

# International organised crime in the European Union

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## Transnational organised crime: an evolving label encapsulating different forms of crime through time

The theme of organised crime is not new. It emerged during the prohibition period in the United States in correlation with the corruption of local police or local mayors by groups producing illicit alcohol. When the Italian mafia was involved (even if most of them were American citizens), a tradition began to name organised crime groups by the name of the diaspora to which they belonged, and to speak of international organised crime as soon as trans-border activities were involved in either the traffic of products or in the recycling of money. By the late 1970s, drug trafficking analysts, especially those analysing cocaine trafficking, turned their eyes towards Latin America, and the terminology they used moved from international to transnational organised crime, or trans-border crime. This tradition still continues today.

It was during the eighties that EU Member States considered using the generic term of TOC instead of drug trafficking, money laundering, financial crime and corruption, under the influence of the United States. Journalists developed the terminology of narco-terrorism to characterise different situations: Columbia with narco traffickers using violence, Peru with Sendero

Luminoso controlling the territory where farmers were harvesting and producing coca and also Afghanistan and Burma. But, for most of its examples inside the EU, TOC was related only to examples of local groups and drug trafficking, with the exception of the Italian mafia. Italian magistrates insisted that the Italian mafia was expanding with the freedom of movement of Schengen and was contaminating France, Germany and beyond. UK conservatives publicised this discourse to justify the refusal of Schengen in the name of a security deficit. Most researchers working on transnational policing challenged this vision of TOC at the European scale and insisted on the instrumentalisation of the notion in the name of certain political agendas. They insisted that if organised crime in Europe had a certain relevance, it was more for this previous meaning insisting on corruption of local authorities permitting crime (Bigo 1993). But the main media preferred simple stories where it was easy to describe the good and the bad, and were reluctant to describe complex situations where public actors and police could be on the 'wrong side'.

## A strategisation of TOC: the confusion of geopolitics when speaking of crime networks

Following the end of the Cold War, the situation favoured the popularisation of the notion of TOC. The label became fashionable not only among criminologists, but also and mainly among strategists who were 'out

of a job'. Kremlinologists chose a new suitable enemy: instead of the Soviet Union, the 'Russian and Italian mafias'. They continued with the same reasoning and the same forms of visualisation. Authors of geopolitical atlases have changed their maps of conflicts, and have changed what they called conflict downsizing, the number of casualties, and they have included as 'new conflicts' terrorism and drug trafficking as serious threats, interpreting them through the same world maps. They attempted to apply the kind of reasoning developed in the field of military strategy to organised crime, assuming that criminal groups had a structure and strategic goals such as the invasion of territories and markets. But, is it true? Is it possible to consider that the mafia are a criminal army of a country and that they obey to the government from where they come from in terms of nationality or region? Does it make sense to speak of African or Asian organised crime, as if the fact to be Asian would create a link between individuals? By applying a geostrategic reasoning, these analysts have de facto homogenised the diversified groups involved in criminal activities as if they were instruments under the authority of a foreign command, as if they were an 'army'. The maps produced in this way have multiplied over time, and, given their 'simplicity', have been used as evidence of criminal activities. Thus they tended to justify demands on the police services to find the roots and 'routes' of organised crime (see maps in annex).

These maps, however, fundamentally distort the reasoned representation of serious criminal activities in the European Union with at least four serious faults of reasoning.

Firstly, considering the size of the map, and the size of the arrows in the map, crime is over-represented in these depictions, which induces reactions akin to those involved in confronting a quasi-military threat. They become tools generating a feeling of fear into the population of the receiving countries, and no map puts in perspective the number of individuals involved and the number of the diaspora of the same labels to decrease this fear.

Secondly, and correlatively, these maps seldom refer to criminal organisations by their name, but rather often associate them with a specific nationality or even ethnic group in the name of 'simplicity'. This association poses problems as it implies the criminalisation of a national

or ethnic group and it works against the duty of anti-discrimination. Thus, they fuel suspicion towards entire communities, whereas only a handful of persons are responsible for criminal activities.

Thirdly, these representations emphasise a marginal aspect of the phenomena, i.e. crimes committed by foreigners, but simultaneously obscure its most important component, i.e. the relations with local societies, particularly on a municipal scale. It is especially true in media reports that 'exotise' organised crime, as if their nationals are always innocent and the foreigners are the 'evil'. Who speaks of the nationality of consumers and money launderers? Do we speak of a United States mafia or European mafia or of the Colombian mafia in the United States?

Fourthly, contrary to the geopolitical narrative, mafias have not sent their diaspora as bridgeheads, as soldiers of crime, but they have tried more or less successfully to use existing local networks as footholds.

Against this trend of 'strategisation' of crime, academic criminologists have been researching and theorising phenomena associated under the rubric 'transnational organised crime' since the early 1990s (e.g. Beare, 2004; Edwards and Gill, 2004; Fijnaut and Jacobs, 1991) in a different way. The notion of network is here important. A series of links used once is not an organisation. Organisation supposes continuity, structuration by the same nodes over time. Additionally, research on network theory shows that everybody in the world is linked by six degrees of separation to another person. So we have to differentiate organised crime from crime done through a constituted network.

### **Serious crime in Europe is not always organised, and mafia-like: it is most often disorganised and mutable**

The foci of such academic studies have been to insist on four criteria:

- (1) the disorganised nature of illicit markets and the scarcity of examples where they are organised and territorialised;
- (2) the relationship between local 'groups' and the constitution of stable 'networks' in the

consolidation of 'criminal enterprise', showing that these permanent features are rare;

- (3) the local dimensions of organised criminal activity and what has been called 'trans-local', i.e. the limited structuration of intermediaries, but the possibility of linking places of production and consumption through very small networks;
- (4) the civil liberties implications of the policies of repression chosen to tackle these practices.

