commodities are forced to operate under the constant threat of arrest and confiscation of their assets by law-enforcement institutions. Participants in criminal trades will thus try to organize their activities in such a way as to assure that the risk of police detection is minimized. Incorporating drug transactions into kinship and friendship networks and reducing the number of customers and employees are two of the most frequent strategies illegal entrepreneurs employ to reduce their vulnerability to law enforcement (*ibid.*).

The factors promoting the development of bureaucracies in the legal economy – namely taking advantage of operational economies of scale and specialization of roles – are outbalanced in the illegal arena by the very consequences of product illegality. As a result of the illegal economy operating within countries with efficient governments, there is no immanent tendency towards the consolidation of large-scale, modern illegal bureaucracies. In other words, in the illegal markets of most industrialized countries ruled by relatively strong and efficient state apparatuses, the dominant model is not organized crime, but – following the title of a famous book by Peter Reuter (1983) – disorganized crime.

The expansion of illegal markets

Recognizing the relatively ‘disorganized’ nature of European organized crime does not imply an optimistic assessment of its nature, scale and danger. Forming flexible and changeable networks, the small and ephemeral enterprises comprising the bulk of Western European organized crime have, since the mid-1970s, sustained a phenomenal expansion of illegal markets in Western and, after the fall of the Berlin Wall, Eastern Europe as well.

Since the early 1970s, in particular, a rising demand for a variety of illegal drugs – predominantly cannabis and heroin in the 1970s and 1980s with the addition of cocaine, ecstasy and other amphetamine products since the early 1990s – has fostered the development of an international drug trade from producing to consumer countries and the emergence of nationwide drug distribution systems in all European states. This process has also entailed the consolidation of the professional role of the drug dealer. From the early 1970s in Western Europe

and from the early 1990s in the eastern part of the continent, the role of drug dealer has emerged to link producers to consumers and to supply large urban centres regularly with a variety of illegal drugs from distant regions. To meet expanding popular demand, preexisting criminal associations – such as Italian mafia groups – and thousands of individuals, cliques and groups with and without previous criminal experience have entered the drug trafficking business, attracted by the anticipation of large profits.

In the last two decades of the twentieth century, several European countries acquired a pivotal role in the world illegal drug trade. Since the early 1980s, Turkey has without interruption been the main gateway for Afghan heroin on its way to Western European markets (see Bovenkerk and Yeşilgöz, 2004). Due to its geographic position, Spain has become the main entry point for Moroccan hashish since the 1980s, with seizures recently accounting for 75 per cent of all hashish seizures in Europe. Together with the Netherlands, Spain is also preferred by Colombian traffickers for smuggling cocaine into Europe (see Gómez-Céspedes and Stangeland, 2004).

In some countries – most notably the Netherlands and Belgium, but more recently also Poland and Albania – we find not only illegal drug traffickers and distributors, but drug producers as well. From the early 1990s onwards, the Netherlands and Belgium have become the major European and, possibly, world producers of ecstasy. Polish chemists have specialized in the production of amphetamines for both Western and Eastern markets, and Albanians have taken up the cultivation and sale of marijuana, re-launching a product that – unlike hashish – had virtually disappeared from many Western European markets over the previous twenty years (Plywaczski, 2004; Hysi, 2004).

Despite the re-conversion of many professional criminals to drug trafficking and dealing, several – traditional and non-traditional – profit-making criminal activities have continued to proliferate. Some, such as the illegal trade in weapons, are instrumental to a life ‘on the other side of the law’. Other activities – ranging from car thefts, to robberies and the exploitation of prostitution – experienced an unexpected revival in the years immediately following the fall of the Iron Curtain, when Eastern European criminals primarily resorted to violence and ruthlessness to earn a ‘fast buck’ in Western Europe.

As a few scholars – particularly Mike Levi (1999) and Tom Naylor (2002) – have shown, a third group of entrepreneurial crime activities also flourished in the 1980s and 1990s and continue to do so today, though they are hardly the prerogative of traditional underworld members. These activities range from fraud and other financial crimes to bid-rigging in public works tenders and the illegal wholesale trade in

toxic waste, weapons, diamonds and gold. They form a part of organized crime, if one accepts the loose definitions that dominate the legal and scientific discourse on organized crime in Europe today.

