

# Counteracting Transnational Organized Crime Challenges and Countermeasures

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STOCKHOLM PAPER  
April 2010



Institute for Security &  
Development Policy



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ISBN: 978-91-85937-82-0

Printed in Singapore

Distributed in Europe by:

Institute for Security and Development Policy  
Västra Finnbodavägen 2, 131 30 Stockholm-Nacka, Sweden  
Tel. +46-841056953; Fax. +46-86403370  
Email: info@isdpeu

Distributed in North America by:

The Central Asia-Caucasus Institute  
Paul H. Nitze School of Advanced International Studies  
1619 Massachusetts Ave. NW, Washington, D.C. 20036  
Tel. +1-202-663-7723; Fax. +1-202-663-7785  
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## Executive Summary

According to the United Nations Office on Drugs and Crime (UNODC), transnational organized crime is one of the major threats to human security, impeding the social, economic, political and cultural development of societies worldwide, and involved in trafficking in human beings, drugs and firearms, money laundering, etc. This alarming threat has reached its most tangible level in countries such as Guinea Bissau and Afghanistan which have gradually turned into narco states/economies over the last 10 years. Most likely more states will fall prey to transnational organized crime, unfortunately, as these illegal networks grow rapidly and nestle further into untouched sectors and governmental hallways.

The expansion of transnational crime makes money laundering an increasing problem with criminal networks funneling their proceeds into the legal economy. Globalization has made it easier to establish international contacts, open foreign accounts and buy offshore companies. Objects that are deemed necessary for large-scale money laundering schemes can now easily be acquired on the internet. More and more international organizations are focusing on this issue. The UNODC has recognized the seriousness of the problem and called on all states to devise coherent strategies against organized crime. The OECD has urged countries worldwide to implement standards on information sharing, including the abolition of laws of bank secrecy. However, an integrated and comprehensive global strategy continues to be lacking, allowing transnational organized crime to expand.

This report outlines the origins of transnational organized crime, describes how it manifests itself and identifies possible threats against societies. Money laundering is dealt with in some detail since it facilitates transnational crime activities and their expansion into the legal economy. The challenges posed by financial crime are identified and guidelines for its prevention are outlined. The EU strategy against

transnational organized crime is an example of how the common European model of crime prevention can be implemented elsewhere.

It is fair to say that criminals are ahead of governments in exploiting the most advanced tools of globalization, such as international travel, banking and trade.



## Introduction

According to the EU Commission, criminal activity is defined as organized if it can meet six out of eleven possible criteria.<sup>1</sup> Of these six criteria, four are mandatory: (1) collaboration of more than two people; (2) committing offences repeatedly over an indefinite period; (3) suspected of the commission of serious criminal offences; and (4) determined by the pursuit of, amongst other things, profit and/or power, but not including terrorist motives. However, the EU approach to defining criminal activity could be problematic since it makes the process of identifying and labelling organized crime overly bureaucratic. Instead, organized crime could be defined with a set of less statutory bound features, namely, if they operate as a structured group, commit serious crimes, use extreme violence as part of their modus operandi, and launder the proceeds of criminal activities into the legal economy.<sup>2</sup>

The present trend is for groups of organized crime to specialize in providing particular services, such as drug importation, drug concealment, fraudulent documentation, money laundering, street enforcement, and racketeering. A criminal enterprise today is highly efficient in terms of expertise and manpower.<sup>3</sup> The tendency to use one network for one operation, and then

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<sup>1</sup> Henrik Sjölander/summarized by Cemal Özkan, "Fighting Organized Crime in the EU: A New Era with the Lisbon Treaty and the Stockholm Programme," Institute for Security and Development Policy, *ISDP Policy Brief*, No. 23, March 29, 2010, [http://www.isdp.eu/images/stories/isdp-main\\_pdf/2010\\_sjolinder\\_fighting-organized-crime.pdf](http://www.isdp.eu/images/stories/isdp-main_pdf/2010_sjolinder_fighting-organized-crime.pdf) (accessed April 8, 2010). The criteria are: 1. Collaboration of more than two people; 2. Each with own appointed tasks; 3. Committing offences repeatedly over an indefinite period; 4. Using some form of internal discipline and control, including violence and threats; 5. Suspected of the commission of serious criminal offences; 6. Operating on an international level; 7. Using violence or other means of intimidation, including threats, outside the group; 8. Using commercial or businesslike structures; 9. Engaged in money laundering; 10. Exerting influence on politics, the media, public administration, judicial authorities or the economy; 11. Determined by the pursuit of, amongst other things, profit and/or power, but not including terrorist motives.

<sup>2</sup> "U4 Expert Answer – Organized Crime and Corruption," <http://www.u4.no/helpdesk/helpdesk/query.cfm?id=171> (accessed March 10, 2010).

<sup>3</sup> John McFarlane, "Regional and International Cooperation in Tackling Transnational Crime, Terrorism and the Problems of Disrupted States," *Journal of Financial Crime*, Vol. 12, No. 4 (2005).

organize another network for another operation, makes the task of tackling these groups a matter for transnational cooperation, and therefore much more difficult. From the point of view of criminals, it is not the commodity trafficked or the service provided which counts. What motivates them is the capacity to undertake activities at the lowest risk of detection whilst generating the highest possible profits.