### **The structures of illicit markets, mutability and adaptability: organised or disorganised crime?**

The concept of 'organised crime' to be operational supposes some permanent features in time and space permitting to speak of an 'organisation'. But, often, in terms of financial crime, connections between terrorist and criminal activities or between corrupt politicians and crime, the practices are more linked with local opportunities, deregulation or changes in laws than with a strong organisation having a huge territorial base and challenging the state (mafia-style). Noting that the volatile nature of the criminal market creates an economic milieu, which is discordant and rather anti-thetical to long-term organisation, whether of a distributed, organic and stable 'network' variety or of the more old-fashioned depiction of organised crime hierarchies, Hobbs eschews the easy label 'organised crime'. He insists in his work on the mutability of markets and the limited importance of intermediaries (Hobbs, 1998). He is one of the few criminologists to conduct ethnographical research independent of the police, and has been increasingly critical about police views which, according to him, project onto criminal activity its own hierarchical structure instead of analysing it as a market, an illicit one. Peter Reuter, drawing on police files, confiscated records and interviews with police, prosecutors and criminal informants in the United States, systematically refutes the notion that 'the mafia' — i.e. a centralised and hierarchical organised crime syndicate — controls the major illegal markets. Instead, he opts for the notion of disorganised crime, suggesting that the cost of criminal groups trying to suppress competition, together with the effects of law enforcement countermeasures ensures that these markets are populated with mainly small enterprises, many of them marginal and ephemeral (Reuter, 1985

and 2008). This notion of disorganised crime and the strong evidence supporting it, blocked the possibility of an agreement on the definition of 'organised crime', even when the pressure of the United States administration on police forces across Europe was at its maximum. Many European countries have refused to agree on a definition imported from the United States, which may apply to certain countries, like Italy, but which certainly would not encompass the situation of other Member States, such as the Belgium, France, the Netherlands or the UK. The discussions in the 1990s concerning an EU definition of organised crime were central in that domain. This explains why the terminology of 'serious crime' has often been preferred, as the crime may be very serious but nevertheless disorganised, and related to specific opportunities.

For example, the study of illicit trade in licit commodities strongly suggests that legal enterprises are the primary facilitators of action at the wholesale level where significant economic 'hubs' act as central points from which mid-market 'brokers' feed into the illicit market at the retail level where these commodities reach the consumer. The opportunities depend on the disjunction of national legislations or of voluntary global deregulations of markets. The distinction between licit and illicit, criminal and non-criminal activities is more complex than supposed (i.e. tax evasion by individuals and firms or the role of states facilitating investment in their country, while creating offshore havens). Disorganisation is as present as organisation in the most common practices, subsumed under the term 'organised' crime.

The notion of organisation is then often reduced to 'intermediation' between market places. But analysts of police organisations do not have a clear understanding of network theories (see below) and want to say that stable patterns exist, as well as a central role of intermediaries as soon as they have an illicit product connecting two territorial places that they call different markets, and it explains why they focus so much on 'routes'.

The organisation and existence of intermediaries in a network are not the same concepts. Intermediaries may exist for only one occasion, to be replaced by others to perform mediation. Pearson and Hobbs continually stress the business-like nature of these

markets, citing various examples of mutual support between what otherwise could be market competitors (2003, p. 341-42).

The terminology of organisation has been in crisis and is contested by a majority of researchers from the disciplines of criminology, medicine and social city planning. Yet it continues to be used in policy and police circles. To solve the difficulty of the criteria of organisation, the terminology has been 'downgraded' to sometimes very limited interactions involving more than two persons. It implies that three persons committing a crime together can be labelled 'organised crime'. The terminology of 'organisation' has also been applied to those cases where there is a familial link. It has maintained the level of activities of the police squad specialised in organised crime (for example in Germany, which has seen a multiplication of these squads at the *Länder* level). Organised crime has become petty crime committed by foreigners and diasporas.

This level of organisation is so weak that, after debate, an additional factor has been added to qualify 'organised crime': that of violence.

#### **Crime and violence: organised crime and mafia**

1. One of the questions is whether organised crime is the equivalent of violent crime perpetrated by more than two persons (preferably from another ethnicity). It depends on the definition and its degree of precision. It is clear that politics is at work, trying to confuse organised crime or serious crime with crime committed by foreigners, which leads to a criminalisation of migrants and citizens with foreign origins. But, for the moment, this political agenda has been combated in both police circles and policy circles, even if this narrative is common in media representations of organised crime. If the answer is negative, if TOC is related not only to violent crime committed by foreigners, but also to financial crime, money laundering and corruption, then it is important to put in perspective the social harm for a society of these different forms of serious crimes, adding for example environmental crimes. Most of these serious crimes ultimately produce structural violence, massive destruction, economic disruption and job losses, but they do not induce spectacular killings during the process. It is only when TOC

concerns drug trafficking, human trafficking and racket/protection that serious violence occurs. It is also why the media confuses serious crimes and violent crimes. In this case of association between serious crimes and violence, four types of violence may be associated with illicit markets:

2. Racket/protection for market share (probably rare as it is supposed to be a control of population on a territory);
3. Debt enforcement (probably more common than acknowledged);
4. Criminal predation on illicit market operators (unmeasured, since actors in these markets cannot report victimisation);
5. Expressive cultural stereotypes related to the need to garner 'respect' — violence against women and children, against minorities and poor people because the risk of retaliation is very small (perceived insults and affronts to self-esteem can lead to violence that has no economic rationality and is dysfunctional to the criminal market).

The racket/protection type where the mafia occupy a territory and challenge state functions and legitimacy is by far the most spectacular, but is also rare. In Europe, Italy has been more of an exception than a rule in terms of the process of state-making (Tilly 1972). However now the debate has been re-launched with the notion that foreign mafias coming from Russia, China, Japan, Turkey and Nigeria are invading Europe. Beyond the noise of geopolitics, do we have evidence of this phenomenon?

#### **Is transnational organised crime in Europe an expression of the transplantation of foreign mafias?**

First, it is important to highlight that this definition would be very restrictive if the definition of TOC was just the activities of mafia linked with foreign countries. These activities exist but they are a small part of the range of activities that are labelled serious crime. Focusing on them is certainly important in terms of social harm considering their danger, but it is also a form of blindness considering other forms of crimes, and an exaggeration of the mafia-like qualities inside the overall criminality.