Whereas the more white-collar forms of organized crime usually attract public attention only in the immediate aftermath of a big scandal, a second wave of expansion of European illegal markets, which started to develop fifteen years after the drug-related wave, has raised much concern in government institutions and the general public. This expansion was largely triggered by the enactment of increasingly restrictive immigration policies in most Western European countries during the 1980s and 1990s, which created a large demand for human smuggling services. The number of potential customers as well as victims of human trafficking suddenly multiplied, as the liberation of Eastern Europe in 1989 and the collapse of the Soviet Union in 1991 finally abolished restrictions on the mobility of almost four hundred million people. Crises in other parts of the world, ranging from several African countries to Iraq, Afghanistan and East Timor, also engorged the flow of prospective migrants, at the same time as growth and improvement of transportation facilitated their movements, by drastically reducing logistical constraints.

To meet this demand, human smuggling 'companies' appeared at all the crucial borders of 'Fortress Europe'. Though many smugglers merely sell services desperately wanted by their customers, not only are their prices in most cases extortionate, but conditions are often inhuman, as proven by the many accidents all over Europe that cost the lives of undocumented migrants. Moreover, this flourishing black market has opened up space for all kinds of exploitation that sometimes end up as real trafficking in human beings.

The internationalization of illegal markets

Almost inevitably, the internationalization of European illegal markets has affected not only the demand but also the supply of illegal commodities. The irreversible globalization of the licit economy and the erosion of national borders entail, as an unwanted side-effect, a growing geographical mobility and exchange of goods, know-how and capital of criminal origin. Today in Milan, as in Frankfurt, London or Amsterdam, illicit goods and services are offered and exchanged by a multi-ethnic mob. Alongside local criminals, one finds illicit entrepreneurs from all parts of the world.

This process of internationalization of illegal markets started in most northern and central Western European countries in the 1960s and 1970s following the legal migration of millions of people from former

colonies and southern European countries. In the latter, including Italy, it took place very rapidly from the mid-1980s onwards, when this part of the continent became the destination of considerable migration flows. Thus, instead of the feared 'Italianization' of Europe, in most of continental Italy the opposite process has taken place: that is, a more accelerated assimilation of local illicit markets to the organizational models and multi-ethnic composition of northern European markets.

In all countries, the over-representation of recent (but also sometimes not so recent) migrants in illicit activities is largely due to their social exclusion and poor integration into host societies. As the history of the United States demonstrates, a small but highly visible portion of migrants use crime as a 'queer ladder of social mobility', to use Daniel Bell's ([1953] 1965) famous expression. Moreover, to a greater extent than in the past, migrants today have a harder time accessing the legal economy and, owing to the restrictive policies adopted by most Western European states, are more likely to find a means of survival only in the informal and illegal economies. A few of those willing to earn a living through crime are able to exploit contacts with producers and distributors of drugs and other illegal commodities in their home countries or the weakness of their native state institutions, to become involved in the wholesale and most profitable sections of illegal markets (especially drug markets). Most, however, end up working as crime labourers carrying out dangerous and not very profitable tasks neglected by autochthonous criminal entrepreneurs.

Despite their occasional violence and aggressiveness, the crime groups set up by migrants are hardly comparable to Italian mafia clans as they are in most cases poorly organized and ephemeral. Their degree of infiltration of government institutions and the licit economy is generally low. However, since most of them are mutable gangs that make use of different languages and cultural codes, they are hard to identify and repress.

The infiltration of the legitimate economy and politics: an over-estimated threat

Organized crime's infiltration of the legitimate economy, civil society and politics has been investigated and studied much less than its illegal markets activities, so much so that in many European countries it is impossible to go beyond 'guesstimates' and speculation. Despite the serious shortcomings of information sources, it can safely be stated that in most Western European countries the ability of traditional organized crime groups to infiltrate the legitimate economy and corrupt civil and political institutions was grossly overstated when

organized crime began to attract media and political attention in the early 1990s.

In the Netherlands, for example, both the initial study carried out by the Fijnaut research group in the mid-1990s (1998) and the subsequent 'organized crime monitor' run by the Research and Documentation Centre of the Dutch Ministry of Justice (WODC) found that no criminal group at either national or local level has ever gained control of legitimate sectors of the economy by taking over crucial businesses or trade unions (see Kleemans, 2004). Likewise, no proof of systematic infiltration of organized crime into the legitimate economy emerges from the Organized Crime Situation Reports published annually by the German federal police, the *Bundeskriminalamt* (Kinzig and Luczak, 2004). Even in Switzerland, according to Claudio Besozzi (2004), the few empirical studies carried out on the topic do not support the view that the local financial system is infiltrated and threatened by foreign mafia-like organizations laundering money in the country.