Supporting these criminal networks is a range of professionals operating along the margins of criminality, without which transnational crime would not succeed. They include lawyers, accountants, financial advisers, bankers, stockbrokers, IT specialists, businessmen, chemists, corrupt politicians, judges and magistrates, government officials, police, customs officers and military personnel; and even compliant media people and clerics. Increasingly, criminal profits are not used for the lavish lifestyles of the criminals involved but for investments in legitimate business, property and shares. Subsequently, a significant part of the criminal profits generated by criminal enterprises may be generated from legitimate business activities, using funds derived from illegitimate or criminal activities.

# Transnational Organized Crime

## Background

Criminals have posed a threat to people and societies since time immemorial. For centuries, the concern was more about conventional crime, namely offences against individuals and assets in the form of murder, fraud and theft. Today, the nature of crime has changed. It has become more organized and transnational and it has reached macro-economic dimensions. It has also turned into a global business operating in collusion with legitimate activities. Up until the mid-1980s organized crime was considered a problem that concerned only a limited number of countries – primarily the United States, Italy, China, Colombia and possibly even Japan. Up until then, researchers, politicians and the general public in nearly all European countries, aside from Italy, regarded themselves as largely unaffected by organized crime. Twenty years later, the European landscape has changed dramatically. Today, virtually all European national law enforcement agencies admit that they have serious problems with organized crime. Globalization has promoted economic growth by facilitating the movement of people, goods, capital and services. On the negative side, globalization has also helped to spread insecurity and violence through internationalized organized crime. Additionally, organized crime has severely capitalized on the increased focus on issues pertaining to terrorism after 9/11. This leads law enforcement agencies today to focus upon counterintelligence, cyber crime and counterterrorism to the detriment of those advocating attention to organized crime.<sup>4</sup>

The structures of contemporary criminal networks have evolved from pyramid shaped hierarchies to networks of cells where almost every unit is operating independently. They are continuously changing constellations, partners and even geographical locations which makes it nearly impossible to map out an entire network. Even if elements of a network were to be

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<sup>4</sup> Speech delivered by Antonia Maria Costa, Executive Director, UNODC at the G8 Presidents of Chambers Meeting. "How can Parliaments fight organized crime?" September 13, 2009 <http://www.unodc.org/unodc/en/about-unodc/speeches/2009-13-09.html> (accessed March 27, 2010).

eliminated the decentralized network would be quick to refill those voids. The numerous geographically widespread criminal organizations engage with each other for the sake of cooperation but also to compete with one another. Additionally, they are also closely knitted to governmental and other societal actors. The decentralized structure of these organizations, their broad involvement in the legal economy and their leverage upon regimes, especially in countries marred with corruption, makes them hard to eradicate. Even if the higher echelons of a network were to be wiped out, the organization itself would fill in their vacancies with new recruits. Also, one has to consider the vacuum that would be created and in turn filled in by other actors when dismantling an entire organization. Unfortunately, there does not seem to be a universal remedy against the existence of transnational organized crime. However, one can contain it and prevent its expansion by following its tracks through regional and international cooperation. The major challenge lays in understanding the high complexity disguised under the label “transnational organized crime” and by coming to terms with its threat to state security.

Encumbered in many ways, law enforcement agencies have not been as quick to adapt to this new situation and criminals are well aware of this fact. Transnational criminal organizations exploit the inherent weaknesses of law enforcement agencies, in order to conduct their illegal activities and to hide their illicit proceeds in ways that minimize the risk that they will be arrested or prosecuted, or have their assets forfeited. The dilemma with rivalry and competition among national law enforcement agencies serves the interests of organized crime groups. This is a serious problem since regional cooperation will inevitably fail if communication and trust among agencies at a national level is critically low. The mere existence of rivalry among agencies is usually explained by arguments that underscore the lack of trust and cooperation due to narrow-minded competitiveness. Additionally, lack of acknowledgement that other agencies have the capacity to contribute to ongoing operative and investigative missions can be added to the list of factors that benefits criminal networks.<sup>5</sup>

Organized crime groups are also benefiting greatly from their innovative approach to technology. In this respect, law enforcement agencies

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<sup>5</sup> McFarlane, “Regional and International Cooperation in Tackling Transnational Crime, Terrorism, and the Problems of Disrupted States.”

are perhaps lagging behind the most. Needless to say, figuring out how criminals innovate new ways of exploiting telecommunications, visa free regimes and electronic banking is a time and resource consuming activity. The difficulties in keeping pace with criminals are twofold. Firstly, insufficient resources are often a restraining factor for law enforcement agencies in terms of procurement, hiring staff and training existing staff. Secondly, law enforcement agencies have restrictions in executing actions due to bureaucratic structures which results in slow responses to actions of more flexible criminal networks. Also, receiving warrants and other types of permission for conducting surveillance and tracking activities under suspicion of being criminal can be challenging. The problems faced by law enforcement agencies are further exacerbated by the ability of organized crime groups to smoothly carry out ad-hoc actions by means of, for example, hiring temporary "staff."

### **An Increasing Threat to Humanity**

The Director General of the UNODC, Antonio Maria Costa, has expressed grave concern over the systemic and destabilizing effects of organized crime globally on civil society.<sup>6</sup> In Costa's view, the "real climate change" facing humanity is the current social disintegration of civil society in many countries, and the fact that many countries are not aware of the massive problems that organized crime will cause in the future. Many small countries do not have the capacity to deal with the activities of transnational organized crime and in some cases nations may depend upon capital investment from organized crime. This can be seen in small island nations in the Atlantic, which allow the daily transits of aircrafts often carrying illicit drugs. In some West African states with weak and corrupt governments transnational criminal groups have nestled in the higher echelons of society and government, especially in Guinea Bissau. This particular situation has reached an alarming level as some criminal groups now possess private armies which challenge the core principle of the state in having monopoly over the use of violence.