Contrary to easy stereotypes against foreigners and diasporas, the evidence suggests that the migration of some mafia-type groups can take place, but that it is rare and highly localised. Varese, explains why in his recent seminal book 'Mafias on the move: how organised crime conquers new territories' (Princeton 2011). Contrary to what is implied by the title of this work, Varese demonstrates that mafias struggle to make an impact in a foreign country where they don't speak the language; there is little interest in the protection they have to offer. The empirical evidence underpinning these findings relates to organisations such as the Calabrese 'Ndrangheta, Sicilian Cosa Nostra, Italian-American Mafia, the Russian Solntsevskaya, Japanese Yakuza and the Chinese Triads. According to Varese's study, mafia transplantation has been limited since the end of the Cold War, but cooperation along the lines of production, distribution and retail of prohibited products has increased between criminal organisations based in Moscow and Bulgaria, Italy, as well as Colombia, and the United States. 'Mafia type' organisations are rare. They can be defined as 'groups that aspire to govern others by providing criminal protection to both the underworld and the upper world on a specific territory' (Varese, 2011, p. 6). Their current growth, when it exists, is located in countries such as Mexico, Honduras, Salvador and Guatemala. In other places, because of the state and market controls, when they try to move out of their territory, they change their structure and lose control, even against smaller local groups in the 'destination' country. They become dependent and prefer to deepen their control on a specific place rather than extending it abroad and possibly losing it. As Misha Glenny summarises in his book review of Varese in the 'London Review of Books' published in June 2011: 'If Varese is right — and it would be hard to dispute his evidence — most mafia groups seeking new turf eventually either go back home with their tails between their legs or give up being gangsters and take up a less disreputable profession' (p. 25).

So, it is not because a diaspora exists in a country that this diaspora will automatically serve as 'soldiers of crime' of a mafia, and it is not because drug trafficking exists that we can infer a mafia exists. The popular image of Colombian individuals carrying small amounts of drugs inside their bodies ('known as 'drug mules') has certainly invaded the media, but in terms of the

market it bears little relation to the large quantities of drugs transported through containers in boats, planes or lorries. It is shocking, but not as significant. Networks of commercial activities run by the diaspora as such are not more criminal than others, even if they are under more surveillance. Large firms, including national ones, stand a greater chance that a small part of their activities could be illicit (with or without their knowledge that these activities are illicit). This small part is nevertheless often more significant than the diaspora markets. In addition, even if these illicit practices in the shadow of licit ones are less obviously violent, they may have more destabilising effects in general, as shown by the real estate market of 2008 and the financial crisis.

### **Global, transnational or translocal groups of serious criminals?**

Criminal network analysis reveals that criminal connections evolve into complex chains involving connections between various groups and actors, being 'local at all points'. Successful criminal entrepreneurship requires intimate knowledge of the territories in which it is undertaken. To what extent can particular sets of actors, whether conceptualised as groups or networks, be said to extend themselves internationally? The answer that Hobbs gave to this question was that organised crime is 'local at all points'. That is to say we 'experience crime as a local phenomenon' and the empirical evidence suggests that the organisation of crime is that of 'ever mutating interlocking networks of locally based serious criminality' (Hobbs, 1998, p. 419). Diagrams of 'criminal networks' where intermediaries are the central actors produced by police criminal intelligence analysts are often analytical fictions that leave out the density of the network at different points and which forget the discussion of the broader social-structural features that make organised crime possible. These social-structural features are essential for thinking about ways to change the circumstances that produce organised crime. Bruisma and Bernasco (2004) for example describe the nature of criminal networks in relation to three different kinds of criminal entrepreneurship: large-scale heroin smuggling, trafficking in women and trading in stolen vehicles. They try to lend some specificity to the theoretical notion of 'crime networks' and show that the differences in the social networks they describe primarily have to do with the nature of the legal and financial risks that are particular to each form of criminal enterprise. Without belabouring the specifics of social

network analysis, suffice to say that 'networks as such are not criminal' and that 'both offenders and non-offenders maintain non-criminal relationships with other criminals and non-criminals' and that 'if we only filter out the criminals and their mutual criminal collaborative relationships, then a 'criminal network' arises that does not do justice to the other relationships within larger social networks' (p. 92). In other words, the diagrams of 'criminal networks' produced by police criminal intelligence analysts are analytical fictions if they focus on routes and intermediaries presupposing a 'global' environment, without demonstrating that it exists and shapes the practices of the actors. More often their practices are shaped by local opportunities, but some of them depend effectively on global (de) regulation. What tends to shape the order of the three types of criminal entrepreneurial collaboration is the regulatory environment within which the collaboration is enacted.

Evidence suggests that weak regulatory regimes allow criminal markets to flourish. A mixture of enforcement and regulatory strategies is necessary to reduce the opportunities for criminality to develop in the shadows of licit economy. Unregulated markets (as with illicit drugs) or poorly regulated economic activity enhances the criminal opportunity structures that professional crime depends upon. In James B. Jacobs et al's influential book 'Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime' (1999), it was shown that a mixture of enforcement and regulatory strategies was necessary to reduce the opportunities for organised criminality in that jurisdiction, where decades of purely enforcement-based tactics had previously failed. Lessons for Europe have to be learned from this specific study.

### Defining the notion of serious crime at the European level

We need a comprehensive approach and not a dogmatic one. The model in Europe is not the mafia-like model that Italy and Bulgaria may know. This model is more the exception than the norm. This is why the notion of serious crime, including disorganised crime, is more useful than TOC. Serious crime requires looking at legislation and how the multiplication of legislations simultaneously supposes the multiplication of possibilities of not respecting them, giving an unfair advantage for those who do not respect the law.

It could be a criminal organisation, but often it is a perfectly legal organisation playing on a non-regular base, a tactical move beyond legality; the boundary between legal and illegal being often easy to cross, when it is not a systematic behaviour. This is why the research of Von Lampe speaking of five different types of serious crimes - organised or not - may be more useful than the notion of TOC as mafia.

