



Organised crime, corruption and illicit arms trafficking in an enlarged EU

Challenges and perspectives



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Saferworld Arms & Security Programme

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Acronyms

BSEC	Black Sea Economic Co-operation
CEI	Central European Initiative
CSIS	Central Schengen Information System
DIA	Anti-Mafia Investigative Directorate (DIA)
DFID	Department for International Development (UK)
EAPC	Euro-Atlantic Partnership Council
EDU	Europol Drugs Unit
ECOSOC	Economic and Social Committee
EU	European Union
EUROPOL	European Police Office
FATF	Financial Action Task Force (OECD)
FCO	Foreign and Commonwealth Office (UK)
FSU	Former Soviet Union territories
GDF	Guardia di Finanza (Italy)
GRECO	Group of States Against Corruption
HNP	Hungarian National Police
IAWG	Italian-American Working Group
ILEA	International Law Enforcement Academy
MEPA	Middle European Police Academy
NCIS	National Criminal Intelligence Service (UK)
NSIS	National Schengen Information System
OCB	Organised Crime Branch (Interpol)
OECD	Organisation for Economic Co-operation and Development
OSCE	Organisation for Security and Co-operation in Europe
SALW	small arms and light weapons
SECI	South East Europe Co-operation Initiative
SISMI	Military Intelligence Service (Italy)
SISDE	Civil Intelligence Service (Italy)
SPOC	Stability Pact for South-eastern Europe Initiative against Organised Crime
UCLAF	European Commission Anti-Fraud Co-ordination Unit
WCO	World Customs Organisation

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Executive summary

Introduction

THIS RESEARCH PAPER examines the threat posed by transnational organised crime to governance and security in Europe and the links between organised crime, corruption and illicit arms trafficking. Responses relevant to the problems of illicit arms trafficking and organised crime range from conflict prevention and economic development to community policing and education. However, the focus of this paper is on the law enforcement response, and the challenges that European Union (EU) enlargement will bring. Although a number of institutions, at the national, regional and international levels, are addressing various aspects of organised criminal activities, European police co-operation to combat transnational organised crime, and in particular the involvement of criminal organisations in arms trafficking, has tended to be accorded a low priority by European law-enforcement organisations. Saferworld sees the proposed enlargement of the EU to include new member states from Central and Eastern Europe as a valuable opportunity to raise awareness of illicit arms trafficking and organised crime and to develop and implement practical measures to tackle these related issues.

Law enforcement and security in the new Europe

The scope of organised criminal activity has increased dramatically over the last ten years, and is now believed to present a significant threat to the economies and governance of states. The end of the Cold War and the creation of a Single European Market within the EU have resulted in fewer barriers to trade, a shift which has encouraged illegitimate as well as legitimate economic activity. Correspondingly, organised crime has become more 'business-like', the structure of criminal organisations imitating international business to take advantage of the increased opportunities for higher profits from transnational illicit activity. A move away from strictly clan-based and localised models of operation has led to an internationalisation of criminal groups' activities, and to much greater co-operation between groups of different nationality and geographical remit to support this.

In line with the more corporate structure of modern organised crime is a sharper focus on economic crime, identified by the German Federal Intelligence Service as the "world's largest growth area", with estimated global profits of \$500 billion. Taking these developments equally seriously, the British Foreign and Commonwealth Office believes money laundering to be an issue of global concern that has the potential to create economic instability and pose a serious threat to national governments. Organised crime in the former Soviet Union (FSU) is discussed: a phenomenon which, due to a combination of structural factors, such as the collapse of the Soviet state and

economic recession, has grown to a stage where it wields significant power in relation to the state – a development which has far-reaching ramifications for other countries.

Rising levels of armed crime and illicit arms trafficking are inextricably linked to organised crime, and should be of particular concern to the EU. Police in Western Europe are discovering larger numbers and calibre of weapons in traditional hubs for illicit goods such as Amsterdam, and the pattern of seizures across Europe suggests this is a region-wide development. Parallel to, and closely associated with illicit arms trafficking, is increasing trafficking in drugs, people and other contraband, as organised criminal gangs employ the same routes and partnerships to smuggle various illicit commodities across Europe.

The increased use of firearms by organised criminal gangs seems to be accompanied by a parallel increase in the size and firepower of consignments being trafficked through Europe – although terrorist organisations, rather than criminal gangs, are usually the consignee for large shipments. A combination of the easing of border restrictions between Eastern and Western Europe, and the recent armed conflicts in the Balkans and Caucasus, have attracted Western mafia groups to the lucrative business of arms trafficking, reflected in several recent interceptions of arms shipments from the former Yugoslavia to the Irish Real IRA and Basque ETA movements.

Many illegally held or traded weapons have at some stage been exported or sourced from EU, Central and East European countries. The breakdown of state structures in ex-Warsaw-Pact countries led to particular problems with oversight and control over the vast military stocks and production capacities of the FSU: in many cases criminal actors emerged and established networks, seizing the opportunity to profit from illicit arms trading. Substantial quantities of weapons, particularly SALW, pass illicitly through the territories of European states, or are traded by ‘third party’ brokers into regions of conflict and human rights crisis zones. In addition to causing casualties in other regions, destabilising accumulations of SALW are exacerbating conflicts and fuelling banditry in Europe.

The clear connection between organised crime and illicit arms trafficking can also be extended to conflict situations, where inevitably criminal groups are active, supplying parties with contraband military equipment and ammunition. A new trend of ‘military commercialism’ can be seen as organised crime flourishes in the conditions of weak law enforcement, violence and legitimate trade restrictions that accompany conflict, perpetuating devastating war economies and the conflicts themselves.

The blurring of the line between crime and conflict is part of a profound change in the concept of war, and in turn has led to a blurring of the concepts of security and law enforcement. As traditional security threats have receded, other non-military threats have become more virulent, attacking not the territory of the state but its society, institutions and the well being of its citizens. Threats from organised crime, illicit arms trafficking, terrorism and even corruption are now viewed as issues of national security.

These new threats have rendered traditional countermeasures inadequate. Traditional institutions and policies, the separation between military, intelligence and law enforcement agencies for example, are now inappropriate to combat security threats that cannot be categorised along these lines. New institutions, and more crucially in the short term, cross-agency collaboration, have been slow to develop. The sophistication of the ‘new order’ of transnational organised criminals has now been recognised, and demands a more comprehensive approach to the problem than those currently employed.

Institutions, agencies and mechanisms

The report outlines the institutions that are directly or indirectly involved in the fight against organised crime in Europe. In some countries, specialised national agencies have been established, such as the National Criminal Intelligence Service (NCIS) in the UK and the Anti-Mafia Investigative Directorate (DIA) in Italy. Another approach national governments have adopted is bilateral co-operation to reinforce national measures and strategies, such as, for example, the Hungarian-US and UK-Italian co-operation initiatives. A growing number of regional and sub-regional organisations and institutions within Europe, such as Europol, the Stability Pact Initiative against Organised Crime in South-eastern Europe (SPOC) and the South-eastern Europe Co-operation Initiative (SECI) Regional Centre, also have a remit to address the problem of organised crime, corruption and/or illicit arms trafficking. In addition, there are a number of 'global' responses that have been designed to address this risk, namely those under the auspices of the UN and Interpol.

Deciding on Europe's policy priorities

The increase in the levels and scale of organised crime in Europe is evidence that current law enforcement responses to the problem are failing to keep pace with developments in criminal activity, and therefore a number of questions concerning the adequacy of existing responses need to be raised.

The need for more research on transnational organised crime represents both a key need and a problem. There are difficulties in measuring what is essentially secretive behaviour, yet a better understanding of the nature of the threat is essential if more effective law enforcement responses are to be designed. Similarly, there is also need to improve the evaluation of current law enforcement strategies; levels of evaluation are at present poor or non-existent, and the adoption of successful policies will inevitably depend on an accurate assessment of success. The allocation of adequate resources is crucial to the undertaking of such research and policy development, and for new projects, training, information-exchange and institutional development to be implemented successfully.

In addition, police work in the area of transnational crime is often hampered by the antiquated structures in place, and lacks the flexibility and specialist knowledge that would allow law enforcement to keep pace with criminal groups. However, the establishment of specialised units and training programmes on areas such as illicit arms trafficking, 'mafia' networks and migrant smuggling give law enforcement the potential to collect expertise and information on key areas, and have resulted in significant achievements.

However, such increased effectiveness can only be sustained through improved co-operation, collaboration and information-exchange between different national and international branches and agencies. Inter-agency co-operation and information-exchange are essential in combating organised crime, but this does not happen often enough or on a consistent basis. Person-to-person information-exchange and the practice of 'point of contact' networks have yielded results in several areas, but the need for fully harmonised and effective information-exchange systems remains. Data collection in particular provides a good example of law enforcement efforts failing to reach their full potential due to a duplication of efforts. There is great need to harmonise the various data collection systems and databases that have been established, although the problems of how this should happen and reluctance to share information remain unresolved. Overall, while it is easy to agree on the 'mantra' of co-ordination, it seems that a lack of political will is one of the obstacles to practical collaboration.

The challenges of co-ordination across Europe are many. Traditionally distinct intelligence, military and law enforcement bodies and different departments within agencies

which will need to work together; cultural differences in working practices that will need to be overcome; legal systems and judicial procedure will need to be harmonised; and political will to take concrete steps forward will need to be found. The European legislative and judicial systems of ruling on organised crime remain confused, and Europe-wide efforts are also hindered by differences over Europol itself. The EU is believed by many to be failing in areas key to the fight against organised crime, yet it has a crucial role to play in the co-ordination necessary for an effective response.

Many law enforcement agencies believe that increased powers to aid them in the fight against organised crime are essential to an effective response, but the question of extending law enforcement powers of surveillance and data retention to gain elusive evidence, and granting civil forfeiture powers to confiscate the proceeds of crimes, requires careful examination. The implications such steps could have for civil liberties and human rights must be given their full weight in any debate over the introduction or application of such powers. Parliaments and civil society have a crucial role to play in monitoring the balance between effective law enforcement and civil rights, and in ensuring that appropriate transparency and accountability mechanisms and safeguards are developed alongside efforts to improve operational effectiveness in combating organised crime and illicit firearms trafficking.

The way forward

The report discusses ways forward on the problem, and identifies priorities for action by governments and institutions to strengthen efforts to combat the threat posed by illicit arms trafficking and organised crime. It concludes by outlining policy recommendations in seven main areas of priority:

- There is need for further **research** to more thoroughly identify the threat posed by organised crime and illicit arms trafficking and appropriate policies and collaboration strategies to combat it, especially in relation to the particular risks inherent in EU expansion.
- There is need for improved **co-ordination** of agencies and states involved in efforts to combat organised crime and illicit arms trafficking, to ensure that there is no duplication of effort and that efforts achieve optimal success through a sensible and clear delineation of responsibilities and roles.
- In order to enhance support co-ordination and facilitate transnational projects, there is need for the establishment or improvement of existing mechanisms for efficient **information-exchange** between states and agencies working to combat organised crime and illicit arms trafficking.
- There is need for **legislative reform** to allow effective harmonisation of the laws, penal codes and judicial procedure of different countries. Equally crucial to efforts to combat organised crime is the full implementation and support of all existing international commitments to regional and international agencies and initiatives.
- There is need for the allocation of increased **resources** to the problems of illicit arms trafficking and organised crime to ensure implementation of all of the above recommendations. Proper cost-benefit analysis of the problem would surely merit more funding.
- There is need for **training and restructuring** of law enforcement bodies where necessary, to ensure that agencies have both the specialisation and flexibility to combat the new challenges posed by organised crime and illicit arms trafficking effectively; alongside this, there is need to ensure that law enforcement personnel receive a full and proper training in human rights and civil liberties issues and relevant codes of conduct, such as the UN Code of Conduct for Law Enforcement Officials.

- In their efforts to combat and prevent organised crime and illicit arms trafficking, and particularly in relation to the control of legal activities (such as data retention and protection, telecommunications privacy etc.), there is need for all states to ensure appropriate **transparency** and clear **accountability** mechanisms and incorporate appropriate safeguards for human rights, civil liberties and democracy.

1

Introduction

1.1 Rationale for the study

EUROPEAN POLICE CO-OPERATION in response to the threat to society posed by transnational organised crime is being developed within Interpol, Europol and the Schengen Arrangement. To date, however, combating arms trafficking appears to be a low priority among these organisations. The UN Convention Against Transnational Organised Crime and the UN Firearms Protocol offer opportunities to increase co-operation between national and international law enforcement agencies and strengthen capacity and operational co-operation in the fight against illicit arms trafficking. The EU, the Stability Pact for South-eastern Europe, NATO and the Organisation for Security and Co-operation in Europe (OSCE) also have initiatives which impact on this issue.

This report is published as part of Saferworld's Central and East European Small Arms and Security Project. An earlier draft of the report was presented at a seminar that took place in Bucharest on 15–16 June 2001 and explored the links between arms trafficking and other aspects of organised crime and trafficking. The proceedings of that seminar have been published separately.

1.2 Saferworld's project in Central and Eastern Europe

The proposed enlargement of the EU to include new members from Central and Eastern Europe (CEE) offers an important opportunity to strengthen arms export controls across the wider European region. This project looks at how co-operation between the EU member states and EU associate countries can be deepened to help tackle arms proliferation. The main objectives are to:

- raise awareness of arms export controls and illicit trafficking in EU member states and candidate countries;
- promote the fullest possible implementation of the EU arms initiatives in the EU and associate countries;
- identify the needs of the associate countries and the means by which EU assistance can be directed towards meeting those needs;
- build upon and complement other international initiatives, including those being undertaken in multilateral frameworks (such as the UN and OSCE); and
- build the capacity of NGOs and independent experts in the associate countries to monitor and oversee the implementation of the EU Code of Conduct and other EU programmes.

An initial ground-breaking seminar took place in Warsaw in March 2000, when

representatives of European governments and NGOs from East and West joined in a detailed discussion of how best to work together to co-ordinate effective controls over flows of small arms and light weapons. The seminar concluded with unanimous endorsement of the *Warsaw Call for Action* to halt the flow of light weapons to conflict zones and regimes that abuse human rights. A series of seminars, workshops and roundtables are being organised to identify practical projects and initiatives within the framework of the Call for Action.

The first of these follow-on roundtables took place in Prague in October 2000. The roundtable enabled government officials from several EU member states and associate countries in Central and Eastern Europe to meet with NGO representatives to discuss improvements in transparency and democratic accountability for arms flows. The Bucharest seminar on the links between organised crime, corruption and illicit arms trafficking was the second follow-on event. A third is planned for the beginning of 2002 in the Baltic region on the transit trade, diversion and improving co-operation to prevent illicit arms trafficking.

1.3 Small arms and light weapons (SALW)

The problem of the destabilising accumulation and uncontrolled spread of small arms and light weapons (henceforth SALW) has gained prominence on the international agenda over recent years, despite some initial fears about impinging upon national sovereignty or non-interference principles. The reasons for this prioritisation are a logical conclusion of the devastating consequences of large accumulations and flows of such weapons (both legal and illegal). Such consequences include: the destabilising of entire regions; the escalating, intensifying or prolonging of conflicts; impeding peace operations and humanitarian assistance; obstructing post-conflict reconstruction and development; and contributing to banditry, crime and social violence.¹

Although Saferworld and others have argued that many of the weapons circulating in the illicit market originate as state sanctioned, or legally transferred, weapons,² this report focuses only on illicit trafficking as it is this aspect of the problem that is most closely associated with organised crime.

The definition of small arms and light weapons used here is the one used in the 1997 *Report of the UN Panel of Governmental Experts on Small Arms* (United Nations, A/52/298, 27 August 1997), which has become widely accepted. This distinguishes between small arms, which are weapons designed for personal use, and light weapons, which are designed for use by several persons serving as a crew. The category of small arms includes: revolvers and self loading pistols, rifles and carbines, submachine guns, assault rifles, and light machine guns. Light weapons include heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-aircraft missile systems, and mortars of calibres less than 100mm. The ammunition and explosives are considered to form an integral part of the small arms and light weapons with which they are used in conflict.

The complex problems posed by the diffusion and misuse of SALW can only be addressed by a whole range of measures, both operative and normative. Co-operation is required at all levels: local, national, regional and global.

Some states have adopted national measures, such as strengthened export controls on small arms, others have embarked on programmes to collect and destroy surplus small

¹ For a comprehensive overview of the problems associated with SALW proliferation around the world, see Jayantha Dhanapala, Ambassador Mitsuro Donowaki, Swadesh Rana and Lora Lumpe, eds, *Small Arms Control: Old Weapons, New Issues*, UNIDIR, Ashgate 1999; and Small Arms Survey, Graduate Institute of International Studies, *Small Arms Survey 2001: Profiling the Problem*, Graduate Institute of International Studies, Geneva, 2001.

² 'Combating the illicit trade in small arms and light weapons: enhancing controls on legal transfers', Briefing 6, *Biting the Bullet*, BASIC, International Alert and Saferworld, 2001.

arms. While the complexity of the issue and the uniqueness of the different contextual settings around the world do not allow for a quick or easy consensus on measures to take at the international level, a number of organisations in the Americas, Southern Africa, West Africa and Europe have developed regional initiatives to prevent the proliferation and misuse of small arms and light weapons. Many of these regional initiatives have addressed directly the illicit trade in weapons and have built regional consensus around issues such as marking, storage destruction and transfers. Global initiatives have also been taken. In the United Nations, sets of recommendations for measures to prevent and reduce small arms proliferation were agreed in the 1997 and 1999 reports by UN Groups of Experts on Small Arms, which were endorsed by the UN General Assembly,³ and, more recently, at the UN Conference on Illicit Trade in Small Arms and Light Weapons in All Its Aspects, which was held in July 2001. Finally, a recently agreed 'UN Firearms Protocol' negotiated by the UN ECOSOC Commission on Crime Prevention and Criminal Justice has the potential to impact significantly on the illicit manufacturing of and trafficking in SALW.

1.4 Structure of the report

This report is an updated version of the briefing paper prepared by Saferworld for the seminar in Bucharest. It has benefited from the presentations and comments of the seminar participants, but it does not aim to summarise those contributions. The contents of the report remain the responsibility of the three Saferworld authors. Moreover, although revisions have been made to reflect widely agreed points and issues raised during the seminar, it does not represent a consensus achieved among the participants. Such a consensus is set out in the final conclusions from the seminar, which are published separately in the official report on the occasion.

The report is divided as follows: Section 2 examines the issue of law enforcement and security in the new Europe; Section 3 outlines initiatives, at the national, regional and international levels, to combat transnational organised crime (with particular emphasis on linkages with measures to combat illicit arms trafficking); and finally, Section 4 analyses institutional and policy weaknesses associated with current initiatives and seeks to identify priorities for concerted action.

³ Report of the UN Panel of Governmental Experts on Small Arms, A/52/298, 27 August 1997 and Report of the UN Group of Governmental Experts on Small Arms, A/54/258, 19 August 1999.

2

Law enforcement and security in the new Europe

2.1 The threat of organised crime and corruption to governance and the economy of Europe

Fewer barriers to trade encourage 'transnational organised crime'

Developments in organised crime pose an increasing threat

THE OPENING OF BORDERS AFTER THE END OF THE COLD WAR, and especially the creation of a Single European Market within the European Union (EU), have created many positive economic and political benefits across Europe. However, these same processes are also widely thought to have increased opportunities for organised crime to expand internationally. A new term, 'transnational organised crime' has been coined to describe this new phenomenon:

"With relation to the development of crime, transnational and organised become two corresponding concepts: the transnational development of crime requires organisation in order to face the difficulties related to cross-border action and criminal organisations move transnationally as part of their development in order to maximise opportunities and minimise the risk of being caught and disrupted".⁴

In April 2000, the UN found that the "transnationalisation of criminal activity has increased substantially" along with the general process of globalisation, noting that "Economic interdependence and the increase in international economic exchange make the transfer of goods and the movement of people across borders easier..."⁵ The enlargement of the EU is precisely concerned with increasing and easing international economic exchange, and therefore could bring with it the threat that organised crime as well as legitimate business will profit from closer economic integration between states in the region.

Organised crime groups have "dramatically increased the scope of their activities" in the last ten years, and present a significant threat to the economies and governance of states.⁶ The increase in international trade and communication has facilitated this

⁴ 'The organisational framework of European crime in the globalisation process', Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unin.it/transcrime/papers.

⁵ 'International Co-operation in Combating Transnational Crime: New Challenges in the Twenty-first Century', working paper prepared by the Secretariat, Tenth UN Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10–17 April 2000.

⁶ 'Global Organized Crime', Mora Stephens, Woodrow Wilson School policy Conference 401A Intelligence Reform in the Post-Cold War Era, 6 January 1996, www.fas.org.

increased activity, and has fostered changes in operative practice among organised criminal groups that make their activities both more successful and more difficult to stop. Along with globalisation and the opening of borders in the post-Cold-War era, organised criminal groups have become increasingly professional, a development which can be seen in two main aspects of their operation: increased collaboration between groups and a greater focus on economic crime.

Although organised crime in much of Europe today has moved on from the traditional ‘thieves-in-law’, clan-based and localised models of operation, and has now far more in common with international business than ‘the family’, there is still in many cases a strong familial or ethnic element to it. In the UK, for example, turf previously under the control of the Jamaican ‘Yardies’ gangs is now being taken over by British-born criminals – the original Yardies, “often dismissed as ‘disorganised crime’”, have given way to a more sophisticated generation of gangs, which are better equipped and better organised.⁷ Traditional family-based criminal groups continue to operate, particularly in Mediterranean countries, but it is now unusual and uncompetitive for such groups to work mainly within family circles. Albanian groups for example, are now tapping into Italian and Russian criminal organisations to facilitate smuggling routes, a business move which has resulted in profits of around US\$400 million a year.⁸

Organised criminal groups are now more likely to concentrate on economic or financial crime, and to collaborate with other criminal groups from different countries or ethnic backgrounds to extend or facilitate their activities abroad. The traditional and gradual route for expansion of organised criminal activity into new areas or countries is the use of émigré groups of a similar ethnic origin, as potential victims as well as collaborators – this method is still used, and would be facilitated by the free movement of people within an enlarged Europe, but the more successful and modern approach adopted in recent years does not require an ‘ethnic foothold’ in new territory.

Law enforcers are warned to avoid falling into the ‘ethnicity trap’ and “the facile equation migrants plus marginalisation equal crime should be severely criticized”.⁹ Organised crime is today encouraged more by mobility and economic disparity than by ethnic affinity. The new concept of ‘Transnational Organised Crime Risk’ is based on the general assumption that organised crime groups move into other countries, or become transnational, “because of two main variables, maximising opportunities and minimizing ‘law enforcement risk’”.¹⁰ As restrictions have lessened between international borders, co-operation between organised crime groups has increased; “global networks” of criminals have developed, allowing “organised crime groups to greatly increase the profits of their operations and their methods of evading local governments as they share information, skills, costs, market access and relative strengths.”¹¹ Links between the Italian and Russian mafias, and Estonian and Polish groups, have grown as borders eased between Western and Eastern Europe. Italian gangs were “quick to take advantage of these new territories”, and “at the same time, increasing their connections with the new criminal groups” from FSU territories.¹² Similarly, the “dangerous dynamic” of transnational expansion is a “common feature” among criminal organisations in South Eastern Europe and has facilitated their expansion from traditional bases in Eastern Europe and Asia into Western Europe.¹³ Albanian criminal groups for example, have “disrupted organised crime in Italy, ousting the

7 Deputy Assistant Commissioner Mike Fuller; ‘Homegrown gangs shoot to power on our violent streets’, Tony Thompson, *The Observer*, 26/8/01.

8 ‘Albanian Crack-down on Traffickers’, L Lazar Semini, Institute for War & Peace Reporting, 27/2/01.

9 ‘International Co-operation in Combating Transnational Crime: New Challenges in the Twenty-first Century, working paper prepared by the Secretariat’, Tenth UN Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10–17 April 2000.

10 ‘Harmonising Policies for Reducing the Transnational Organised Crime Risk’, Ernesto U. Savona, paper prepared for the international workshop on Discontinuous Institutional Change and the Economic System: Theory and Evidence, Castel Ivano, 8–13 June 1995, www.jus.unitn.it/transcrime/papers/.

11 ‘Global Organized Crime’, Mora Stephens, Woodrow Wilson School policy Conference 401A Intelligence Reform in the Post-Cold War Era, 6 January 1996, www.fas.org.

12 ‘The Mafia turns its attentions to conquering the new markets opened with the easing of borders between Western and Eastern Europe’, Alessandro Crocetta and Ubaldo Cordellini, www.jmk.su.se/jmk/eurorep.

13 *European Stability Pact Initiative Against Organised Crime in South-eastern Europe (SPOC)*, adopted in Sofia, 5/10/00.

traditional Mafia from Milan within the last two years”, and have expanded so effectively that British law enforcement is concerned that they will try to establish themselves in the UK.¹⁴ The UK’s National Criminal Intelligence Service’s (NCIS) UK Threat Assessment notes the danger of the increasingly popular practice of “sub-contracting” to local criminal groups, a practice which makes operations less immediately visible to law enforcement and augments criminals’ ability to run extensive trafficking operations.¹⁵

This development poses a serious threat – international expansion could well furnish criminal organisations with the type of success often associated with international corporations:

“If a greater degree of collaboration occurs between criminals of different ethnicities, it could have significant consequences. It will make criminals more effective by introducing them to new criminal networks, giving them access to commodities and expertise, which they would not otherwise possess. Moreover, it will supply them with more options if their usual markets or suppliers are disrupted by law enforcement action.”¹⁶

Collaboration will have significant additional benefits in terms of reducing visibility, as transnational organised crime groups engaging in the practice of sub-contracting to local criminals attract less attention and reduce the risk of detection by law enforcement agencies.