In many European countries, however, perpetrators of organized crime invest in several legitimate industries – above all in the transport, finance, real estate, hotel and night-life sectors – to facilitate their illegal activities and reinvest their illicit proceeds. This pattern of action clearly emerges from Lalam's (2004) and Gómez-Céspedes and Stangeland's (2004) reports on organized crime patterns in France and Spain, respectively. Organized crime's investment in hotels, night-clubs and pubs in several Dutch cities (especially in Amsterdam) and in real-estate in the south of Spain are also considered worrying (Kleemans, 2004).

The picture becomes even less clear-cut if one considers the perpetrators of non-traditional organized crime activities, such as fraud, the manipulation of public tenders and the illegal trade in toxic waste, weapons and gold. These white-collar criminals have no need to 'infiltrate' the legitimate economy as they are already an established part of it, and the revenues of their 'dirty' activities are barely distinguishable from the flows of 'clean' and 'hot' money that are traded incessantly around the world.

The ability of both traditional and non-traditional organized criminals to corrupt politicians and civil servants appear to be rather low in most Western European countries. Despite occasional scandals and charges against single law enforcement officers and elected officials, six out of eight reports on organized crime patterns in Western European countries (in addition to those already quoted in this subsection) agree that there is no evidence of a systematic pattern of corruption and infiltration of political and government institutions by criminal groups (Hobbs, 2004).

However, there are two main exceptions to this rather reassuring picture of Western Europe: Italy and Turkey. Organized crime's infiltration of the legitimate and informal economies is, according to Paoli (2004), an important specificity of Italian organized crime. This largely derives from the claim of Italian mafia groups to exercise a political dominion within their communities, mainly expressed today by the extraction of a 'protection tax'. Through this systematic pattern of extortion, mafia families have been able to gain large and sometimes dominant positions, especially in the construction industry, but also in other entirely legitimate economic sectors in at least three southern Italian regions: Campania, Calabria and Sicily.

The influence of Mafia groups on Italian public life finds no parallel in Western (or even Eastern) Europe. The political power of mafia groups was not only accepted and even legalized by government representatives until the 1950s, but systematic exchanges of favours and collusion have continued until the present, as indicated by the investigations into the activities of Giulio Andreotti (Italy's prime minister seven times) and Silvio Berlusconi (prime minister since 2001).

In contrast to Italy, Turkey does not host lasting and well-structured secret criminal societies comparable to the Sicilian *Cosa Nostra* and the Calabrian *Ndrangheta*. Nonetheless, in their strenuous fight against left-wing protestors in the 1970s and, later, against Kurdish separatist groups, several Turkish cabinets and the military have developed shady alliances with right-wing paramilitary groups. These, and a variety of Kurdish clans that had sided with the government, were often given *carte blanche*, including the authorization to run illegal businesses, ranging from extortion and murder to drug trafficking (Bovenkerk and Yeşilgöz, 2004).

Organized crime in Eastern Europe: a phenomenon of a different quality?

There are numerous similarities between organized crime activities and participants in Western and Eastern Europe. Long curtailed by socialist dictatorships, illegal markets have boomed in all Eastern European countries since the fall of the Iron Curtain in 1989. In particular, illegal drug consumption and trade have expanded phenomenally in Russia and most other former Warsaw Pact countries.

Illegal psychoactive substances were used even prior to 1991, but during the communist regimes both the number of consumers and the range of available substances were limited. Due to travel and trade restrictions, none of the former communist countries either constituted

a single drug market or participated significantly in international narcotic exchanges as a consumer or supplier of illicit substances. However, this pattern of relative self-sufficiency changed drastically during the 1990s, as Eastern Europe and Russia rapidly became integrated into the international drug trade (see Paoli, 2001). Today large quantities of illegal drugs transit these countries to supply local demand and reach Western European consumers. Growing domestic consumption is also increasingly fed by more powerful and easier-to-use drugs imported from abroad. Since the mid-1990s, in particular, most Eastern European countries and Russia have had to deal with a real heroin epidemic, which has become the primary means of spreading HIV and AIDS (Plywaczewski, 2004).

Whereas the heroin sold in Eastern (and Western) Europe usually originates in Afghanistan, other drugs consumed throughout the entire post-Soviet area are produced in – or transit through – Western European countries. This is first of all the case for ecstasy and other methamphetamines, which are predominantly fabricated in the Netherlands and Belgium. *Mutatis mutandis*, the same is also true for cocaine and to a more limited extent for hashish, which frequently reach Eastern European markets through Western Europe. Moreover, drugs are not the only illegal commodities exported from Western to Eastern Europe: weapons, toxic waste and counterfeit objects also frequently travel from West to East to be sold on local black markets.