Von Lampe (2008), in order to define the notion of (dis) organised crime and in order to avoid stereotyping, distinguishes five ideal manifestations of criminality by differentiating them along three social strata: marginalised subcultures, mainstream society and political/economic elites. The five ideal types are as follows:

1. Criminal networks with no social support structure in the milieu of operation (e.g. predatory gangs engaged in 'crime sprees' of theft and robbery). One example was the Albanian 'attacks' on Greece, conducted as 'razzia'.
2. Criminal networks rooted in marginalised subcultures (either with a class/territorial or ethnic basis — one illustrative example being family networks of Kurdish and Turkish drug smugglers).
3. Criminal networks rooted in mainstream society that are outwardly law-abiding (typically involved in organised business crimes such as investment or health insurance fraud). Such groups have a strategic advantage 'including 'natural' interaction with office holders that may translate into crime opportunities or reduce risks of law enforcement interference.
4. Criminal networks in power elites (involving abuse or misuses of official competences for personal profit and power). Obvious examples are 'scandals' involving the 'abuse or misuses of competencies for profit and power by networks of public officials, politicians and business leaders'. These kind of scandals involve complex relations between highly placed individuals in business and finance in at least two countries. Examples may be found in Italy, France and the UK or Canada and often involve armament markets where secrecy of the reason of state sometimes implies strange relations with intermediaries of the underworld.



5. Criminal alliances between underworld and upper world or mafia-like organisations. Von Lampe observes that ‘where alliances between underworld and upper world exist, for example in Southern Italy or Russia, it is important to note that this appears to be less the result of criminals infiltrating business and government and more an outgrowth of elites in power being unchecked by moral and legal restraints, and operating beyond effective control by civil society, so that they are in a position to freely employ and co-opt criminals in pursuit of economic and political interest’.

He notes that there is a positive correlation between the social position of criminal actors and the quality of criminal opportunities. In other words: the higher the social position of the offenders in question, the more serious the impact of the criminal activity and the less likely the threat of apprehension or conviction.

Von Lampe also argues that the first and second types unduly receive more attention from law enforcement bodies and the public than the third and fourth. The focus on mainstream society and powerful elites’ illegalities is weaker than the one on foreigners and poor people. But the fifth category attracts attention because of the link between violence, crime and the corruption of elites. This attraction nevertheless does not mean results, and often the knowledge of these crimes surfaces when the structure permitting them has disappeared. Police then have a tendency to focus on those underworld activities and to a much lesser degree on the criminal actions of the upper world.

Like the authors of this report, von Lampe is critical of media and law enforcement depictions of organised criminality as monolithic, coherent or static. According to him, the empirical evidence lends itself to the view that some organised criminal activities are hierarchical in form, but they are the ‘exception rather than the rule’. His typology suggests finally that regulatory structures and governance strategies broadly conceived are important elements of counter-organised crime strategy since it is the quality of governance, and not merely the strength and capacity of criminal law enforcement, that fundamentally shapes the conditions allowing for the organisation of crime.

To identify the practices to be targeted at the European level by specific organisations and agencies like Europol, it would be better to acknowledge that the notions of international organised crime or transnational organised crime are not the most useful ones, and that the terminology of serious crime at the European level may be more accurate. The ‘seriousness’ in question does not imply violence as such, but it does imply an analysis of the impact of such crimes on European societies. As we will see, environmental and financial crimes are often far more serious than some violent criminal acts committed by marginal groups. If resources are scarce, such considerations are important in order to define the right priorities.

### **European policing structures: fighting transnational organised crime or serious crimes?**

#### **The development of European policing and its link with organised crime**

The enhancement of European police cooperation has usually been articulated with ‘cross border crime’ and vaguely defined ‘organised crime’. Cross-border police cooperation is nothing new. In fact, operational cross-border policing has been documented going back at least to the 1960s (Bigo 1992, 1996; Sheptycki, 1997, 1998). But past lessons were forgotten after the impact of United States imperatives in the 1980s and even more after 2001. It has created a tendency for police to be obliged to focus on ‘headline issues’ and to follow what the national professionals of politics consider as the fear and insecurity feelings of their citizens. The result is a view of policing that exaggerates the exciting and unusual, while systematically downplaying the more mundane aspects of the job (Alain 2000, 2001; Sheptycki, 2001). Media attention on TOC and terrorism is higher than on other subjects, and it has the effect of putting police under pressure to communicate more and more instantaneously, sometimes to the detriment of effective research of evidence.

While it is undoubtedly the case that organised and serious forms of criminality are an important part of what police do, it is equally important to recognise that other functions — from helping recover lost and stolen property, to emergency and disaster response, and much else — are not less important. This is partly

because police, at least in democratic societies, tend to be the emergency service of first resort when things go wrong and hence an important resource for the general public (Cumming and Edell, 1963; Kleinig, 1996; Punch and Naylor, 1973). The focus on 'prevention' tends to mask what is still the central ground for policing. The European Union level is then in difficulties as its functioning is less operational and in contact with everyday citizen interest, and it is under pressure to communicate on the most difficult crimes, while being in danger of displeasing some political professionals, if the services focus too much on some cases instead of others. Thus, instead of looking at the national participation in serious crime, especially financial crime, it is easier to look at cross-border crime committed by foreigners and to exaggerate its importance, as if it corresponded to all organised crime. This is not a deliberate strategy on the part of police to shift emphasis onto these forms of crime, but rather a reaction to media and public pressure.

De facto European policing highlights the 'high end'. Thomas Mathiesen (2000) observed that 'while governments and other authorities emphasise the struggle against traditional, serious, international crime [...] all of the empirical and documentary material available clearly shows that the goal is to be found at the cross-point between the shutting out of aliens and the protection of vaguely defined public order and State security' (p. 175). Seeing this emphasis on serious and organised crime when writing in the mid-1990s, Malcolm Anderson et al. observed 'a gradual transfer of internal and external security control [...] from the nation state to international institutions'. Moreover, they suggested that as these themes came to dominate the European policing terrain 'the more secretive and elitist ethos of the security services would gain ground and the ideal of a transparent, rule-governed and politically neutral system would become no more than a remote possibility'. More than a decade ago it was already clear that intelligence services across Europe were 'increasingly penetrating fields which used to belong to the realm of 'ordinary policing', such as organised crime and right-wing extremism, while the police services also started beginning to shift their priorities away from local crime and to the use of pro-active (i.e. clandestine and undercover) methods' (Anderson et al., 1995, p. 175 and 179).