These logical and very successful operational developments fully support research arguing that we are now “faced with rational economic phenomena and well-structured ‘industries’”, operating within illegal marketplaces that function in much the same way as their legal counterparts.¹⁷ Indeed, some of the major criminal organisations that have emerged are considered to “have more in common with major transnational corporations than they do with the old style mob”.¹⁸ Organised crime groups are beginning to adopt the principles of international business, with corresponding success, and the language used to refer to them reflects this: the Russian mafia has been described as “a multi-billion-dollar global enterprise”,¹⁹ groups are referred to as “crime syndicates”,²⁰ and the Interpol Organised Crime Unit’s definition of an organised criminal group is “Any group having a *corporate structure* whose primary objective is to obtain money through illegal activities, often surviving on fear and corruption”.²¹

Entirely in accordance with this move toward global criminal ‘business’ is the second development in organised crime in recent years – economic crime. This is an area of particular concern because it is attracting so much criminal activity and new classes of criminals, more educated and sophisticated and often with no prior record, and also because it is such a recent development.²² Law enforcement agencies and financial institutions are only beginning to recognise the problem and formulate strategies to combat it. As a recent conference on transnational crime concluded, there is now “greater recognition that there is a sector of economic activity which could be defined as ‘organised crime’ which has yet to be tackled.”²³

¹⁴ ‘Criminal gangs “running £6bn drugs industry”’, Nick Hopkins, *The Guardian*, 9/8/01.

¹⁵ ‘NCIS UK Threat Assessment on Serious and Organised Crime 2000’, National Criminal Intelligence Service (NCIS), www.ncis.co.uk, p 46.

¹⁶ *Ibid.*

¹⁷ Arlacchi, P., ‘Some Observations on Illegal Markets’; ‘Anticipating instead of Preventing: Using the Potential of Crime Risk Assessment in Order to Minimize the Risks of Organised and Other Types of Crime’, Seppo Leppä, HEUNI Paper No. 11, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999.

¹⁸ From, Williams, P., ‘Organising Transnational Crime: Networks, Markets and Hierarchies’. ‘Anticipating instead of Preventing: Using the Potential of Crime Risk Assessment in Order to Minimize the Risks of Organised and Other Types of Crime’, Seppo Leppä, HEUNI Paper No. 11, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999.

¹⁹ US Ambassador to Hungary, Peter Tufe; ‘FBI to Fight Russian Mob in Hungary’, Raymond Bonner, *The Guardian*, 22/2/00.

²⁰ ‘The Role of Interpol in Fighting Organised Crime’, Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

²¹ *Italics author’s*. Interpol, Fenton Bresler, www.alternatives.com.

²² ‘Short Report on Wilton Park Conference 625, ‘Trans-national organized Crime: new Threats and new Responses?’, 29–31 January 2001.

²³ *Ibid.*

Economic crime has been identified as the “world’s largest growth area”, and the majority of Mafia crime is now no longer drugs but some kind of financial fraud.²⁴ It is estimated that in the last ten years the global profits from organised crime have soared from US\$ 85 billion to US\$ 500 billion, a figure ten times the size of some of Interpol’s member states’ GDP, and twenty times the budget of the European ministers responsible for combating crime.²⁵ The EU itself has suffered from major fraud on the scale of billions of dollars conducted by organised criminal groups who targeted EU subsidy programmes.²⁶ Interpol states that fraud “may constitute serious threats to the economies of victim countries”, and is “currently one of the areas of greatest concern”.²⁷ With a conservative estimate of global gross criminal profit at \$1000 billion, there is “ample evidence that the criminal economy is the fastest growing space in the global economy in terms of turnover and profits”.²⁸

With organised crime powering an increase in business crime, “fraud is now about more than just fiddling the books”, according to an independent UK watchdog, the Fraud Advisory Panel, which warns that business crime is increasingly linked to corruption and money laundering carried out by organised criminals.²⁹ Money laundering has become, in the words of the British Foreign and Commonwealth Office “an issue of global concern”, that has the potential to create economic instability and to pose a serious threat to national economies.³⁰ Apart from the often serious financial losses involved, failure to prevent money laundering also allows criminal organisations to profit from, and therefore have the incentive to continue, other forms of serious crime, and perhaps more importantly, “to accumulate considerable economic and financial power, which can seriously undermine national economies and democratic systems”.³¹ The amount of money laundered worldwide each year is estimated at \$500 billion, or 2 percent of global GDP.³²

In addition to misuse of financial institutions for criminal gain, other categories of crime are also committed directly against financial institutions. Criminal groups had gained up to £400 million by 1996 through cyber terrorism, the blackmailing of financial institutions through threats of attacks on their computer systems,³³ and a study released last year estimates that computer viruses and hacking take a toll of \$1.6 trillion on the global economy.³⁴ The advent of new technology has provided criminals with an entirely new, and as yet not closely regulated, vehicle to commit economic crime: the Internet. The international payments card group Visa claimed in April 1999, for example, that 47 percent of disputes and frauds arising from use of its cards in the EU were Internet-related; the figure of 47 percent is “extraordinarily high given that only 1 percent of Visa’s EU turnover is Internet-related.”³⁵ The threat from ‘cyber crime’ is not yet fully understood, and law enforcement bodies fear trends towards widespread ‘cyber extortion’, increased financial crime and ‘insider’ risks. Similarly, as e-commerce grows in value it provides more opportunities for criminals and law enforcement

24 1996 report by German Federal Intelligence Service (BND). ‘The Role of Interpol in Fighting Organised Crime’, Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

25 Ibid.

26 “In May 1996, the European Commission reported that crime syndicates were behind billions of dollars in major fraud against European Union programmes such as agricultural and structural subsidies and various tax evasion schemes. In one case reported in 1996, the European Commission’s anti-fraud division participated, along with German and Italian authorities, in cracking a precious-metal smuggling ring that evaded almost USD 100 million in import taxes.” ‘The Role of Interpol in Fighting Organised Crime’, Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

27 www.interpol.int.

28 ‘Pervasive Illicit Small Arms Availability: A Global Threat’, Peter Lock, HEUNI Paper No. 14, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999, p 7.

29 ‘Organised crime fuels rise in business frauds’, *icNewcastle*, www.icnewcastle.co.uk, 27/8/01.

30 *Focus International*, FCO, September 1999, London.

31 Ibid.

32 Ibid.

33 ‘City of London surrenders to cyber gangs’, EDT, 5/5/96, www.nando.net/newsroom.

34 ‘The NIPC’s International Response to Cyber Attacks and Computer Crime’, Statement by Michael A. Vatis, Director of the National Infrastructure Protection Centre (NIPC), FBI, before the House Committee on Government Affairs, Subcommittee on Government Management, Information, and Technology, 26 July 2000, www.fbi.gov.

35 ‘NCIS UK Threat Assessment on Serious and Organised Crime 2000’, National Criminal Intelligence Service (NCIS), www.ncis.co.uk, p 32.

should be ready to anticipate a serious potential problem.³⁶ (See Section 4 on efforts to control cyber crime within the EU.)

As organised crime becomes more business-like it not only becomes more difficult to detect, but also profits from many of the conditions and systems established to facilitate legitimate business. Among these are the opening up of borders and free-trade principles espoused by the EU. As the Secretary General of Interpol noted on a visit to Slovakia, “as the economy moved towards a market economy it became easier to commit economic crime” and the opening of the country’s borders encouraged drug and car crime.³⁷ In a similar way, the lifting of the Iron Curtain also encouraged the spread and intensity of organised crime in the FSU, and has fostered the growth of one of the largest and most effective organised criminal groups, the Russian mafia.

Organised crime in the FSU

Post-soviet organised crime has grown and extended its operations into foreign countries through “the exploitation of the new freedoms available to former Soviet citizens to travel freely outside the Eastern bloc” and through increased contact and co-operation with foreign international companies conducting business in Russia and Eastern Europe.³⁸ The Russian mafia was described as “a huge problem with spiralling side effects” seven years ago,³⁹ and it is now far stronger than other similar organisations and is believed to have established a network of 12,000 criminal groups across the FSU states, and links in every continent to over 160,000 other criminals.⁴⁰

Of course not all organised crime in the FSU is Russian-led. Organised criminal activity is a problem in a number of former Soviet republics (eg Ukraine, Armenia and Georgia) where non-Russian mafia groups are likely to play a dominant role. Similarly, within the Russian Federation, ethnic Russians are unlikely to be in a position to control all the localised mafia groups, especially in some of the more hostile republics, such as Chechnya. Due to a combination of structural factors, most notably the collapse of the Soviet state structure and economic recession, organised criminal groups, and the Russian mafia in particular, have been able to accumulate significant power in relation to the state, a development which has far-reaching international ramifications for other countries, in Europe and beyond. As a result, Russian organised crime has tended to be the focus of research and analysis on organised crime in the FSU, allowing analysts to observe its impact and draw possible parallels with other groups and regions.

Russia’s GNP declined by nearly 50 percent between 1990 and 1998.⁴¹ While it is difficult to assess the extent to which organised crime has contributed to this state of affairs, law enforcement officials report that financial crime in Russia has now reached “unprecedented proportions”.⁴² With large-scale fraud against government as the most lucrative and favoured area of activity for post-Soviet transnational criminality,⁴³ the impact of increasingly sophisticated and frequent frauds or financial scams on the

³⁶ ‘Short Report on Wilton Park Conference 625, ‘Trans-national organized Crime: new Threats and new Responses?’, 29–31 January 2001.

³⁷ Raimond Kendall, Secretary General of Interpol, on visit to Slovakia in 1995. ‘Mafia Moves’, Slavka Blazsekova, www.jmk.su.se/jmk/eurorop.

³⁸ ‘The New Red Terror: International Dimensions of Post-Soviet Organized Crime’, Christopher J. Ulrich, *Low Intensity Conflict & Law Enforcement*, Vol. 5, No. 1 (Summer 1996), p 31.

³⁹ Miles Robertson, lecturer in International Relations, University of St. Andrews, ‘Moscow puts out a contract’, *Anna Blundy, The Guardian*, 27/4/94.

⁴⁰ ‘A Superpower of the Underworld: The Russian Mafia’s Global business, Rudolph Cimelli, (FBIS translated text), Munich *Sueddeutsche Zeitung*, internet version, 31/1/01.

⁴¹ Russian gross national product (GNP) dropped by nearly 50 percent between 1990 and 1998. ‘The Role of Interpol in Fighting Organised Crime’, Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

⁴² ‘Criminal Financial Dealings Dramatically Increased in Russia’, Dr. Pyotr Johannevich van de Waal-Palms, *Sovietnik Pravitelstva CWA, Tovarichestvo Palmsa, Inc.*, <http://members.aa.net/~russia/>.

⁴³ Louise Shelly, quoted in ‘The Role of Interpol in Fighting Organised Crime’, Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

state is severe. In one case alone, some \$20 million was fraudulently obtained.⁴⁴

A rough idea of the scale of Russian organised crime, and the degree to which it has the power to influence Russia's economy, is conveyed by the estimates that "the legal and illegal export of capital far exceeds the total international aid given to Russia",⁴⁵ with most of the estimated \$25 billion of Russian capital in circulation outside Russia in the control of crime syndicates.⁴⁶

In addition to their control of funds, Russian criminal groups have control over key individuals in financial institutions and businesses. The mafia-style murders of several dozen Russian bankers support the assertion of Russian Interior Ministry experts that "95 percent of Moscow banks and their affiliates are controlled by the criminal king-pins".⁴⁷ Throughout the country, Russian police have estimated that 41,000 companies are now run by crime groups, together with 50 percent of the banks and 80 percent of joint ventures involving foreign capital.⁴⁸ The extent of the organised crime's impact on the Russian economy is such that the Russian Security Ministry estimates that one in every three barrels of Russian oil reaches the West through illegal channels.⁴⁹ It is now believed that illegal or shadow capital is now "roughly equal to that of legal government funds in circulation for all of Russia",⁵⁰ although official estimates put the proportion of Russian capital that has been laundered at only 1 percent.⁵¹

The example of organised criminal influence throughout the financial sector also applies to other economic and political sectors in Russia. Many criminals work in business, the civil service and even the state security apparatus. This extensive corruption greatly facilitates organised crime, and insider knowledge of the state security and law enforcement bodies means not only that the Russian mafia is well placed to evade capture in Russia, but also better equipped than other international criminal groups to enter and operate in other countries.

Speaking at a recent conference in St Petersburg, the head of the World Bank, James Wolfensohn, warned that corruption by powerful economic interest groups is more damaging to impartial justice than political interference in the countries of the FSU. A senior aide of the Russian President Vladimir Putin, conceded that there was corruption within the Russian judicial system, admitting that, "we don't have an effective mechanism to identify corruption".⁵²

There are obvious security implications of partnerships between civil servants and organised crime, which have resulted in "lapses in public safety, border control and internal security".⁵³ Threats from economic espionage, increasingly a target for Mafia-FSB (successor to the KGB) collaboration,⁵⁴ are heightened when the problem of

44 "The country lost \$20m when state credits were illegally diverted for other purposes, according to estimates of the Main Economic Crimes Dept of the Russian Interior Ministry"; 'Criminal Financial Dealings Dramatically Increased in Russia', Dr. Pyotr Johannevich van de Waal-Palms, *Sovietnik Pravitelstva CWA*, Tovarichestvo Palmsa, Inc., <http://members.aa.net/~russia/>.

45 From a letter from the French Foreign and Finance Ministers, Hubert Védrine and Laurent Fabius; 'A Superpower of the Underworld: The Russian Mafia's Global business, Rudolph Cimelli, (FBIS translated text), Munich *Sueddeutsche Zeitung*, 31/1/01, internet version.

46 'The Role of Interpol in Fighting Organised Crime', Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

47 'Criminal Financial Dealings Dramatically Increased in Russia', Dr. Pyotr Johannevich van de Waal-Palms, *Sovietnik Pravitelstva CWA*, Tovarichestvo Palmsa, Inc., <http://members.aa.net/~russia/>.

48 'The Role of Interpol in Fighting Organised Crime', Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

49 "The Russian Security Ministry believes that around \$3bn has been made in the smuggling of oil, metals, and strategic materials from Russia across the eminently penetrable borders of the former Baltic republics". 'Moscow puts out a contract', Anna Blundy, *The Guardian*, 27/4/94.

50 'Criminal Financial Dealings Dramatically Increased in Russia', Dr. Pyotr Johannevich van de Waal-Palms, *Sovietnik Pravitelstva CWA*, Tovarichestvo Palmsa, Inc., <http://members.aa.net/~russia/>.

51 'Panama help Russia to beat money laundering', Andrew Bounds and Andrew Jack, *The Financial Times*, 9/8/01.

52 'Former Soviet Union warned on corruption', Andrew Jack, *The Financial Times*, 10/7/01.

53 'The Role of Interpol in Fighting Organised Crime', Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

54 According to Commissioner Alain Defer, head of the French Police's Counterfeiting Unit, "The Russian Mafia increasingly collaborates with the country's secret service over economic espionage... preparing for the euro by starting money-counterfeiting workshops". 'A Superpower of the Underworld: The Russian Mafia's Global business', Rudolph Cimelli, (FBIS translated text), Munich *Sueddeutsche Zeitung*, internet version, 31/1/01.

trafficking in nuclear materials is considered.⁵⁵ The Italian Mafia has also been involved in the trafficking of nuclear material, as a delegate at a recent conference commented, “the nuclear weapons traffic is very worrying. Plutonium and uranium are easily stolen from Eastern Europe laboratories”.⁵⁶ Although the amounts trafficked are usually too small to be used in the building of nuclear weapons, the transportation and handling of such material by inexperienced smugglers poses a serious danger to health and the environment.

In addition to organised crime groups’ access to highly dangerous materials and resources, groups’ infiltration and bribery of, or influence over state institutions presents a clear threat to security and governance. As noted by the Chief of Interpol’s Organised Crime Branch, organised crime “has the potential to cause economic or political unrest and can even result in the fall of governments”.⁵⁷

FSU criminal groups expanding operations

The Russian mafia provides an example from the more extreme end of the spectrum in terms of the threat from organised crime and corruption to the governance and economy of Europe. Unfortunately, the negative impact of this development is not limited to Russia, or even the FSU, and there are other effective and influential organised criminal groups operating throughout Western and Eastern Europe.

According to the British NCIS, UK financial institutions being used by Russian groups for transfers of illicit funds and Russian drug trafficking operations are expanding into Western Europe, using Warsaw and Prague as their principal bases for contact with international dealers,⁵⁸ and “establishing a presence in other EU countries and candidate member states”.⁵⁹ The threat Russian criminal groups pose to other countries is taken very seriously. Both Hungary and the Baltic states have requested US assistance to break up the Russian gangs operating out of Budapest and throughout the Baltics: Hungary is host to the International Law Enforcement Academy (ILEA), and Hungarian officers work side by side with FBI agents in the HNP/FBI Task Force. (See Section 3 for more information on Hungarian-US co-operation and the ILEA). Regardless of the country’s geographical distance from Russia, the American involvement in the initiative reflects “the growing concern in the US about Russian organised crime”, which senior officials consider “a direct threat to us”.⁶⁰

Interpol echoes these fears, stating that “crime groups emanating from the former Communist countries of eastern Europe and the republics of the FSU pose a deadly threat internationally as the number of crime syndicates steadily rises”.⁶¹ To combat this threat, ‘Project Millennium’ was initiated by Interpol’s Organised Crime Branch (OCB) in 1998 to facilitate the centralised collection, collation and analysis of sensitive intelligence concerning East European and Russian organised crime groups; in an “unprecedented move towards enhanced security”, necessary to counter the risks of high levels of corruption in official law enforcement and intelligence bodies in the region, a two tier system of information access, ‘sensitive secure’ and ‘enhanced secure’

55 ‘The New Red Terror: International Dimensions of Post-Soviet Organised Crime’, Christopher J. Ulrich, *Low Intensity Conflict & Law Enforcement*, Vol. 5, No. 1 (Summer 1996), p 39.

56 Joseph Genovese, FBI representative at ‘Europe, Mafia Alert?’ conference, Catania, Sicily, February 1999. ‘The Mafia turns its attentions to conquering the new markets opened with the easing of borders between Western and Eastern Europe’, Alessandro Crocetta and Ubaldo Cordellini, www.jmk.su.se/jmk/eurorrep.

57 ‘The Role of Interpol in Fighting Organised Crime’, Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

58 ‘The New Red Terror: International Dimensions of Post-Soviet Organised Crime’, Christopher J. Ulrich, *Low Intensity Conflict & Law Enforcement*, Vol. 5, No. 1 (Summer 1996), pp 32–35.

59 ‘NCIS UK Threat Assessment on Serious and Organised Crime 2000’, National Criminal Intelligence Service (NCIS), www.ncis.co.uk, p 44.

60 Thomas Fuentes, chief of the FBI’s organized crime division. ‘FBI to Fight Russian Mob in Hungary’, Raymond Bonner, *The Guardian*, 22/2/00.

61 ‘The Role of Interpol in Fighting Organised Crime’, Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

was designed to meet the project's specific needs.⁶² (See the discussion on Interpol in Section 3.)

Pressure for reform in the FSU

The countries of the FSU, including some EU associate countries (eg the Baltic republics and Romania), have been “particularly vulnerable to the threats posed by organised crime. The large-scale privatisation and chaotic economic and political/regulatory changes experienced in former Eastern Bloc countries since the collapse of the Soviet Union have created fertile soil for all manner of illegal and/or corrupt private sector and public sector activity”.⁶³ While candidate countries' governments have acknowledged the problem, they have often lacked the resources to deal with it, and many Western European countries fear the ‘Trojan horse’ inherent in EU expansion to include what are perceived as countries with higher levels of crime and mafia infiltration.⁶⁴ (For a further discussion on the impact of EU expansion and the opportunity this presents for organised crime, see Section 4.)

Kaliningrad for example, is a region separated from the rest of the Russian Federation between Poland and Lithuania that will be well placed to benefit from EU expansion. However, there are many serious practical issues that need to be dealt with, not least the fact that Kaliningrad is “a centre of organised crime”, with some estimates suggesting that over 50 percent of the region's income now comes from criminal activity.⁶⁵ In attempts to combat the potential threat Kaliningrad's levels of crime pose to its current members and future borders, the EU is providing financial and technical assistance to the region, which has received 15 million Euros of EU assistance, and is promised the same again in future funding.⁶⁶

Regional and international organisations have been putting pressure on Russia to bring crime and corruption under control, and to make improvements in law and order that would bring benefits both within and beyond the Russian Federation. The World Bank has made it clear that development in Russia is “impossible without legal and judicial boundaries that ensure justice and the absence of corruption”, putting serious pressure on President Vladimir Putin to clean up the Russian economy.⁶⁷ Mr Putin's accession to power in 2000 brought changes to the system of Russian government, among them reforms designed to tackle the problem of organised crime and corruption. With the delicate Russian economy in mind, the Russian president is taking measures to address these problems, acknowledging that one of the three main barriers to economic reform is the “rash of criminals”.⁶⁸

Mr Putin has vowed to rule Russia by a “dictatorship of law”, and is beginning to tackle the “notoriously wealthy and corrupt upper tier of the administration – the oligarchs”.⁶⁹ In the first four months after he came to power, Mr Putin “significantly rearranged the country's law enforcement capabilities in order to service his anti-corruption campaign”, granting additional surveillance powers to the tax police, Interior Ministry and Kremlin as a first step in “a broad concept the Kremlin refers to as the Federal Service for Investigating and Combating Corruption (FSRBK)”.⁷⁰ Putin's “decisive campaign against the financial and political corruption plaguing Russia” has seen the charging of senior officials in public utility and service companies with tax evasion, and the arrest of the Moscow tax chief.⁷¹

⁶² 'The Role of Interpol in Fighting Organised Crime', Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

⁶³ Ibid.

⁶⁴ 'Short Report on Wilton Park Conference 625, 'Trans-national organized Crime: new Threats and new Responses?', 29–31 January 2001.

⁶⁵ 'Russia's hell-hole enclave', Chris Patten, *The Guardian*, 7/4/01.

⁶⁶ Ibid.

⁶⁷ 'Putin pledges reforms to fight corruption', *India Times*, www.indiatimes.com, 9/7/01.

⁶⁸ 'Putin's pitch', *The Associated Press*, <http://abcnews.go.com>, 8/7/00.

⁶⁹ 'Putin pushes for police state', *Stratfor*, www.stratfor.com, 5/5/00.

⁷⁰ Ibid.

⁷¹ 'Putin kicks in the door of corruption', *Stratfor*, www.stratfor.com, 16/5/00.

Russia has also come under pressure from the Organisation for Economic Co-operation and Development (OECD) Financial Action Task Force (FATF), an international agency set up by the G7 leading economic nations to crack down on criminal flows of money that blacklisted Russia last year. This pressure has resulted in an unusual and positive move towards sharing experience and best practice, with Panama now involved in helping Russia to draft anti-laundering legislation designed to satisfy the FATF requirements. The new anti-money-laundering legislation passed through the Duma on 6 August 2001, and will establish a new Centre for Financial Monitoring with more than 150 employees and an initial budget of US\$1 million.⁷²

Mr Putin has also stated that judicial reform is one of his priorities,⁷³ and this will be critical to Russia's future as the current system allows the purchase of many judges and prosecutors. "Without a reconstituted judicial system based on the rule of law and cleansed of corruption, many analysts agree, no other reform will mean much."⁷⁴ Mr Putin's proposal, which has received some tentative endorsement by the Duma, would establish a new criminal procedures code, revamp the entire system for selecting judges, introduce jury trials for higher sentence crimes, and bring prosecutors' powers of arrest and search under court oversight. However, the reform programme proposed will be implemented slowly over a period of three years, and has come under criticism as being "in some ways... worse than the Soviet system":⁷⁵ in a nation-wide survey conducted this summer, only 31 percent of Russian citizens had positive expectations of judicial reform, and a majority of 42 percent believed that the reforms had 'stalled'.⁷⁶

Entrenched corruption in public administration provides undeniable encouragement for organised crime, facilitating criminal activities, protecting criminals from law enforcement and prosecution, and allowing the profits from crime to be more easily secured through money laundering. Such corruption also benefits the black market in arms, as export licensing and customs regulations can be circumvented. Russian black market arms dealers are reported as saying that they are able "to complete their deals – including shipping and customs clearances – by paying modest bribes, usually less than 10 percent of the deal".⁷⁷ Pervasive and high-level corruption is not only a problem for the Russian Federation, and afflicts several East European countries, including EU front-runners such as Hungary (which was recently included on the FATF's money laundering black list).⁷⁸ There were reports this summer alone of high-level public officials taking bribes to facilitate weapons trading in Poland,⁷⁹ Ukraine,⁸⁰ Croatia⁸¹ and Albania,⁸² and of scandals involving the president of Belarus,⁸³ and a former Ukrainian prime minister.⁸⁴

72 'Panama help Russia to beat money laundering', Andrew Bounds and Andrew Jack, *Financial Times*, 9/8/01.

73 'Putin pledges reforms to fight corruption', *India Times*, www.indiatimes.com, 9/7/01.

74 'Putin pushes reforms with power', Peter Barker and Susan B. Glasser, *The Washington Post*, 7/7/01.

75 Former judge and reform advocate Sergei Pashin. Ibid.

76 'Putin's reform project', Nationwide VCIOM survey, 22–25 June 2001, www.russiavotes.org.

77 'Illegal Soviet weapons fuel wars around world', Margaret Coker, *Atlanta Journal and Constitution*, 8/7/01.

78 'Hungary crime record could hit accession hopes', Simon Cross, *EU Voice*, 28-4/7/01.

79 'Poland foreign arms firm representative says public officer demanded bribe', *Warsaw Rzeczpospolita*, 7/7/01.

80 'Arms dealers from the Ukrainian intelligence services', Boris Fitin, *Moscow Versiya*, 31/7/01.

81 'MORH protects arms dealers who smuggle weapons to ETA and IRA', Jasna Babic, *Zagreb Nacional*, 24/7/01.

82 'Scandal reaches military investigators', Zilie Feci, *Tirana Republika*, 26/7/01.