In recent years the EU has started to take practical measures against transnational organized crime. Europol outlines that criminal enterprises are developing an operational model based upon legitimate international

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<sup>6</sup> Walter Kegö, "Organized Crime: A Major Threat to State Security," Institute for Security and Development Policy, *ISDP Policy Brief*, No. 19, February 19, 2010.

businesses and business hubs. Like legitimate businesses, organized criminal enterprises are establishing business hubs through which a range of illegal commodities can be distributed. A number of criminal groups from the former Russian Federation have established links between international criminal enterprises and can source any illegal commodity and distribute it across the globe. Correspondingly, organized crime has become more “business-like,” with the structure of criminal organizations 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 localized models of operation has led to an internationalization of the activities of criminal groups and to a much higher extent of cooperation between groups of different nationality.

### **The Emergence of Narco States**

When governance is weak and where there is no state control of the territory, criminals take advantage of the chaos and increase their leverage upon the country, no matter the humanitarian costs. Central Africa, the Andean countries, West Asia and parts of Southeast Asia have become improvised trafficking zones, run by crime cartels that operate under the protection of, or in collusion with, insurgents.<sup>7</sup> It can also be observed today that government officials have very close ties with organized crime in some countries. This is to be regarded as one of the biggest threats to political security and stability in a number of countries where organized crime is present. A further problem is that many criminals have ventured into high level politics, as seen in countries like Colombia, Mexico, Pakistan, and Afghanistan. In a worst-case scenario, a country may develop into a so-called narco state, in which a country’s economic foundations are underpinned by narcotics and political power is transferred to criminals. In many countries, narcotics trafficking and the altering structures of criminal organizations have led to a criminalization of the economy, which is based to a large degree on drug related activities. This does not only concern the economies of producer states, but is also valid for economies of countries that lie along the trafficking routes for narcotics.

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<sup>7</sup> Antonio Maria Costa, “Making up for a lost decade,” <http://www.unodc.org/unodc/en/costas-corner/making-up-for-a-lost-decade.html> (accessed April 9, 2010).

Guinea Bissau is to be regarded as the first narco state in the world.<sup>8</sup> After Guinea Bissau broke away from its colonial power Portugal in 1974, it has been marred with obstacles to development. Weak governance, damages brought by past wars, widespread corruption and poverty have made Guinea Bissau a free haven for organized crime groups seeking to establish bases of operation. As Guinea Bissau was a failing state before drugs entered the country, the process of taking over the state can be best described as taking control over a military free country. A quarter of all cocaine consumed in Western Europe is trafficked through the region of West Africa, according to UNODC, for a local wholesale value of US\$1.8bn and a retail value of ten times that in Europe. This in turn results in a turnover from the drugs trade in Guinea Bissau that exceeds that of the country's total GDP.<sup>9</sup> The political power that the proceeds from drug trade can buy criminal groups in an impoverished country like Guinea Bissau, rated as one of the six poorest countries in the world, results in total control over the state structures.<sup>10</sup>

For Mexico, its geographical proximity to the United States, the world's biggest market for cocaine, has become the country's curse.<sup>11</sup> It is evident that the escalating drug violence, responsible for the deaths of approximately 2,600 people, only in the district of Ciudad Juarez in 2009,<sup>12</sup> has brought the state of Mexico to the brink of a new type of narco-based civil war. The expansionist cartels operating along the smuggling routes have widened the scope of their activities to also encompass kidnapping, extortion, human trafficking, and weapons trafficking at the same time as they are in a lethal competition with each other for the sake of gaining market shares in the illegal sector.<sup>13</sup>

In a development context, smuggling routes that lead to major drug consuming markets can, and will, easily create incentives for organized

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<sup>8</sup> Ed Vulliamy, "How a tiny West African country became the world's first narco state," *The Guardian*, March 8, 2008, <http://www.guardian.co.uk/world/2008/mar/09/drugstrade> (accessed March 8 2010).

<sup>9</sup> Ibid.

<sup>10</sup> *CIA World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/pu.html> (accessed April 19, 2010).

<sup>11</sup> Ibid.

<sup>12</sup> "U.S. Condemns Mexico Drug Violence That Kills Three Tied to U.S. Consulate," Fox News, March 14, 2010, <http://www.foxnews.com/politics/2010/03/14/associated-consulate-mexico-murdered> (accessed March 15, 2010).

<sup>13</sup> "Organized Crime in Mexico," STRATFOR, March 11, 2008.

crime to flourish and consequently stifle attempts of developing the country. Another similar case is Kosovo where the former leadership of the Kosovo Liberation Army (KLA)<sup>14</sup> that capitalized heavily on smuggling routes of heroin to Western Europe is now part of the country's formal leadership.<sup>15</sup> The mere fact that criminal elements make up the state elite creates huge obstacles to development as foreign aid aimed at improving the lives of Kosovars are being funneled into the pockets of criminal networks.<sup>16</sup> Kosovo's future is challenged by its corrupted state structure that turns a blind eye to the activities of organized crime that make up an estimate of 15-20 percent of the country's economy according to the estimate of the United Nations Mission in Kosovo (UNMIK).<sup>17</sup> Also, a country where organized crime has entangled wider legal spheres of the society creates shadow economies which in turn deny the government proceeds from tax revenues. In such countries, organized crime also becomes an instrument of state power. This is typically exemplified with Russia where an estimate reported in 2004 indicated that the shadow economy comprised 45 percent of the total Russian economy.<sup>18</sup> The growing collaboration between state and organized crime actors in Russia has led the U.S. intelligence community to assess the situation in terms of the Russian state being highly influenced by organized crime.