European policing forums concentrate their efforts of coordination, informally and formally, around the tropes of drug trafficking, organised crime, terrorism and illegal migration (Bigo, 2000). The convergence around these perceived threats and security risks was considered by many to be the main justification for innovations in policing structures and 'special techniques', giving more leeway to the police regarding judiciary control than other domains. At the same moment, the special squads of each Member State wanted to keep the operational powers and specific techniques for themselves and have blocked any form of real integration leading to a European FBI. In light of this uneasy situation, European 'clubs' and organisations like Europol have to follow the same road as the central services of the UK, struggling against the independence of local police. They have insisted that they did not want operational powers (or not many) but that these would be vital to address the central threat of interconnecting TOC, terrorism and illegal migration, a threat so complex that it was beyond the reach of local or national police, not least because these interconnected threats were not only European, they were global. Through this narrative, their future as organisations has therefore been dependent on convincing that the threats of TOC and terrorism were more and more dangerous, more and more global, more and more unpredictable (except for them, because they have the capacities in terms of technologies and human competencies to do so).

The rise of the professional discourse of so-called 'intelligence-led policing' in tandem with the 'new security threat agenda', comes from this double move of analysing more and more the global interconnections while having no operational powers to display. In line with the idea of applying new public management to police forces, it has created a culture of statistics, of general categorisations and profiling, but which is rarely in touch with specific criminal individuals. It was nevertheless considered by the political professionals and the public to be a substantial innovation (Innes and Sheptycki, 2004; Ratcliffe, 2008, 2009). In conclusion, it was the 'rise to prominence of 'transnational organised crime as an object of governance (globally, nationally and subnationally) that has changed policing architectures everywhere' (Sheptycki, 2007, p. 70). In fact, to be more precise, the two dynamics were reinforced simultaneously: on the



one hand, the interest in the change of policing; and, on the other, the development of new techniques influencing the perception of threat (Bigo 2002).

### **Analysis of OCTA reports** ***Organised Crime Threat Assessment (OCTA)*** ***methodology and logic***

From the mid-nineties, even before its official birth, police liaison officers stationed within Europol considered that one of their key missions and their added value regarding the national police squads would be on tackling European and more global forms of crime. They have dedicated their energy to 'connecting the dots' between the different national police specialised in terrorism and between those specialised in organised crime. Working files have been set up so that a suspect in different criminal cases cannot escape surveillance by moving between countries in Europe, and that the different cases in which the individual was involved were also connected.

In addition to the working files, Europol, using its own analysts, not dealing directly with personal data, will develop a cognitive map of the know-how and techniques of criminal networks transversing more than two countries, and will set up patterns to understand the 'routes' they use, their 'profiles', their tendencies in order to anticipate their behaviour and to have a real-time picture of organised crime at the European level, connecting the information inside the EU and with those third countries which form part of the routes of the networks. The model has been taken from the TREVI methodology on drug trafficking and imported into Europol with minor modifications, as the responsible were analysts, but the goal has been to develop on the a European level what the Bundeskriminalamt (BKA) has done in Germany in relation to the Länder. It is not a coincidence that the two former directors of Europol came from the BKA. This idea of a strategic planning by analysts concurring to the effectiveness of police on the ground has been coined in a more Anglo-American terminology 'intelligence-led policing', even if most of the Germans responsible consider that they are not doing what their British counterparts in the National Criminal Intelligence Service (NCIS) and Serious and Organised Crime Agency (SOCA) were doing.

Intelligence here means developing data gathering, including and integrating covert and open sources, personal and non-personal information, to rely on an expert system (software or group of experts) in order to discover patterns of behaviour of a special group, from whose past behaviour future steps can be deduced. It pushes towards methods of intelligence policing more than detective and criminal justice policing. The model is orientated towards the present and the future actions committed by suspects more than the discovery of past events and the conviction of criminals.

For the model to work, the patterns need to be stable in space and time, the groups need to be organised and stable in terms of persons involved and to be easily identified through one or two main characteristics (for example nationality or ethnicity). If these conditions are not met, the accuracy of the prediction is diminished.

But if the accuracy is diminished, because it does not reach the specificities useful for national police or because it is always repeating the same patterns, the relevance of the institution itself is at risk.

Europol has been prisoner of this structural contradiction. Europol insists on the quality of its reports, their effectiveness in helping national police and leading to convictions which would not have been possible otherwise, insisting that they are always enlarging and deepening their knowledge and accuracy. The new director of Europol has developed means of communication in order to convince about the success of its reports. He has introduced new features in the Europol organisation (which replicate those in SOCA), placing greater emphasis on communication, advertisement, and what he considers as transparency because it is more diffused. But either they more or less always repeat the same or they are too narrowly focused.

### ***Scepticism concerning Organised Crime Threat Assessment (OCTA) methods***

Beyond the self-assessment of Europol concerning its own work, and beyond an impact assessment done mainly in terms of proper management style and accountability, but not in terms of quality of knowledge production, it seems that scepticism exists in police

circles who are the first users of this data; in policy-making groups, which have the view that the reports are not innovative and look too much like 'copy and paste' of previous reports (because they repeat the same patterns); and in academic circles, who are asking for openness and more transparency concerning the methodology used to reach the results. These are then visualised through maps whose accuracy is not much better than the ones used by journalists, and that are far from what geographers and sociologists would expect from a map.

The problem has been centrally to publish reports trying to convince a large public as well as specialists of the usefulness of Europol. For the general public, communication was conceived in graphic designer and advertisement terms, and was therefore very close to journalistic narratives. The academic specialists, who did not receive the more confidential detailed reports, were shocked by some features.

