

Transnational organised crime

Thematic Study Clingendael
Strategic Monitor 2017

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Netherlands Institute of International Relations



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Threat assessment

Introduction

This contribution focuses on the main trends in the area of transnational organised crime that affect security interests in the European Union (EU). In addition to terrorism and cybercrime, 'serious and organised cross-border crime' is prioritised in the European Agenda on Security (EAS).¹ The priorities specified in the EAS are the focus of the analysis in this document: people smuggling, human trafficking, the illegal trafficking of firearms, the trafficking in illegal narcotics and the laundering of money obtained through criminal activity.²

Base rates and determining factors

The scale of organised crime is difficult to estimate and depends on the definition that is used. The direct economic costs soon run into tens of billions euros per year, excluding the costs incurred when fighting crime.³ This study, which uses the term 'transnational organised crime' as a collective term for the abovementioned EAS priorities, foresees an increase in the degree to which the EU will be confronted with this threat in 2021. In the case of human trafficking, this increase is expected to be extensive. The scale of the trafficking in narcotics, people smuggling and illegal trafficking in firearms is expected to increase slightly and the scale of illegally obtained profits that criminals will attempt to launder is predicted to increase accordingly. Below we briefly sketch how these expectations came about for each theme (see also Table 1).

1 European Commission, *European Agenda on Security* (EAS), 28 April 2015, COM(2015) 185 final.

2 The EAS priorities are connected to each other in different ways and linked to developments in other sub-studies, such as terrorism and cybersecurity.

3 For an estimate of the direct and indirect economic, private and social costs of a number of crimes committed by transnational organised crime, see: Levi, M., et al. 2013. 'The Economic, Financial & Social Impacts of Organised Crime in the EU', *European Parliament, Directorate General for Internal Policies*, 10-12, http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493018/IPOL-JOIN_ET%282013%29493018_EN.pdf.

Table 1 Transnational organised crime threat assessment

Trend table	🔫 Transnational organised crime		Trend
Drugs	Base rate	Demand for drugs EU	—
		Demand for drugs outside EU	▲
	Factors	Technological developments	▲
		Transit of drugs through weak states	▲
People smuggling	Base rate	Irregular border crossings	▲
	Factors	Facilitators	?
		Various push factors	▲
Human trafficking	Base rate	Human trafficking	▲
	Factors	Size of vulnerable groups	▲
		Probability of catching people smugglers	▼
Illegal weapons	Base rate	Arms trafficking	▲
	Factors	Instability on borders	▲
Money laundering	Base rate	Total transnational organised crime	▲
	Factors	Virtual currency	▲

Impact on European security interests in 2016 and 2021



Probability of the threat's occurrence in 2021



Actors responsible for the threat

State

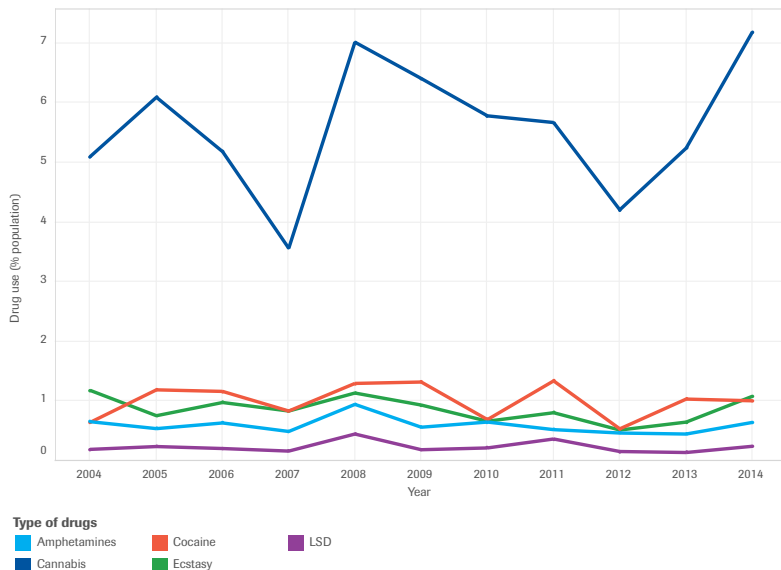
Hybrid

Non-state

Trafficking in narcotics

According to Europol, one-third of the groups involved in transnational organised crime in the EU is also involved in drug trafficking of one form or another.⁴ The scale of the trafficking in illegal narcotics can best be estimated on the basis of the numbers of users. Figure 1 displays a reasonably stable European market for narcotics, in which the market for cannabis is by far the largest.⁵ According to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), the demand for drugs is rising in states neighbouring the EU.⁶

Figure 1 Drug use in the EU in the past year, 2004-2014⁷



The EMCDDA's 2016 report highlights the effect of technological developments on the way the European drugs market operates. With advanced screening techniques, the hacking of logistical systems and trafficking on the dark web forums, the working

4 Europol, *EU Serious and Organised Crime Threat Assessment*, 2013.

5 The number of heroin users is more difficult to estimate on the basis of self-reporting by users, which is why data about the development of heroin use is missing from the table.

6 European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), *European Drug Report 2016: Trends and Developments*, 2016.

7 This includes the possibility that more than one type of drug was used in the past year; EMCDDA, *Prevalence of Drug Use, Last year Prevalence, 2004-2014*, <http://www.emcdda.europa.eu/data/stats2016>.

methods of criminals have changed radically, supply lines have become shorter and there is less chance of getting caught. The EMCDDA has also found that transnational organised crime groups are using weak states and conflict zones more and more for the supply of narcotics.⁸ This further complicates the investigative process. The supply of both heroin and cocaine from the producing countries is still high, even though the global production of cocaine is decreasing slightly. The cultivation of opium in Afghanistan has risen since 2010 compared to the previous ten years and has been quite stable over the past few years, except for a failed harvest in 2015.⁹ So there will be no inhibiting effect in the producing countries on the trafficking of narcotics in the EU, given that the supply is expected to meet the slightly increasing European demand.