A recent report for the U.S. Senate Committee on Intelligence states: "At one end of the spectrum is the apparent growing nexus in Russian and Eurasian states among government, organized crime, intelligence services, and big business figures. An increasing risk from Russian organized crime is that criminals and criminally linked oligarchs will enhance the ability of

<sup>14</sup> Albanian: *Ushtria Çlirimtare e Kosovës* or UÇK.

<sup>15</sup> Michel Chossudovsky, "Kosovo 'freedom fighters' financed by organized crime," Cyberjournal, April 7, 1997, <http://www.hartford-hwp.com/archives/62/296.html> (accessed March 22, 2010).

<sup>16</sup> Bruno Waterfield, "Kosovo and the EU's missing millions," Telegraph.co.uk, May 6 2009, [http://blogs.telegraph.co.uk/news/brunowaterfield/9720338/kosovo\\_and\\_the\\_eus\\_missing\\_millions/](http://blogs.telegraph.co.uk/news/brunowaterfield/9720338/kosovo_and_the_eus_missing_millions/) (accessed April 8, 2010).

<sup>17</sup> John Rosenthal, "Corruption and Organized Crime in Kosovo: An Interview with Avni Zogiani," World Politics Review, February 2, 2008, <http://www.worldpoliticsreview.com/article.aspx?id=1559> (accessed March 25, 2010).

<sup>18</sup> Mark Baker, "East: The Black Economy -- Is the Underground Sector Really So Bad? (Part 1)," Radio Free Europe/Radio Liberty, June 10, 2004, <http://www.rferl.org/content/article/1053258.html> (accessed April 10, 2010).



state or state-allied actors to undermine competition in gas, oil, aluminum, and precious metals markets.”<sup>19</sup>

Other countries that are at the risk of becoming narco states are those with similar conditions to Guinea Bissau. The denominators that create conditions for “narco-state building” are poverty, corruption, geographical location, resources for production of narcotics and weak governance. In this context, the country with close similarities to Guinea Bissau in the world league of narco states is Afghanistan. This might be realized soon as estimates show that the income from opium is more than half of the total GDP in Afghanistan and, furthermore, the narco trade is showing signs of surpassing the total GDP in a near future if the negative trend sustains itself.<sup>20</sup> The main reason that is holding Afghanistan back from becoming a full-fledged narco state is the current international military presence in the country. However, this does not hold back the fact that Afghanistan of today can be classified as a narco economy.<sup>21</sup>

### **The Economics of Transnational Organized Crime**

Transnational criminality has recently diversified into aspects of financial crime such as identity-theft, cyber-crime, human trafficking and illegal exploitation of natural resources. We cannot assess the true dimensions of this global business, though we can guess that, in size and impact, it dwarfs any legitimate trade.<sup>22</sup> Estimates of the total value of organized crime vary widely. Havocscope, an online database of black market activities estimates world illicit trade to be almost US\$730 bn per year, with counterfeiting and piracy US\$300 bn – US\$1 trn, trade in environmental goods US\$69 bn and weapons trade US\$10 bn.<sup>23</sup> The illicit drug trade is valued at between US\$500 and US\$900 bn worldwide. Analysts identify cocaine and heroin trafficking as the most profitable criminal activity for transnational groups. Trafficking

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<sup>19</sup> Dennis C. Blair, “Annual Threat Assessment of the Intelligence Community for the Senate Select Committee on Intelligence”, February 12, 2009, p. 44, [http://www.dni.gov/testimonies/20090212\\_testimony.pdf](http://www.dni.gov/testimonies/20090212_testimony.pdf) (accessed April 8, 2010).

<sup>20</sup> Fisnik Abrashi, “Afghan Opium Cultivation Hits a Record,” *The Washington Post*, August 16, 2006, [http://www.washingtonpost.com/wp-dyn/content/article/2006/08/16/AR2006081600771\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/08/16/AR2006081600771_pf.html) (accessed April 8, 2010).

<sup>21</sup> *Ibid.*

<sup>22</sup> G8 Presidents of Chambers Meeting, “How can Parliaments fight organized crime?”

<sup>23</sup> “Havocscope Black Market Indexes,” [www.havocscope.com](http://www.havocscope.com) (accessed April 12 2010).

in persons for sexual exploitation or forced labor is one of organized crime's largest revenue sources, generating US\$9.5 bn annually, according to the FBI. McAfee, an IT security company, estimates that theft and breaches from cybercrime may have cost businesses as much as US\$1 trn in 2008.<sup>24</sup> These figures does not include organized crime's part of the US\$1 trn in bribes that the World Bank estimates is paid annually or its part of the estimated US\$1.5–6.5 trn in laundered money.<sup>25</sup> The laundering of billions of dollars from organized crime money will worsen national debt problems because large sums of money will be lost as potential tax revenue. As noted above, the Russian shadow economy is estimated to exceed 40 per cent, leaving the state without large revenues much needed for distribution to the public sector.