Mapping is an exercise which supposes a geographical knowledge where the scale is central, the size of the arrows has to be proportional to the numbers at stake and not enlarged for 'a better visibility'. If the 'map' does not follow the proportionality principle in terms of size, is it still a map or just a drawing?

On the whole, academic criminologists in Europe and UN circles are highly critical of Europol OCTA methods and findings. They consider that they assume more than they demonstrate the preconditions for their model to work. They assume that organisations exist, that they are permanent, that they have stable links between them and that they do not change in terms of space and time. In brief, their model may work for an old-style mafia type of crime, but is not relevant for most of what constitutes serious forms of crime.

Among many Van Duyne and Vander Beken say that 'current European organised crime (threat) assessments are not reliable and relevant instruments to make meaningful statements about organised crime' (2009, p. 261) because they do not map it properly. In addition others have discussed the inappropriateness of reports when it concerns volatile and disorganised forms of crime in financial, cyber-crime and in other forms of crime and they consider that it is one of the

causes of the reduction of serious crimes to drug trafficking of mafia type in OCTA reasoning.

Klerks (2007) remarks on the Dutch system of organised crime threat assessment also apply to OCTAs reports: it should be conceded that the final synthesis remains to some extent a matter of interactive subjectivity and professional debate among the researchers involved, rather than a formal, explicit and ridged evaluative methodological process. The task of synthesising so many reports on a wide range of issues and with varying levels of detail still appears to be very hard to capture in a feasible methodological approach. Added to this comes the challenge of having to weigh the seriousness of organised crime's societal consequences on a number of aspects and on a strategic level (p. 97). Remarking on Europol's contributions to organised crime threat assessment — 'supposedly the apex of organised crime analysis in Europe' (p. 98) — Klerks goes on to say that 'the rather superficial character of OCTA's public version withholds most of the analytical meat ... avoids all analytical depth and lacks any reference to sources' (p. 98). We may have a less stern judgement on OCTA, and on the efforts done by SPCTA new methodology, but we follow nevertheless the judgement of Klerks that, at least, the methodology, sources and precise methods of visualisation for mapping need to be explained in more detail. While acknowledging the sensitivity of the data used to make these threat assessments, Klerks suggests that: 'Europol should be challenged to make better use of the wealth of information available to its analysts, when producing public strategic assessments' (p. 98). The origins of the data content may be confidential. However, the lack of transparency about the used statistical methods and analysis shouldn't be, as it creates doubts about the legitimacy of these data. It leads to over-generalisation concerning large zones (see annex in map) and to a confrontational image of the North West versus the other regions which is not the product of data but of a specific construction of them, that does not pass the test of evidence-based policy in terms of correlation between the data collected, the graphics of arrows done and the selection of data, which creates an image of invasion and victims of the North West, where a selection of data concerning major money-laundering operations or just a more complex picture of drug trafficking will show reverse arrows.

Commenting on the history of EU Organised Crime Situation Reports (ORCS) — produced from 1994 until they were replaced by the OCTA in 2006 — Edwards and Levi remark that it ‘provides an insightful archive on development in the official conceptualisation of organised crime’ (2008, p. 370), but they are sceptical that such documents provide the necessary insights as to practical policy responses to reduce the phenomena. Citing Van Duyne and van der Beken, they argue that these documents confuse elements of threat assessment, impact and vulnerability in the analysis and point to contradictions. They go on to argue that the ‘central point remains, it is the actor-centred framing of the problem in terms of ‘OC groups’ that produces such contradictory outcomes for both analysis and policy development’ (p. 373). The framing of the issue matters and the exclusion of other kinds of expertise and experience that can enhance the analytical rigour for studying the problem of organised crime systematically distorts the policy process.

This over-dependence on insider knowledge and police sector data is a problem. It confirms Ericson’s and Haggerty’s (1997) general observation about police communications formats -that they set police up to ‘claim to broker consciousness and social existence, defining what should be taken as objective reality with respect to risks’ (p. 430).

These critiques are anything but new. Nevertheless they are always dismissed, even if they have been developed as soon as 1993 at the first international conference of its kind in the United Kingdom, hosted by the then relatively new (and now defunct) UK National Criminal Intelligence Service (NCIS) (OICJ, 1993). Among the participants, Sheptycky and Gregory warned about the methodology and its limits. We have to ask why the group thinking of the network of multiple national polices is so strong? Maybe it is because of their diversity of nationalities. They think they are open, even if they all share the same professional views of the world and form a ‘guild’ of professionals (Bigo 2010). In addition, when they make an effort at openness, it seems that the different police services only choose as analysts people, who already accept their own methods and logic. Moreover, the different police services are ready to receive critiques about results, but not methods and ways to frame the problems.

### **Alternative methodological thinking about organised crime threat assessment techniques**

Criminologists have not simply criticised OCTA reports - they have also proposed alternatives. In 2000, a group of academic criminologists based in Belgium attempted to develop a risk-based methodology for measuring the phenomenon of serious crime that, in many respects, has not been improved (De Ruyver, et al., 2000). One of the virtues of the approach put forward by this team was the willingness to go beyond strict law enforcement-based data sources. The model propounded attempted to combine cognisance of a variety of factors. In addition to the traditional preoccupation with identifying and counting OC ‘groups’ and the nature and scope of ‘illicit markets’, the approach adopted in this scheme also attempted to bring into focus an emphasis on different economic systems (the grey, the black and the legitimate economy), as well as an understanding of the complex effects of their interaction in geographical terms. The analysis showed the potential to move OCTAs away from the entrenched paradigm. Had such new thinking been extended within the professional grouping undertaking large-scale threat assessments (and had that professional group been extended beyond the narrow world of law enforcement to include other well-informed experts in academia and elsewhere), it is even possible that this methodology could have been extended to the entire range of organised criminality identified in von Lampe’s typology.

If this approach seems too innovative, it is at least possible for the EU to learn from the Royal Canadian Mounted Police’s Sleipnir methods, which have taken a first step in this direction. The RCMP’s Sleipnir method, widely acknowledged in professional policing circles, has been considered as a highly innovative attempt at organised crime threat assessment, even if it is not exempt from criticism either (Sheptycky, 2003).