On the basis of more operating techniques that are more difficult to detect, consistently high demand in the EU and a rising demand outside the EU borders combined with quite stable production, the expectation for 2021 is that the threat will at least remain the same but will probably grow slightly.

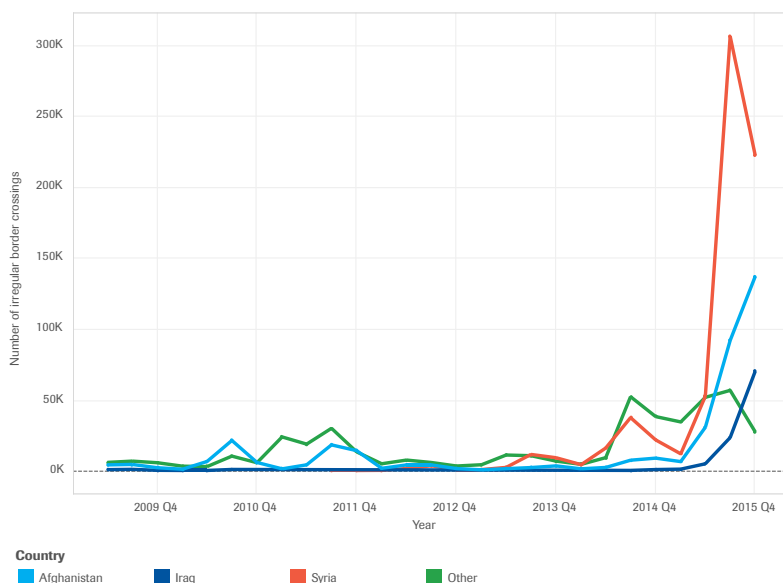
People smuggling and human trafficking

Due to many different crises and flashpoints in the world, an increasing number of people are seeking asylum in the EU. The number of irregular crossings of the EU's external borders has increased dramatically since 2014 (see Figure 2), partly due to the minimal legal possibilities for entering the EU for the many refugees and asylum seekers from countries such as Syria, Afghanistan and Iraq.¹⁰

8 *Ibid.*

9 Compare UNODC, *Illicit Crop Monitoring*, reports, <http://www.unodc.org/unodc/en/crop-monitoring/index.html> and UNODC, *Afghanistan Opium Survey 2016: Cultivation and Production*, 5, http://www.unodc.org/documents/crop-monitoring/Afghanistan/AfghanistanOpiumSurvey2016_ExSum.pdf.

10 EU agency Frontex maintains data about irregular incursions of the EU's external borders on the basis of registrations from the various member states – which vary in terms of their quality. It is not possible to use this data to establish how many unique individuals are entering the EU in an irregular way. For example, Frontex has reported that the migrants that enter the EU through Turkey, Greece and the Western Balkans are double-counted: these people actually enter the EU twice. Compare: Frontex, *More than 500,000 migrants detected at EU external borders so far this year*, 14 September 2015, <http://frontex.europa.eu/news/more-than-500-000-migrants-detected-at-eu-external-borders-so-far-this-year-fGa82v>. Another deficiency of the data is that not all the member states make a distinction between the detection of people at the border control posts and the detection of people at other points on their route. Migrants that are detected 'on the border' and are registered as such (their numbers are low) are not included in Figure 2.

Figure 2 Number of irregular border crossings, 2009 – 2015¹¹

In a joint report, Europol and Interpol estimate that 90% of the migrants use the services of a facilitator. In 2015, the two organisations detected a significant increase in the number of investigations into people smuggling,¹² but this is not supported by the Frontex statistics on detected facilitators of illegal migration (see Figure 3). The extent to which there is a greater chance of people smugglers being caught is unclear, with the stricter checks of the external borders and a closer focus on people smuggling inside the EU. The most recent data from Frontex and the United Nations High Commissioner for Refugees (UNHCR) shows that the trend towards large numbers of migrants continued in 2016, even though the influx was lower than in 2015.¹³ Underlying pushfactors such as demography, crisis and conflict and economic inequality support the projection that the migration pressure towards the EU will remain on a high level over the next five years. Human trafficking is a separate crime that focuses on the exploitation of people and not on illegal border crossings. Victims are not always

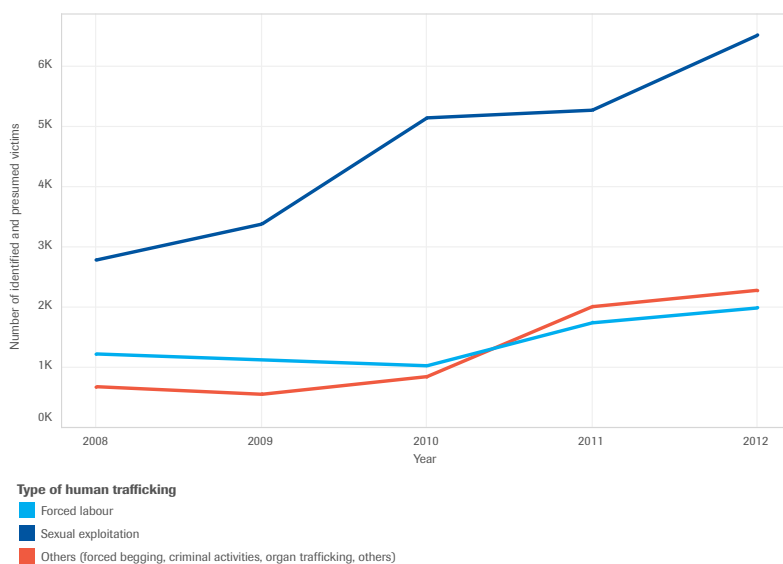
11 Frontex, *Migratory Routes Data*, <http://frontex.europa.eu/trends-and-routes/migratory-routes-map/>.