83 'Putin backs Lukashenka's sales to PA', *Jerusalem DEBKAFileWWW*, 22/7/01.

84 'Man in Kiev pops up in arms traffic', Alberto Gaino, *Turin La Stampa*, 24/5/01.

2.2 The problem of illicit arms trafficking

Increase in armed crime and trafficking in EU, links to organised crime

A development inextricably linked to organised crime that should be of particular concern to the EU is the rise in armed crime and the trafficking of small arms and light weapons throughout Europe. Trafficking in arms, drugs and people are typically interconnected, as criminals utilise established routes to branch out into different illicit commodities. Data gathered by the US government and NCIS supports this. NCIS notes, for example, that firearms are already entering the UK alongside drug consignments and confirms the “strong link between firearms possession and drug trafficking” and the networks used to smuggle them.⁸⁵

“Although the influx of weapons into the European Union (EU) is not overwhelming, there is a regular trickle of small arms primarily from the Balkan region, as well as from Eastern Europe, which could increase as the EU and the Schengen Rim both expand to the east and south-east. The collapse of the Soviet Union, the end of the Warsaw Pact and the wars in former Yugoslavia have resulted in a relaxation of border controls and an excess supply of light weapons, some of which have found their way into Europe. Small arms and light weapons (SALW) have fed the local criminal underworld as well as European terrorist groups, such as the Real IRA, thus contributing to the undermining of West European public safety.”⁸⁶

SALW are both a means of protecting the illegal activities of organised crime groups and a base of activity and source of income for groups engaged in the trafficking of illegal commodities. Illicit arms trafficking presents a serious threat to security within and outside the EU.

A threat to security within the EU

This increase in armed crime and the availability of firearms has been particularly conspicuous in the Netherlands, a traditional hub for illicit goods in transit through Western Europe. Recent high profile firearms killings reflect the climbing murder rates in Amsterdam, a city whose illegal trade “has moved from sex and drugs to focus on firearms – everything from machine guns to anti-tank weapons”.⁸⁷ While local police believe possession of weapons was already widespread, the fact that Dutch-based criminals are now “supplying Kalashnikovs and anti-tank guns suggests a different scale of operation”: Jan Pronker, Amsterdam’s police commissioner, noted, “They used to keep this business among themselves. Now it’s out on the street”.⁸⁸

According to Dutch prosecutors, criminal organisations based in the Balkans and specialising in smuggling immigrants, drugs and weapons have chosen Amsterdam as a centre for their operations and are “becoming increasingly more violent”.⁸⁹ The pattern of seizures across Europe suggests this is a region-wide development. Arms seized in Poland in 1999 included 120 hand grenades, plastic explosives and a ‘Mucha’ rocket, capable of destroying modern armoured vehicles within a 3km range, apparently being smuggled from the FSU to the arsenals of local criminal gangs.⁹⁰ A recent British police seizure of weaponry intended for criminal organisations included heavy machine guns and a mortar, “types of heavy machine gun [which] have never been used on the streets of London before”.⁹¹

The *NCIS UK Threat Assessment on Serious and Organised Crime 2000* notes that despite the fact that at present the UK does not have a particularly strong gun culture,

⁸⁵ ‘International Crime Threat Assessment’, December 2000, www.whitehouse.gov

NCIS data estimated that while drug trafficking was by far the most likely activity to be undertaken by organized crime groups (56 percent), arms and munitions trading was undertaken by 10 percent of all organised criminal groups, and 18 percent of drug trafficking groups engaged in arms trading as a secondary activity. ‘NCIS UK Threat Assessment on Serious and Organised Crime 2000’, National Criminal Intelligence Service (NCIS), www.ncis.co.uk.

⁸⁶ *The proliferation of illegal small arms and light weapons in and around the European Union: instability, organised crime and terrorist groups*, Dr Domitilla Sagramoso, Saferworld & Centre for Defence Studies, April 2001, pp1–2.

⁸⁷ ‘Sushi bar killings reflect deadly new Amsterdam trade’, Ian Bickerton, *Financial Times*, 18/12/00.

⁸⁸ *Ibid.*

⁸⁹ ‘Balkan Gangs Stepping Up Violence, Dutch Say’, Marlise Simons, *New York Times* 30/11/00, www.nytimes.com.

⁹⁰ ‘Polish Police catch East European arms smugglers’, *Reuters*, 24/10/99, www.go.com.

⁹¹ ‘Yard swoops on arms haul’, Justin Davenport, www.thisislondon.com, 25/3/01; ‘Teenager arrested after Yard seize hi-tech assault rifle’, Ian Burrell, *The Independent*, 7/8/01.

“over the next few years UK law enforcement may observe an increase in the use of firearms among organised criminals”, and an estimated 90 percent of these firearms will have been manufactured outside the UK.⁹² The NCIS prediction seems to have been borne out, as gun crimes in London rose by 11 percent in 2000, reaching the highest figure for seven years.⁹³ In August 2001 a prosecuting judge noted “rising police anxiety” about the levels of drugs-related gun crime in London.⁹⁴ Shots are now fired in London on a daily basis, “incidents involving handguns are running into double figures every week”, and the number of gunshot casualties is said to have now reached proportions which the health services are not equipped to deal with.⁹⁵ Faced with the “frightening increase” in the level of firepower facing its officers and in the number of incidents in which police were shot at, the UK police have now commissioned a safety review: “We have been looking at countries like the US and Canada where firearms are more prevalent... to see what lessons we can learn”.⁹⁶

France has seen the same worrying trends, with weapons entering France in ever rising numbers from the Balkans since the former Yugoslavia disintegrated.⁹⁷ “Pistols, assault rifles and even rocket launchers... turn up in France ever more frequently since the collapse of the Soviet Union and the Balkans conflicts”, and according to experts, “falling prices prove that these arms are becoming more and more numerous”.⁹⁸

The Greek police estimate that approximately 350,000 to 400,000 illegal weapons have been imported into the country, providing such a ready availability of relatively cheap arms that criminals use guns once before discarding them, making tracing ownership even more difficult.⁹⁹ Greece, “a gate for the transit of weapons brought from the former Soviet Union”, is now seeing an influx of weapons and organised crime groups from the Balkans.¹⁰⁰ The Greek Minister of Public Order, Mikhail Khrisokhoidhis, stressed the strong linkages between arms trafficking and criminal gangs, who also run drug and human trafficking routes: “If you wish to fight organised crime in Greece, first of all you have to deal a hard blow to illegal arms trafficking”.¹⁰¹ Arms trafficking is reportedly a “very useful tool” for expanding the influence of organised crime groups, and according to Ilias Gounaris, Greece’s permanent representative to the UN, “the Russian mafia, criminal organisations from Albania, the activities of the UCK’s [Kosovo Liberation Army] chiefs, and the remainder of the Foreign Legion in Skopje have laid a tight net around Greece”.¹⁰²

In Portugal police sources say that “modified guns are as easily accessible as any common good”, commenting that “some years ago anyone wishing to get a knife or a dagger could do so easily. Today it is common to find people, either for criminal reasons or purely for self-defence, with modified guns of a 6.35 calibre”.¹⁰³ This increase in the supply and availability of arms to criminal groups risks the emergence of a culture of violence, similar to that seen in some cities in the US, Brazil or South Africa. In some of those cities armed crime has led to the privatisation of security and the increased spread and use of arms as communities seek to defend themselves. While such scenarios in EU cities are still a long way off, levels of armed crime are rising in the Community.¹⁰⁴

The increased use of firearms by organised criminal groups is seemingly accompanied

⁹² ‘NCIS UK Threat Assessment on Serious and Organised Crime 2000’, National Criminal Intelligence Service (NCIS), www.ncis.co.uk, p 39.

⁹³ ‘Teenager arrested after Yard seize hi-tech assault rifle’, Ian Burrell, *The Independent*, 7/8/01.

⁹⁴ ‘Stolen Army Weapons used by London Yardie drug gang’, Severin Carrell, *The Independent on Sunday*, 5/8/01.

⁹⁵ ‘Homegrown gangs shoot to power on our violent streets’, Tony Thompson, *The Observer*, 26/8/01.

⁹⁶ Deputy Assistant Commissioner Mike Fuller. ‘Homegrown gangs shoot to power on our violent streets’, Tony Thompson, *The Observer*, 26/8/01.

⁹⁷ ‘Weapons black market does good business in France’, Christian Curtenelle, *Reuters*, 4/9/01.

⁹⁸ *Ibid.*

⁹⁹ ‘Some 400,000 illegal weapons in circulation in Greece’, *Athens to Vima*, (FBIS translated text), 19/4/01.

¹⁰⁰ ‘The KGB competition is no longer scary’, *Bucharest Ziua*, 10/8/01.

¹⁰¹ *Ibid.*

¹⁰² ‘The Arms Trade in Greece’, V. Nikolakopoulos, *To Vima tis Kiriakis*, 5/8/01 [translated version, ‘Illegal arms trade in Greece expanding rapidly due to developments in Balkans’, distributed via the Isenberg listserve, <http://groups.yahoo.com/group/armstrade>, 6/8/01].

¹⁰³ ‘Police dismantles arms trafficking gang’, *Publico* website version, (FBIS translated text), 9/3/01.

¹⁰⁴ Domitilla Sagramoso, *The proliferation of illegal small arms and light weapons in and around the European Union: instability, organised crime and terrorist groups*, Saferworld/Centre for Defence Studies, July 2001.

by a parallel increase in the size and firepower of the consignments being trafficked through Europe – although terrorist organisations, rather than criminal gangs, are usually the consignee for such large shipments. A combination of the easing of border restrictions between Eastern and Western Europe, and the recent armed conflicts in the Balkans and Caucasus have attracted Western mafia groups to the lucrative business of arms trafficking.¹⁰⁵ In 2000, for example, Croatian police arrested members of two major smuggling rings. Three smugglers suspected of belonging to a sophisticated trafficking ring, which dealt mainly in rocket launchers, automatic rifles and hand grenades to Western Europe (and was suspected of smuggling \$720,000 worth of military equipment in the previous two years) were arrested towards the end of 2000. A similar group of arms smugglers connected with Western European terrorist organisations were arrested in Split in July 2000.¹⁰⁶

Groups such as the Real IRA and the Basque ETA organisation are now believed to be sourcing heavy weaponry from the Balkans.¹⁰⁷ After arms sources in the Near East and former Eastern bloc, Croatia and other Balkan states are now considered to be among the most important sources of arms for extreme terrorist movements; connections have developed to such an extent that some Croatian émigrés have even participated in IRA training and operations.¹⁰⁸ The UK government has recently secured the extradition of, and charged, three men arrested in Slovakia on suspicion of gunrunning for the Real IRA, which is believed to have “built up its arms dumps after looting the former Yugoslavia” and developed links with allies of Radovan Karadzic, the Bosnian Serb leader charged with war crimes.¹⁰⁹ The rocket used in the attack on the British MI6 London headquarters in September 2000 was an RPG22, manufactured in either Bulgaria or Russia and obtained in the former Yugoslavia.¹¹⁰

Similarly, in Spain a “substantial shift in ETA’s sources of supply” is noted. From previous purchasing on the Belgian black market, the group has begun to acquire materiel in the former Yugoslavia, “using similar methods and channels to those employed by Italian Mafia gangs and Colombian drug traffickers”.¹¹¹ Indeed, the president of the Aragon People’s Party was assassinated by a member of ETA with a Croatian revolver, bought on the black market and smuggled into Spain.¹¹² Further evidence for such supply routes can be seen in Amsterdam, where in recent months large quantities of Eastern-European-produced weapons, including explosives and grenade launchers, have been found. The Dutch authorities have reason to believe the arms were in transit and destined for terrorists, as consignments comprised “heavy weapons suitable for warfare, not the kind used in a bank assault or a crime of passion”.¹¹³ The police say they are up against criminal gangs operating on an unprecedented scale, and fear their discoveries are only “the tip of the iceberg”.¹¹⁴

A threat to security beyond the EU

“Only the tip of the iceberg” was a phrase used again when Polish police exposed a large-scale smuggling operation, which was responsible for illegally shipping light weapons and ammunition worth nearly \$6 million to countries under UN embargoes. According to Jacek Spyt, the prosecutor in Gdansk, the port through which most of the arms travelled, the authorities have proof that “the Polish firms knew what they were

¹⁰⁵ ‘The Mafia turns its attentions to conquering the new markets opened with the easing of borders between Western and Eastern Europe’, Alessandro Crocetta and Ubaldo Cordellini, www.jmk.su.se/jmk/eurorep.

¹⁰⁶ The arrests resulted from large-scale investigation involving Interpol and several European police forces. ‘Croatian Police Nab Smugglers of Arms Bound for Western Europe’, *Agence France Presse*, 26/1/01.

¹⁰⁷ ‘Karadzic associates ‘exporting weapons’, Isambard Wilkinson and Julius Strauss, *The Daily Telegraph*, 19/4/01. Also see Domitilla Sagramoso, *The proliferation of illegal small arms and light weapons in and around the European Union: instability, organised crime and terrorist groups*.

¹⁰⁸ ‘Investigation seems to connect Croatian arms smugglers, IRA and ETA’, Zagreb *Jutarnji List*, 18/8/01.

¹⁰⁹ ‘From arms deals in Libya to training in the Balkans’, Jason Bennetto, *The Independent*, 15/8/01.

¹¹⁰ ‘Intelligence war puts Real IRA on the back foot’, John Hunter, *The Observer*, 2/9/01.

¹¹¹ ‘ETA may have bought anti-aircraft missile’, Madrid *El Mundo*, (FBI translated text), 20/3/01.

¹¹² ‘Investigation seems to connect Croatian Arms smugglers, IRA and ETA’, Zagreb *Jutarnji List*, 18/8/01.

¹¹³ Jeroen Steenbrink, a spokesman for the city’s chief prosecutor. ‘Balkan Gangs Stepping Up Violence, Dutch Say’, Marlise Simons, *New York Times*, 30/11/00, www.nytimes.com.

¹¹⁴ ‘Balkan Gangs Stepping Up Violence, Dutch Say’, Marlise Simons, *New York Times* 30/11/00, www.nytimes.com.

doing”.¹¹⁵ In many parts of Europe, the level of crime related to the illicit arms trade is likely to be increasing. In Russia, for example, 26,889 crimes connected with the illicit arms trade were registered in the first four months of 2001,¹¹⁶ and the first two months of the year saw a 51 percent rise in the number of undetected crimes associated with the illegal arms trade.¹¹⁷

Lax export controls allow further consignments of SALW to join the estimated 550 million small arms already in global circulation.¹¹⁸ These weapons fuel conflicts and violent crime, are used to violate human rights and humanitarian law and threaten human security far beyond Europe’s borders, in Latin America, Africa, and Asia, as well as in Europe.¹¹⁹ In addition to encouraging violent crime and allowing criminals to defend their operations from law enforcement, small arms, machine guns, rifles, grenades and mortars, are responsible for 80 to 90 percent of casualties in modern wars. Indeed, light weapons have been the only weapons used in 46 out of the 49 conflicts that have occurred since 1990. The majority of these conflicts have been within states, fought by lightly armed irregular forces, against neighbouring ethnic or religious groups, and have killed mainly civilians, chiefly women and children.¹²⁰

There is increasing evidence to suggest that many illicitly held or traded weapons have at some stage been exported or sourced from EU countries and from the countries of Central and Eastern Europe.¹²¹ Substantial quantities of weapons, particularly small arms and light weapons, pass illicitly through their territories, or are traded by ‘third party’ brokers into regions of conflict and human rights crisis zones.¹²² In addition to causing casualties in other regions, such destabilising accumulations of SALW are also exacerbating conflicts and fuelling banditry in Europe.

Lax export controls have been a particular problem in ex-Warsaw-Pact countries, where the end of the Cold War “added a dangerous dimension to proliferation: diminishing oversight and control” over the vast military stocks and production capacities of the FSU.¹²³ The breakdown of state structures “resulted in the weakening of state control over weapons production and import/export systems. In this power vacuum, a plethora of non-state actors have emerged, including brokers, criminal groups and privatised factories. These actors further limit the state’s ability to control weapons transfers”.¹²⁴

The environment created by the rise of organised crime, economic instability, civil strife and violent conflicts in the FSU has weakened controls over weapons even further and provided fertile ground for a ‘mushrooming’ of illicit weapons production and trafficking and diffusion of weapons within states and across borders.

Organised crime, SALW and conflict

There are very clear connections between organised crime and illicit arms trafficking. Organised criminal groups act in accordance with the commercial rules of supply and demand that govern profit-making, and areas in which SALW are restricted or prohibited will be likely to be areas where there is conflict, thus presenting a prime

¹¹⁵ ‘Polish Arms Smugglers Violated UN Embargoes’, Jorgen Dragsdahl, BASIC Reports No. 65, 14/8/98.

¹¹⁶ ‘26,889 Arms trade-related crimes registered in Russia from January to April’, *Moscow Agentstvo Voyennykh Novostey WWW*, 19/5/01.

¹¹⁷ ‘Russia: Crimes Related to Illegal Arms Trade Rising’, *Moscow Agentstvo Voyennykh Novostey WWW*, 13/3/01.

¹¹⁸ ‘Small Arms Survey 2001 – Profiling the Problem’, The Graduate Institute of International Studies, Geneva, p 59.

¹¹⁹ ‘Eastern Europe’s Arsenal On the Loose: Managing Light Weapons Flows to Conflict Zones’, Abdel Fatau Musah and Robert Castle, BASIC Occasional Paper No. 26, May 1998. For recent examples, see also: ‘Illegal Czech arms sold in Bangladesh daily’, *Prague CTK*, 24/8/01; ‘Italian police raid RUF chief arms supplier’, *London Expo Times*, www.exportimes.net, 9/7/01; ‘Linguist became leading merchant of death’, Margaret Coker, www.accessatlanta.com, 8/7/01.

¹²⁰ ‘Awash with Weapons’, Paul Eavis, *The World Today*, April 1999.

¹²¹ ‘Enhancing NGO engagement to prevent the proliferation and misuse of small arms in Central and Eastern Europe’, report on Slovak Foreign Policy Association and Saferworld seminar held in Bratislava 28–29 October 2000, March 2001, p 2.

¹²² ‘Controlling the gun-runners: Proposals for EU action to regulate arms brokering and shipping agents’, Brian Wood and Elisabeth Clegg, BASIC, Saferworld and the Norwegian Initiative on Small Arms Transfers report, February 1999, pp 2–3.

¹²³ Dmitry Milin, deputy head of the St. Petersburg area directorate against organized crime, commented that the sixteen weapons depots in St. Petersburg “are virtually unguarded; large quantities of explosive materials enter the criminal world from [these] army stores”. ‘Eastern Europe’s Arsenal On the Loose: Managing Light Weapons Flows to Conflict Zones’, Abdel Fatau Musah and Robert Castle, BASIC Occasional Paper No. 26, May 1998.

¹²⁴ ‘Eastern Europe’s Arsenal On the Loose: Managing Light Weapons Flows to Conflict Zones’, Abdel Fatau Musah and Robert Castle, BASIC Occasional Paper No. 26, May 1998.

business opportunity for organised crime groups. The US government estimates that military equipment worth several hundred million US dollars is sold every year to countries under UN embargo, embargoes that, for criminal groups, represent profitable black markets.¹²⁵

Russian and Italian criminal organisations, for instance, were operating in the midst of the Yugoslav conflicts.¹²⁶ The recent seizure of Russian tycoon Alexander Zhukov was the final arrest in a major operation to dismantle a large-scale arms trafficking operation involving Belgian, Italian and Russian criminals, which shipped over 13,000 tonnes of arms and ammunition to Croatia and Bosnia between October 1992 and March 1994, in violation of the 1991 UN embargo.¹²⁷ The arrest of Leonid Minin by Italian police saw the break up of a similar smuggling ring, also involving Russian organised crime and Belgian dealers, which shipped nearly 200 tonnes of weapons from Eastern Europe to the Revolutionary United Front (RUF) rebels in Sierra Leone in 1999 and 2000, regardless of the UN embargoes on Liberia and Sierra Leone.¹²⁸

Criminal organisations established during periods of conflict often remain active after fighting has subsided, and are key catalysts in the transfer of SALW from post-conflict areas to new destinations. According to local officials, Bosnia is now “one of the main jumping off points for importing arms, drugs and illegal immigrants into Europe”, and Republika Srpska army officials are “running a major arms exporting business” with weapons left over from the Bosnian war.¹²⁹ Parallel situations exist in Bosnia’s neighbour, the Federal Republic of Yugoslavia, as Albanian-Kosovar and Serbian-Montenegrin gangs have allowed Colombian drug clans to diversify their sources of weaponry and explosives, offering arms and money-laundering services in return for cocaine.¹³⁰

The situation in the former Yugoslavia is part of a common development in societies shattered by conflict and with weak or corrupt law enforcement, and often with a governing elite that sanctions such corruption for personal gain. Examples of this new trend of ‘military commercialism’, intimately linked with organised crime, can be seen across Europe, Africa and Latin America.¹³¹ Indeed, the conditions of weak law enforcement, violence and legitimate trade restrictions that accompany conflict are so profitable for organised crime that in some cases criminals are believed to have encouraged the outbreak or continuation of conflict to ensure their business success. Montenegro, a province of Yugoslavia which has avoided serious violence so far, is now struggling to deal with “increasing arms and drugs smuggling as organised criminal groups from Kosovo extend their territory, and the “smuggling elite of the Balkans” gathers on its border with Kosovo.¹³²

To add to the devastating impact of the SALW themselves, in the post-Cold-War era conflicting parties who want to obtain arms must find resources with which to buy them, resources that inevitably come from high-return commodities such as gems or drugs. Just as militant groups in the Caucasus and Central Asia are known to fund weapons through drug trafficking and kidnapping for ransom, UNITA rebels continue to mine and sell diamonds to fund weapons bought from the Russian mafia¹³³ and other criminal organisations,¹³⁴ despite international embargoes and initiatives to curb illicit sales. “Mineral wealth is exchanged for drugs and guns as well as personal

125 ‘International Crime Threat Assessment’, December 2000, www.whitehouse.gov.

126 *Ibid.*

127 ‘A Belgian Violated the Embargo Against Croatia’, Alain Lallemand, *Brussels Le Soir*, (FBIS translated text), 20/4/01.

128 ‘Italian police nab RUF’s chief arms supplier’, *Freetown Concord Times WWW*, 9/7/01.

129 ‘Karadzic associates ‘exporting weapons’’, Isambard Wilkinson and Julius Strauss, *The Daily Telegraph*, 19/4/01.

130 ‘Colombians recruit in the Balkans’, *Intelligence Newsletter*, 5/4/01.

131 ‘The commercialisation of military development in Africa’, Chris Dietrich, Institute for Security Studies, www.iss.co.za, 2000, p 1.

132 ‘Macedonia Fears’, Zeljko Bajic, Institute for War & Peace Reporting Balkans Crisis Report No. 124, 14/3/00.

133 ‘A Superpower of the Underworld: The Russian Mafia’s Global Business’, Rudolph Chimelli (FBIS translated text), *Munich Sueddeutsche Zeitung* internet version, 31/1/01.

134 ‘Israeli businessmen suspected of selling arms to Angolan rebels’, Yosi Melman, *Tel Aviv Ha’aretz*, (FBIS translated text), 21/3/01.

gain, further elevating the violence in a vicious cycle of conflict-based rapine”¹³⁵ Inevitably, the unregulated and reckless exploitation of natural resources such as minerals or timber causes environmental degradation, and drug production and trafficking results in increased drug abuse and, along with kidnapping and human trafficking, damage to the fabric of society and human security.

“Illegal transactions are a common denominator of ‘war economies’”, and with the end of superpower funding of proxy wars have become essential to arming and rearming combatants around the world. This commercialisation and criminalisation of conflict increases its negative impact and establishes networks of control and profit governed by elites, which become self-sustaining and perpetuate the conflict. “In the context of current civil wars the roles of politician, war commander, monopoly trader and organised crime leader blend gradually”, fighting parties almost by definition turning “into complex economic conglomerates, often commanded by wealthy traders turned warlords”.¹³⁶

2.3 The blurring of security and law enforcement

The blurring of crime and conflict: towards new concepts of security

The introduction of the economic element to conflict and the blurring of the line between crime and conflict are part of “a profound paradigmatic change of the concept of war”.¹³⁷ As traditional security threats have receded, other non-military threats have become more virulent, placing under attack not the territory of the state but “its fabric, the nature of its society, the functioning of its institutions and the well-being of its citizens”.¹³⁸ Chris Donnelly, NATO’s Special Adviser for Central and Eastern European Affairs, believes corruption is “a security threat in its own right”, and “the single most serious threat to the viability of several countries of the former Soviet Union and a severe problem everywhere”.¹³⁹ Organised crime’s “international nature, its scale, its links with former hostile intelligence agencies and its capacity to subvert the governmental process make it truly an issue of national security”.¹⁴⁰

Illicit small arms trafficking, made possible by the availability of significant surplus stocks of weapons and the activities of corrupt officials and criminal groups, has become “a global threat to the sovereignty of states at macro- and micro- levels”.¹⁴¹ Arms trafficking fuels conflict, but also has a negative impact in non-conflict situations. Providing organised criminal groups with increased power to protect their illicit activities and encouraging more violent forms of crime, the ready availability of firearms also heralds a downward spiral in which security moves further and further away from the control of the state apparatus, beginning with the current trend towards privatisation of security and ultimately resulting in a pervasive gun culture where individuals arm themselves for protection. What begins as a ‘legitimate’ reaction to perceived insecurity can become a reactive social dynamic, inducing further insecurity, gun culture and the cascading of private security down the social ladder; this will enlarge existing social cleavages, and, if the ‘force multiplier’ of illicit arms is available, forces competing with the state may be empowered.¹⁴²

Cyber terrorism renders important information systems, including on occasion national security systems, vulnerable. Robin Cook, the then British Foreign Secretary, warned MPs in March 2001 that “Hacking could cripple Britain faster than a military strike now that computers are managing most of the country’s national infra-

¹³⁵ International Commission of Inquiry 1998. ‘Criminalised economies of rumour and war in the Kivus, D.R. Congo’, Stephen Jackson, paper presented at the Annual Conference of the American Association of Anthropology, San Francisco, November 2000, p 1.