For example OCTAs work on the basis of the circulation of (more or less) standardised questionnaires among strategically placed individuals within the police sector (crime analysts, counter-organised crime tactical team leaders and other specialists) who return completed forms to a central point for strategic evaluation and analysis (Klerks, 2007). Such questionnaires are designed to elicit and develop individual responses to the problems posed and reflect an elaborately

organised, mediated, but nevertheless collective 'group thinking' process.

But close-up scrutiny of this method showed that it tended to focus on the already high profile and spectacular kinds of organised criminality, particularly when it involved criminal gangs and an element of violence. White-collar crimes, crimes against the environment and other crimes that may be 'organised' but which do not conform to this picture of organised crime are less likely to be captured as a result by this methodology. Despite being well known in police circles, they nevertheless follow the old patterns of information gathering and do not discuss their biases. If the notion of 'social harm' of each kind of serious crime has to become a central feature for evaluation, then it is important to take into account all the different forms of serious crime and not only the ones generating spectacular violence or the ones who have more stable patterns and are then easier to describe. The limitations of the methodology chosen cannot be an excuse to redefine the seriousness of crime along these limitations. In terms of social harm, serious crimes are primarily environmental crime and financial crime. This also seems to be the case of some forms of cyber-crime — at least potentially (CEPOL discussions).

If the suggestion to analyse serious crime through social harm is taken into consideration, is it only possible to measure harm by quantifying the various phenomena in terms of financial indicators? UN and Canadian methods have tried that. Based on these monetary quantifications of 'impact' these documents categorised OC activities in terms of three levels. At the high end were such things as drug trafficking, various forms of fraud (including benefit fraud) and intellectual property theft. In the middle range were illegal immigration, art and antiques theft, vehicle and plant theft and paedophilia. At the low end was a long list of items including armed robbery, arms trafficking, hooliganism, kidnapping and extortion. But close critical examination of this ranking scheme reveals the difficulty of quantified expected social harm (Sheptycki 2008). Social science cannot be reduced to accountancy and economics. Ericson has considered social harm as a social distribution of bad in a society; as such, finding a definition is a highly politicised process. It cannot be a financial exercise. The discussions at the European Parliament may help to frame the problem and to limit

group thinking by insisting on a democratic control of the objectives, definitions and methodologies at work, which will not undermine the data confidentiality of the organisation.

### **OCTAs reports indicate a lack of concern for the socio-structural features that facilitate the development of crimes**

The focus in OCTAs on organised crime groups or networks, with traditional law enforcement or even with intelligence-led policing and situational prevention ends and means as the guiding principles, leads to a lack of concern for the social-structural features that facilitate the development of other forms of serious crimes (environmental, financial, corruption), and even to such phenomena like drug trafficking and human trafficking.

All serious crimes are dependent on macro socio-structural features.

The requirement that OCTAs seek to provide a more thorough understanding of social- structural conditions that enable organised crime has the objective of providing an informed understanding of how such crimes are constituted.

### **Conclusion: the need for general governance capacity building in areas as diverse as education, health and welfare**

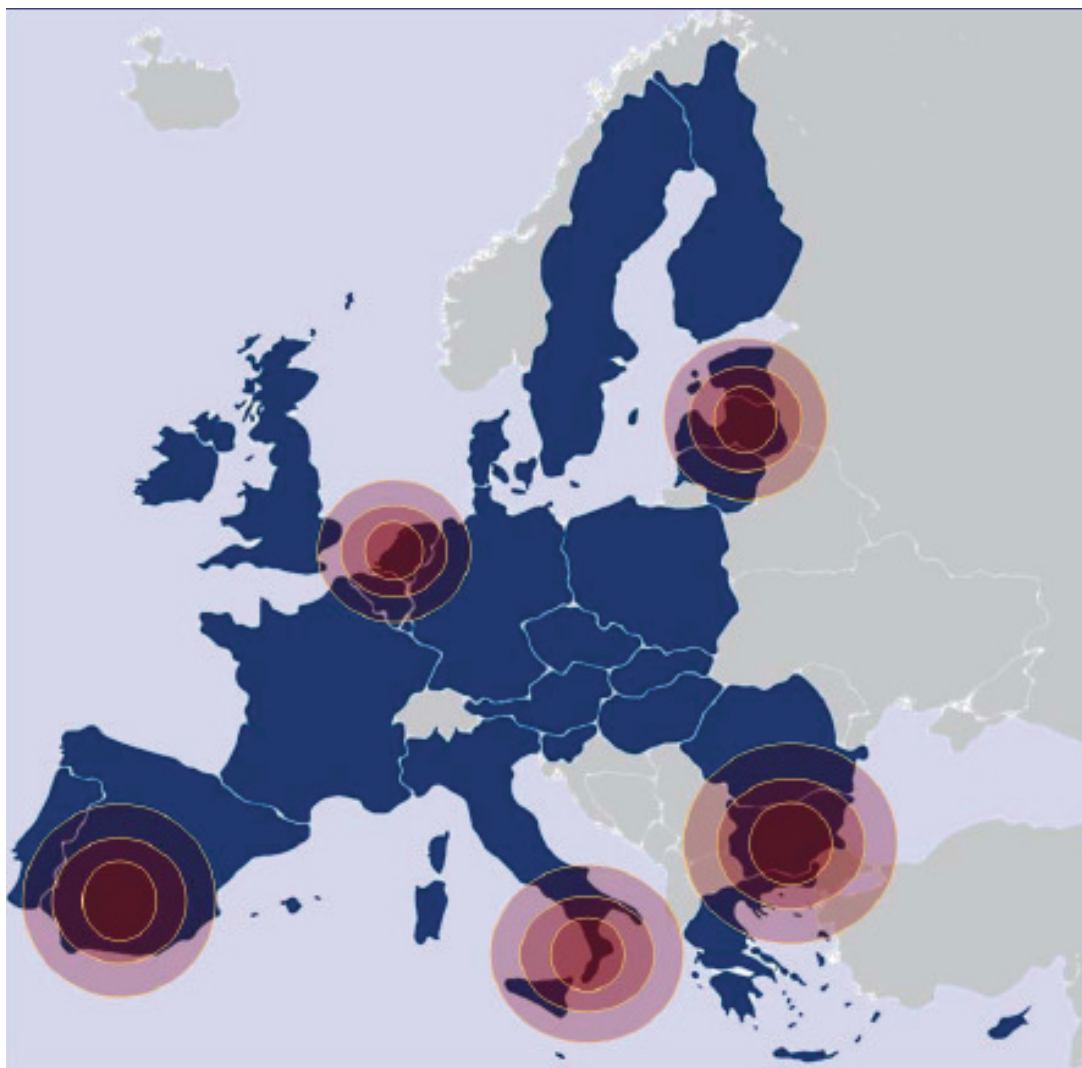
The policy implications of such observations indicate the need for general governance capacity building in areas as diverse as education, health and welfare. Policing policy within this frame would shift attention away from an exclusive concern with 'high-end' policing and back towards the capacity for 'full-spectrum policing' implying better communication between specialised squads and local policemen. But it will also imply connections with local cities, regions and other administrations than ministries of interior. In drug policy for instance the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has managed to include a wider perspective than a purely police one, even when the main question is the fight against drug-related crime. EMCDDA has relationships with Europol and Eurojust, but they have not been invited as far as we know to OCTAs. It is certainly complicated to link