Because of the increased mobility of Western European and, even more so, other foreign criminals, Eastern European illegal markets have undergone a rapid process of internationalization since the early 1990s. Eastern European cities have become venues for meetings and clashes between criminal groups and gangs from farther afield, ranging from Vietnamese and Chinese to Italian, Albanian and Russian-speaking groups (Nozina, 2004). With their readiness to employ violence, their enormous and shadily-acquired capital, as well as high-level political connections, the latter are today considered by far the most dangerous people in organized crime.

A closer look at the Russian-speaking crime groups may help us identify the peculiarities and, eventually, the specific dangers of Eastern European organized crime. Like the great majority of their Western counterparts, most Russian and Eastern European organized crime groups are not strict hierarchical organizations, based on ritual family ties, permanent membership and initiation rites. However, contrary to the situation in the West, Russian organized crime groups do not exclusively comprise 'underworld' criminals, but also 'overworld' figures, who often originate from within the ranks of the former

Communist Party and state structures and are today successful entrepreneurs or high-ranking government officials.

Exploiting their high-level contacts and the difficulties of the post-Soviet transition, many representatives of Russian organized crime made large fortunes through trade in commodities that would have been legitimate in capitalist societies, and managed to gain control of many, sometimes strategic, parts of the legitimate economy. Their entrepreneurial success was further enhanced by their unusual high-tech capacity, resulting from their well-educated backgrounds and connections with security services, as well as their readiness to use violence and military potential. Thanks to this combination of capabilities, for example, three crime bosses managed to acquire large shares of the Russian aluminium industry (Shelley, 2004).

Due to its ambiguity and suggestiveness, the term 'organized crime' has also been employed – in Russia as in other Eastern European countries – to characterize all those successful entrepreneurs who have rapidly built huge fortunes, usually by acquiring former state companies. It is indeed hard to separate this group clearly from 'normal' organized crime perpetrators, as their methods are quite similar. Both groups, in fact, rely on high-level political connections and shady strategies. As a rule, legitimate entrepreneurs cannot directly command violence, but many of them have had no restraints – or even worse, were obliged in the earliest and rockiest phases of the transition – to resort to the protection services offered by violent thugs (Volkov, 2002).

Whether or not they should be termed organized crime, some activities at the crossroads of the legal and illegal economies have threatened the economic and political stability of the countries in transition. In both Russia and Albania, tax evasion and the illegal export of capital remain widespread practices among many legitimate firms and members of the upper classes, constituting a serious impediment to the consolidation of the state. As late as 2000, for example, capital leakage from Russia exceeded US\$1 billion per month, down from US\$ 25 billion at the height of Russia's financial crisis in 1998 (see Shelley, 2004). The burst of the pyramid scheme bubble in Albania in late 1996, which yielded an estimated US\$13 million in illegal proceeds, ended up in deadly rioting and widespread chaos and resulted in a dramatic fall in Albanian GDP (Hysi, 2004). Thus, according to the Council of Europe, the scale of organized crime and corruption constitutes 'the single most important problem for Albania' and 'the single most important threat to the functioning of democratic institutions and the rule of law in the country' (Council of Europe, 2004: 8, 2).

Control policies

Since the early 1990s the fight against organized crime has been one of the most effective arguments used by European politicians and government agencies to enact criminal and criminal procedural law reforms, introduce new offences and special investigative powers for law enforcement agencies, and propel forward the transnationalization of crime control and criminal justice.

Internationalization of policy: the EU

It is by no means exaggerated to say that, in Europe, policy on organized crime has increasingly transcended national boundaries and, since the late 1990s, has become a matter of international politics and hence also of the foreign policy of individual countries. After the 'Action Plan to Combat Organized Crime' of April 1997, the fight against organized crime was elevated to the rank of a treaty issue in the Treaty of Amsterdam, becoming central to the Third Pillar. In the reformulated Title VI ('Provisions in the Field of Justice and Home Affairs'), strengthening police and judicial cooperation was supposed to serve just one purpose: to combat organized crime. At the October 1999 special summit in Tampere, Finland, the European Council expressed itself 'deeply committed to reinforcing the fight against serious organized and transnational crime' and launched a 'Union-wide Fight against Crime', meaning primarily organized crime.

In the following years many initiatives were introduced by the European Council and Commission to implement the agreements reached. For instance, Eurojust (a sort of European prosecutor's office with the task of facilitating the proper coordination of national prosecuting authorities) and the Police Chiefs Operational Task Force were set up, the talks on the Convention on Mutual Assistance in Criminal Matters were completed in 2000 and a framework was developed for the creation of joint investigation teams.