¹³⁶ ‘Pervasive Illicit Small Arms Availability: A Global Threat’, Peter Lock, HEUNI Paper No. 14, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999, p 11.

¹³⁷ Ibid.

¹³⁸ ‘Rethinking Security’, Chris Donnelly, *NATO Review*, Winter 2000–2001.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ ‘Pervasive Illicit Small Arms Availability: A Global Threat’, Peter Lock, HEUNI Paper No. 14, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999, p 4.

¹⁴² Ibid. p 8.

structure”.¹⁴³ Hackers have succeeded in penetrating both the British and American governments’ computer systems, and security advisers have warned of “the threat of information warfare or cyber wars”.¹⁴⁴ Organised criminal groups also have the potential to weaken the stability of global finances through large-scale money laundering activities.¹⁴⁵ In sum, transnational organised crime is now recognised as “a priority threat” to national security.¹⁴⁶

The distinction between crime, which is traditionally dealt with by civil law enforcement, and security, traditionally the remit of the state security forces, is becoming blurred. Adding to this problematic are questions over roles and responsibilities of the different agencies, the lack of knowledge about these new threats and the ignorance about the methods that should or could be used to counter them. Non-military threats, such as corruption, organised crime and terrorism, are “more difficult to define than purely military ones, and therefore more difficult to counter”.¹⁴⁷

New threats render traditional counter-measures inadequate

The tools used to tackle traditional national security threats are often irrelevant to the problems posed by the new non-military security threats, where, in the words of a former director of the CIA, “there is no negotiating table”.¹⁴⁸ With the lines between foreign and domestic policies becoming increasingly blurred, traditional institutions and policies are proving inadequate to counter new threats.

The threat organised crime poses to security is so serious partly because of “the absence of national and international institutions to deal with it... Since non-military threats to security are new, international institutions have not yet evolved to meet them”.¹⁴⁹ Although there has been some progress by national and international institutions in this area – as discussed in the next section of this paper – much more needs to be done. The structures of defence and interior ministries are slow to change, reflecting more traditional approaches and concepts established to deal with ‘defence’ and ‘public safety’ rather than merging the two into a new concept of national and international security. Moreover, addressing organised crime with normal crime prevention strategies is in the “great majority of cases... not viable”,¹⁵⁰ and the tools of diplomacy are equally “ineffective and irrelevant in dealing directly with these criminal groups”.¹⁵¹

Although the need to invest in and develop more appropriate and responsive police forces, particularly in the FSU, has been recognised, progress has been slow in many countries, and in general “police work in the area of transnational crime is hampered by the antiquated structures that are in place”.¹⁵² Much of the problem seems to lie in lack of knowledge about the new and highly sophisticated types of organised crimes such as money laundering and financial crime, cyber crime or the complex chains of events that result in illicit arms trafficking. The sophistication of the ‘new order’ of organised transnational criminals has now been recognised, yet in many cases they are still being ‘policed’ by non-specialist units.¹⁵³

¹⁴³ ‘Hackers could halt UK, says Cook’, Richard Norton-Taylor, *The Guardian*, 30/3/01.

¹⁴⁴ *Ibid.*

¹⁴⁵ ‘The Role of Interpol in Fighting Organised Crime’, Gwen McClure, Chief of the Organised Crime Branch at the Interpol General Secretariat in Lyon, France, *International Criminal Police Review*, No. 481 (2000), www.interpol.int/Public/Publications.

¹⁴⁶ ‘Global Organized Crime’, Mora Stephens, Woodrow Wilson School policy Conference 401A Intelligence Reform in the Post-Cold War Era, 6 January 1996, www.fas.org.

¹⁴⁷ ‘Rethinking Security’, Chris Donnelly, *NATO Review*, Winter 2000–2001.

¹⁴⁸ James Woolsey, ‘Global Organized Crime’, Mora Stephens, Woodrow Wilson School policy Conference 401A Intelligence Reform in the Post-Cold War Era, 6 January 1996, www.fas.org.

¹⁴⁹ ‘Rethinking Security’, Chris Donnelly, *NATO Review*, Winter 2000–2001.

¹⁵⁰ ‘Anticipating instead of Preventing: Using the Potential of Crime Risk Assessment in Order to Minimize the Risks of Organised and Other Types of Crime’, Seppo Leppä, HEUNI Paper No. 11, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999.

¹⁵¹ James Woolsey, ‘Global Organized Crime’, Mora Stephens, Woodrow Wilson School policy Conference 401A Intelligence Reform in the Post-Cold War Era, 6 January 1996, www.fas.org.

¹⁵² ‘Structures, Strategies, and Tactics of Transnational Criminal Organisations: Critical Issues for Enforcement’, Margaret E. Beare, presented at The Australian Institute of Criminology, Australian Customs Service, and Australian Federal Police, Transnational Crime Conference, Canberra, March 9–10 2000.

¹⁵³ *Ibid.*

3

Institutions, agencies and mechanisms to combat organised crime, corruption and illicit arms trafficking

The discussion in Section 2 has revealed that international action to combat organised crime, corruption and illicit arms trafficking requires co-ordinated action at all levels: national, regional and international. Existing initiatives at each of these levels are reviewed in this section of the paper. Institutional and policy weaknesses associated with some of these approaches are then discussed further in Section 4.

3.1 National government agencies

National governments in many parts of Europe have begun to address the problems caused by organised crime. The most common approach has been the setting up of specialised national agencies, such as the NCIS (in the UK) and DIA (in Italy) discussed briefly below.

NCIS (UK)

The National Criminal Intelligence Service (NCIS) is the UK law enforcement agency responsible for gathering and analysing intelligence on serious and organised crime. The agency aims to provide:

- Strategic assessments on serious and organised crime affecting the interests of the United Kingdom
- Quality criminal intelligence on major criminals and their organisations
- Services to enhance the co-ordination and development of criminal intelligence to combat serious and organised crime

NCIS works with law enforcement agencies, government departments and other relevant organisations nationally and internationally. Interpol UK and Europol UK, along with the UK Drug Liaison Officer network, form the NCIS International Division.

DIA (ITALY)

The Investigating Anti-Mafia Directorate (Direzione Investigativa Anti-Mafia) is the Italian law-enforcement agency primarily concerned with fighting organized crime. It comprises members of the Carabinieri, Polizia and Guardia di Finanza (GDF, the financial police) in a Task Force type arrangement. The DIA was established in 1991 within the Ministry of the Interior's Department of Public Security, and its management layer consists of the Chief of the Italian Police, the General Commanders of the Carabinieri and the GDF, as well as the directors of the military and civil intelligence services (SISMI and SISDE). The DIA's sole responsibility is to undertake investigations on all types of organised crime, including arms trafficking.

The DIA consists of three branches: the First Branch deals with intelligence and analysis; the Second Branch handles investigations and operations; the Third Branch covers international investigations and relations.¹⁵⁴

The DIA has special powers also available to Polizia, Carabinieri and Guardia di Finanza. For example, it can approach a financial body with a written request signed by the DIA Director, and obtain information in matters that involve serious crime.

3.2 Bilateral initiatives

Another approach adopted by national governments is to seek bilateral co-operation. Such co-operation can reinforce national measures and strategies by enhancing efforts to provide an effective deterrence to the growth and expansion of transnational criminal activities, and can also lead to multilateral or regional co-operation and additional opportunities for more effective and collaborative law enforcement.

Hungarian-US co-operation

An example of such bilateral co-operation is the comprehensive Hungarian-US initiative announced during a visit of Hungarian Prime Minister Viktor Orban to FBI headquarters in Washington in October 1998. The collaboration is aimed at intensifying the attack on international organised crime and terrorism, and primarily targets international organised criminal groups that are either based or active in Budapest.

The six-point assistance plan provides a wide range of FBI investigative support to Hungarian law enforcement, aimed at disrupting and dismantling criminal groups. The support includes FBI agents with expertise in organised crime matters, expert laboratory and forensic assistance, criminal justice information systems support and prosecutorial assistance for joint strike forces.

In recognition of the dual threat of international organised crime and terrorism to Hungary and the USA, a working group was created. This has become the principal mechanism for the exchange of criminal information and expertise between the Hungarian National Police and the FBI in areas relating to international organised crime and terrorism.¹⁵⁵

In April 1995, the International Law Enforcement Academy (ILEA) opened in Budapest. Modelled after the FBI National Academy in Virginia and funded by the FBI, the ILEA has trained hundreds of police officers from 20 countries across Central and

¹⁵⁴ The tasks of the Third Branch include liaison with foreign Law Enforcement Agencies (LEAs) investigating organised crime. It liaises with Interpol and EU LEAs and other Italian agencies investigating organised crime.

¹⁵⁵ The Hungarian-American Working Group was modelled on the Italian American Working Group, one of the most successful international bilateral working groups in addressing common crime and terrorism issues.

Eastern Europe and Eurasia. Several US federal agencies contribute to the work of the academy as instructors, including the Drug Enforcement Administration, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms and the United States Customs Service. The ILEA has not only been successful in building professional relationships between individual officers, but has also led to closer relationships between the participating countries. For example, introductions to various officials attending the ILEA have led to Hungary and Romania executing various memorandums of understanding that provided the foundation for subsequent national treaties. Regional co-operation and information-sharing is also facilitated by the FBI-sponsored Central European Working Group, which comprises 13 nations, and focuses on the identification of common law enforcement threats and the establishment of lines of communication among partners.¹⁵⁶

The FBI has also initiated bilateral task forces on specific projects with Greece and Italy. The Italian-American Working Group (IAWG) is described as “one of the most successful international bi-lateral working groups in addressing common crime and terrorism issues”. It grew from beginnings in the ‘Pizza Connection’ cases and the assassinations of Judges Falcone and Borsellino to its current “benchmark” position, success that the FBI attributes to “developing cop-to-cop partnerships and focusing upon a common and agreed strategy”.¹⁵⁷ Following attacks on US diplomatic and military personnel by the Seventeen November terrorist organisation, the FBI entered into partnership with the Hellenic police to try and combat the group. The 17 November Task Force began operations in 1998 and consists of two FBI Special Agents and three Greek police officers, with the support of the Hellenic police and access to FBI resources and expertise in the US, and achieved the first ever arrest of a member of the terrorist group.¹⁵⁸

UK-Italian co-operation

A very different and more recent initiative provides an interesting contrast to the Hungarian-US co-operation, and has the same potential to lead to more coherent multilateral action. British and Italian police forces are now joining forces to combat human trafficking, one of the major criminal developments in the last few years and “the world’s fastest growing criminal business” operated almost exclusively by organised criminal gangs, which also deal in drugs, prostitution, slavery and pornography.¹⁵⁹ Britain, very often the final destination for traffickers, and Italy, usually the first stop on the journey through Western Europe, have agreed on joint actions to disrupt the trafficking routes and apprehend criminals.

Among other things, the UK and Italy plan to: lead the creation of an EU immigration liaison officer network in the Western Balkans; increase bilateral exchanges of immigration experts; and, following the success of the Italian-Albanian initiative, lead the deployment of expert teams from EU member states to the Western Balkans to provide on-the-ground support.

The UK and Italy will also combine forces at higher levels, and intend to work together to encourage the EU Police Chiefs Task Force to drive forward operational work against human traffickers, and push for tough EU-wide penalties for human trafficking and transporting illegal immigrants. They will also lobby for fuller use of and commitment to Europol and will work closely on these issues in forthcoming EU and G7/8 discussions. The UK government believes that “reinforced EU-level action, driven by Italy and the UK, will make a significant impact on the trafficking of people, reducing the horror and suffering it produces”.¹⁶⁰

¹⁵⁶ Statement by James K. Weber, Deputy Assistant Director, Investigative Services Division, FBI, on *OSCE Initiative on Organised Crime in Southeast Europe*, before the House Judiciary Committee, Subcommittee on Crime, 23 March 2000, www.fbi.gov.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ ‘Closing Europe’s back door’, Comment, *The Observer*, 4/2/01.

¹⁶⁰ *Ibid.*

3.3 Regional and sub-regional initiatives

There are a growing number of regional and sub-regional organisations and initiatives within Europe that have a remit to address the problem of organised crime, corruption and/or illicit arms trafficking. The following is a brief overview of the most significant of those organisations and initiatives.

Within the EU:

- Schengen Agreement (1985)
- EU Commission directive against money laundering (1991)
- Europol (1992)
- The Central European initiative (1992)
- The Middle European Police Academy (MEPA) (1993)
- EU Programme for Combating and Preventing Illicit Arms Trafficking (1997)
- The EU pre-accession pact on organised crime (May 1998)
- The Group of States Against Corruption (GRECO) initiative (1998)
- EU Joint Action on Small Arms (December 1998)
- EU ARROW project to combat firearms trafficking (July 1999)

Within the OSCE:

- OSCE training and seminar programmes
- OSCE Document on Small Arms

Within NATO:

- EAPC

Within the Stability Pact for South Eastern Europe:

- SPOC
- The Stability Pact Anti-Corruption Initiative

Other sub-regional initiatives:

- South East European Regional Centre for Combating Trans-Border Crime
- Black Sea Economic Co-operation (BSEC)
- Task Force on Organised Crime in the Baltic Sea Region

The Schengen agreement

‘Schengenland’ is an area of free circulation within the European Union created by seven signatories to the Schengen Agreement – Belgium, the Netherlands, Luxembourg, France, Germany, Portugal and Spain. The purpose of the agreement, which came into force on 26 March 1995 and was later incorporated into the EU framework at the Amsterdam Treaty in 1997, is to remove all frontier controls.

To compensate for the freedom of movement and maintain internal security, a variety of ‘behind-the-border’ measures have been taken. These include:

- Reinforcing external borders
- Harmonising visa policies
- Criteria to indicate a country responsible for processing an asylum request
- Co-operation between police forces
- Legal aid in criminal matters
- Extradition
- Combating drug trafficking
- Control of firearms and munitions

Schengen states have developed the Schengen Information System (SIS) to provide police and immigration officials with a multinational database of suspects, stolen vehicles and forged money. In each country, an NSIS (National Schengen Information System) is linked to the Central Schengen Information System (CSIS) installed in Strasbourg. In order to step up the war on international drug trafficking, Schengen countries have seconded liaison officers to each other’s embassies.

Critics have argued that open borders invite drug and human trafficking and smuggling, lead to an increase in illegal immigration and ‘bogus’ asylum seekers. Fears about the effectiveness of controls at the external borders have created misgivings in some Schengen countries. With regard to cross-border surveillance, for example, the 1998 Annual Report notes that “the relevant provisions of the Schengen Convention do not fully correspond to the tactical requirements of the police”.¹⁶¹ Other areas of technical problems are the lack of right of arrest for pursuing officers in some states, and the problem of poor record keeping in judicial co-operation.¹⁶²

Other EU member states have opted out of Schengen (or like the UK, propose limited participation¹⁶³) because of a refusal to abandon passport controls on internal movements within the Schengen area.

The EU fight against money laundering

“The most important thing we have to remember is that the Mafia is an economic organisation. We have to strike its main interests, that is money. Only in this way can we beat it.”¹⁶⁴

The EU’s fight against money laundering has become harder since the borders between Western and Eastern Europe were opened. The Commission’s directive 308/91, which has been accepted by most of the Community,¹⁶⁵ has eight sections about money laundering, including provisions on the bank’s duty to identify customers and transactions, professional practices of bank workers and internal controls for banks. All transactions over 15,000 ECU need to be certified, and similar rules can also be applied to non-financial activities.¹⁶⁶

Despite good intentions, there are problems of co-ordination between the EU countries. Some countries have delayed the introduction of legislation required by the directive, while others do not have national regulations about the money laundering of all profits from criminal activities. Only Italy, Germany, Belgium, Ireland, Netherlands and the UK have introduced laws against the money laundering of all criminal profits, including those from drug trafficking, terrorism, arms trafficking, prostitution, smuggling, extortion, organised crime and other illegal activities.¹⁶⁷

The European Police Office (EUROPOL)

Europol is an EU institution which aims to improve the effectiveness and co-operation between the relevant authorities of the member states in preventing and combating serious international crime. Its mission is to make a significant contribution to the EU’s law enforcement action against organised crime.

The establishment of Europol was agreed in the 1992 Maastricht Treaty. Based in The Hague, Europol started limited operations on 3 January 1994 in the form of the Europol Drugs Unit (EDU). Progressively other important areas of criminality were added. The Europol Convention was ratified by all Member States and came into force on 1 October 1998 and Europol commenced its full activities on 1 July 1999.

Europol’s mandate covers most forms of serious crime, including:

¹⁶¹ ‘Where now for accountability in the EU?’, Statewatch News online, www.statewatch.org, 7/3/01.

¹⁶² Ibid.

¹⁶³ ‘Police Support Home Secretary’s Announcement on Schengen Participation’, NCIS Press Release, www.ncis.co.uk, 12/3/01.

¹⁶⁴ Dr Gherardo Colombo, magistrate of the Tribunal of Milan, ‘The fight of a magistrate’, by Ubaldo Cordellini, Euroreporter 1995, <http://www.jmk.su.se/jmk/eurorep/32.html>.

¹⁶⁵ Ireland has accepted it only in part and Greece will introduce it soon.

¹⁶⁶ Denmark, Germany, Spain, France, Netherlands and Great Britain also use the new directive for casino, jewels and art trafficking.

¹⁶⁷ There is also a mixed picture within the EU regarding the adoption and implementation of other international regulations to control money laundering. For example, only the UK, the Netherlands and Italy have ratified the European Council’s convention of Strasbourg about money laundering. There are also significant differences about the structure of Europol. While Germany wants a federal structure, France favours a national organisation of Europol. All these differences make it hard to have full co-operation amongst countries in fighting money laundering.

- drug trafficking
- immigration networks
- vehicle trafficking
- trafficking in human beings, including child pornography
- forgery of money and other means of payment
- trafficking in radioactive and nuclear substances
- terrorism
- associated money-laundering activities

The mandate applies where an organised criminal structure is involved and two or more member states are affected. It may be extended in the future to cover other forms of organised crime. Europol has no executive or operational powers and no capabilities to gather evidence. Instead it is intelligence-based and offers a range of products and services to operational teams in the EU. These include:

- The Europol Liaison Officer network,¹⁶⁸ which facilitates the rapid and secure exchange of intelligence and operational requests between the member states and the provision of analytical support to international investigations.
- Strategic assessment papers, offering specialised expertise in areas of particular interest.

Europol co-operates closely with the Schengen framework and organisations such as Interpol, the EU Commission Anti-Fraud Co-ordination Unit (UCLAF), World Customs Organisation (WCO) and third countries, primarily EU candidate countries.

Based on Article 30 of the Amsterdam Treaty and on the European Council summit in Tampere, Finland, new developments have taken place or are under construction:

- In September 2000, the Council requested that the member states “should deal with any request from Europol to initiate, conduct or co-ordinate investigations in specific cases and should give the request due consideration”.
- By Council Act of 30 November 2000, the competence of Europol was extended to include money laundering in general, regardless of the type of offence from which the laundered proceeds originate.¹⁶⁹
- In November 2000, the Council asked member states to make full use of Europol support for joint investigative teams by providing knowledge of the criminal world, assisting with co-ordination of operations, providing advice on technical matters, and helping with the analysis of offences.
- The Tampere summit of October 1999 called for the establishment of the European Police Chiefs Operational Task Force aiming to exchange experience, best practice and information on current trends in cross-border crime and contribute to the planning of operations. The first meeting of the Task Force took place in April 2000.

The Central European Initiative

The *Central European Initiative (CEI)* is a loose grouping of 17 countries¹⁷⁰ whose main objectives are: to contribute to the economic development of central Europe; to strengthen stabilisation within the region; to promote European integration; and to support those of its member countries not yet part of the EU in their progress towards EU integration.

Working Groups constitute the basic structural component of the CEI. To date, 18 CEI Working Groups have been instituted, including one that focuses on combating organised crime. Strengthened co-operation between CEI member states on this

¹⁶⁸ There are currently 44 European liaison officers representing various law enforcement agencies such as police, customs and immigration services.

¹⁶⁹ This amendment of Europol's Convention has to be ratified by all member states.

¹⁷⁰ As of March 2001, there are 17 CEI countries: Albania, Austria, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Italy, Macedonia, Moldova, Poland, Romania, Slovak Republic, Slovenia, Ukraine and the Federal Republic of Yugoslavia.

problem has been achieved through establishment of an information network on organised crime and the CEI Bratislava Centre for Combating Drug Trafficking.

At a conference held in Trieste in March 2001, the CEI Ministers of Justice approved a Declaration on judicial co-operation among the CEI member states calling, among other things, for: harmonisation of legal systems; improved legal assistance and judicial co-operation, including the establishment of joint investigative bodies in relation to specific crimes; identification of appropriate modalities for the exchange of liaison magistrates; and enlargement of the competencies of the CEI Working Group on Combating Organised Crime to encompass matters related to the improvement of judicial co-operation and mutual legal assistance.

The Middle European Police Academy (MEPA)

Eight Eastern and Western European countries¹⁷¹ are working together to organise police training courses within the framework of the Middle European Police Academy created in 1993. The Academy's main tasks are to: prepare for more effective international co-operation among Central European police forces in combating trans-border crime; exchange information on methods used to fight organised crime; and acquaint young police officers¹⁷² of member countries with the policing systems of the co-operating states.¹⁷³

The EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms

In June 1997 the European Union adopted a Programme for Preventing and Combating Illicit Trafficking in Conventional Arms. The Programme commits member states to strengthening their collective efforts to prevent and combat illicit trafficking of arms, particularly of small arms, from and through the territories of the EU. These efforts include: development of enhanced information exchange (eg through the use of international data-bases and risk analyses); improved co-ordination and co-operation among intelligence, customs and law enforcement agencies; and prompt investigation and effective prosecution in cases of illicit arms trafficking.

EU pre-accession pact on organised crime

On 25 May 1998, the Ministers of Justice and Home Affairs of the member states of the EU and of the applicant countries of Central and Eastern Europe, including the Baltic States and Cyprus, signed a pre-accession pact on organised crime. This pact aims to intensify existing police, customs and judicial co-operation between the EU and the applicant countries in order to combat international organised crime.

The pact is designed as a practical way of combating serious types of crime, whether organised or not. It also contains a list of international instruments of police, customs and judicial co-operation that will serve as a basis for such co-operation. An emphasis is placed on the exchange of information between enforcement departments in order to facilitate investigations as well as for the purpose of longer-term strategies.

The responsibility for the implementation of the Pact is entrusted to a group of experts from the participant states. Its main tasks are to:

- Identify and counteract threats connected with international organised crime
- Monitor and evaluate action to counteract such crime in each of the participant countries
- Plan, execute and evaluate specific projects in the combating of organised crime, where appropriate, in co-operation with Europol, in order to prepare the applicant countries for accession

¹⁷¹ Austria, Czech Republic, Germany, Hungary, Poland, Slovakia, Slovenia, and Switzerland.

¹⁷² Between 28 and 40 years of age.

¹⁷³ All attendees are university graduates with command of the German language – the working language of the Academy.

The Group of States against Corruption (GRECO)¹⁷⁴

On 5 May 1998, the Committee of Ministers of the Council of Europe adopted a resolution authorising the establishment of the Group of States against Corruption (GRECO)¹⁷⁵ in the form of a partial and enlarged agreement. GRECO is called to monitor the observance of the *Guiding Principles in the Fight Against Corruption* and the implementation of international legal instruments adopted in pursuance of the *Programme of Action against Corruption*. Its mission is to identify deficiencies and insufficiencies of national mechanisms against corruption, and to prompt the legislative, institutional and practical reforms to better prevent and combat corruption.

GRECO is an enlarged agreement and the only condition imposed for full membership is a willingness to participate without restrictions in the mutual evaluation procedures, in particular, agreeing to be evaluated by GRECO itself. Currently, GRECO has 27 member states.¹⁷⁶

The structure of GRECO consists of ‘ad hoc teams’ of experts who are appointed to evaluate each member in each evaluation round. In particular, evaluation teams will examine replies to questionnaires, request and examine additional information, visit member countries and prepare draft evaluation reports for discussion and adoption at the plenary sessions.

The EU joint action on small arms

In an effort to contribute to global efforts to tackle small arms the EU Council of Ministers adopted in December 1998 a Joint Action on the European Union’s contribution to combating the destabilising accumulation and spread of small arms and light weapons. This agreement, which builds on the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms and the EU Code of Conduct on Arms Exports adopted in June 1998, takes a regional and incremental approach to the problem.

The Joint Action aims to help the international effort to combat the excessive and uncontrolled spread of small arms through support for existing regional and international initiatives. In the Joint Action EU member states agreed to develop a co-operative policy, concentrating on the following measures:

- Combating and contributing to measures aimed at ending the destabilising accumulation and spread of small arms
- Contributing to the reduction of existing accumulations to levels consistent with countries’ legitimate security needs
- Helping to solve the problems associated with accumulations of weapons
- Making a multifaceted contribution to a range of control and reduction measures¹⁷⁷

The EU ‘ARROW’ project to combat firearms trafficking

The European Union Route Policing Project to Combat Illicit Trafficking of Firearms, called Project ARROW, was launched in July 1999 at the beginning of the Finnish Presidency of the EU and ended in March 2001. Led by Finland and carried out by nine

¹⁷⁴ At their Second Summit, held in Strasbourg on 10–11 October 1997, the Heads of State and Government of the member states of the Council of Europe decided to seek common responses to the challenges posed by the growth of corruption and organised crime. They adopted an Action Plan with a view to promoting co-operation in the fight against corruption, including its links with organised crime and money laundering, and instructed the Committee of Ministers to adopt guiding principles to be applied in the development of domestic legislation and practice, to secure completion of international legal instruments against corruption and to establish an appropriate mechanism for monitoring observance of the guidance principles and the implementation of the said international instruments.