12 Europol and Interpol, *Migrant smuggling networks*, Executive Summary, May 2016.

13 In 2016, the number of migrants that came to Europe by way of the Mediterranean Sea decreased compared to previous years but was still higher than in 2014 (see: UNHCR, *Refugees/Migrants Emergency Responses – Mediterranean*, <http://data.unhcr.org/mediterranean/regional.php>). Also compare the quarterly report drawn up by Frontex: Frontex, *FRAN Quarterly*, 2016, quarter 2, April-June, http://frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_2016_Q2.pdf.

smuggled across land borders. However, migrants that have been smuggled over EU borders are a large vulnerable group that is susceptible to exploitation. The available European statistics for the 2006–2015 period suggest that the number of assumed victims of human trafficking has increased across the EU.¹⁴ This increase applies to both sexual exploitation and exploitation in other areas of work (for example, in agriculture or in the household) and variants such as organ trafficking, forced begging and forcing people to commit crimes.

Figure 3 Types of human trafficking in the EU, 2008–2012¹⁵



At least three parameters are important for human trafficking: the presence of vulnerable groups, the demand for services and the chance of getting caught. The chance of getting caught seems to be diminishing: registered numbers of prosecuted suspects have decreased over the past few years.¹⁶ According to Europol,

14 In the EU, there are major differences between the intensity and the nature of the way human trafficking is tackled, and the extent to which cases are registered in each country varies considerably over time. Statistics about numbers of victims are significantly influenced by the intensity of the investigations that are conducted; compare: BNRM 2015. Statistics often refer to assumed or suspected victimhood because victimhood is very difficult to prove – for example, because of the low willingness to report it among the people who are being exploited.

15 Eurostat, *Trafficking in Human Beings Report 2013, 2008–2012*, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_dghome-eurostat_en_1.pdf.

16 Eurostat, *Human Trafficking Reports*.

the Schengen area is a comfortable 'operation area' for human traffickers.¹⁷ The size of the vulnerable groups is increasing – in any case, the group of migrants that has crossed the EU borders with the help of people smugglers. For this study, the demand for services is assumed not to have changed. To summarise, the parameters specified here suggest that the scale of people smuggling will at least remain on the same high level and that the number of subsequent exploitation situations will increase over the next five years.

Illegal trafficking of firearms

The scale of the illegal trafficking of firearms in the EU is difficult to estimate. Up to 2013, a number of Europol reports suggested that the market for firearms in the EU is on a modest scale.¹⁸ In 2016, arms trafficking was nevertheless high on the European agenda because it is regarded as a support crime for terrorism. In 2016, Europol noted that there is an intelligence gap as far as heavy weapons and explosives are concerned. In addition, there is a concern that criminal networks seem to be gaining access to more and more heavy weapons being supplied from South-east Europe.¹⁹ The fact that criminal organisations had access to more heavy firearms than previously during the Balkan Wars in the 1990s has prompted Europol to express its concerns about the weapon arsenals currently accumulating in conflict zones such as Libya and Ukraine.²⁰

On the one hand, the illegal trafficking of firearms is expected to grow further due to instability. On the other hand, the high priority recently given by the EU to this problem may have an attenuating effect. There is unfortunately limited data available about the numbers of weapons that were confiscated.²¹

Money laundering

The laundering of criminal money is often the final step in transnational organised crime. Money laundering takes place in countless ways, varying from setting up ingenious corporate structures in which criminal assets are circulated in ways that are difficult to detect to spending cash on luxury goods such as expensive watches or cars. Normal practice involves estimating the size of criminal markets to calculate how much money

17 Europol, *EU Serious and Organised Crime Threat Assessment*, 2013.

18 Europol, *EU Serious and Organised Crime Threat Assessment*, 2013; 2009.

19 Europol, *OC-Scan Policy Brief for Threat notice: 2004-2010*, 2016.

20 Europol, *European Union Terrorism Situation and Trend Report*, 2015.

21 Over the period 2010-2013, UNODC's reports were based on questionnaires filled in by police and border control authorities about the numbers of confiscated firearms, but the registration quality of this data is very variable and only 36 UN member states took part in the study. UNODC, *Study on Firearms 2015*.

may have been laundered.²² This method involves a large uncertainty margin, with estimates varying from 400 billion to 3 trillion US dollars on an annual basis (global figures).²³ Based on the predicate offences for which the trends are described above, the phenomenon of money laundering is expected to increase slightly in scale. Here it should be noted that the proliferation of virtual currency is expanding the number of instruments used by money launderers and reducing the chance of apprehending them.

Impact and shocks

How sure are we about the trends and how significant is the possible impact of transnational organised crime on European security? The above trend analysis is based on trends from the past. All kinds of unexpected events can occur ('shocks'). The question is how susceptible the identified trends are to unexpected shocks. According to the Clingendael Expert Survey, three shocks that may not be very probable but would have an impact on the threat of transnational organised crime if they occurred are: the proliferation of high-tech cyber technologies, the legalisation of narcotics, and a Russian attack on the Baltic States (see Figure A in the Appendix).