In addition to becoming part of the Third Pillar, organized crime control has acquired a growing relevance in EU foreign policy. In 1998 the applicant countries, which joined the EU in May 2004, were made to sign a 'Pre-Accession Pact on Organized Crime' and they were put under considerable pressure to adopt Western European policy in this area through the famous *acquis communautaire*. At the same time, a variety of programmes were initiated by the European Commission and the Council of Europe to help all former communist European countries strengthen their political and judicial capacities in the fight against organized crime and corruption.

This important development – the interweaving of the domestic and foreign policies of the European Union, particularly in the field of combating organized crime – culminated in the European Security Strategy, which was adopted on 12 December 2003. In this document, organized crime is considered one of the key threats to Europe, alongside terrorism and regional conflicts. Its control is thus singled out as one of the most relevant of the EU's strategic objectives and 'better coordination between external action and Justice and Home Affairs policies is . . . [seen as] . . . crucial in the fight against both terrorism and organized crime' (Fijnaut and Paoli, 2004a, provide a lengthy account of these initiatives).

The Council of Europe and the European Court of Human Rights

Besides joint projects with the EU, the Council of Europe also takes initiatives of its own accord to combat organized crime and these are intended for all its 46 member countries, whether or not they belong to the EU. Though they do not explicitly refer to organized crime as such, several conventions sponsored by the Council of Europe constitute important elements of European organized crime control policies, for example the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols (1959) and the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (1990).

Some other initiatives of the Council of Europe explicitly target organized crime. In 1997 the Committee of Ministers of the Council of Europe Member States set up a Committee of Experts on Criminal Law and Criminological Aspects of Organized Crime (PC-CO), which in 2000 was replaced by the Group of Experts on Criminological and Criminal Law Aspects of Organized Crime (PC-S-CO). Under the authority of the European Committee on Crime Problems (CDPC), the new bodies are required to assess the organized crime control policies of individual member states and have prepared several best practice surveys in the field of the fight against organized crime (Council of Europe, 2003a, b and c).

In 2001 the Committee of Ministers issued an overarching recommendation to the member states, providing guiding principles on the fight against organized crime. These guidelines cover the whole policy field in this area: from the prevention of organized crime to the use of the criminal justice system to control it and the mechanisms of international police and judicial cooperation (Council of Europe, 2001).

The important role played by the European Court of Human Rights in Strasbourg should also be highlighted in this context. Through its

judgments, this Court has had a major influence in the past few years on efforts to establish the legal limits within which the battle against organized crime in Europe must be waged. One example is the case law concerning the use of undercover agents and anonymous witnesses; another relates to the direct and indirect interception of communication (Dutertre, 2003).

Bias and questions

The internationalization of organized crime control policy well explains why the changes that have taken place on several fronts in individual countries are so similar, whether they involve the centralization of the police, the judiciary and the customs authorities, or the creation of special units within these institutions, or the introduction of intrusive methods of investigation, such as phone tapping, anonymous witnesses and undercover agents.

Incidentally, the internationalization of policy can also throw up negative similarities between countries, not just positive ones, as is plainly evident in the neglect of an administrative, preventive approach to organized crime. Most countries do not have such an approach in place or have not properly implemented one; Italy and the Netherlands are the only two (partial) exceptions (La Spina, 2004 and van de Bunt, 2004). The one-sidedness – in other words, the predominantly repressive bias – of organized crime control policy propagated by the European institutions and/or by major countries is also reflected in the policy that many individual countries have conducted over the past few years (see also Levi and Maguire, 2004). Coupled with evident differences in the scope of organized crime in European countries, this one-sidedness raises certain questions about both the substance of the international or foreign control policy and the way in which it came about.

One question that may be asked is whether the policy conducted by the two main European institutions – the European Union and the Council of Europe – is not far too uniform: one and the same policy for each member state. Given the significant differences between countries, would it not be advisable to differentiate more? For instance, should a distinction not be made between compulsory measures that all member states must adopt because they relate to mutual cross-border cooperation and optional measures they can choose to implement, depending on the problems each country has to deal with?

A second question ties in with this last point: when determining which optional measures to adopt, is it not necessary to scrutinize more closely the policy developments that actually occur in the

member states themselves – not just at the national level, but also at a regional or local level? This approach at least offers some guarantee that the range of measures on offer is as wide as possible, thus ensuring that policy-makers really have a choice.

This gives rise to a third question. Precisely because organized crime is a serious problem that manifests itself locally in a variety of guises, should not local authorities, above all Europe's in largest cities, and important policy-implementing bodies (such as customs and police forces) be more directly involved in policy-making?

Whatever the concrete solutions adopted, every effort must be made to prevent the internationalization of policy from leading to a situation in which this policy becomes divorced from the very problems it is designed to tackle or clashes with policies conducted locally to control these problems.