Transnational organized crime in an increasingly global economy poses a serious threat to national security. Countries worldwide, whether they are developed or underdeveloped, did not previously share a collective problem of this nature. The transnational criminal networks do not just affect a selected group of financial institutions or regional areas. They affect international financial networks and economies at national and regional levels. These new threats will also present new conflicts that will require innovative strategies in the future, since we today have global cooperation among transnational criminal groups.<sup>26</sup>

### Money Laundering – The Scourge of Crime Fighters

The lowest common denominator of all transnational criminal activities is money laundering by which the proceeds of illegal activities are converted to means for legal investments in the economy. According to the World Bank and the International Monetary Fund (IMF), shadow transactions were estimated to be as high as between US\$6.5trn and US\$9trn in 2001.<sup>27</sup> If these figures are

<sup>24</sup> Elinor Mills, "Study: Cybercrime costs firms \$1 trillion globally", CNET, January 28, 2009, [http://news.cnet.com/8301-1009\\_3-10152246-83.html](http://news.cnet.com/8301-1009_3-10152246-83.html) (accessed April 19, 2010).

<sup>25</sup> "Organized Crime (Challenge 12)," The 4D Network, [http://4dnetwork.org/goals/view/?goal\\_id=350](http://4dnetwork.org/goals/view/?goal_id=350) (accessed April 19, 2010).

<sup>26</sup> Mora Stephens, "Global Organized Crime," paper presented at the Woodrow Wilson School Policy Conference 401A Intelligence Reform in the Post-Cold War Era, January 6, 1996, <http://www.fas.org/irp/eprint/snyder/globalcrime.htm> (accessed March 20, 2010).

<sup>27</sup> Walter Kegö, "Organized Crime: A Major Threat to State Security," Institute for Security and Development Policy, *ISDP Policy Brief*, No. 19, February 19, 2010.

put in contrast to the total global GDP it would amount to 20-25 percent of its total sum. On the other hand, the United Nations International Drug Control Program (UNDCP) assessed the annual turn-over from the entire criminal market to be around US\$1500 bn.<sup>28</sup>

Money laundering can be roughly categorized into three phases, i.e. placement, layering and integration. The first phase, placement, is without doubt the riskiest of the three phases. This is due to the fact that it constitutes the transfer of illicit profits from the illegal to the legal economy and requires security features of the latter to be overcome. Proceeds from criminal activities that are funneled into the financial markets in the first phase are overwhelmingly in cash. Although, organized crime groups have limited usage of cash since it makes it hard to follow long term strategies. Also, making larger investments such as in real estate is impossible with cash. Organized crime groups often exert leverage upon the banking sector by exploiting legal loopholes or insufficient or unapplied legislation.<sup>29</sup>

The development of money laundering techniques is high priority for organized crime groupings since they maximize the share of illegal profits for legal activities. The methods utilized by these groups range from simple and primitive purchases of gold, or other luxury items, to transnational schemes of great complexity which economic crime fighters have difficulties detecting. Organized criminals are very innovative in devising new techniques and in exploiting loopholes and systemic weaknesses. It is a sad fact that criminals will always be one step ahead of those fighting their activities. Often, their activities are facilitated by white collar criminals, including economic and legal advisors that lack scruples.<sup>30</sup> Drug cartels go to great lengths to conceal the movement of drug money. As drug money makes its way back to the source of supply, it passes through a network of money laundering operations which often use front companies to cover for the transfer of large sums of money. Popular front businesses include, but are not limited to, real

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<sup>28</sup> "Organized Crime – Drug and Human Trafficking in Europe," Rapporteur: Christine Boutin (France). NATO Parliamentary Assembly, November 5, 2004, <http://www.nato-pa.int/Default.asp?SHORTCUT=368> (accessed April 19, 2010).

<sup>29</sup> Ibid.

<sup>30</sup> Europol, *OCTA 2009: European Organised Crime Threat Assessment*, p. 30, [http://www.europol.europa.eu/publications/European\\_Organised\\_Crime\\_Threat\\_Assessment\\_\(OCTA\)/OCTA2009.pdf](http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_(OCTA)/OCTA2009.pdf) (accessed April 8, 2010).

estate companies, hotels, currency exchange companies, automotive sales companies, restaurants, and other small businesses.

# Countering Transnational Organized Crime

## Background

There is a long-standing history of organized crime groups being ahead of law enforcement agencies. However, during the last two decades the problem has changed its characteristics. Contemporary organized crime has internationalized, nestled itself into the higher echelons of societies and consequently started to pose a great threat to state security. Prevention of organized crime needs to take the same path, namely, to become more internationalized, as transnational problems need transnational solutions. Unfortunately, law enforcement agencies are lagging behind criminal groups due to a wide range of deficiencies. This is due to deficiencies such as lack of resources, corruption, toothless legislation, absence of international crime fighting units and transnational cooperation. Part of the problem with the lack of transnational cooperation is that states need to have trust and credible assurances from other states that shared information will not be misused.

The cell structure of transnational organized crime groups makes it virtually impossible to identify any leadership. This is exasperated by the flexible nature and speed at which these criminal groups can move to replace identified or removed networks and leadership. This makes it a dubious task to find strategies that would wipe out criminal networks without risking their replacement by others. Needless to say, there are no universal remedies against transnational organized crime. However, that does not imply that there are no strategies for deterring organized crime groups away from corrupting societies, criminalizing states and investing criminal proceeds into the legitimate economy. When dealing with organized crime of transnational nature, it is quintessential to understand the complexity of the issue at stake, keeping pace with the innovations of criminals and working actively to prevent the activities of organized crime networks in a multilateral fashion. Since transnational crime creates synergies between terrorism, drug

trafficking, money laundering and cybercrime, the response must include deepened intra-state and intra-agency cooperation.