The proliferation of high-tech cyber technologies would open up a huge new criminal field but would also play a role in traditional criminal activities such as drug trafficking (for example, facilitating violence when ordered or setting up money laundering structures). Checks can be avoided, for example, by hacking the websites of government organisations or transport companies. It is very probable that high-tech cyber technologies are having an impact on the organisation of crime in Europe and will increase the existing threat.

In the Clingendael Expert Survey, the chance that the production of and trafficking in hard drugs will be legalised is regarded as improbable to very improbable. An increasing number of EU countries is nevertheless becoming more flexible in the way they deal with the possession and small-scale production of cannabis and the use of hard drugs is also being decriminalised more and more. The full legalisation of these substances would remove a substantial part of the illegal market in which criminal networks are active in

22 The lack of knowledge about the size of criminal assets, but also the question of which parts of those assets are being laundered, have led Dutch investigative authorities to conclude that it is 'completely unknown' how much criminal money is circulating in the legal economy.

23 National Police Service Agency, *Money laundering - Crime Analysis 2012*. In some cases, money laundering comes to light because (financial) service providers report unusual or suspicious transactions. The numbers of notifications from various service providers were quite stable in the period 2008-2010, but these figures may say more about the extent to which institutions are complying with their reporting obligation and the way it is enforced than they do about the scale of money laundering.

the EU, and could therefore have a major impact on the threat caused by transnational organised crime.

An attack by Russia on the Baltic States is also not regarded as very probable by the experts. The impact assigned by the Clingendael Expert Survey to such an event is very substantial. In such a case, the EU's external borders would be violated and a zone with a great degree of instability and conflict, comparable with the current situation in Ukraine, would then be situated inside the EU's borders. The porous outer border would make smuggling easier and the weapons arsenal in this part of the EU would grow significantly in scale as a result. On the other hand, many types of transnational organised crime can be seen as meeting the demand for illegal goods and services and it is not very probable that the demand for narcotics, for example, would increase as a consequence of this scenario. How significant is the impact of transnational organised crime on European security? This is difficult to quantify, but it is clear that all the member states are experiencing the negative effects to a greater or lesser extent.²⁴ Through the years, the criminal markets in which transnational organised crime groups operate have proven themselves to be robust. The threat of transnational organised crime is a threat that continuously manifests itself in violence, transactions on illegal markets and criminal gain. Particularly citizens, companies and vulnerable groups feel the effects of this, as well as the government organisations that must bear the costs of tackling the problem.²⁵ However, the impact of transnational organised crime is not so serious that it results in fundamental economic damage (>10% of GDP) or threatens the territorial integrity of the EU or its member states. In other words, in almost no EU country does transnational organised crime pose a threat to the foundations of the state.²⁶

The greatest threat comes from non-state actors. Analysts have highlighted quite large numbers of loose networks of criminals that are active in the EU.²⁷ Besides these non-state actors, there are also the actors operating in, but not on behalf of, the state:

24 For a discussion on the nature and scale of the various costs of transnational organised crime in the EU, see: Levi, M., et al., *op. cit.* A recent report by the EMCDDA highlights a narcotics market that makes up 0.1 to 0.6% of GDP in nine EU countries that have sufficient available data at their disposal. Compare: EMCDDA, *EU Drug Markets Report – In-depth analysis*, 2016, 23.

25 Public expenditure related to illegal narcotics is an indicator of the costs of tackling (the consequences of) transnational organised crime. According to estimates made by the EMCDDA, this is between 0.01 and 0.5% of GDP in the EU. Compare: EMCDDA, *European Drug Report – Trends and Developments*, 2016, 68.

26 In a study into the impact of transnational organised crime on the EU, Italy and Bulgaria were highlighted as exceptional examples of countries in which criminal activity is so concentrated that the effects extend far beyond local or regional level. See: Levi, M., et al., *op. cit.*, 12.

27 Compare reports: Netherlands Research and Documentation Centre (WODC), National Threat Assessment Organised Crime (NDBs), *EU Serious and Organised Crime Threat Assessment (SOCTA)*.

the corrupt civil servants that facilitate criminal groups by blocking detection and enforcement, for example. Inside the domain of transnational organised crime, Europol has qualified corruption as a serious threat.²⁸

28 Europol, *EU Serious and Organised Crime Threat Assessment*, 2013.

The international regime of transnational organised crime

Many of the abovementioned issues have a global character. The trafficking routes for narcotics and many money laundering structures are global and the security problems related to migration also extend beyond the EU borders. The second part of this contribution shows which trends are becoming apparent in the way transnational organised crime is being tackled globally. It first focuses on the main actors and institutions, then on (the development of) the norms and rules in this regime and, lastly, on the trends related to compliance with these norms and rules.

Actors and institutions

The national police force and the judiciary are still the central players in the fight against transnational organised crime. Implementation of the most important norms is largely the work of government organisations: laws must be amended, supervisory bodies must be set up, information held by the police and the judiciary must be exchanged, investigative agendas must be harmonised, etc. But on a local, national and global level, there is a growing conviction that the fight against transnational organised crime must not be left solely to the police and the judiciary. For example, the United Nations (UN) is stimulating the involvement of civil society in fighting crime and reducing the negative consequences. The expansion of the number of actors in the fight against transnational organised crime also involves local government organisations, the (mental) health sector, the education sector and the business sector.