local activities and European activities, as it always takes another dimension in Europe, where the European organisations themselves are not directly connected with their local counterpart organisations and often pass through national hubs to join them, as is the case in policing. But it is not impossible at all. For example, if some reports like the new SOCTA associate a larger group of participants, in a deeper analysis, and maybe with a different timing, it will help Europol and OCTAs reports in general to gain legitimacy and efficiency. As far as models are concerned, Europol should be given more time to produce its reports, possibly one every four years. The reports would comprise expert opinions beyond the police forces, including doctors, sociologists or ethnologists, to avoid the tropism that characterises the work of specialised police units.

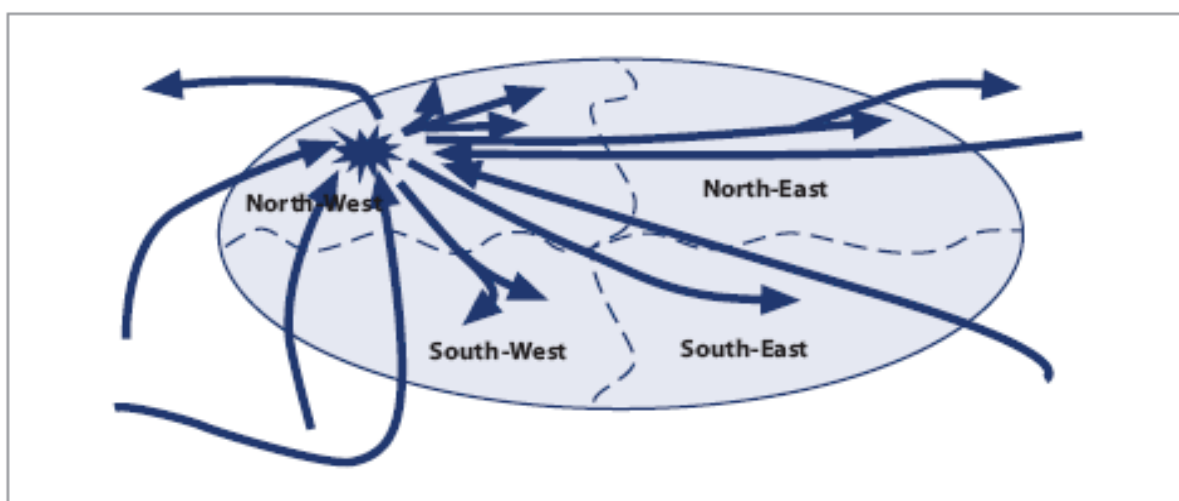
Without general governance, policing alone may occasionally be counter-productive. For example, a growing body of research indicates that law enforcement activity targeted at the retail and end user of the illicit drugs market has substantial potential to produce harmful health and social impacts, including disrupting the provision of healthcare to injection drug users (IDU), increasing risk behaviour associated with infectious disease transmission and overdose, and exposing previously unaffected communities to the harms associated with illicit drug use (Kerr et al., 2005). Other negative outcomes include the increased frequency of associated fraud (because of destabilisation of trust within the market) and therefore violence. Such outcomes should be read as outweighing supposed positive impacts of law enforcement deterrence-based prevention, which are achieved at significant public expense. Public health provides an alternative paradigm to this police-centric model for managing heroin problems and detailed evaluation studies have shown it to be very effective. The dominance of the law enforcement paradigm with respect to the governance of domestic heroin issues was radically undermined by the Swiss heroin maintenance experiments in the 1990s (National Families in Action, 1999; Ribeaud, 2004). There are many examples from around the world where public-health perspectives, harm-reduction thinking, crime prevention and regulatory strategies have been reconfigured to provide an alternative to the dominant law enforcement paradigm (e.g. Bouloukos, et al., 2003). Many of these have been the focus of EMCDDA work

in the last years. These innovative ways of thinking extend beyond drug markets and, theoretically, could be adapted to thinking about organised crime prevention as well.

Contrary to the prominent view that organised crime is an enemy external to society, recent research has shown that it emerges in conditions of unstable, poorly regulated or underground market economies, where there is a lack of legal structure that can reliably protect property rights or settle business disputes and where there is a supply of people trained in violence who are otherwise unemployed in socially useful activities. The habits and beliefs enculturated within social structures go from top to bottom. Policy-makers concerned to reduce the effects of organised crime within the European Union and on its periphery need to look back into European history for lessons in the civilising process (Elias, 1969) and then look for ways to generalise such processes more globally.



<sup>1</sup> Please note, centres of gravity as identified by the radii on the map are approximate and do not designate cities or regions of prolific criminal activity.



Source: EU Organised Crime Threat Assessment OCTA 2008, European Police Office, p. 43



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