¹⁷⁵ Following receipt of the 14th notification by member states of their intention to participate in the adoption of the agreement, GRECO was set up on 1 May 1999.

¹⁷⁶ Albania, Belgium, Bosnia-and-Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Norway, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, FYR Macedonia, United Kingdom, United States of America.

¹⁷⁷ Article 6 states that “the Union will provide financial and technical assistance to programmes and projects which make a direct and identifiable contribution to the principles and measures referred to in Title 1, including relevant programmes or projects conducted by the UN, the International Committee of the Red Cross, other international organisations and regional arrangements and NGOs. Such projects might include weapons collection, security sector reform and demobilisation and reintegration programmes as well as specific victim assistance programmes”.

EU Member States,¹⁷⁸ the Project's objectives were:

- To review controls on the legal trade of firearms in the European Union Member States and to identify the weak points in that framework
- To gather criminal intelligence and information on illicit trafficking of firearms and to analyse that information in order to target joint operations in exposing and investigating crimes related to illicit trafficking of firearms; and
- To construct a solid basis for future national and international actions

According to the collective final report on Project Arrow, released by the Council of the European Union, the implementation and execution of the Project in the participating member states was successful and the structures adopted proved workable and effective.¹⁷⁹ In particular, direct controls over arms manufacturers, arms dealers, transport agencies, etc, were carried out in most of the member states; criminal intelligence and information were collected from a variety of sources¹⁸⁰ while mutual border controls, customs and police checks were conducted in most of the participating member states. Finally, "the strategic overview of the phenomenon and the experience gained from the Project" formed a "firm ground for follow up work in this area".¹⁸¹

OSCE initiatives

The Organisation for Security and Co-operation in Europe (OSCE) is a regional security organisation whose 55 participating States span the geographical area from Vancouver to Vladivostok. The OSCE has been established as a primary instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation under Chapter VIII of the Charter of the United Nations.

The OSCE approach to security is comprehensive and co-operative. It deals with a wide range of security issues, including arms control, preventive diplomacy, confidence- and security-building measures, human rights, election monitoring and economic and environmental security. As decisions are made on the basis of consensus, all states participating in OSCE activities have an equal status. The OSCE has held several seminars focused on organised crime and corruption:

- **Zagreb – November 1999**
This meeting discussed the 'OSCE Organised Crime Initiative in South-Eastern Europe', which is being undertaken within the framework of the Stability Pact for South-Eastern Europe.
- **Cyprus – September 2000**
The 35 OSCE participating states discussed the distorting effects of organised crime and corruption on economic development, and the process of post-conflict rehabilitation, as well as international strategies to combat crime and corruption.
- **Bosnia Herzegovina – October 2000**
The OSCE Mission to Bosnia Herzegovina organised this anti-corruption seminar for national organisations working on the nationwide OSCE anti-corruption campaign.

The OSCE Document on Small Arms and Light Weapons

On 24th November 2000 the OSCE Forum for Security and Co-operation adopted a Document on Small Arms and Light Weapons. The agreement is an important advance in international initiatives to develop and implement co-ordinated measures to enhance controls on both legal and illicit transfers of small arms.

¹⁷⁸ The participating countries were: Belgium, Denmark, Finland, Germany, Holland, Ireland, Spain, Sweden and the United Kingdom; Portugal was represented by Spain and assisted in regard to operational issues.

¹⁷⁹ 'Final report on the ARROW route policing project', Council of the European Union, doc. 9178/01, Brussels, 30 May 2001, p 8.

¹⁸⁰ On the operational side, there was a considerable number of seizures of firearms, including pistols, automatic firearms, hand grenades and explosives and the various policing operations led to 261 criminal investigations and 49 arrests.

¹⁸¹ 'Final report on the ARROW route policing project', Council of the European Union, doc. 9178/01, Brussels, 30 May 2001, p 10.

The OSCE Document identifies the importance of combating illicit trafficking in all its aspects through the adoption and implementation of national controls on small arms, including manufacture, proper marking and accurate sustained record keeping, effective export controls, border and customs mechanisms, and through enhanced co-operation and information exchange among law enforcement and customs agencies at international, regional and national levels. The final section of the Document outlines the importance of integrating measures directed specifically at small arms within the broader context of OSCE activities on early warning, conflict prevention, crisis management and post-conflict rehabilitation.

Detailed recommendations, guidelines and principles are set out in the areas of production and export controls and great emphasis is also placed upon the importance of the exchange of information amongst OSCE member states as a means to promoting best practice in all the areas covered by the Document.

NATO initiatives

The Euro-Atlantic Partnership Council (EAPC), set up in 1997 to succeed the North Atlantic Co-operation Council, brings together the 19 Allies and 27 Partners in a forum providing for regular consultation and co-operation.

EAPC activities are based on a two-year action plan which covers a wide range of political and security-related matters, including arms control, international terrorism, peacekeeping, defence, economic issues and civil emergency planning. Many projects are being explored, including ways in which the EAPC might support regional consultation and co-operation for countering illegal arms transfers, drug trafficking and other forms of organised crime.

Stability Pact initiative against organised crime in South-eastern Europe (SPOC)

On 5 October 2000, the Partners of the Stability Pact for South-eastern Europe¹⁸² adopted an initiative aiming to strengthen capacities against organised crime in South-eastern Europe in accordance with European and other internationally accepted standards.

Tangible results are expected to be achieved in the following areas:

- National policies and strategies against organised crime will be adopted and implemented by the Governments of the region
- Multi-disciplinary national co-ordinating mechanisms will be established
- Legislation against organised crime, money laundering and corruption will be enacted in line with European and international instruments
- In-country co-operation between agencies involved in measures against organised crime will be improved, specialised units will be established and investigative capacities of agencies will be strengthened with measurable results in terms of cases successfully prosecuted and proceeds of crime confiscated
- Regional and international co-operation will be strengthened. This will be reflected in the ratification of relevant European and other international conventions, the conclusion of a network of bilateral co-operation agreements and concrete operational co-operation.

In each country and area of the region, a high-level representative will be appointed to have responsibility for the implementation of the initiative in co-operation with law

¹⁸² The Stability Pact for South Eastern Europe was adopted in 1999 following a proposal by the EU. In its founding document more than 40 partner countries and organisations undertook to support the countries of South Eastern Europe "in their efforts to foster peace, democracy, respect for human rights and economic prosperity in order to achieve stability in the whole region". Its main objectives are the creation of a secure environment, the promotion of sustainable democratic systems, and the promotion of economic and social well-being. The Stability Pact Partners are countries of the region and their neighbours: Albania, Bosnia Herzegovina, Bulgaria, Croatia, Macedonia, Hungary, Romania, Slovenia, Yugoslavia and Turkey; EU member states and the European Commission; members of the G8 such as USA, Canada, Japan, Russia; other countries such as Switzerland and Norway, and a wide range of political, financial and regional institutions.

enforcement and judicial authorities. The agreement also states that all the representatives will meet as the 'Regional Steering Group', which will be chaired by the Co-chair of the Stability Pact's Working Table 3.¹⁸³ The Regional Steering Group will be assisted by an 'Advisory and Contact Group' which will be composed of institutions with relevant expertise, including Europol, Interpol, the Southeastern Europe Co-operation Initiative, the Central European Initiative, the Organisation for Security and Co-operation in Europe, and the Stability Pact.

The Stability Pact and Anti-Corruption Initiative (SPAI)

In response to the damage caused by corrupt practices in Southeast Europe, the Stability Pact countries, including the 15 EU states, nine countries in the region (excluding Serbia but including Kosovo and Montenegro) and the international donor community, adopted an Anti-Corruption Initiative in February 2000. The initiative was developed jointly by the Council of Europe, the European Commission, the Organisation for Economic Co-operation and Development, the Stability Pact Office, the World Bank and the US.

The Initiative will seek to: outlaw the bribery of public officials; improve ethical standards in the public sector; promote the rule of law and reliable public administrations; curtail money laundering; and clean up public procurement practices. The Initiative outlines a very ambitious agenda of legal, regulatory and institutional reforms for the countries of South Eastern Europe, including:

- Adhesion to and implementation of international anti-corruption instruments
- Promotion of good governance and reliable public administrations
- Strengthening of legislation and promotion of the rule of law
- Promotion of transparency and integrity in business operations and efforts to combat bribery of public officials

The South-East European Co-operation Initiative Regional Centre to Combat Transborder Crime

On 26 May 1999, nine of the eleven members of the South-East European Co-operation Initiative (SECI)¹⁸⁴ signed a Co-operation Agreement to Prevent and Combat Transborder Crime.¹⁸⁵ The agreement entered into force in February 2000.¹⁸⁶

The Agreement sets out forms of specific assistance in exchanging information concerning trans-border crime. In particular:

- The Parties shall inform each other whether goods exported from the territory of one Party have been lawfully imported into the territory of the other party
- A Party shall provide information relating to persons known to have committed trans-border crimes, as well as the goods that are suspected of being trafficked and the means of transport.

In order to ensure the proper functioning of this Agreement and support regional co-operation amongst police and customs authorities, the Parties agreed to establish a Regional Centre for Combating Trans-border Crime, located in the Parliament building in Bucharest, Romania. Strategic and political management of the Centre comes from a Joint Co-operation Committee (JCC) consisting of representatives of the designated authorities of the Parties. A representative of ICPO-Interpol and the World Customs Organisation serve as permanent advisors to the Joint Co-operation

¹⁸³ The Stability Pact is structured under a Regional Table and three Working Tables to deal with Democratisation and Human Rights, Economic Reconstruction, Co-operation and Development, and Security Issues, which comprises two sub-tables: Security and Defence and Justice and Home Affairs.

¹⁸⁴ SECI was formed in 1996 to foster economic relations among Balkan states and help integrate them with the European Union. Its Member States are Albania, Bosnia, Bulgaria, Hungary, Moldova, FYR of Macedonia, Romania, Slovenia and Turkey as Croatia and Greece are in the stage of transmitting the ratification instruments.

¹⁸⁵ The agreement was also signed by Croatia on 16 November 1999.

¹⁸⁶ The Centre is housed in the Parliament Palace in Bucharest. Activities at the Centre started in November 2000 with funding of \$2.4 million from the Romanian Government.

Committee. Representatives of other European countries and the US also sit on the committee.¹⁸⁷

The SECI Centre is the only international law enforcement organisation which brings together police and customs representatives. The operational structure of the Regional Centre consists of 22 Liaison officers (one police and one customs representative from each SECI participating country) in continuous contact with their national authorities, National Focal Points (situated in the capitals), and Task Forces (specialised teams for support in the field). To date, Task Forces have been established on:

- Trafficking in women and children (established in May 1999 – two meetings so far)
- Commercial fraud (Croatian proposal – first meeting in June 2001)
- Drug trafficking (Bulgarian proposal)
- Stolen vehicles (Hungarian proposal)

The Black Sea Economic Co-operation (BSEC)

The Black Sea Economic Co-operation initiative was launched on 25 June 1992 by the heads of government of 11 Black Sea countries¹⁸⁸ who pledged “to ensure that the Black Sea becomes a sea of peace, stability and prosperity, encouraging friendly and good-neighbourly relations”.

On 2 October 1998, a multilateral agreement was signed, within the BSEC context, on co-operation in combating crime, especially in its organised form. A Working Group has been established to examine ways of implementing and enhancing co-operation on this field.

The task force on organised crime in the Baltic Sea region

At the Baltic Sea States Summit in May 1996, the Heads of Government agreed to establish a task-force of personal representatives of the Heads of Government which would “elaborate measures for immediate implementation and other concrete proposals to reinforce regional co-operation” in the fight against organised crime.¹⁸⁹

To date, the Task Force has focused on four main areas:

- improved and increased exchange of information
- joint concrete and operative measures/actions (including illegal immigration, stolen vehicles, drugs, highly taxed goods and money laundering)
- judicial co-operation (witness protection, return of stolen vehicles, prosecutors co-operation and state of ratification of important conventions)
- special surveys, training and other co-operation (corruption, trafficking in women and tax administration co-operation)

The Heads of Government agreed at the Riga summit in January 1998 that an Operative Committee (OPC) should be established. It was decided that the OPC should consist of law enforcement officers in each Baltic Sea country, as well as representatives of the European Commission and the Presidency of the EU. The OPC, which reports directly to the Task Force, is responsible for: proposing joint suitable measures to the Task Force; implementing ongoing and future measures; and serving as a multi-disciplinary expert committee on operative issues.

¹⁸⁷ These countries can have their own representatives from customs and police attending the Centre on an ad hoc basis.

¹⁸⁸ Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Turkey and Ukraine.

¹⁸⁹ The Task Force had its first meeting on 13 June 1996 in Stockholm. The Task Force's participating countries are: Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia, and Sweden. The European Commission is represented in the Task Force, as is the Presidency of the European Union. Europol and the World Customs Organisation are also represented, and Interpol representatives are invited to attend certain meetings.

3.4 Global responses

*“Transnational threats, by their very nature, demand responses that are novel in form, content, and forum. National strategies are inherently inadequate for responding to challenges that cross multiple borders and involve multiple jurisdictions”.*¹⁹⁰

The growth in organised crime and the complexity of investigations to combat it often require multilateral cross-border co-operation. At present, the measures adopted to counter organised crime are not only predominantly national (or within a regional context, as described above), but also vary from country to country. Organised crime does not recognise national borders or language barriers, and exploits the differences between agencies to its own advantage. There is therefore a constant risk that national or regional initiatives will be ineffective, much to the advantage of organised criminals.

As a result, there are a number of ‘global’ responses that have been designed to address this risk, including:

- Interpol
- The United Nations Centre for International Crime Prevention (CICP)
- The United Nations Interregional Crime and Justice Research Institute (UNICRI)
- United Nations Drug Control Programme
- UN Convention Against Transnational Organised Crime
- UN Firearms Protocol

INTERPOL

The Interpol Mission Statement is “to be the world’s pre-eminent organisation in support of all Organisations, Authorities and Services whose mission is preventing or detecting international crime”. With a membership of 178 countries, Interpol is one of the largest international organisations in the world, second only to the United Nations.

Interpol provides a range of essential services for the law enforcement community to optimise the international effort to combat crime. A worldwide telecommunications network links each member country’s National Central Bureau (NCB) to all other NCBs and the General Secretariat in Lyon, France. International broadcasts and notices are circulated at the request of member countries about wanted criminals, missing persons, stolen property and methods used by criminals. Specialised groups at the General Secretariat serve as co-ordinators for collecting information on specific areas of criminal activity from around the world. Interpol also sponsors a wide array of meetings, conferences and symposia each year to enable police, non-governmental organisations and private industry to focus on specific areas of criminal activity.

Interpol’s fight against organised crime

Interpol was one of the first international organisations to acknowledge the threat to society posed by transnational organised crime¹⁹¹ and in 1988 the Interpol General Assembly created a specialised group to “co-ordinate all the information submitted by the member states concerning specific organised criminal groups”. This resolution noted that “combating the international activities of organised crime requires full police co-operation at international level, ... that organised crime does not limit itself to one form of criminal activity, ... and that it is imperative that all member states be made aware of current activities, movements and operations of organised criminal groups”. To meet the challenges posed by transnational organised crime, Interpol began a Strategic Development Plan, which was adopted in October 1998.¹⁹²

¹⁹⁰ “International Co-operation”, *International Criminal Police Review*, 469-471/1998, p 8, John Edgar Hoover, Director, Federal Bureau of Investigation.

¹⁹¹ ‘The Role of Interpol in Fighting Organized crime’, *International Criminal Police Review* – No. 481 (2000), p 5, Gwen McClure, Chief of the Organized Crime Branch at the Interpol General Secretariat.

¹⁹² *Ibid.*

The three-year plan includes:

- Adopting a project-based approach to address significant transnational crime areas
- Enhancing the analytical capabilities at the General Secretariat
- Establishing direct links with national law enforcement agencies
- Undertaking joint projects utilising enhanced data security systems

While the full implementation of this plan will take several years, many projects and programmes have already been initiated. In 1998, Project Millennium was initiated to facilitate the centralised collection, collation and analysis of sensitive intelligence concerning East European and Russian organised crime groups.¹⁹³ In 1999, the Organised Crime Branch (OCB) at the General Secretariat was renamed the Organised Crime Projects Branch (OCP). The new branch is concentrating on specific projects focusing either on key areas of international organised crime or on issues of regional relevance. The OCP started Project Bridge in 1999 “to facilitate a more effective and efficient programme for the collection of information on organised crime groups involved in illegal immigration and the trafficking of people”.¹⁹⁴

Combating criminal use of firearms and explosives

Firearms and explosives used for criminal purposes are covered by Interpol’s General Crime Branch. The Interpol Weapons and Explosives Tracking System (IWETS) contains information on traffic in firearms, covering weapons from small arms to anti-tank missiles, the use of explosives for criminal purposes, and data on improvised explosive devices (IEDs). Access to IWETS, which is the only existing international database for stolen and recovered weapons, is restricted to ensure maximum confidentiality. An electronic messaging format has also been developed so that member states can supply information to the systems and share information multilaterally.

The United Nations Centre for International Crime Prevention (CICP)

The Centre for International Crime Prevention (CICP) is the United Nations office responsible for crime prevention, criminal justice and criminal law reform. The focus of the Centre is combating transnational organised crime, corruption and illicit trafficking in human beings. CICP co-operates with a network of international and regional institutions, allowing for a more comprehensive approach and an exchange of expertise. CICP works with member states to strengthen the rule of law, promote stable and viable criminal justice systems and combat the growing threat of transnational organised crime through better co-operation.

The Centre assists countries in the elaboration, ratification and implementation of international criminal law conventions and protocols, such as the recently adopted UN Convention against Transnational Organised Crime.¹⁹⁵

In co-operation with the United Nations Interregional Crime and Justice Research Institute (UNICRI), CICP promotes research and studies on new and emerging forms of crime. The Centre maintains the Internet-based United Nations Crime and Justice Information Network (UNCJIN), a substantial database of internet links to criminal justice related sites.

¹⁹³ In a move towards enhanced security, all data provided by project members will be stored into two distinct categories, ie “sensitive secure” and “enhanced secure”. All Interpol member countries will have access to the data which are classified “sensitive secure”. However, only specially designated personnel will have access to the “enhanced security” information.

¹⁹⁴ The objective of this project is to collect information on groups involved in illegal immigration, in particular the routes, methods of transportation, safe houses, escorts, forged documents and visas used by these groups. Some of this information will be processed as strategic analysis for dissemination to member countries and NGOs regarding trends, modus operandi and statistical information. However, another objective is to collect information that will identify organisations that operate regionally or internationally. ‘The Role of Interpol in Fighting Organized crime’, International Criminal Police Review – No. 481 (2000), p 8, Gwen McClure, Chief of the Organized Crime Branch at the Interpol General Secretariat.

¹⁹⁵ The Centre also defines and promotes internationally recognised principles in such areas as independence of the judiciary, protection of victims, alternatives to imprisonment, treatment of prisoners, police use of force, mutual legal assistance and extradition. More than 100 countries have relied on its criminal justice standards and norms for the elaboration of national legislation and policies in matters of crime prevention and criminal justice, leading to a common foundation in the fight against international crime that respects human rights.

The United Nations Interregional Crime and Justice Institute (UNICRI)

The United Nations Interregional Crime and Justice Research Institute (UNICRI) was first established in 1968 as the United Nations Social Defence Research Institute (UNSDRI).¹⁹⁶ The Institute was intended to carry out international comparative research, playing a supporting role to the United Nations Crime Prevention and Criminal Justice Programme. In the following years, given the expanding membership of the United Nations, the nature of the demands placed on the Institute became more complex and varied. The enlargement in the scope of the Institute was formally recognised by the Economic and Social Council when, in 1989, it reconstituted UNSDRI as UNICRI.

UNICRI, in collaboration with CICIP, is elaborating a comprehensive *World Organised Crime Report* which will provide: qualitative and quantitative information on organised crime activities and the structure of groups operating at the international level; types and distribution patterns of illicit markets; major initiatives taken internationally against organised crime by both governmental and non-governmental organisations; and developments in national legislation against organised crime.¹⁹⁷

The United National Drug Control Programme (UNDCP)

After the signing of the Vienna Convention of December 1988, the United Nations in 1990 created the United Nations Drug Control Programme (UNDCP), with responsibilities much wider than those of its forerunner the United Nations Fund for Drug Abuse Control (UNFDAC). The UNDCP works in four sectors: the reduction of illegal production of drugs; the prevention and reduction of illegal demand; the control of illegal drug trafficking; and the reinforcement of the judicial and legal system to strengthen the fight against drugs.

The UN Convention on Transnational Organised Crime

On 15 December 2000, more than 120 nations signed the UN Convention on Transnational Organised Crime.¹⁹⁸ The Convention provides an international framework aimed specifically at confronting the threat posed by organised crime.

The Convention extends well beyond the sphere of co-operation on drug trafficking. It seeks to strengthen the power of governments in combating serious crimes. The new treaty will provide the basis for stronger common action against money-laundering, greater ease of extradition, and measures on the protection of witnesses and enhanced judicial co-operation. It will also establish a funding mechanism to help countries implement the Convention. An important goal of the instrument is to get all countries to harmonise national laws and to ensure uniformity in the definition of crime.

The Convention includes three relevant Protocols dealing with trafficking in women and children, clandestine immigration and illegal firearms trafficking (the latter is discussed separately below).

The aims of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* are three-fold: to prevent and combat trafficking in persons, particularly women and children; to protect and assist the victims of such trafficking; and to promote co-operation among state parties to meet these objectives.

The *Protocol against the Smuggling of Migrants by Land, Sea and Air* provides an effective tool to combat and prevent the smuggling of human cargo, placing emphasis on the criminalisation of the smugglers and the organised criminal groups behind them.

¹⁹⁶ Resolution 1086 B (XXXIX) of the Economic and Social Council requested the Secretary-General to proceed with arrangements to strengthen the United Nations action in the prevention and control of both juvenile delinquency and adult criminality.

¹⁹⁷ Other aims of the project will include: the establishment and further development of a data bank on organised crime trends, providing information on various aspects of crime and the activities of organised crime groups and the holding of periodical workshops for the analysis and discussion of the collected data and resulting trends.

¹⁹⁸ The Convention will enter into force after 40 countries have ratified it.

The UN Firearms Protocol

In March 2001, after more than two years of negotiations, the Vienna-based UN Economic and Social Council (ECOSOC) Commission on Crime Prevention and Criminal Justice agreed a Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. The Protocol, which is a supplement to the Convention Against Transnational Organised Crime, represents the first global measure regulating international transfers of small arms and light weapons.

The agreement seeks to combat and criminalise trafficking in firearms, through the development of harmonised international standards governing the manufacture, possession and transfer of commercial shipments of these weapons. The agreement will have a significant impact on regional and international measures to combat organised crime and illicit arms trafficking. Its provisions commit states to:

- Adopt legislative measures to criminalise the illicit manufacture, trafficking, possession and use of firearms
- Maintain detailed records on the import, export and in-transit movements of firearms
- Adopt an international system for marking firearms at the time of manufacture and each time they are imported
- Establish a harmonised licensing system governing the import, export, in-transit movement and re-export of firearms
- Exchange information regarding authorised producers, dealers, importers and exporters, the routes used by illicit traffickers, best practice in combating trafficking in order to enhance states' ability to prevent, detect and investigate illicit trafficking
- Co-operate at the bilateral, regional and international level to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms

By increasing co-operation and information exchange, the Protocol will enable governments to effectively identify trafficking routes and build a clearer understanding of the nature and scope of the problem. The development of harmonised marking, licensing and record keeping systems will help law enforcement and customs officials to distinguish legal from illegal shipments of firearms. In many regions of conflict, where the lines between legal and illegal transfers are increasingly blurred, these distinctions will be especially valuable.

4

Deciding on Europe's policy priorities

4.1 Shortfalls in national and international organisations and existing policy responses

The increase in the levels and scale of organised crime in Europe is evidence that law enforcement responses to the problem are failing to keep pace with the developments in criminal activity. The increasing internationalisation, use of new technologies and professionalism of organised crime have rendered it more difficult to detect and apprehend.

The discussions in Sections 2 and 3 raise a number of questions concerning the adequacy of the existing responses, including:

- Is there a need for more research on transnational organised crime?
- Is a more focused evaluation of existing law enforcement strategies necessary?
- Are sufficient resources devoted to combating organised crime?
- Would the creation of specialist law enforcement teams be desirable?
- Should international collaboration and information exchange be improved?
- Should more practical objectives be prioritised?

The need for more research

While there is agreement on the “urgent need to know exactly how much transnational crime exists in the world and how many individuals are involved in this type of criminal activity” in order to better formulate responses to the threat, “the oft cited difficulties of measuring what is essentially secretive behaviour” are an ongoing problem. It must be recognised that while “there will always be a ‘dark figure’ to crime, and this is no less sure for transnational crime”, this should not deter law enforcement agencies from conducting research, and much more could be done to assess the problem with the information that is currently available.¹⁹⁹

Given that “little empirical research is available, and existing studies focus mainly on the national and local impact of transnational crime”,²⁰⁰ it seems clear that as a first step, further research must be undertaken to better understand the nature of the problem currently facing law enforcement bodies. Such research would allow for a

¹⁹⁹ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unitn.it/transcrime/papers.

²⁰⁰ *International Cooperation in Combating Transnational Crime: New Challenges in the Twenty-first Century*, working paper prepared by the Secretariat, Tenth UN Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10–17 April 2000.

more informed assessment of the existing law enforcement strategies, and a more productive distribution of resources and activity.

While research needs to be undertaken on transnational crime in general, and the responses required to bring it under control, attention must also be paid to specific areas only recently affected by crime, such as cyber crime, new financial frauds and trafficking, on which little information is available. Research into the dynamics of these 'new' or newly internationalised crimes is necessary before they can be effectively addressed. In some areas the development of specialisation to assess new trends and dynamics as well as information will be necessary, along with structures that facilitate the development of a body of practical knowledge.