### **Countermeasures – European Lessons**

Many countries are gradually becoming more aware of the problems related to transnational crime as the problem is further penetrating societies that until recently “only” experienced difficulties with domestic organized crime groups. The European Union as a regional body has in this respect experienced severe problems but simultaneously been relatively quick to respond to the urgent needs of preventing organized crime. In Europe, the fight and prevention of transnational crime has over the last two decades increasingly gained priority on the agendas of EU member states. The main reason for this development is attached to three interrelated events. First, the security void that appeared after the fall of Communist regimes in Eastern Europe created incentives for criminal elements to capitalize on weak state control and subsequently grow in size. Second, the provision for the freedom of movement in the Maastricht Treaty (1993) eased the operations of criminal networks in “old” Europe. Lastly, the enlargement of the EU in 2004 has, by and large, created a flexible milieu for the operations of criminal networks in the European continent in an unprecedented manner. Subsequently, the EU’s actions to counter this development have paved the way for a process aimed at harmonizing and unifying national structures on legal matters in order to combat transnational criminality. The recently ratified Lisbon Treaty has promoted issues of policing and judicial relevance to a policy area in its own right.

The EU’s engagement in crime-related issues, or lack thereof, has gone from being merely passive in the 1980s, to highly active, due to the ratification of the Lisbon Treaty and the adoption of the Stockholm Programme.<sup>31</sup> Previously, there was a desire among member states to prevent organized crime. However, different sets of regulations, organizational structures that were yet to be harmonized, and diverse member state priorities prevented the realization of effective cooperation. With the ratification of the Lisbon Treaty, new opportunities for fighting organized crime have been created. One of the EU’s missions includes offering its citizens an area of

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<sup>31</sup> Sjölander, “Fighting Organized Crime in the EU.”

freedom, justice and security within its internal borders, as stipulated in the Lisbon Treaty. Today, there are still some uncertainties as to what combative policies this treaty provides in the area of organized crime due to its recent ratification and various provisions. Hopefully, these uncertainties will eventually be overcome when the EU's restructuring process matures. However, European measurements taken in terms of obstructing criminal networks are probably the right way to engage with organized crime since transnational problems require transnational solutions. In the following text the organized crime novelties in the Lisbon Treaty and the Stockholm Programme will be briefly mentioned.

Overall, the EU decision-making process has eased since most areas of the third pillar (Police and Judicial Co-operation in Criminal Matters) are now based on qualified majority voting. This is the main rule across the Freedom, Security and Justice areas of the EU. However, one of the remaining problems is that unanimity still applies to operative cooperation within the Union and there are preconditions for the activities of one member state in another member state. This might cause disruption in decision making in the future since operative cooperation has different meanings in different member states. Ideally, the EU members should create a uniform definition of what operative cooperation means and decide whether it entails the exchange of information, physical interventions, or if it is targeted against one or more individuals. This issue will probably become more highlighted as the European member states identify problems related to the lack of a uniform definition of operative cooperation and unanimity decision making.

The Lisbon Treaty also provides for the establishment of a Standing Committee on Internal Security (COSI) with a mandate to facilitate and strengthen coordination of operative cooperation between member states. This committee aims to evaluate the general state of operative co-operations in the EU zone, identify flaws, and forward recommendations for further improvements. However, the committee has not yet materialized and it remains to be seen how it will fulfill these tasks. Furthermore, the Lisbon Treaty's major challenges lie in its structure and geographical location. Brussels is detached from law enforcement realities and Standing Committee

on Operational Cooperation on Internal Security (COSI), as a bureaucratic organ, is not an ideal actor to facilitate operative police work.

The Stockholm Programme is the third five-year plan with guidelines for the EU's justice and home affairs. This comes after the Tampere and Hague Programs which resulted from the Amsterdam Treaty that committed the EU to establishing common areas of freedom, justice and security. Simply, the evolutionary process of the guideline programs has gone from being abstract and non-binding instruments to concrete and mandatory measures. Organized crime is mentioned under most of the program's subheadings and has a section of its own. As an increasing threat to state security, the existence of organized crime provides for "complementary" cooperation in areas such as criminal statistics and criminological studies that get funded by the EU. The strategy on organized crime provides for strong transnational cooperation, including increased interaction with law enforcement agencies in third countries, as well as uniform techniques in terms of investigative and preventive measures.

### **Can the EU Model Be Exported?<sup>32</sup>**

Firstly, the EU's solutions to problems dealt with above cannot entirely be exported elsewhere because it takes an organization with supranational elements (such as the EU) that gives precedence to its own legislation over the national law of member states. Today, there are no such organizations other than the EU. However, the lesson learned from the European case is that of an organization that has engaged and implemented actions against the growing threat posed by organized crime groups. Here, the Lisbon Treaty and the Stockholm Programme are two documents that, despite their flaws, will prove indispensable to European law enforcement officers and possibly inspire decision makers elsewhere to follow suit. But, the big challenge still remains. There is a lack of awareness on the issue of transnational crime amongst decision makers worldwide. This is deduced from the fact that criminal networks only recently internationalized which makes awareness as well as competency amongst politicians, law enforcement agencies and the general public on the issue critically low. Previously, when organized crime operated within the border of one country, counter measurements

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<sup>32</sup> The following is based on Sjölander, "Fighting Organized Crime in the EU."



came through traditional national channels. Now, the question is whether governments and law enforcement agencies are fully aware of the fact that organized crime has internationalized and that transnational problems require transnational solutions. Therefore, there might be a risk that the political will among states to prevent transnational organized crime is not sufficient enough to follow the European lead.