On an international level, the NGOs are slightly in the majority in terms of numbers compared to the intergovernmental organisations (see Figure B). However, state actors are in the majority in terms of the scale of the organisations. But this is not to say that NGOs do not have an influence on the crime fighting agendas. Precisely when putting the social effects of crime and the tackling of issues such as environmental crime and sexual offences on the agenda, NGOs play a important role, also in countries or regions in which government organisations are failing to tackle or prevent crime. The preventative harm reduction approach to drug-related crime is gaining ground and will increase the demand for the deployment of NGOs.

The United Nations Convention against Transnational Organised Crime (UNTOC) is an important international instrument in a domain in which the national approach and national interests continue to dominate. Both the UN and the EU lack a strongly multilateral coordination mechanism for the approach, and the absence of a strict

definition of the problem leaves space for divergent national priorities.²⁹ Criminal law still provides the dominant instruments in the fight against transnational organised crime, where the police and the judiciary are the central players and are predominantly deployed on national and often even on regional level.

The number of international organisations, both governmental and non-governmental, that is involved in the fight against organised crime is growing. The ratio between the universal, intercontinental and regional organisations that are active in the field of transnational organised crime is roughly equal. Figure C shows that regional and intercontinental organisations have usually not been operational for as long as the global organisations. One example of this regionalisation of the cross-border fight against transnational organised crime is the establishment of more and more regional police organisations since the 1980s.³⁰ The EU provides the most far-reaching format with institutions such as Europol and Eurojust and with, since 2011, the European policy cycle for organised crime, under which a joint strategic analysis, a European strategic agenda and operational cooperative plans have been worked out.³¹

Norms and rules

Not until 2000 did the UN arrive at a generic agreement about the fight against organised crime, called the United Nations Convention against Transnational Organised Crime. The countries that have ratified the convention and in some cases also the corresponding protocols for the specific crimes of people smuggling, human trafficking and arms trafficking recognise the seriousness of the problem of transnational organised crime and the need for a cross-border approach and have pledged to deliver an extensive set of legal and operational commitments as part of this approach.³²

29 UNODC, *The Threat of Transnational Organized Crime*, 2010, 25, <https://www.unodc.org/unodc/en/data-and-analysis/tocta-2010.html>.

30 This includes the founding of Aseanpol (1980), Europol (1993), the *Eastern African Police Chief's Cooperation Organization* (1998), Ameripol (2007) and Afripol (2016).

31 Council on Foreign Relations, *The global regime for transnational crime*, 2013, <http://www.cfr.org/transnational-crime/global-regime-transnational-crime/p28656>.

32 *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (2000); *Protocol against the Smuggling of Migrants by Country, Sea and Air* (2000); and *the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition* (2001).

Table 2 Key norms and rules

Norms	Rules
Transnational organised crime is a global threat that requires a coordinated multilateral approach in a large number of areas.	Set of legislative and policy implications: UNTOC
The production and trafficking of various psychoactive substances is prohibited.	International cooperation
The fight against corruption and the laundering of criminal profits are crucial elements in the fight against transnational organised crime.	

More recently, the UN has linked the fight against transnational organised crime to achieving the Sustainable Development Goals (SDGs) by 2030. The SDGs in the field of poverty reduction and education, for example, are regarded as crucial in eliminating the breeding ground for transnational organised crime and terrorism.³³ SDG 16, which focuses on peace, justice and strong institutions, focuses on the fight against arms trafficking, corruption and transnational organised crime. Besides the norms set out in UNTOC and in SDG 16, the broadly supported basic principle of making narcotics and other psychoactive substances illegal can be regarded as a norm that fundamentally defines the status of the system of international cooperation in the fight against transnational organised crime.³⁴

The UNTOC defines a number of rules and benchmarks that are important in the fight against transnational organised crime. The institutional and judicial preconditions for tackling corruption and money laundering and the obligation to work together internationally, particularly by exchanging police and judicial information with foreign partners, are some of the most important 'rules' of the system.

Based on the discussions and debates on how to fight transnational organised crime, have there been visible developments in these norms and rules over the past ten years? The discussion in the UN about the global fight against transnational organised crime is not so much about the way this approach should be structured as about the urgency with which it needs to be done. For instance, the UN is presenting the link between transnational organised crime and terrorism as an important incentive for an intensified global fight against transnational organised crime, because criminal groups – or criminal

33 UN, *Sustainable Development Goals*, 2015, <https://sustainabledevelopment.un.org/topics/sustainabledevelopmentgoals>

34 Particularly the *Single Convention on Narcotic Drugs* of 1961 (amended by the 1972 Protocol), the *Convention on Psychotropic Substances* (1971) and the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (1988).

activities – are supplying terrorists with money, weapons and transport support.³⁵ Moreover, in order to underline the urgency of signing and implementing UNTOC the most recent UNTOC conference in 2014 highlighted the impact on transnational organised crime of the worsened security situation in countries and *vice versa*.³⁶ Given the open definition of transnational organised crime, the question of what exactly must be tackled is still subject to different interpretations. However, connecting the fight against transnational organised crime to SDGs in the area of poverty reduction, education and a properly functioning legal order gives greater emphasis to the prevention of transnational organised crime and to the creation of social barriers against it.

As part of the fight against the global drug problem, demand reduction and harm reduction have been assigned a more important position alongside the traditional repressive supply reduction. During a special session of the General Assembly of the UN in 2016, which was dedicated to the World Drug Problem, the focus was on the perspective of public health.³⁷ This is in line with the changing attitude in the United States (US), which has quite explicitly opted for a public healthframe and has distanced itself from the dominant image of the drug problem as a crime-related problem.³⁸ Even though the focus is gradually shifting, in the coming years repression and criminal law will certainly continue to be part of the worldwide fight against the drug problem. The trafficking and production of milder drugs will be tolerated here and there or even legalised, but the time is not yet ripe for the universal legalisation of drugs.