There is also very little information in the public domain on illicit small arms and the issue is often dealt with in the framework of the Cold War arms control debate which fails to recognise the new dynamics of international proliferation and intra-societal diffusion of such weapons. This lack of knowledge makes it difficult to implement internationally co-ordinated and customised countermeasures.²⁰¹

The need to improve evaluation of current law enforcement strategies

According to one expert, the history of transnational co-operation on organised crime can be delineated into three phases. The first was the period in which an awareness of the problem of transnational organised crime first peaked, resulting in the formulation of bi- and multilateral agreements. The second phase is seen as a period of entrenchment, during which the agreements from the first phase "established a broad normative framework for international co-operation in matters of crime and justice". We are currently in the third phase, "in which the efforts of the first two phases need to be evaluated and new efforts, building off of the successes of the past, should be developed that are directed toward well defined objectives".²⁰²

There is also a glaring need for better evaluation of current law enforcement strategies and practices. Evaluation, a key part of effective law enforcement, is particularly relevant to the recent development of transnational organised crime: "In the global village of today law enforcement faces new challenges. Coming to terms with these challenges will require a critical re-appraisal of conventional understandings of police and policing in contemporary society".²⁰³

Evaluation is at present poor or non-existent and "international literature reveals sparse and/or unreliable evaluative information on the impact of transnational crime and the impact of law enforcement efforts against these crimes... Aside from anecdotal accounts of successes, police make little attempt to link their strategies to an empirical measurement of danger or risk".²⁰⁴ Although empirical measurement of police effectiveness against organised crime, particularly internationally, may prove problematic, evaluation must be a pre-requisite for developing best practice policies to be shared among law enforcement agencies worldwide. How are successful policies to be adopted if success is never assessed?

Under-resourcing of agencies

Unfortunately, many of the resources needed to undertake new projects, training, research and policy development, information exchange and institutional development are lacking. Two examples are illustrative. Interpol, arguably one of the most

²⁰¹ 'Pervasive Illicit Small Arms Availability: A Global Threat', Peter Lock, HEUNI Paper No. 14, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999, p 5.

²⁰² 'The organisational framework of European crime in the globalisation process', Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unin.it/transcrime/papers.

²⁰³ 'European Co-operation: Aims and Effects of Schengen & Europol', Jurgen Storbeck, Co-ordinator, Europol drug Unit, European Conference on Drug Couriers, Switzerland, www.penlex.org.uk, 1–5 May 1996.

²⁰⁴ *Structures, Strategies, and Tactics of Transnational Criminal Organisations: Critical Issues for Enforcement*, Margaret E. Beare, presented at The Australian Institute of Criminology, Australian Customs Service, and Australian Federal Police, Transnational Crime Conference, Canberra, 9–10 March, 2000.

The need to create more specialist units to combat specific aspects of illicit trafficking and other areas of organised crime

advanced bodies involved in tackling illicit arms trafficking and host to the only existing international database for stolen and recovered weapons, IWETS, has only one analyst working on firearms trafficking, and “its field offices and staff are underfunded and over-stretched”.²⁰⁵ Second, the OECD collected a considerable amount of information on international co-operation between agencies in a number of fields in Central and Eastern Europe, but was forced to close the database in 1995 due to lack of funds.²⁰⁶

Often, the traditional structures and practices that remain in place hinder, rather than encourage effective police work in the area of transnational crime:

“Transnational crime, particularly those activities in which sophisticated criminal organisations are engaged, calls for law enforcement officers of a professional calibre who can pursue trying financial investigations, investigations which involve tracing tainted money from illegal activity and confiscating assets with the use of high tech computers and software. Unfortunately, except for a few notable cases, law enforcement in most countries has been sorely neglected, with little in the way of investment in high technology and with excessive personnel costs linked to low levels of professionalism and outmoded organisational structures. In short, the only way for nation states to mount an effective campaign against transnational crime is for these countries to introduce their police forces to the same type of professionalism and organisational flexibility that also characterises the criminal organisations which are becoming increasingly troublesome around the world.”²⁰⁷

On the other hand, specialised units appear to be on the increase. In Croatia, for example, the government has proposed a ‘Special Squad’ to combat financial crime, and is expected to “combine intelligence services and federal police... modelled on the Clean Hands operation in Italy that attacked Mafia networks and targeted high-ranking politicians”.²⁰⁸

Similarly, in Canada a new initiative to combat firearms trafficking was announced by the government in January 2001 in an attempt to remedy gaps in traditional policing methods. The Canadian Firearms Centre has established a National Weapons Enforcement Support Team (NWEST), a unit of specialised and experienced individuals who will provide “support to front-line policing, enhancing best practices, in areas where experience is not yet in place as a day to day tool”. The centre was established after high-level consultation across Canada “consistently pointed to a need for better knowledge and training of front line police officers”.²⁰⁹ Training, the development of manuals, the use of databases and of Interpol’s telecommunications system, are all areas where policies to combat various types of organised crime overlap.

In a very different area from firearms, similar conclusions to those reached in Canada on “the need for specialist knowledge” in the field have resulted in international training courses for law enforcement officers in information technology crime.²¹⁰ The areas of ‘new’ crime, such as cyber crime, environmental crime, or sophisticated money laundering, have only recently become areas of increased criminal activity in Europe, activity that requires an increasingly high level of technical expertise. It is essential that law enforcement expertise catches up with that of the criminals in these areas and this will require officers with specialised knowledge in the fields concerned.

²⁰⁵ ‘NATO and Small Arms: From Words to Deeds’, Geraldine O’Callaghan, Michael Crowley, Kathleen Miller, BASIC Research Report 2000.4, BASIC, p 18.

²⁰⁶ ‘Managing International Technical Assistance Projects in Criminal Justice: Experiences with assistance in the reform of crime prevention and criminal justice in Central and Eastern Europe’, Matti Joutsen, HEUNI Paper No. 8, The European Institute for Crime Prevention and Control, affiliated with the UN, Helsinki 1996, p 16.

²⁰⁷ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unitn.it/transcrime/papers.

²⁰⁸ ‘The Balkan Crime Problem’, STRATFOR, www.stratfor.com, 7/9/00.

²⁰⁹ ‘Canadian Firearms Centre establishes NWEST’, <http://canada.justice.gc.ca>.

²¹⁰ www.interpol.int.

Training programmes to this end are being undertaken. Interpol for example, is developing training tools for police working on crimes against children, and earlier this year the European Commissioner Chris Patten announced additional training for Bosnian and other Balkan police forces in an effort to combat migrant smuggling.²¹¹

Another example is related to the UN Convention on the Rights of the Child, which prompted Interpol to make a firm undertaking to improve international co-operation relating to offences against minors. The resolution adopted by the General Assembly in Dakar in 1992 required member states to create a standing working party on child crime to oversee the implementation of a research symposium's recommendations. Since 1993 a Standing Working Party of specialists on child crime has met twice a year. Alongside the research and reassessment of recommendations for action to member states, Interpol has contribution as a professional co-ordinating body on child crime.

“Interpol’s role has been to help Member States by: implementing specially created structures to combat crimes with child victims; improving the existing framework through the development of training tools for police officers; developing ways of exchanging information about such crime and sharing experience. In this way, close co-operation has been initiated between Interpol and major international non-governmental organisations concerned with the protections of the child such as UNICEF, ECPAT and the International Centre for missing or Exploited Children”²¹²

Interpol has also produced a compendium of specific statistics, and a practical guide for police officers dealing with this type of crime, and can be said to now play “a key role in the international protection of the child.”²¹³

The need to improve international collaboration and information exchange

“It takes a network to defeat a network.”²¹⁴

Inter-agency co-operation and information exchange

It is “undisputed by all experts” that the fight against organised crime can take place only if there is “systematic information exchange between international prosecution authorities, as well as an exchange between police investigators and intelligence analysts.”²¹⁵ That this does not happen often enough and on a consistent basis is also undisputed.

Again, there have been some significant achievements through training programmes, and specifically in improving customs and border regimes in some Central European countries. This prompts one analyst to comment that there is “no excuse for not extending this model”.²¹⁶

A recent and high profile example of successful international inter-agency co-operation was the action taken to alert the international community to the threat posed by cell phone guns. As a result of warnings disseminated through Interpol, European border police and customs were put on heightened alert, US authorities were fully briefed with diagrams and detailed information and the resulting airport procedures (including the X-ray of mobile phones) introduced throughout Europe are likely to be adopted internationally.²¹⁷ Inter-agency and inter-police force co-operation this year also achieved success, resulting in the seizure of over 13,000 tonnes of arms and the break up of a “colossal” international arms racket.²¹⁸ The investigation

²¹¹ www.interpol.int; ‘Bosnia’s corrupt elite grow fat on human cargo smuggled to West’, Peter Beaumont, Chris Morris and Mahmut Kaya, *The Observer*, 28/1/01.

²¹² www.interpol.int.

²¹³ *Ibid.*

²¹⁴ ‘Interpol vs. Organised Transnational Crime’, Royal Thai Police commemorative message to mark the 75th anniversary of Interpol, www.police.go.th/interpol.htm.

²¹⁵ ‘Information is the raw material of police work’, Christiane Schulzki-Haddouti, www.heise.de, 27/11/99.

²¹⁶ ‘Rethinking Security’, Chris Donnelly, NATO Review, Winter 2000–2001.

²¹⁷ ‘Deadly Decoys: Cell Phone Guns Discovered’, Lucrezia Cuen, ABC News, 5/12/00, abcnews.go.com.

²¹⁸ ‘Italy foils colossal arms trade’, R. Es, *Milan Il Sole-24 Ore*, 20/4/01.

by the DIA Anti-Mafia Investigation Division and the Turin judiciary was conducted jointly with other European police forces, and reached levels of “unprecedented co-operation” when a Western magistrate was for the first time granted access to the offices of the Kiev General Prosecutor.²¹⁹ Although it is inevitable that ‘single issue’ or ‘single case’ collaboration will be easier than ongoing partnerships, an example of the latter can be seen in the close working relationship Interpol’s Terrorism branch has with civil aviation authorities.²²⁰

The Terrorism branch has also produced a reference work, a ‘Guide to Combating International Terrorism’, an information-exchange technique also adopted by Interpol in the area of information technology crime, on which there is now a computer crime manual.²²¹ Databases are also an important tool in information exchange. Interpol aims to establish a database of criminal organisations and groups, which would be combined with circulars and updates sent to member states, along the same lines as the Interpol Weapons and Explosives Tracking System (IWETS) database. In response to rising levels of gun crime there are plans in the UK to establish a national data bank storing the ballistic fingerprints of all seized firearms, a development which could have enormous benefit if adopted region-wide.²²²

On the question of data collection there is also the problem of too much information and the need to harmonise data collection systems. In addition to the databases described in Section 3 above, there are a number of others in operation or under consideration. For example, the UN Drug Control Programme (UNDCP) and the EU are currently considering establishing a database on international projects in crime prevention for Central and Eastern Europe. The UNDCP is also considering continuing the dumped OECD database mentioned above. The UN Crime Prevention and Criminal Justice Programme has established a global clearing-house on international projects on crime prevention and criminal justice. According to one expert, the existence of so many different clearing-houses has led to “confusion, and also to frustration among practitioners”.²²³

Europol is also working on a new information system, which will allow police officers in Europe to store and search decentralised data, and is expected to put this data “quickly and in high quality” at the disposal of European investigators. The new Europol information system is to be installed in 2001 and will begin operation in 2002. The common data pool will also support “strategic analyses and the development of possible risk and threat analyses”.²²⁴ In addition to databases, Interpol has developed a telecommunications system, which facilitates co-operation with other organisations fighting crime that use the same system, such as the Task Force on Organised Crime in the Baltic Sea Region, a relationship that Interpol promotes as “a good example of how co-operation can be organised”.²²⁵

The advantages of person-to-person information exchange

The agencies of the Schengen Convention, a mechanism designed precisely to facilitate cross-border co-operation, are aware of the problems of collaboration. However, steps are being taken to combat the noted lack of co-operation with increased information-exchange. In the area of internal border control plans are being drawn up for the “deployment of document advisers at airports and seaports and at consular representatives in third countries”, and the “secondment of liaison officers to advise and assist

219 Ibid.

220 www.interpol.int.

221 Ibid.

222 ‘Gun killings double as police claim progress’, Adam Mitchell, *The Daily Telegraph*, 17/8/01.

223 ‘Managing International Technical Assistance Projects in Criminal Justice: Experiences with assistance in the reform of crime prevention and criminal justice in Central and Eastern Europe’, Matti Joutsen, HEUNI Paper No. 8, The European Institute for Crime Prevention and Control, affiliated with the UN, Helsinki 1996, p 16.

224 ‘Information is the raw material of police work’, Christiane Schulzki-Haddouti, www.heise.de, 27/11/99.

225 www.interpol.int.

with the performance of security and control tasks at the external borders”²²⁶ The Interpol Drugs Sub-Directorate and the Canadian NWest initiative also support the person-to-person exchange of information and advocate working meetings on key issues. With regard to new initiatives in the area of international access to data, the G8 states have set up a 24-hour “point of contact network”, which all EU and Council of Europe states have been invited to join.²²⁷ The Swedish police also share the view that the stationing of liaison officers abroad have proved a “very effective” form of international co-operation in combating crime, a measure which “creates the preconditions for personal and direct contacts with foreign police, which experience shows are very important for the success of the co-operation”²²⁸

The FBI also puts great store in what it terms ‘cop-to-cop’ relationships, a core element of its response to international crime, which includes Legal Attachés posted in US embassies and international law enforcement academies and international training programmes. The FBI also has three representatives at the Southeast European Co-operation Initiative (SECI) Centre, a law enforcement initiative on trans-border crime, with a focus on organised crime. The SECI Centre in Bucharest brings together a police and customs officer from each of the participating countries. The offices of the Centre serve as an information exchange point and clearinghouse for all SECI ‘national focal points’ and the regional task forces, allowing representatives from all twelve countries to literally work together on cross-border crime.

Projects undertaken by Saferworld, in Southern Africa as well as Europe, have also found meetings to be an extremely useful method of information exchange, through which personal relationships between national agencies can be built. An earlier Saferworld study of collective efforts to tackle illicit trafficking in conventional arms found a striking lack of co-ordination between officials working to prevent trafficking, and recommended the development of a programme to enhance personal contacts among officials.²²⁹

Indeed, it seems that in many cases individual contacts are utilised more frequently and successfully than formal mechanisms. The co-operation which does take place between police forces and prosecutors “often occurs at an informal level, owing to the capacities and goodwill of individual officers rather than the mechanisms prepared and implemented under international agreements”, and if comparisons were drawn between the effectiveness of the two methods of co-operation both in terms of crime reduction and expenditure “the outcome would certainly be much in the favour” of informal contacts.²³⁰ Effective and improved collaboration between national police forces and other agencies requires more person-to-person contact than is supported by existing mechanisms.

Collaboration and information exchange with industries affected

Many aspects of work to combat transnational organised crime require law enforcement bodies to collaborate with civil agencies or sectors, for which training should also be a priority. There are calls, for example, for financial institutions to have more anti-fraud and anti-laundering training.²³¹ At present, many companies appear reluctant to report computer-related crime to the authorities, due to their “fear of having weaknesses in their computer systems revealed, with resultant damage to their

²²⁶ ‘Where now for accountability in the EU?’, Statewatch News online, www.statewatch.org, 7/3/01.

²²⁷ ‘EU-FBI telecommunications surveillance plan: Secret services and G8 intervene’, Statewatch Bulletin Vol. 9, No. 6, www.statewatch.org, November-December 1999.

²²⁸ ‘International Police Work – Liaison Officers’, website of The Swedish Police, www.police.se.

²²⁹ ‘Tackling Illicit Trafficking in Conventional Arms: Strengthening Collective Efforts by EU and Associate Countries’, Saferworld, April 1999, p 7.

²³⁰ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unitn.it/transcrime/papers.

²³¹ *Short Report on Wilton Park Conference 625, ‘Trans-national Organized Crime: new Threats and new Responses?’*, 29–31 January 2001.

company image”²³² This reluctance must be overcome through improved co-operation and awareness raising between law enforcement and the commercial sector.

Collaboration often hampered by lack of political will

However, it still seems that a lack of political will is one of the main obstacles to improved collaboration. With regard to human trafficking for example, one official complained earlier this year that, “we can’t persuade the authorities to stamp it out. It would be easy if the international community was really bothered”²³³ As noted above, there is similar concern over the apparent nonchalance of much of the international financial sector and its regulatory organisations in combating organised economic crime. Critics note that “what makes organised crime so great a security problem is not only its scale, exportability, but also its acceptability... most western financial centres welcome money from central and eastern Europe and do not examine its provenance too closely.”²³⁴

In spite of the successes of joint force policing and international partnerships, a dramatic example of which was the recent sentencing of Alfonso Caruana and his associates, the ‘Rothchilds of the Mafia’, a lack of co-operation remains the norm.²³⁵ A former Co-ordinator of the Europol Drugs Unit noted that, “criminality has no boundaries – but law enforcement does”²³⁶ Police forces nationally and internationally continue to be criticised for the lack of collaboration, sharing of information and co-operation across separate policing jurisdictions. Many within the police are ready to admit this, as Gunnar Hierner, Detective Superintendent of the Swedish Police Board, states, “There is still no prompt co-operation between countries”: Hierner sees the main task in combating organised crime to be collaboration between representatives of the police.²³⁷ Gherardo Colombo, a magistrate of the Milan Tribunal, agrees, noting that: “It is also difficult to receive information from some countries... Sometimes we have to wait a long time for an answer to our international requests”²³⁸ (See Section 4.5 for more on inter-police force collaboration.)

The need for practical policies and achievable goals

It seems that with regard to policies to combat transnational organised crime everyone can agree on the ‘mantra’ of co-ordination. However, in practice, attempts to co-ordinate international co-operation seem to be merely attempts to determine the scope and extent of such co-operation.²³⁹ This may be due to a lack of understanding of the full implications organised crime can have for the security and economies of states, with many national security services continuing to relegate organised crime penetration to their police forces and failing to appreciate it as an issue of national security.²⁴⁰ Academic papers emphasise that “the awareness of far-reaching consequences of tolerating criminal economic activities for the diffusion of armed violence is still underdeveloped”²⁴¹ and commentators note the “apparent complacency” of EU states with regard to the spread of organised crime.²⁴²

²³² Three EU governments – UK, France and Belgium – press ahead with 12 months retention of telecommunications data – ditching citizens’ rights on data protection and privacy under EU law’, Statewatch news online, www.statewatch.org, 3/5/01.

²³³ ‘Bosnia’s corrupt elite grow fat on human cargo smuggled to West’, Peter Beaumont, Chris Morris and Mahmut Kaya, *The Observer*, 28/1/01.

²³⁴ ‘Rethinking Security’, Chris Donnelly, *NATO Review*, Winter 2000–2001.

²³⁵ *Structures, Strategies, and Tactics of Transnational Criminal Organisations: Critical Issues for Enforcement*, Margaret E. Beare, presented at The Australian Institute of Criminology, Australian Customs Service, and Australian Federal Police, Transnational Crime Conference, Canberra, 9–10 March, 2000.

²³⁶ ‘European Co-operation: Aims and Effects of Schengen & Europol’, Jurgen Storbeck, Co-ordinator, Europol drug Unit, European Conference on Drug Couriers, Switzerland, www.penlex.org.uk, 1–5 May 1996.

²³⁷ ‘Mafia Moves’, Slavka Blazsekova, www.jmk.su.se/jmk/eurorrep.

²³⁸ ‘The fight of a magistrate’, Ubaldo Cordellini, www.jmk.su.se/jmk/eurorrep.

²³⁹ ‘Managing International Technical Assistance Projects in Criminal Justice: Experiences with assistance in the reform of crime prevention and criminal justice in Central and Eastern Europe’, Matti Joutsen, HEUNI Paper No. 8, The European Institute for Crime Prevention and Control, affiliated with the UN, Helsinki 1996.

²⁴⁰ ‘Rethinking Security’, Chris Donnelly, *NATO Review*, Winter 2000–2001.

²⁴¹ ‘Pervasive Illicit Small Arms Availability: A Global Threat’, Peter Lock, HEUNI Paper No. 14, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999, p 29.

²⁴² ‘The Mediterranean Matters – More Than Before’, Dr Claire Spencer, *The World Today*, March 2001.

A typical example of the lack of practical moves forward was the Feira European Council in June 2000, at which the dangers of transnational organised crime were highlighted. The Common Strategy on the Mediterranean resulting from the meeting is described as “a meandering vision”, falling far short of the necessary practicalities for dealing with the dangers of organised crime. These concrete steps fell into “the wait-and-see camp” and instead the Strategy reiterated “well-known technical assistance and reform provisions”.²⁴³

4.2 Identifying policy priorities – who should decide?

*“By clearly identifying the goals and methods of effective co-operation, the danger that this activity might descend into mere ritualism or fall prey to the pursuit of political interest by individual nations is made more remote”.*²⁴⁴

On the basis of the above discussion, priorities in the fight against organised crime might be:

- **Research**, to identify the threat posed by transnational organised crime and appropriate policies and collaboration strategies (especially in relation to the particular risks inherent in EU expansion)
- **Co-ordination** of agencies and states involved, ensuring that there is no duplication of effort, and that efforts achieve optimal success through a sensible and clear delineation of responsibilities and roles
- Establishment of new, or improvement of existing mechanisms for efficient **information exchange** to support co-ordination and facilitate transnational projects
- **Legislative reform**, where necessary, to allow effective harmonisation of national efforts and international agencies, such as Europol and Interpol, taking civil liberties into account in the extension of powers to law enforcement
- **More resources** (a proper cost benefit analysis of this issue would surely merit more funding)
- **Training and restructuring**, where necessary, of law enforcement bodies so that they can adapt traditional practices to new challenges

A similar list of priorities has been identified by the former Co-ordinator of Europol Drugs Unit, now Europol Director, Jurgen Storbeck:

- Legal assistance channels – these need to be more rapid
- International information systems – on-line, effective and rapid
- International analysis – using harmonised analytical methods
- International co-ordination – with Europol assuming this role
- Investigations against international organised crime need to be conducted at an international not national level
- Harmonisation of criminal law – penalties for the same crime should be uniform throughout the EU, and establishment of new common laws for new forms of criminality²⁴⁵

The question of who decides on these priorities is rarely considered, however. Within nation states it will usually be governments in co-operation with legal and operational experts. At the intergovernmental level within Europe it will be a combination of national governments and EU institutions, with operational insights provided by

²⁴³ ‘The Mediterranean Matters – More Than Before’, Dr Claire Spencer, *The World Today*, March 2001.

²⁴⁴ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unin.it/transcrime/papers.

²⁴⁵ ‘European Co-operation: Aims and Effects of Schengen & Europol’, Jurgen Storbeck, Co-ordinator, Europol drug Unit, European Conference on Drug Couriers, Switzerland, www.penlex.org.uk, 1–5 May 1996.

agencies such as Europol. At the global level UN agencies and initiatives are also influential. Thus, international conventions and EU directives tend to set out common principles that are then adopted into national legislation.

The multi- and bilateral agreements that have been concluded on specific and general aspects of crime have “created a normative framework within which international co-operation on crime and criminal justice issues may be joined”.²⁴⁶ This is ‘no mean development’ as real co-operation between national agencies can only be possible when some agreement has been achieved on acceptable standards and norms for behaviour. Many countries have now begun to adapt national legislation in line with the international agreements: “The result of this transformation of the ‘soft laws’ of the international conventions into the ‘hard laws’ of the nation states has been a firm basis for fighting organised crime, drug trafficking and money laundering”.²⁴⁷

Which institution(s) should have the primary role – a case for ‘super agencies’?

Is there a case for developing one of the existing EU institutions or agencies, Europol for example, into an EU-wide ‘super agency’? In matters of co-ordination and data processing, there seems to be a strong case for doing so, but there are very real practical and legal difficulties (including sovereignty, mandate and civil liberty issues – see below). Perhaps an alternative option could be the development of a ‘super mechanism’. This might mean, for example, an enhanced Schengen type arrangement to facilitate and co-ordinate criminal justice and related security activities.

The EU clearly has a crucial role to play in the response to transnational organised crime. Lines are already being drawn across Europe, not on the basis of NATO or EU enlargement, but “on the basis of administrative business practices, and the extent to which these meet established standards of honesty and transparency”.²⁴⁸

The EU has the mandate to address most of the issues related to non-military security threats, and “has made progress in some areas, such as strengthening border regimes and justice ministries in central and Eastern Europe”. However, “many issues still need to be addressed within the EU in order to ensure a more effective response”,²⁴⁹ and there are fears that “it will be many years before the EU’s central institutions are equipped to deal with them”.²⁵⁰ This is not to say that the EU will not be able to make significant contributions to efforts to combat transnational organised crime in the immediate term. The full adoption and implementation of existing summit decisions (such as the Tampere summit) and directives would be a good start. Similarly, the resolution of the numerous questions relating to Europol will be the key to progress.²⁵¹

While there is plenty of evidence to support the view that police forces of different countries have managed to co-operate effectively in many areas, it is hard to deny that, “the European system of ruling against organised crime remains confused”.²⁵² The state of play of regulations regarding money laundering provides a good example of the status quo. The European Commission’s directive 308/91 (described in Section 3 above) has been accepted by most of the Community, but there remain problems of co-ordination and implementation. Another problem concerns the internal laws of EU countries: only Italy, Germany, Belgium, Ireland, the Netherlands and the UK have national regulations on money laundering. Confusion over other international regulations, such as the UN Convention of Vienna and the European Council’s convention of

²⁴⁶ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unitn.it/transcrime/papers.

²⁴⁷ *Ibid.*

²⁴⁸ ‘Rethinking Security’, Chris Donnelly, *NATO Review*, Winter 2000–2001.