### **Improving Multilateral Communication and Cooperation**

*A law enforcement authority in a member state, which has the authority to investigate a certain crime or criminal activity in that state, shall have the right to request and get access to information registered in another member state that is needed for the investigation.*<sup>33</sup>

The EU's work in preventing organized crime can serve as a good guideline for the global efforts in combating the ills of transnational organized crime. Since it is not plausible to expect countries outside of the EU to follow in its footsteps in handling organized crime in the near future, one could highlight some of its guidelines. For instance, the idea of having law enforcement agencies across a wider region that can respond swiftly and promptly against transnational criminal activities is central to obstructing criminal networks. Unfortunately, almost all countries are experiencing troubles in this area due to a two-fold problem. Firstly, many states are experiencing difficulties in acquiring information deemed necessary in ongoing investigations from other states. The difficulties manifest as either protracted processes or through straight denials on requests for information. Secondly, uncoordinated national legislation on collecting and exchanging information contributes to the problematic issue of cross-border co-operation. Therefore, there is a need for governments to come to terms with the need to adopt horizontal rather than vertical approaches in countering organized crime.

Too much expectation that states in wider regions will adopt uniform legislation and coordinate the activities of their law enforcement agencies is

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<sup>33</sup> Lars-Gunnar Jonsson, Swedish Police Attaché in Brussels, 1998, quoted in Fredrik Nygren, "The Swedish Initiative: Management of Information Exchange," available at <http://www.daten.european-police.eu/2008/nygren.pdf>

not wise as the process is slow and protracted. The solution seems too easy to be true and is truly so. States have different sets of resources and priorities based on their own threat assessment to state security. Today, it seems plausible that only a multilateral organization with supranational elements, such as the EU, could act efficiently on these matters. However, as has been discussed in this paper, even the EU has its flaws since some members are regarded as uncooperative in terms of information sharing in the area of transactions and finance.

Since most of the world lacks regional preventive structures against transnational organized crime, improving communications and intelligence sharing is the most immediate action that needs to be taken. Today, a wide range of communication tools such as web-based financial transactions, satellite phones and e-mail help to facilitate crime.<sup>34</sup> Since criminals can swiftly interact with each other, governments ought to counter this phenomenon by rethinking their unwillingness to share intelligence across jurisdictional boundaries. Also, enabling national intelligence agencies to wiretap telephone and internet traffic across national boundaries could be a possible help. In Sweden, the Riksdag (Parliament) passed in 2009 a controversial bill allowing the National Defence Radio Establishment to conduct surveillance on cross-border e-mail and telephone traffic without court order.<sup>35</sup> By creating the opportunity for this national intelligence bureau to conduct surveillance in areas where they had previously not been allowed created a tool not only against transnational crime, but also espionage and terrorism. In an age where plans threatening national security are planned over communications systems, governments ought to penetrate these communication spheres effectively.

### **Countering Organized Crime - Regional Joint Investigation Teams**

The state of international preventative mechanisms against organized crime is critically ineffective. However, regional approaches have, by and large, been neglected but could prove to become the most effective method. Today,

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<sup>34</sup> James O. Finckenauer, "Effectively Combating Transnational Organized Crime," U.S. Department of Justice, National Institute of Justice, <http://www.ojp.usdoj.gov/nij/topics/crime/transnational-organized-crime/effective-practices.htm> (accessed at April 11, 2010).

<sup>35</sup> "Sweden approves wiretapping law," BBC News, June 19, 2008, <http://news.bbc.co.uk/2/hi/europe/7463333.stm> (accessed at February 27, 2010).

international approaches have a difficult time materializing due to different sets of values and interests of individual countries. On the other hand, regional solutions would not experience the same type of problems since bordering countries often share a common history, mentality and experience similar problems. A good response to the persisting problems would be regional joint investigation teams. A proposal for such an idea was actually presented by a workgroup consisting of seven independent experts in the Baltic Sea Region in 2006.<sup>36</sup> The proposal would have brought together criminal, intelligence and customs officers and prosecutors into one center. Unfortunately, the proposal never took off due to lack of political interest.

The benefits of regional joint investigation teams lay in the advantage that comes with co-location. In essence, this would bring the concept of cooperation to another level. Today, communication between law enforcement agencies in different countries is facilitated through telephone and e-mail. However, in order to work more efficiently and to gain trust among regional actors, one has to bring law enforcement officers and prosecutors from different countries into one location. In the end, in order for trust to prevail it is paramount for people to meet face to face on a daily basis.

The regional joint investigation teams would not constitute a body but rather a new working method. Information exchange is a crucial component in transnational law enforcement as has been previously mentioned. However, information exchange alone cannot be effective due to a twofold problem. First, each country is sovereign in the application of its national laws. Therefore, each state border becomes a major hindrance to compulsory measures. Second, international legal aid procedures, which, for example, includes requests for extradition, handing over penal procedures to foreign countries or issuing a warrant of arrest does not come without problems. They are often bureaucratic, time-consuming and ineffective. The Regional Joint Investigation Teams would remedy this problem by having a prosecutor from each member state involved. This would enable a prosecutor from a given country, whenever reasonable suspicion is confirmed, to open a preliminary investigation in his/her own country.