Much more than in the UN, where the UNTOC signatories have pledged to implement institutional and legal provisions for international cooperation between the police and the judicial authorities, there are ongoing developments in the EU that are radically formalising international cooperation in the fight against transnational organised crime. The Treaty of Prüm in 2008 made information exchange in the Union obligatory in some

35 Resolution 2195, See: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/V14/076/26/PDF/V1407626.pdf>, passed by the UN Security Council in 2014, underlines this relationship and urges member states to sign, ratify and implement the UNTOC and the various UN anti-drug conventions.

36 UN Security Council, *Resolution 2195 (2014)*, <http://www.un.org/press/en/2014/sc11717.doc.htm>. See also: UNODC, *The Globalization of Crime A: Transnational Organized Crime Threat Assessment*, 2010, https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf

37 United Nations, *Resolution adopted by the General Assembly on 19 April 2016*, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/110/24/PDF/N1611024.pdf?>

38 Pratt, T. 2016. 'Obama: 'Drug addiction is a health problem, not a criminal problem', *The Guardian*, 30 March, <https://www.theguardian.com/us-news/2016/mar/29/barack-obama-drug-addiction-health-problem-not-criminal-problem>. The US did not react positively to a number of ground-breaking scenarios for the drug policy sketched by the OAS in 2013, where the gradual release of trafficking and production of drugs was one of the policy options that was investigated. OAS, *Scenarios for the drug problem in the Americas 2013-2025*, 2012, http://www.oas.org/documents/eng/press/Scenarios_Report.PDF.

cases and also formulated norms for the turnaround times for legal aid. In addition, far-reaching measures were taken as part of the Schengen *acquis* (2010) and the EU treaty (2012) to formalise the exchange of police and justice-related information. The European investigation order that was issued in 2014 illustrates this trend.

Compliance

The fight against transnational organised crime has a relatively marginal profile in the UN. Figure D shows that at the UN General Assembly transnational organised crime is rarely discussed compared to other subjects in this Clingendael Strategic Monitor. In the years from 2005 to 2010 and in 2012, only one subject that was voted upon was related to transnational organised crime. Figure E shows that when a vote is indeed taken on this subject, the UN member states are in agreement to a remarkable extent, particularly compared to subjects such as territorial integrity and nuclear proliferation. This suggests that transnational organised crime is indeed a marginal subject but is also politically neutral and that in diplomatic circles it can offer comfortable common ground for a discussion between political opponents.

Despite all the consensus about targets and benchmarks, an actual global approach to transnational organised crime still comes up against significant problems. The transnational organised crime treaties lack monitoring mechanisms that supervise their implementation, so they are not always complied with in full.³⁹ Without a clear definition, there is not enough clarity about the focus of the approach. If there are no broadly shared objective indicators that can measure crime and instigate a joint approach and a strictly formulated global agenda, the cross-border fight against transnational organised crime is largely limited to bilateral and regional initiatives.

In addition, implementation of the specified SDGs is a complicated process. The aim of the 2030 agenda was to arrive at measurable targets. It was decided to measure the effects of tackling arms trafficking, corruption and transnational organised crime using a single indicator: the scale of illicit financial flows. An impossible task.⁴⁰

39 The two-yearly conferences of the parties that signed the UNTOC have focused particularly on how to improve implementation. Various proposals for a review mechanism were considered, but as yet with no results. For example, the 2010 conference called for a revision of the convention to both increase the effectiveness and improve the implementation. Another example is the 2012 conference, in which implementation was again the centre of focus. Compare: Council on Foreign Relations, *Global Governance Monitor: Crime*, <http://www.cfr.org/global-governance/global-governance-monitor/p18985#1/crime>.

40 Compare: SWP Comments 45, *Organised Crime in the 2030 Agenda for Sustainable Development*, 2015, https://www.swp-berlin.org/fileadmin/contents/products/comments/2015C45_vrr_bsh.pdf.

In the EU, Europol plays an important role in the exchange of police information and is globally the most far-reaching manifestation of the institutionalisation of this norm.⁴¹ An evaluation of the operation of Europol shows that the European policy cycle related to organised crime is largely fuelled by analyses from Europol, but that further harmonisation with the priorities of member states is required.⁴² Although analyses of the European information systems demonstrate that more and more information is being exchanged between EU countries, the degree of commitment of the member states and the intensity of the information traffic is less than optimal.⁴³ The majority of the information exchange that takes place through Europol has a bilateral character and is not available for broader analyses and EU-wide use.⁴⁴

The quadrant chart and shocks

For the Clingendael Expert Survey, a number of transnational organised crime experts identified and evaluated possible shocks (see Figure F). The shock with the highest probability is the collapse of the EU, to which the experts assign a high impact on the system described in this contribution. It can indeed be contended that the phenomena of transnational organised crime described in the first part of this contribution call for an internationally coordinated and integral approach. Fragmentation of the EU will disrupt the as yet embryonic reconciliation process of national security interests and will mean that the fight against phenomena such as people smuggling and money laundering leads to little more than the relocation of the problems from one EU country to another.

The materialisation of another shock, the outbreak of wars between criminal organisations, is deemed to be (very) improbable and neither a small or large impact has been assigned to it. Depending on the number of European countries in which such a crime war would break out, this shock could lead to both fragmentation of the fight against transnational organised crime (if it involves just a few countries) and intensification of the joint approach (if many countries are affected by this problem).