²⁴⁹ *Short Report on Wilton Park Conference 625, ‘Trans-national Organized Crime: new Threats and new Responses?’*, 29–31 January 2001.

²⁵⁰ ‘Rethinking Security’, Chris Donnelly, *NATO Review*, Winter 2000–2001.

²⁵¹ *Short Report on Wilton Park Conference 625, ‘Trans-national Organized Crime: new Threats and new Responses?’*, 29–31 January 2001.

²⁵² ‘The Mafia turns its attentions to conquering the new markets opened with the easing of borders between Western and Eastern Europe’, Alessandro Crocetta and Ubaldo Cordellini, www.jmk.su.se/jmk/eurorep.

Strasbourg, neither completely adopted nor ratified, adds to the difficulties of full co-operation between member states in the fight against laundering.²⁵³

A Europe-wide fight against crime is also hindered by the differences over Europol itself. Germany wants a federal structure for the European FBI, while France favours a national organisation. Some believe this lack of co-ordination, or even agreement, is “made worse because the EU has no judicial authority”.²⁵⁴ The pressing and now widely recognised need for global co-ordination, for “partnerships or multi-agency co-operation” in the face of transnational crime, will inevitably be frustrated if co-ordination cannot be achieved even within regional bodies.²⁵⁵

There are a number of other question marks over Europol, including the appropriate number of languages it is productive to work in; the need to effectively implement common training and work towards joint teams and task forces; the problem of a limited investigative role in situations where no one national force will have competence, eg Euro counterfeiting (the Hague Tribunal could provide a useful model); and the need to clarify the linkages between European Commissioner for Justice and Home Affairs and Europol under EU’s inter-governmental 3rd pillar.²⁵⁶

Officials from European governments have admitted that Europe has not done enough in the fight against organised crime. As Thomas Bodstroem, the Swedish Justice minister, commented: “The EU and the US have to be the driving force in the international efforts in the fight against crime. And from the EU side, I have to admit that we have not yet fully taken our responsibility in that regard”.²⁵⁷

The expansion of the EU’s borders to include Central and Eastern European countries will also increase the opportunities for international collaboration in the face of this threat. The EU must ensure, however, that whatever action it takes regionally is co-ordinated with international efforts to prevent organised crime. At present, the EU is failing to address “the extent to which illegal activities within the peripheral regions of Europe are now interlinked, from Central Asia, the Caucasus, through the Balkans to the western Mediterranean”; it has no transregional strategy to combat transnational organised crime, which by nature operates across regions and traditional external policy boundaries.²⁵⁸

4.3 Possibilities for greater internal and multilateral co-operation and information sharing

Problems and benefits of inter-agency collaboration

Without clear agreement on what the international community is trying to achieve, the prospects for an effective strategy are “negligible”, as law enforcement personnel instinctively tend to “focus less on strategy than on reactive, parochial responses”.²⁵⁹ This tendency must be overcome if comprehensive strategies to counter the new non-military threats to security are to be developed, and “these can only be developed if key people from government, law-enforcement agencies and research institutes come together”.²⁶⁰

There is a clear need for co-ordination of responses to organised crime, to increase their effectiveness, avoid duplication, share information and expertise, develop best practice and increase law enforcement agencies’ understanding of the new

²⁵³ ‘EU Initiatives’, Alessandro Crocetta, www.jmk.su.se/jmk/eurorep.

²⁵⁴ *Ibid.*

²⁵⁵ ‘Effective Crime Prevention: keeping pace with new developments’, Working paper prepared by Secretariat, 10th UN Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10–17 April 2000.

²⁵⁶ *Short Report on Wilton Park Conference 625, ‘Trans-national Organized Crime: new Threats and new Responses?’*, 29–31 January 2001.

²⁵⁷ ‘Global Crime Gangs Exploit Loopholes’, 24/1/01, <http://news.bbc.co.uk>.

²⁵⁸ ‘The Mediterranean Matters – More Than Before’, Dr Claire Spencer, *The World Today*, March 2001.

²⁵⁹ ‘Anticipating instead of Preventing: Using the Potential of Crime Risk Assessment in Order to Minimize the Risks of Organised and Other Types of Crime’, Seppo Leppä, HEUNI Paper No. 11, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999.

²⁶⁰ ‘Rethinking Security’, Chris Donnelly, *NATO Review*, Winter 2000–2001.

phenomenon of transnational organised crime and other 'new' crimes that have only recently become a serious problem. One of the biggest obstacles to co-ordination is the number of competing agencies that undertake work in this area. The very nature of the phenomenon of transnational organised crime increases this problem, as its activities have begun to fall into the category of security, thus attracting institutions normally dealing with defence issues. Particularly in areas such as border control and weapons proliferation, the involvement of these security agencies is vital. However, it presents the challenge of co-ordination between previously secretive institutions that have traditionally played a non-collaborative role. The UK, for example, is the only EU member state to give an official, legal mandate to its security service, MI5, to assist police in their crime role.²⁶¹

Co-operation is needed not only between different national law enforcement forces, and different agencies within the same country, but also between teams or units working on different types of crime. The strong links between smuggling of various commodities is, for example, clearly established, yet funding and organisational structure often prohibits the sharing of valuable information and collaborative projects. Drug units are traditionally distinct from other departments of law enforcement agencies, yet statistics show that drug trafficking is closely associated with illicit firearms crime and smuggling of other commodities, such as weapons, migrants or stolen cars, and that the same routes and criminal groups tend to be used for a variety of illicit commodities.²⁶² However, earlier this year in the UK, an additional £90 million was granted to law enforcement agencies over the next three years for the combating of organised crime – the money will go towards drug trafficking and people smuggling, but will not specifically include arms smuggling.²⁶³

This example of 'joined-up' government, although laudable, could have gone further²⁶⁴ – particularly as illicit firearms are not only a trafficked commodity, but are also the criminal groups' means of establishing power and protecting their routes. The upgrading of equipment available to customs and border officials, and training programmes for customs and law enforcement, could be designed to combat not just drug trafficking for example, but a number of related crimes that operate through similar processes and criminal groups. Crosscutting initiatives would make a valuable contribution to increased effectiveness of law enforcement, and the best use of scarce resources.

4.4 The likely consequences of European integration (and EU enlargement) – new structures and networks?

EU expansion will provide opportunities for the expansion of crime, both within and without its borders. Within its new borders transnational organised crime will benefit from widened markets and supply bases for illicit business and relaxed controls on the movement of goods and people. For organised criminal groups based outside the new borders, access may be facilitated by the extension of EU frontiers to states whose resources for border control and law enforcement may be limited.

The NCIS UK Threat Assessment on Serious and Organised Crime 2000 judges that through EU expansion "opportunities may arise for criminals from the UK, the new

²⁶¹ 'EU-FBI telecommunications surveillance plan: Secret services and G8 intervene', Statewatch Bulletin Vol. 9, No. 6, www.statewatch.org, November–December 1999.

²⁶² See Section 2 for further discussion. NCIS data estimated that while drug trafficking was by far the most likely activity to be undertaken by organised crime groups (56 percent), arms and munitions trading was undertaken by 10 percent of all organised criminal groups, and 18 percent of drug trafficking groups engaged in arms trading as a secondary activity. "NCIS UK Threat Assessment on Serious and Organised Crime 2000," National Criminal Intelligence Service (NCIS), <http://www/ncis.co.uk>.

²⁶³ 'Fight against organised crime to receive significant financial boost', Home Office News Release, 5/4/01.

²⁶⁴ The UK government has estimated the total cost of proposed law enforcement activities to increase control over brokering in the UK to be £700,000–800,000 in the first year, and £470,000–570,000 in subsequent years ('Consultation on Draft Legislation: the Export Control and Non-Proliferation Bill', DTI, March 2001, p 45, para. 54). The additional £90 million funding announced by the UK government in April 2001 for law enforcement agencies to tackle organised crime over the next three years will be targeted towards combating drug trafficking and people smuggling. The cost estimated by HMG to deal with the additional licence applications, at £1,640,000–1,940,000 for the next three years, amounts to approximately 2 percent of the extra funds recently allocated to combat drugs trafficking and people smuggling.

entrant states and elsewhere”²⁶⁵ The report expresses concern that “if border controls in the new entrant countries are lax” they might be used as transit points for illegal immigrants and for illegal goods coming into the EU from outside, particularly since some of the candidate countries have been identified by EU law enforcement as markets and transit points for illegal goods.²⁶⁶ In addition, “a wider and more open market raises risks concerning illicit trade and evasion of excise duties and VAT”, more applications for financial support from EU funds provide more scope for fraud and the new single currency will be potential material for counterfeiters.²⁶⁷

The concern within the EU has been sufficient to justify a Pre-accession Pact on Organised Crime for Central and Eastern European countries (see the discussion in Section 2 above).²⁶⁸ Formally adopted by the Council and the 11 applicant countries on 28 April 1997, the Pact involves practical measures for combating organised and serious crime, including trafficking and migrant smuggling, the exchange of liaison officers, joint investigative activities and special operations carried out with Europol’s support. For their part, applicant countries have agreed to adopt and implement the 1959 European Convention on Mutual Assistance in Criminal Matters and various other conventions mentioned in the 1997 Amsterdam Action Programme. In a report by the High-Level Group on organised crime (set up in 1996 by the European Council) an action plan to combat organised crime set out the following goals:

- More effective implementation of instruments already adopted
- Strengthening of practical co-operation on the one hand and where necessary, a degree of approximation or harmonisation of legislation on the other
- Bringing judicial co-operation to a level comparable to police co-operation
- Enhancement of the role of Europol, including an in-depth study by the Council of the place and the role of judicial authorities in their relations with Europol, in step with the enlargement of Europol’s competencies
- Closer co-operation with other countries, in particular candidate countries, international organisations and relevant bodies
- Further development of instruments of prevention²⁶⁹

4.5 Structural and legal changes to justice system

The transnational expansion of organised crime requires a corresponding expansion of international law, law enforcement and criminal justice. There are however, “grave difficulties involved with putting such a policy suggestion into practice”²⁷⁰ In addition to the problems of co-ordination and information exchange (noted earlier in Section 4.1 and 4.3), differences in the traditions, structure and culture of national criminal justice systems also present obstacles to effective international responses to organised crime.

Differences in legal tradition, compounded by deep cultural differences, particularly with regard to the trade off between human rights and the effectiveness of criminal sanctions, make “full and stable international co-operation in the area of crime and justice troublesome”. In particular, differences in the structure of national legal

²⁶⁵ *NCIS UK Threat Assessment on Serious and Organised Crime 2000*, National Criminal Intelligence Service (NCIS), www.ncis.co.uk, p 48.

²⁶⁶ “Already some of the candidate countries have been identified by EU law enforcement as markets for stolen vehicles, transit points for large-scale cigarette smuggling and transshipment routes for drugs... sources of counterfeit and pirated goods.” *NCIS UK Threat Assessment on Serious and Organised Crime 2000*, *Ibid.* p 49.

²⁶⁷ *Ibid.* p 49.

²⁶⁸ On 28 April 1997 the Council of the EU adopted an action programme against organized crime [Official Journal C 251, 15.08.1997] setting out a range of measures to be taken over the following two years. These included the signing of a pre-accession pact on this subject with the States of Central and Eastern Europe and Cyprus.

²⁶⁹ ‘Justice and Home Affairs Co-operation’, Bulletin EU 4-1997, <http://europa.eu.int/abc/doc/off/bull>.

²⁷⁰ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unittn.it/transcrime/papers.

systems mean that the harmonisation of laws, often required by multi- or bilateral agreements, are “difficult at best”.²⁷¹ Efficient co-operation is rare:

*“international criminal inquiries have traditionally been and are subject to, slow bureaucratic procedures full of legal, political and administrative red tape. It simply gives suspects enough time to destroy evidence, move the proceeds of crime to a safer place or even escape. Worse still, normal procedures give no control over who does what, who handles the enquiry, and how much information is passed on. Without firm guarantees over confidentiality, sensitive information is unlikely to be passed between member states. Only in a handful of cases could one expect to obtain all the relevant information available from law agencies abroad.”*²⁷²

Differences in the organisational patterns of law enforcement and justice also complicate transnational co-operation as the patterns of interaction between different actors in the criminal justice system vary between different countries. Moreover, given the increase in European integration and increasing internationalisation of organised crime, police forces from several states are often involved in the detection and prosecution of perpetrators, and discrepancies in practice, governed by differing national regulations, can sometimes ‘tarnish’ evidence or result in a failed prosecution.

Where several police forces from different countries are working to collect evidence, make arrests and sentence criminals, only one state will, as a rule, ultimately prosecute and try a suspect or implement a sanction. This ‘prosecuting’ state will in general be the judge of the legitimacy of evidence used in the trial. It is therefore “important to determine with the utmost care whether, where, when, how or against whom certain tracing techniques or methods of coercion are to be used; it is also of major importance to decide which suspects are to be brought to trial where”. These steps should be taken at a pre-judicial, early stage of the investigation: unfortunately however, this “rarely happens at the moment”.²⁷³

Failure to determine exactly what procedures must be followed can jeopardise a prosecution as disparities in regulations concerning the admittance of evidence, the methods used in gathering that evidence and any methods of coercion, such as house searches, seizures or arrests, can result in inadmissible evidence or an unlawful arrest according to the law of the prosecuting state. The actions of police working in one country, in total accordance with their national regulations, may result in an arrest or evidence that carries no weight in the law courts of the country where the criminal is brought to trial. It is, for example:

*“not easy to know if it is allowed to use or even only carry certain technical tools such as cameras or pointing-microphones at the occasion of a cross-border observation. Application of the exclusionary rule in cases where police standards apparently do not meet the applying judicial rules in a certain country may have a very frustrating effect on police officers that have been working on these cases.”*²⁷⁴

It is therefore essential that there is early agreement between police forces co-operating in an investigation of the regulations to be followed in evidence gathering, the coercive methods permitted and the final arrest and prosecution. In the immediate term this problem can be addressed on a case-by-case, bi- or multilateral basis, between the individual police forces involved. This is however only a very short-term solution, which will only solve a part of the problem, as in many cases police forces may not realise they are pursuing or investigating the same individuals. In addition, such ad hoc agreements would not address the unforeseen involvement of customs officials, intelligence agencies or law enforcement agencies in other countries not party to the

²⁷¹ Ibid.

²⁷² ‘European Co-operation: Aims and Effects of Schengen & Europol’, Jurgen Storbeck, Co-ordinator, Europol drug Unit, European Conference on Drug Couriers, Switzerland, www.penlex.org.uk, 1–5 May 1996.

²⁷³ ‘Pre-judicial (Preventive) Structuring of International Police Action In Europe’, Gert Vermeulen, College of Police and Security Studies, Slovenia, www.ncjrs.org/policing, 1996.

²⁷⁴ Ibid.

agreement in the event that suspects move quickly from country to country. Any permanent solution must involve the structuring of operational European police co-operation at a pre-judicial stage, a move forward that would represent “a crucial step towards an integrated and effective criminal law enforcement system, which at the same time [would offer] the necessary guarantees”.²⁷⁵

Harmonisation of national criminal legislation

Equally essential in the prosecution of transnational criminals is the harmonisation of national legislation. This is particularly needed in areas of ‘new’ crime, such as cyber crime or human trafficking, where an action that may be considered criminal in one country may be legitimate in another.

The law on cyber crime for example is “quite underdeveloped and... this state of affairs leaves the Internet virtually beyond the control of regulators”. Indeed, unlike statutes relating to other criminal acts, it appears that under the national laws of European countries, “there is no obligation on the victims of computer-related crime to report the offence”.²⁷⁶ The majority of countries “have no legislation aimed at the perpetrators of computer-related or cyber crime at all, while others have only weak statutes”.²⁷⁷ This poses a serious problem for any meaningful investigation of prevention of cyber crime, as “a typical cyber investigation can involve victim sites in multiple states and often many countries, and can require tracing an evidentiary trail that crosses numerous state and international boundaries”.²⁷⁸ The lack of any coherent legislative position on cyber crime presents “a major obstacle for international co-operation on the subject since countries without computer crime laws of their own are often reluctant to devote significant resources to stemming the problem at the international level”.²⁷⁹

Even when the national legislation of states agrees that a certain act is a crime, for example arms smuggling, discrepancies between national legislation pose another barrier to law enforcement and potential opportunities for criminals. Penal legislation for example, has great potential for impacting favourably on the cost-benefit equation of crime: if penalties or prison sentences are high then the costs of a crime may well be greater for potential criminals than the benefits.

Although migrant smuggling is considered criminal activity by the vast majority of states in Europe, in “many countries, trafficking in aliens is not even considered a crime and in others it is only lightly penalised”. Even in Western European states, “sanctions against human smuggling often do not exceed a two year term of imprisonment and sometimes they simply amount to fines”.²⁸⁰ Migrant smuggling provides a clear example of a case where the penalties are disproportionately light compared with the gravity of the offence, and the deterrence potential of more serious sanctions and prison terms is not being fully utilised. Calls for collaborative action to stop the practice, through which it is estimated some two million women and children are sold into the sex trade every year, continue.²⁸¹ (See Section 3 for information on a recent UK-Italian initiative.)

In some countries, there is also a strong case for arms trafficking penalties to be increased. In the US for example, gun-running has far lighter penalties than drug

²⁷⁵ Ibid.

²⁷⁶ ‘Three EU governments – UK, France and Belgium – press ahead with 12 months retention of telecommunications data – ditching citizens’ rights on data protection and privacy under EU law’, Statewatch news online, www.statewatch.org, 3/5/01.

²⁷⁷ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unict.it/transcrime/papers.

²⁷⁸ ‘The NIPC’s International Response to Cyber Attacks and Computer Crime’, Statement by Michael A. Vatis, Director of the National Infrastructure Protection Centre (NIPC), FBI, before the House Committee on Government Affairs, Subcommittee on Government Management, Information, and Technology, 26 July 2000, www.fbi.gov.

²⁷⁹ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unict.it/transcrime/papers.

²⁸⁰ Ibid.

²⁸¹ ‘Modern slave trade must stop, says Freeh’, BBC, CNN, ISN Security Watch, www.isn.ethz.ch, 23/5/01.

trafficking, despite the fact that illicit firearms allow drug cartels to conduct and protect their operations: “violation of some US gun laws – for example, falsifying gun-sale records – are mere misdemeanours that rarely lead to long prison terms”.²⁸² In the UK the need for stricter penalties appropriate to the crime has been recognised, and the DTI is proposing that punishment for brokering or trafficking arms should be increased from seven years to ten.²⁸³

Crime risk assessment and preventive action

There is overwhelming agreement that the majority of current law enforcement strategies would benefit from increased international co-operation and collaboration (see Section 4.3 above), and differing national laws and regulations in various spheres (customs, tax, judicial prosecution, confidentiality and surveillance, financial regulation, drugs, etc.) present obstacles to such collaboration and opportunities for criminals. However, there is a risk that changes to legislation, from national regulations to criminal statutes, may result in increased levels of crime. Changes to revenue legislation for example, designed to address problems such as bootlegging,²⁸⁴ may inadvertently allow criminals alternative loopholes to exploit. While there is a strong case for legislative change in several areas, any change to current legislation should be thoroughly evaluated before it is enacted.

Evaluation of existing penal legislation is necessary to identify reform that could support law enforcement efforts to control crime. However, evaluation of proposed new legislation is equally key to crime prevention. Indeed, a need has been identified for ‘preventive’ action with regard to crime as a whole.²⁸⁵ ‘Anticipating instead of preventing’ is particularly relevant to transnational organised crime, where groups are established and flexible enough to quickly take advantage of any new opportunity presented by changes in legislation, business practices or import/export tariffs for example.

This approach is especially pertinent to legislative reform. The main risk categories for law reform are: money laundering; corruption; purposeful infiltration of legal business; and falsification of documents, including new currency notes such as the euro. Instead of designing reparative preventive steps when a problem is already established and ongoing, the drafting of any new national or transnational reform should take into account any potential loopholes or repercussions that could facilitate criminal activity or provide a new market for criminals. It is also essential that the transnational aspect of any legislation is fully assessed. Such anticipatory assessment does not often happen, and there is a knowledge gap between those usually responsible for drafting new legislation and those with a background in criminology or with practical experience of law enforcement in the area to be affected by reform. There is a need to combine the expertise of lawyers and practitioners, and to ensure full consultation at an early stage in the drafting of new legislation. One suggestion to facilitate this kind of anticipatory crime risk assessment is the development of a methodological tool, such as the Environmental Impact Assessment (EIA) instrument.²⁸⁶

Extension of law enforcement powers

The nature of organised crime, where core nominals or organised crime ‘super bosses’ are often so far removed from the actual crimes committed that they cannot be prosecuted, has led to calls for legislative change to the powers granted to law enforcement agencies in their pursuit and prosecution of criminals, in particular civil

²⁸² ‘US guns smuggled into Mexico aid drug wars’, Tim Weiner and Ginger Thompson, *New York Times*, 19/4/01.

²⁸³ ‘Longer jail terms proposed for arms offenders’, Andrew Parker, *Financial Times*, 26/3/01.

²⁸⁴ In the UK, “bootlegging is the fastest-growing criminal activity of all, because of the increasing disparity between alcohol and tobacco taxes in Britain and Europe... More than £2.5 billion is being lost in tax revenue each year from tobacco smuggling alone, nearly a third of the amount lawfully collected.” ‘The Untouchables’, *The Economist*, 19/4/01.

²⁸⁵ ‘Anticipating instead of Preventing: Using the Potential of Crime Risk Assessment in Order to Minimize the Risks of Organised and Other Types of Crime’, Seppo Leppä, HEUNI Paper No. 11, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Helsinki 1999.

²⁸⁶ *Ibid.*

forfeiture and surveillance powers. In many cases legal requirements for prosecution of criminals are seen as inhibiting police and other law enforcement bodies attempting to apprehend criminals, and agencies are pushing for reform. It is however essential that any such reform is subject to anticipatory crime risk assessment.

The UK's NCIS "supports civil forfeiture legislation as a method of targeting illegally generated assets and exercising leverage over powerful criminals"²⁸⁷ but also accepts that this may have unintended consequences, recognising the need for preventive anticipatory action, and at the least knowledge dissemination. Criminals are likely to plan for impact of civil forfeiture laws, developing increasingly sophisticated efforts to launder money. The effects of successful implementation of initiatives, legal or otherwise, against organised crime groups must also be considered: for example, if major networks are dismantled, there is the potential for a rise in smaller groups or new offenders, who fill the new gaps in the market with new patterns of conflict or collaboration between groups. The NCIS *Threat Assessment on Serious and Organised Crime 2000* notes that anticipatory preventive intelligence measures are needed to ensure effective and successful application of civil forfeiture law, however, the report makes no note of the potential threats the legislation could pose to civil liberties.²⁸⁸

It is vital that the drafting of any law reform should also involve an assessment of the legislation's potential impact on civil liberties. Calls for civil forfeiture and increased surveillance powers spring mainly from law enforcement frustration in the struggle to control sophisticated criminal groups – however, reform in these areas is a clear example of legislative change that could have a significant impact on civil liberties, as discussed below.

4.6 Accountability, transparency and civil liberties issues, including role of civil society

Criminal forfeiture

A recurring concern in the debate over extending the powers of law enforcement to combat increasing levels of organised crime is the ramifications for civil liberties. While there is arguably a need to amend current legislation that is proving inadequate, the strengthening of law enforcement powers must be balanced with respect for civil liberties.

The US 1971 Racketeer Influenced and Corrupt Organisations Act (RICO) allowed police to successfully combat the New York Mafia in the 1980s, when assets suspected of being obtained through criminal acts or with illegitimate profits were seized by police.²⁸⁹ Aimed at "the elimination of the infiltration of organised crime and racketeering into legitimate organisations operating in interstate commerce", RICO reinstated criminal forfeiture in the US, on the basis that the assets seized belong to a defendant who has been convicted of 'predicate offences' and who cannot prove their assets were purchased with legitimate funds.²⁹⁰ However, RICO is described as reversing the burden of proof, giving defendants the responsibility of proving the legitimacy of their assets.²⁹¹

"Critics [of RICO] point out that 80 percent of the forfeiture cases in the US never result in the conviction of anyone for any crime, and that blacks owning expensive property are targeted because they fit the 'profile' of an organised crime member. More insidious is the

²⁸⁷ NCIS UK Threat Assessment on Serious and Organised Crime 2000, National Criminal Intelligence Service (NCIS), www.ncis.co.uk, p 49.

²⁸⁸ *Ibid.*

²⁸⁹ 'Untouchables of organised crime', John Twomey, *Daily Express*, 20/4/01.

²⁹⁰ Senate Report No. 91-617, 91st Congress, 1st Session 80 (1969). 'Asset Confiscation Legislation and Methodology in the USA, Canada, the UK and Hong Kong', Clive Scott, Winston Churchill Memorial Trust Fellowship Report, <http://members.ozemail.com.au/>, 1993.

²⁹¹ 'Drugs Law to Copy US and Ireland', Richard Ford, *The Times*, 2/10/98.

fact that the assets seized go back to the police. Additional officers are hired from these funds, and these people have an interest in continued forfeitures in order to keep jobs.”²⁹²

According to some critics, the wording of similar legislation in South Africa allows for the possibility that “certain political parties could be classed as ‘criminal gangs’ and their members prosecuted”.²⁹³ Ireland also passed similar legislation in 1996, establishing the Criminal Assets Bureau, composed of police officers, revenue officials and social welfare officials, which has the powers to “seize the proceeds of crime even where there has been no criminal conviction”.²⁹⁴

In the UK, only a small proportion of the proceeds of criminal activity is seized each year,²⁹⁵ and recent UK government reports admit that current legislation is inadequate to prosecute high-level criminal bosses. A UK Home Office study revealed that “there are significant areas of organised criminality that are immune from prosecution”, due to the lack of direct evidence available to prove the involvement of core nominals in the actual crimes committed. The number of criminals in this class has risen in parallel with the “huge increase” in organised crime noted by the NCIS, on average 33 percent per year for the last five years.²⁹⁶ The UK is now considering a new Criminal Assets Recovery Agency, through which the Inland Revenue and police force would work together, and which would allow the seizure of the proceeds of crime from criminals even if they have not been convicted of any offence. However, much as issues such as this need to be addressed, many commentators are alarmed by the infringement of civil liberties that laws such as RICO and other criminal assets forfeiture legislation represent.

In situations where police powers may be extended to a degree where civil liberties may be affected, thorough cost-benefit evaluation is necessary, exploring all legal and practical alternatives and safeguards. Police powers to seize assets have been dramatically extended in several countries:

“despite the fact that so many fundamental questions have remained not merely unresolved, but often undiscussed, police forces around the world are being turned loose to find, freeze and forfeit the presumed proceeds of crime on the basis of little more than a vague assurance that this is the most resource-effective way to deal with economically motivated crime”²⁹⁷

Surveillance

In several countries, law enforcement bodies are pushing for major new surveillance powers, including the ability to spy on emails, to enable them to crack down on internet and ‘cyber crime’ (see Section 2 for more details). The serious problems presented by crime in the new sphere of electronic communication and cyberspace, “still relatively immune to law enforcement efforts” and a key area of transnational organised crime, necessitate, in the opinion of many, the granting of authority to police and intelligence agencies to use tools such as electronic surveillance and covert operations.²⁹⁸

However, new or proposed surveillance laws in an increasing number of countries are criticised for allowing police and intelligence agencies to hack covertly into individuals’ computers and force people to hand over computer passwords and encryption

²⁹² ‘New crime bill a powerful weapon’, Ted Leggett, *South Africa Weekly Mail & Guardian*, www.sn.apc.org, 12/2/99.

²⁹³ *Ibid.*

²⁹⁴ ‘Drugs Law to Copy US and Ireland’, Richard Ford, *The Times*, 2/10/98.

²⁹⁵ For example, in the UK in 1997 only £5million of an estimated £9.9billion of illicit drugs trade proceeds were seized under the Drug Trafficking Offences Act. ‘Drugs Law to Copy US and Ireland’, Richard Ford, *The Times*, 2/10/98.

²⁹⁶ ‘Untouchables of organised crime’, John Twomey, *Daily Express*, 20/4/01.

²⁹⁷ ‘Follow-the-Money Methods in Crime Control Policy’, R. T. Naylor, McGill University, for the Nathanson Centre for the Study of Organised Crime and Corruption, York University, Toronto, December 1999, p 46 www.yorku.ca/nathanson/Publications/washout.htm.

²⁹⁸ ‘The organisational framework of European crime in the globalisation process’, Ernesto U. Savona, public lecture given at UNAFEI, 108th international seminar on Current Problems in the Combat of Organised Crime, Fuchu, Tokyo, 26 January–27 February 1998, www.jus.unitn.it/transcrime/papers.

keys so that email communications and computer files can be read. Proposed legislation in New Zealand, for example, would impose requirements on Internet service providers and telephone companies to co-operate with intelligence agencies and police and to install systems to assist surveillance of customers.²⁹⁹ The British Regulation of Investigatory Powers (RIP) Act, which has “strong similarities” to the proposed legislation in New Zealand, was passed amid major controversy in July 2000.³⁰⁰ The RIP Act “updates the law on the interception of communications to take account of technological change such as the growth of the Internet”, putting “other intrusive investigative techniques on a statutory footing for the very first time” and providing law enforcement with both new powers and new judicial oversight.³⁰¹ The section of the Home Office website on the Act includes a page in the ‘Myths and Misunderstandings’ section, which specifically rebuffs accusations that the Act reverses the burden of proof with regard to possession of data ‘keys’ or passwords. Despite its assurances, the very need for such a page reflects the level of public dissatisfaction with the “disturbing implications” of the Act, which is “widely opposed in the UK business community” and criticised as threatening “the very future, freedom and success of UK plc”.³⁰²

Data retention

Another controversial issue is data retention, and especially the archiving of all telecommunications data for up to seven years. In 1995 the EU adopted ‘Requirements’ for interception agreed with the FBI; a subsequent attempt to update the ‘Requirements’ to include the internet and satellite phones was “shelved because of public outcry”, and EU states began amending their laws on interception at the national level. However, in 2000 “two proposals from the European Commission on personal data protection and privacy and ‘combating computer-related crime’ threatened to undermine the demands of law enforcement agencies for access to all telecommunications data”.³⁰³ The different European institutions are now in conflict over the issue, as the Council of the EU is about to back the demands of European law enforcement agencies for full access to all telecommunications data to be written into all Community legislation in the future and for existing laws to be re-examined, a move that is “in direct opposition to the strongly-held views of the Data Protection Commissioners”.³⁰⁴ The Spring 2000 Conference of European Data Protection Commissioners issued a declaration on data retention, emphasising that “such retention would be an improper invasion of the fundamental rights guaranteed to individuals by Article 8 of the European Convention on Human Rights”.³⁰⁵

A survey of national positions on computer crime conducted by the EU Police Co-operation Working Party found that Council of Europe Recommendations and EC Directives on data protection and privacy in telecommunications have meant that all traffic data are deleted or rendered inaccessible at the end of each call or shortly thereafter, a practice which the Council of the EU believes “seriously obstructs” law enforcement in criminal investigations.³⁰⁶ The Working Party report states that, “at present the issue of the storage of connection data and the length of that storage is clearly the weak link in the fight against cyber crime. As witness, few countries have a legal requirement concerning the length of time connection data must be kept”.³⁰⁷

299 ‘International co-operation in internet surveillance’, Nicky Hager, www.heise.de, 22/11/00.

300 *Ibid.*

301 ‘Regulation of Investigatory Powers Act 2000, www.homeoffice.gov.uk.

302 ‘RIP Act negates tenet of e-friendly country’, David Traynor’s open letter to the UK Home Secretary, *Computer Weekly*, 17/8/00.

303 ‘EU governments to give law enforcement agencies access to all communications data’, Statewatch report summary, www.statewatch.org, 3/5/01.

304 *Ibid.*

305 ‘EU-US: Telecommunications surveillance’, Statewatch Bulletin, Vol. 10, No. 3/4, www.statewatch.org, June–August 2000.

306 ENFOPOL 23, 30/3/01. ‘EU governments to give law enforcement agencies access to all communications data’, Statewatch report summary, www.statewatch.org, 3/5/01.

307 The survey was drafted 24 April 2001. ‘Three EU governments – UK, France and Belgium – press ahead with 12 months retention of telecommunications data – ditching citizens’ rights on data protection and privacy under EU law’, Statewatch news online, www.statewatch.org, 3/5/01.

Although the ratification and implementation of a Council of Europe draft convention “would represent considerable progress in the fight against computer crime”, “two apparently contradictory interests have to be reconciled: the protection of personal data and, more generally, respect for privacy; the need for investigators to have access to the data stored by the service providers for the purposes of the investigation”.³⁰⁸ The plans of the UK, France and Belgium to introduce the retention of telecommunications data for 12 months, in advance of any decision by the Council of the EU on the issue, have resulted in criticism from civil liberties groups. Statewatch, a UK-based organisation, states with regard to the Working Party survey that “there could not be a clearer statement on the intent of EU states, the ‘principle’ of ‘privacy’ would be fatally breached”. The editor of Statewatch commented that, “Authoritarian and totalitarian states would be condemned for violating human rights and civil liberties if they initiated such practices. The fact that it is being proposed in the ‘democratic’ EU does not make it any less authoritarian”.³⁰⁹

Improving accountability

The balance between legal rights and law enforcement needs is undoubtedly a difficult one to strike, and clearly legislators will need to ensure that any increase in transparency is not used to help criminals. One way to do this would be to include a review of transparency measures as a standard element of the Crime Risk Assessment for new legislation (discussed in Section 4.5 above).

However, there are numerous cases that reveal a democratic deficit within the EU and confirm the need for greater parliamentary oversight and accountability:

- The controversy surrounding the updating of the Europol telecommunications surveillance system highlighted the fact that the development of this system “was taking place outside the formal structures of the EU – without any form of accountability”.³¹⁰
- An *Open Letter from civil society on the new code of access to documents of the EU institutions* was sent to all members of the European Parliament in May 2001. The letter strongly criticised the proposals from the Council of the EU to limit access to certain categories of EU documents, stating that the suggested code of access “weakens current rights of citizens”; does not fulfil the Amsterdam Treaty commitment, ignores important requirements of the Aarhus Convention and was “drawn up without proper consultation with civil society groups”.³¹¹
- The Schengen Agreement, which is part of the sensitive intergovernmental ‘third pillar’ of the EU treaty, has been described as being beyond the scrutiny of the European Parliament, and has been criticised as lacking in democratic accountability.³¹² An annual report on the operations of the Schengen Convention, including details on the Schengen Information System (SIS), the largest law enforcement database in Europe, has been published since it became operational in 1995. Schengen’s remit and practices are now being expanded, but there are to be no further annual reports.³¹³
- Europol itself has been the subject of serious concerns about accountability. Europol is to publish “one ‘public’ version of its 1999 annual Report and one ‘secret’ version, which although not officially a classified document will not be released to EU institutions”.³¹⁴ The Chairman of the European Parliament’s Justice and Home Affairs Committee, UK Liberal Democrat Graham Watson MEP, has demanded full rights of access to documents produced by Europol and other EU-funded institutions: “In the

³⁰⁸ Ibid.

³⁰⁹ ‘EU governments to give law enforcement agencies access to all communications data’, Statewatch report summary, www.statewatch.org, 3/5/01.

³¹⁰ ‘EU-FBI telecommunications surveillance system’, Statewatch, www.statewatch.org.

³¹¹ ‘Open Letter from civil society on the new code of access to documents of the EU institutions’, to all Members of the European Parliament, from the European Citizens Action Service, the European Environmental Bureau, the European Federation of Journalists, the Standing Committee of Experts on International Immigration, Refugee and Criminal Law, and Statewatch. www.statewatch.org, 2/5/01.

³¹² ‘Frontier-Free’, Charlotte Lindberg Warakaulle, *The World Today*, March 2001.

³¹³ ‘Where now for accountability in the EU?’, Statewatch News online, www.statewatch.org, 7/3/01.

³¹⁴ Ibid.

interests of openness it is essential for us to receive the full version of the Europol report. Refusing to release a non-classified document is not only a snub to EU regulations but also a step backwards for transparency and the rights of EU institutions and citizens to have access to documents that concern them”.³¹⁵

- The recent scandal involving the arrest of a corrupt French official working in Europol’s computer and data section for fraud and document forgery has caused “embarrassment to EU member states who are planning to significantly increase Europol’s role over the next 12 months, including the two-way exchange of data and intelligence with non-EU countries and international organisations”.³¹⁶ This scandal has been followed by a second, in which the UK’s senior official at Europol, the Deputy Director, is currently under investigation for his role in a growing corruption and mismanagement scandal.³¹⁷ Both incidents threatened the safety of sensitive and confidential information held by Europol, with the result that national forces are likely to “think twice before handing over their secrets or exposing their sources to danger”.³¹⁸ The scandals also bring “into question the lack of on-going mechanisms to ensure that Europol is accountable for its practices”.³¹⁹

Echelon

Echelon is a world-wide electronic communications surveillance system operated by the US, the UK, Australia, New Zealand and Canada under the auspices of the US National Security Agency (NSA). It is run by and serves the military intelligence community. At a hearing of the EU Committee of the lower house of the German parliament in July 2000, ministers concluded that the Echelon system was threatening civil liberties in Germany, and a report for the European Parliament revealed that Echelon not only intercepted companies’ business communications but also those of human rights organisations such as Amnesty International.³²⁰ An inquiry was launched, and resulted in claims in the European Parliament that Echelon has been used to spy on European companies. Governments have gone to extreme lengths to keep Echelon a secret. To date, the US government refuses to admit that Echelon even exists. Even after the governments of Australia and New Zealand admitted this fact, US officials have refused to comment.³²¹ However, in a December 2000 report by the Dutch Ministry of Defence, the Dutch government confirmed that “modern communication systems can be intercepted in secret and at large distance”,³²² and that “not only the governments associated with Echelon are able to intercept communication systems, but that it is an activity of the investigative authorities and intelligence services of many countries with governments of different political signature”.³²³ In the light of governments’ diminished ability to ensure citizens’ right to privacy, “this opens the possibility to start a discussion with other countries on international standards which must balance the privacy rights of citizens and the legitimate needs of law enforcement”.³²⁴

The role of parliaments and civil society

While European co-operation is undisputedly necessary, advancements in integration of police work should be balanced by further protection of citizen rights, continuing transparency and accountability. In May 2000 the Council of Europe held a conference on the complementary role of the national Parliaments and European Parliamentary Assemblies in shaping a democratic Greater Europe. Two sub-themes were discussed:

³¹⁵ Ibid.

³¹⁶ ‘Europol corruption scandal: French Europol official arrested for alleged fraud and money-laundering’, Statewatch News Online, www.statewatch.org, 3/6/01.

³¹⁷ ‘British police official faces Europol inquiry’, Ambrose Evans-Pritchard, *The Daily Telegraph*, 23/7/01.

³¹⁸ Ibid.

³¹⁹ ‘Europol corruption scandal: French Europol official arrested for alleged fraud and money-laundering’, Statewatch News Online, www.statewatch.org, 3/6/01.

³²⁰ ‘EU-US: Telecommunications surveillance’, Statewatch Bulletin, Vol. 10, No. 3/4, www.statewatch.org, June–August 2000.

³²¹ ‘Answers to Frequently Asked Questions (FAQ) about Echelon’, echelonwatch, <http://www.echelonwatch.org>, 28/06/01.

³²² ‘Dutch Government Says Echelon Exists’, by Jelle van Buuren, <http://www.heise.de/tp/english/inhalt/te/4729/1.html>, 20/01/01.

³²³ Ibid.

³²⁴ Ibid.

- How to co-ordinate action between national Parliaments, the Council of Europe's Parliamentary Assembly and the other European Assemblies in the drawing-up and implementation of European norms
- What role can parliaments play in the fight against organised crime and corruption?

Developing an active and participatory role for parliamentary bodies will be crucial in the fight against organised crime. As highlighted in a 1998 report on transnational organised crime by the Economic Committee of NATO's Parliamentary Assembly, the struggle against organised crime represents a critical area for parliamentary initiative.³²⁵ Parliamentarians can make a significant contribution to the struggle against organised crime in a number of ways, including:

- Raising public awareness of the threat of organised crime as public support is critical to the fight
- Assisting in the development of the appropriate law enforcement and regulatory systems that would take into account the multi-faceted nature of national and transnational organised crime and tackle corruption
- Exercising pressure on national governments to deepen international co-operation in the fight against crime and developing the instruments which are required to facilitate such co-operation
- Scrutinising banking secrecy laws

Similarly, involvement of civil society groups and NGOs will also be important. Sustained efforts to engage the active participation of large groups of society will allow for anti-criminal positions to resonate more broadly and deeply within communities, and can ultimately yield more benefits than law enforcement action. Grassroots initiatives to combat organised crime appear to have been largely overlooked by policymakers, but it is at the local community level that the rejection of 'criminal culture' will need to be focused.

Since the early 1980s there have been many initiatives against the Mafia and other forms of organised crime in several Italian regions. Such efforts have engaged a wide spectrum of the society, including teachers, trade unions, businessmen, priests, youth organisations, and the media. Sicily in particular provides good examples of how societal and cultural practices can be mobilised to complement regulatory and law enforcement programmes and techniques in order to counteract the glamorous stereotypes of criminality and violence. In more recent years, the movement against the Mafia in the Sicilian capital has resulted in widespread activities, including social and political programmes, public demonstrations, cultural manifestations and educational programmes to promote lawfulness and civic consciousness.³²⁶ The 'Committee of the Sheets' was one of the first visible signs that the people of Palermo were going to stand against Mafia violence. After the assassinations of investigative magistrates Falcone and Borsellino in 1992, one citizen scrawled Anti-Mafia messages on a bed sheet and hung it from her window, others did the same, joining to form the Committee of the Sheets. The bed sheet protest continued until the vast majority of Palermo residents had hung protest bed sheets from their homes.³²⁷ Marches, sit-ins, and demonstrations followed, and shopkeepers and small entrepreneurs established anti-racket associations against extortion and usury, among the Mafia's main criminal activities. There are now many anti-racket associations on Italian territory and a national network of anti-racket associations has been established in recent years.

³²⁵ 'Transnational Organised Crime – an Escalating Threat to the Global Market', Mr Kees Zijlstra, General Rapporteur, NATO Parliamentary Assembly, Economic Committee, November 1998.

³²⁶ 'Mafia and Mafia-type organisations in Italy', Centro Siciliano di Documentazione "Giuseppe Impastato", <http://centroimpastato.it/publ/online/mafia-in-italy.htm>. The author, Umberto Santino, argues that the lever has been the public outcry against Mafia violence considered as an attack to democracy, freedom, civil and human rights. The massacres of Capaci and Via D'Amelio in 1992, where investigative judges Falcone and Borsellino were brutally assassinated, sparked a new level of public outrage that resulted in large demonstrations and the creation of anti-mafia associations, which together formed the cartel "Palermo anno uno".

³²⁷ "On certain days, you could look up at an apartment building and see where the Mafia don lived – it was the apartment without a bed sheet hanging from its window", Leoluca Orlando, Mayor of Palermo, The Committee of the Sheets, by Robert Weissman, Multinational Monitor, 23 March 1999.

Another network of associations and non-governmental organisations, Libera, was created in March 1995 to unite and support individuals and associations in their efforts to combat the Mafia and other forms of organised crime. According to Libera, in order to create a new environment which could discourage the Mafia, it is crucial to complement the necessary law enforcement measures with initiatives focused on prevention, culture and civic engagement to sustain legality, urban security and powerful civic institutions.³²⁸ Libera currently comprises over 700 organisations. Its first initiative was to collect almost one million signatures for a legal project to allow the use by communities of properties confiscated from Mafia members. The Italian Parliament approved the law in February 1996.³²⁹

Building on the public outrage which had developed, Palermo city leaders have deployed teachers in public and parochial schools who have introduced new educational programmes designed to instil pride in Palermo's ethnic and architectural heritage and to overpower the negative Sicilian stereotypes of criminality and violence and promote a culture of lawfulness.³³⁰ Educators, for instance, have introduced new curricula where good citizenship is reinforced by the adoption of a 'monument programme' that involves school children in the history of a specific landmark and in overseeing its restoration.

Public awareness of issues associated with organised crime, corruption and illicit arms trafficking can be developed through the use of public education, and can help to encourage civil society and law enforcement agencies to engage and exchange information. Developing this kind of mutual support has great potential for combating many types of crime, but accountability and respect for civil liberties by law enforcement agencies will be vital to ensuring a sustained and positive relationship with civil society. In addition to other training needs and the importance of maintaining the correct balance between law enforcement powers and civil liberties mentioned above, law enforcement personnel should also receive training in international human rights standards, civil liberties and in codes of conduct designed to protect these, such as the UN Code of Conduct for Law Enforcement Officials, which should be reflected in national legislation and practice.

³²⁸ www.libera.it.

³²⁹ In four years, the law has allowed the use for social purposes of 865 confiscated real estate properties. Amongst them, is the former villa of Mafia boss Toto' Riina in Corleone which now houses a Technical Institute for Agriculture. In the land that was owned by another boss, Bernardo Provenzano, in the Castelvetrano region, ex drug addicts produce the "olive oil of Libera". In Palermo, collaboration between public institutions and civil society groups is concentrating on a project for the cultivation of organic products on confiscated land.

³³⁰ 'As Palermo Changes, Politics Never Changes', by Andrea Wood, The Business Journal Online, <http://www.business-journal.com/SICILYTOUR/PalermoPolitics.html>, December 2000.

Conclusion and policy recommendations

A NUMBER OF SHORT- AND LONG-TERM PRIORITY ACTIONS by governments and international institutions are required to strengthen the capacity of law enforcement bodies to tackle the threat posed by illicit arms trafficking and other aspects of organised crime.

Seven main areas of priority for action by governments and international institutions have been identified:

*There is need for further **research** to more fully identify the threat posed by organised crime and illicit arms trafficking and appropriate policies and collaboration strategies to combat it, especially in relation to the particular risks inherent in EU expansion.*

Measures should be taken to ensure that there are regular, concerted projects both to research new developments in transnational organised crime, including links with illicit arms trafficking, and to review and update law enforcement strategies and practices, thus ensuring the identification and adoption of appropriate minimum standards and best practices in preventing and combating illicit firearms trafficking and associated organised crime. With particular regard to the destabilising arms flows in parts of Europe, for example in Macedonia, a concerted international effort should be made to trace origins and lines of supply of such weapons involving all relevant agencies, including military and intelligence services, in addition to police and customs.

*There is need for improved **co-ordination** of agencies and states involved in efforts to combat organised crime and illicit arms trafficking, to ensure that there is no duplication of effort and that efforts achieve optimal success through a sensible and clear delineation of responsibilities and roles.*

This will require the effective use of all existing available institutions, mechanisms, networks and resources, including Interpol, Europol, the OSCE, regional and bi-lateral initiatives and so on. In this context it is a priority to bring all relevant parties in the region into active membership and participation within these networks, including the Federal Republic of Yugoslavia and its constituents and, as appropriate, the international and local organisations with relevant responsibilities in Bosnia Herzegovina and Kosovo. States should take all necessary measures to accelerate implementation of the OSCE Statement on Small Arms and Light Weapons and the UN Firearms Protocol.

On a national level, effective co-ordination should be established among police, customs, border guards and other relevant agencies and affected industries, ensuring for example, a close partnership between agencies or departments dealing with related aspects of organised crime, notably trafficking in drugs, people, illicit arms and other contraband. A concerted effort should be launched to enhance the traceability of firearms, small arms and light weapons, and to facilitate this, measures are needed to ensure effective co-operation between national and regional agencies with relevant arms companies, dealers and other relevant agents. All European countries should consider developing a national database on the production, ownership, transfer, and use of firearms and associated materials.

*In order to enhance support co-ordination and facilitate transnational projects, there is need for the establishment or improvement of existing mechanisms for efficient **information-exchange** between states and agencies working to combat organised crime and illicit arms trafficking.*

Of particular importance to international co-ordination is the 'point of contact' system: all states should ensure that they have established identified national points of contact to serve as focal points for international information sharing and co-operation. To facilitate effective co-ordination, these national contact points should as far as possible include: representatives of all relevant agencies involved in law enforcement and national security; all relevant contact points for Interpol, Europol, regional institutions; and other relevant international bodies. The development and maintenance of appropriate information-sharing mechanisms and databases is essential, and institutions should also bear in mind the benefits of person-to-person information exchange.

*There is need for **legislative reform** to allow effective harmonisation of the laws, penal codes and judicial procedure of different countries. Equally crucial to efforts to combat organised crime and illicit arms trafficking, is the full implementation and support of all existing international commitments to regional and international agencies and initiatives.*

As a first step, this should involve the accelerated implementation of existing international, regional and national agreements and guidelines, for example, the recent UN Protocol on Firearms and the SPOC initiative. In order to further facilitate international co-operation and to improve awareness of appropriate procedures, a concerted effort is required to clarify each country's relevant laws and rules of procedure. To this end, a) each state should ensure that they produce and disseminate clear information on their rules and procedures, and b) the establishment of a European resource such as an up-to-date directory and repository of expertise and information on these matters should be considered.

*There is need for the allocation of increased **resources** to the problems of illicit arms trafficking and organised crime to ensure the implementation of all of the above recommendations; a proper cost-benefit analysis of the problem would surely merit more funding.*

*There is need for **training and restructuring** of law enforcement bodies where necessary, to ensure that agencies have both the specialisation and flexibility to combat the new challenges posed by organised crime and illicit arms trafficking effectively. Alongside this, there is a need to ensure that law enforcement personnel receive a full and proper training in human rights and civil liberties issues and relevant codes of conduct.*

It is essential that capacity at the national, sub-regional and regional levels should be built to a level where effective operations can be conducted. Appropriate minimum standards and best practices in preventing and combating illicit firearms trafficking

and associated organised crime should be identified and adopted. Concerted action is required to develop elements of a comprehensive training package relating to preventing and combating illicit arms trafficking. Such training should be incorporated into general police and customs training, and also adapted for specialist training needs and for other relevant agencies. To support and promote effective co-operation and provide training in multi-agency and -national investigations, joint and regional projects and training programmes should be launched to exchange information, identify lessons, develop and disseminate good practices, and build appropriate law enforcement capacity. Law enforcement personnel should also receive training in international human rights standards, civil liberties and codes of conduct designed to protect these, such as the UN Code of Conduct for Law Enforcement Officials, which should be reflected in national legislation and practice.

*To conclude, in their efforts to combat and prevent organised crime and illicit arms trafficking, and particularly in relation to the control of legal activities (such as data retention and protection, telecommunications privacy etc.), all states should ensure appropriate **transparency** and clear **accountability** mechanisms and incorporate appropriate safeguards for civil rights and democracy.*

There is need to ensure adequate and appropriate systems for parliamentary oversight, at national and international levels, such as publicly available regular reports on policies and practices of national and international enforcement agencies. Measures should be taken to strengthen the capacity of NGOs to monitor and oversee law enforcement policy and practice, and to strengthen co-operation between networks of NGOs dealing with issues associated with small arms and light weapons and transnational crime, and relevant government and international bodies. Public awareness of these issues should be developed through the use of public education, thus encouraging civil society and law enforcement agencies to engage and exchange information within a positive framework of mutual support and co-operation.

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Saferworld is an independent foreign affairs think tank, based in London, UK, working to identify, develop and publicise more effective approaches to tackling and preventing armed conflicts.

COVER PHOTO: Milan, Italy – Seizure from a Calabrian mafia group of 36 sub-machine guns, 34 pump action shotguns, 23 detonators, 10 hand-grenades and more than 1 kg of heroin. © Anti-Mafia Investigative Directorate (DIA)

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