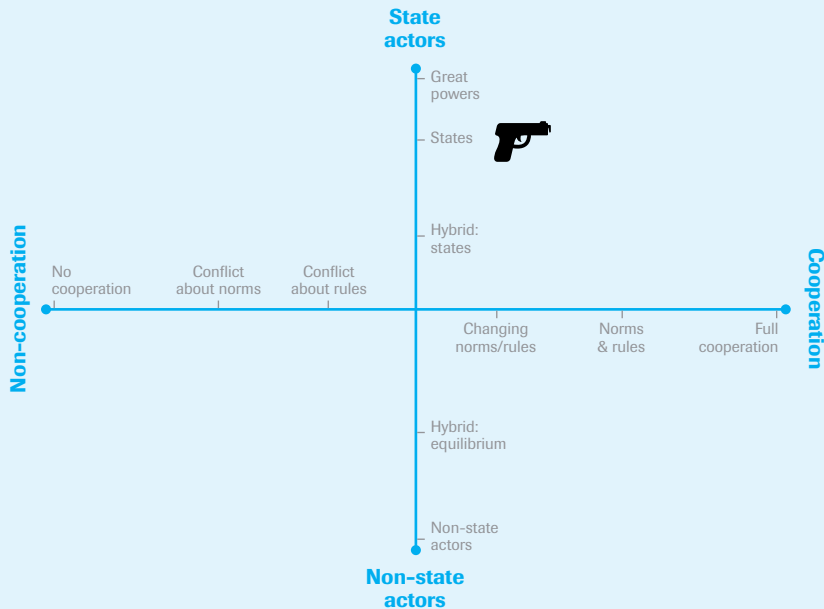
41 Interpol provides an important global infrastructure for the exchange of police-related information. To a large extent, however, this exchange is non-binding. The way Interpol operates is determined by the efforts to achieve information exchange and coordinated investigations by its member states. Compare: Council on Foreign Relations, *The global regime for transnational crime*, 2013, <http://www.cfr.org/transnational-crime/global-regime-transnational-crime/p28656>

42 Disley, E., et al. 2012. *Evaluation of the implementation of the Europol Council Decision and of Europol's activities*, Rand Europe, xxii.

43 *Id.*, xiii.

44 *Id.*, 49.

Figure 4 The international regime: Transnational organised crime (2016-2021)



Although it is universally recognised that transnational organised crime is a global threat that requires a coordinated multilateral approach in many areas, global cooperation remains largely limited to conference statements, benchmarks and, above all, information exchange. The norms and rules in the fight against transnational organised crime, insofar as they exist, have been formulated quite generally and are not usually binding. Actual operational cooperation often takes place bilaterally or in coalitions and is based on national security perceptions and agendas. Regional organisations and NGOs are emerging as actors, but state actors dominate this domain and are expected to do so for the next five years.

Conclusion

The activities described in this contribution in the context of transnational organised crime have many direct and indirect victims in all the EU member states. They include victims of violence, exploitation or drug use, or the many drowned victims of the people smugglers. Operators on criminal markets use their extensive financial assets to acquire economic or social positions, but this has not significantly undermined the integrity of the economic sectors or public confidence in government organisations. Due to the development of a number of important factors, such as the use of cyber technologies by criminal groups, crisis and conflict on Europe's external borders and the slight increase in the market demand for drugs, the EU is expected to be dealing more with the consequences of organised crime in 2021.

Although various government organisations all over the world have issued a strong endorsement of crucial aspects in the fight against transnational organised crime, of the way this approach should be structured and of the idea that many transnational organised crime problems are shared problems, there is relatively little operational cooperation on multilateral level apart from widespread information exchange. The reasons for this include national mandates and the national focus of the most prominent actors, differing threat perceptions, and the minimal implementation obligation issuing from global agreements. On a regional level, that of the EU, the fight against transnational organised crime is more integrated, and its multilateral nature may increase even more in the coming years under pressure from the necessary measures in the area of terrorism and migration and a growing realisation that the national initiatives to combat transnational organised crime are not effective enough.

Appendix: Figures

Figure A Possible shocks in the threat assessment related to transnational organised crime (N=19)

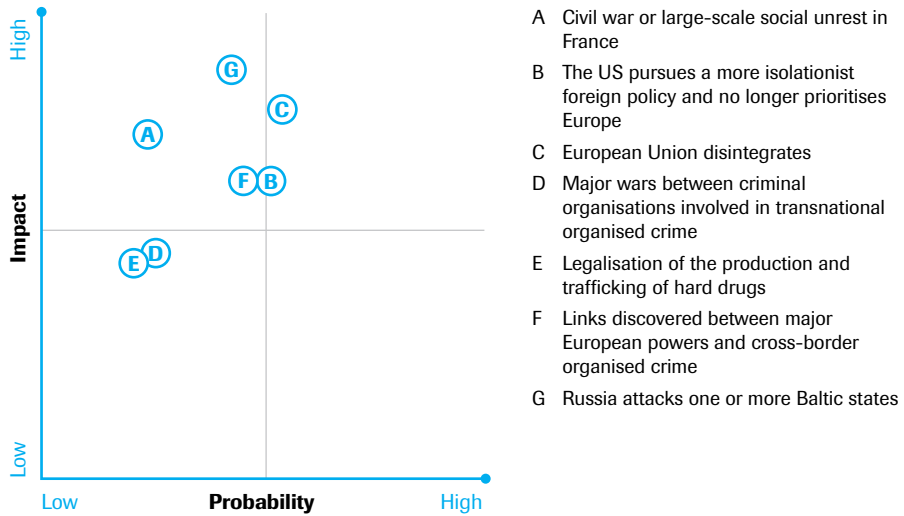
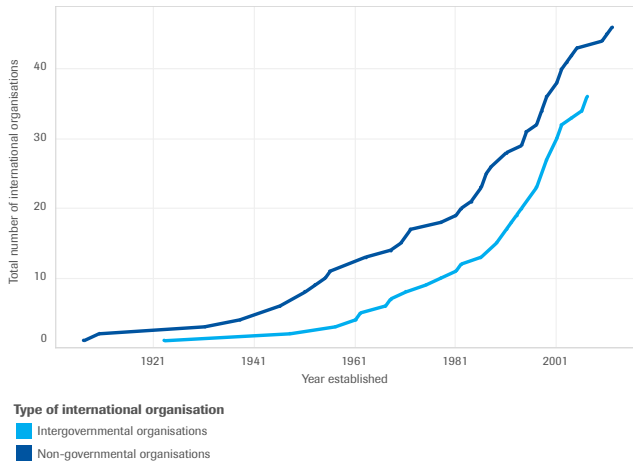


Figure B State versus non-state actors in the regime related to transnational organised crime¹



¹ Union of International Associations (UIA), Yearbook of International Organizations 1905-2012, 2016, <http://www.uia.org/yearbook>.

Figure C Regional, intercontinental and global transnational organised crime organisations²

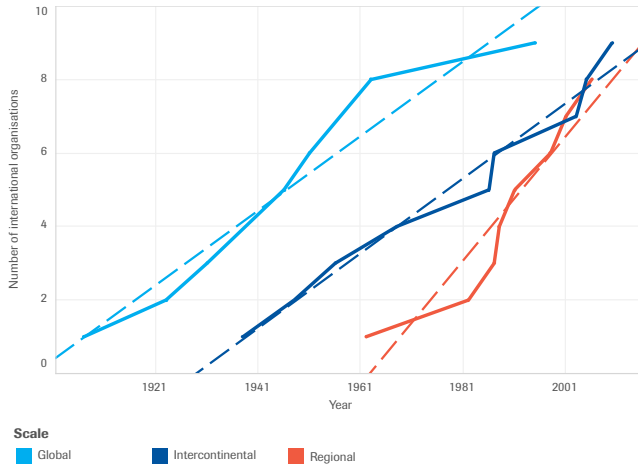
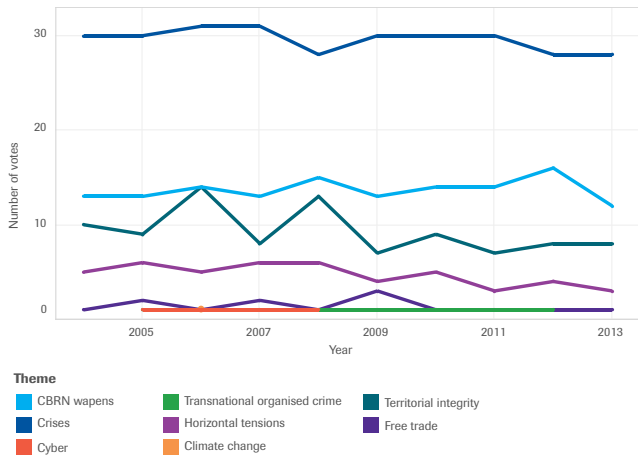


Figure D Distribution of subjects in the case of votes in the General Assembly³



² *Ibid.*

³ Erik Voeten Dataverse, *United Nations General Assembly Voting Data, 2004-2013*, Georgetown University, <https://dataverse.harvard.edu/dataverse/Voeten>.

Figure E Differences of opinion at the General Assembly by subject⁴

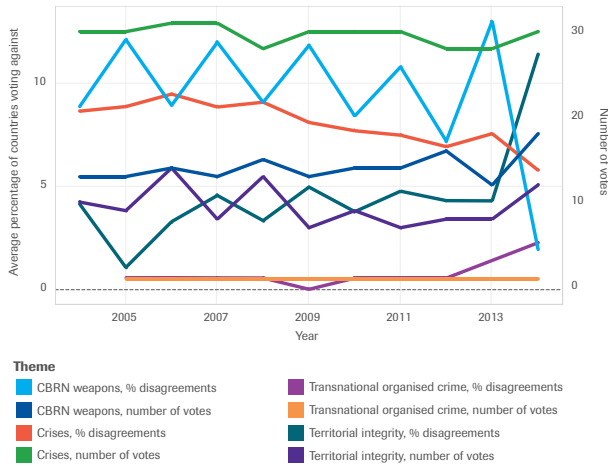
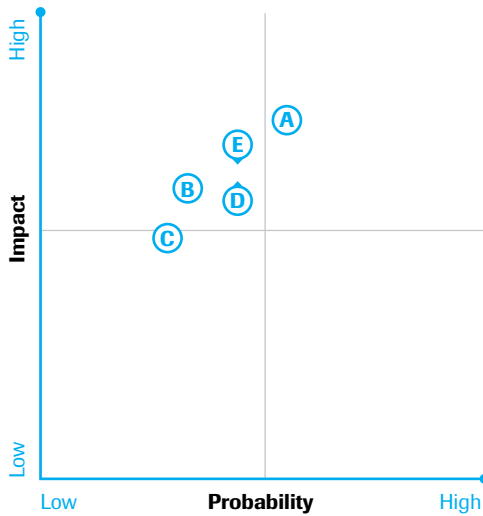


Figure F Possible systemic shocks related to transnational organised crime (N=19)



- A European Union disintegrates
- B Armed conflict between China and the US about Taiwan and/or the East/South China Sea
- C Major wars between criminal organisations involved in transnational organised crime
- D Links discovered between major European powers and cross-border organised crime
- E Global financial crisis

4 *Ibid.*