The effectiveness of Regional Joint Investigation Teams lay in their ability to initiate actions in multiple countries simultaneously. Surveillance staff

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<sup>36</sup> *Baltic Joint Investigation Team: A new way of cooperation: Common action proposal* (Stockholm: Mobilisering mot Narkotika and European Cities Against Drugs, 2006).

in respective countries enables simultaneously launched investigations, judicial processes, arrests and interrogations. In the end, success will be dependent on the number of criminals prosecuted and not on the volume of information that is exchanged among the investigation teams.

### Countering Economic Crime

Harsher repercussions for those involved in criminal activities have not proven successful in fighting and preventing crime. Many initiatives have tried to counter crime by adopting strategies targeting youth with the aim of lessening the attraction of becoming a criminal. However, an approach that surprisingly has not been highlighted to the same extent is legal improvements that can be made in order to confiscate assets from criminals and remove opportunities to launder money. Since the main incentive to work for transnational criminal networks is their capacity to generate extensive profits for those involved, one ought to attack the assets of criminals. Serious measures against money laundering were initiated with the establishment of the Financial Action Task Force on Money Laundering (FATF) at the G-7 summit in Paris in 1989. Others, such as the UN, OECD and many countries have discussed and, to a lesser degree, implemented measures against money laundering. However, the problem at stake remains and illegal flows of capital increases every year.<sup>37</sup>

According to Bryan Stirewalt, director of supervision at the Dubai Financial Services Authority there “is an inherent conflict between the ease of doing business and the potential for money laundering”. Unfortunately, they work contrary to each other. The easier it is to open a business, the easier it is for money launderers.”<sup>38</sup> If that is the case, then it would mean that most countries that race with each other on the World Bank’s annual Doing Business Index in order to attract foreign investments are doomed to create incentives for money laundering in their own domain. Although the current situation is portrayed as rather gloomy there are still roads not taken for crime fighters. However, they require the coordinated efforts of a seriously committed international community that has come to terms

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<sup>37</sup> Nick Mathiason, “Dubai’s dark side targeted by international finance police,” *guardian.co.uk*, January 24, 2010, <http://www.guardian.co.uk/business/2010/jan/24/dubai-crime-money-laundering-terrorism> (accessed at February 18, 2010).

<sup>38</sup> *Ibid.*

with the inherent threat to state security that transnational organized crime poses. Unfortunately, this is today a distant reality. It is a dismaying fact that around 50 countries are listed on the OECD's tax haven black list. Currently three countries are listed under the headline "black listed," 39 countries are on the grey list which means that they are committed to, but still have not, implemented international standards and eight countries are labeled as "non-cooperative financial centers." Among the countries in the last category, "non-cooperative financial centers," the three EU-members Austria, Belgium and Luxembourg can be found, indicating the difficulties of bilateral and multilateral cooperation even within an organization with supra-national elements.<sup>39</sup>

The image portrayed implies that eradicating money laundering would be impossible. However, until the day when the international community decides upon common regulations there are other countermeasures to be taken. For example, there is wide room for improvements in the area of switch systems at banks. Money laundering has, as previously mentioned, three phases, i.e. placement, layering and integration. Another way to put it is that cash enters financial systems, gets moved within it and becomes subject to international transfers. Here, improving the technology of the switch systems at banks in order to detect abnormal patterns of activity is paramount in order to prevent large money laundry operations. When abnormal activity is detected through improved switch systems, banks can freeze accounts and transactions and put them on hold until further investigation has determined the legality of the operations. The hardest part in realizing this is promoting political actions, imposing directions and regulations on private banks.

Another problem is that some banks protect only their own domain from being utilized for money laundering. Here, increased cooperation in the form of creating coordinated switch systems and establishing joint information centers could prove to be important tools. Today, there are several joint information centers with different law enforcement objectives such as Europol and the Central Asian Regional Information and Coordination Centre (CARICC) for combating the illicit trafficking of narcotic drugs,

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<sup>39</sup> Peter Macfarlane, Offshore Banking expert for The Q Wealth Report, <http://www.qwealthreport.com/blog/the-complete-oecd-tax-haven-blacklist/> (accessed at March 3, 2010).

psychotropic substances and their precursors. However, this recommendation is at present ineffective as the largest obstacle to the prevention of money laundry operations is bank secrecy laws in some jurisdictions. As long as laws for bank secrecy exist, there will be opportunities for criminal businesses with high turnovers to funnel their profits into the legitimate economy.

## Recommended Policy Guidelines

Transnational organized crime is a lucrative business. It is persistent against economic recessions, its annual turnovers are breaking new records and it is increasingly penetrating societal spheres that until two decades ago were relatively untouched by crime and corruption. At the same time, states have not been as quick to adapt to this situation, due to a lack of resources, capacity and, above all, international and regional tools against increasingly internationalized organized crime. Combating transnational organized crime requires a comprehensive approach coordinated among states at a global level. Unfortunately, managing a coordinated effort against organized crime on a multilateral level has proven to be difficult, even within an organization with supranational elements such as the EU. Therefore, one could highlight a set of guidelines for national governments to follow which would significantly strengthen the position of their own law enforcement agencies. Here, avant-garde policy makers can play an indispensable role by highlighting flaws in organized crime prevention and by calling for bills that would enable the state more access to information that travels through communication systems. What is equally important in this matter is that states become more willing to share information and establish regional work methods against crime.

### *Attack the Assets*

The main incentive for individuals pursuing a criminal career is economic gain. Over the last two decades, the turnover of transnational illegal activities has generated ever increasing profits. Consequently, organized crime networks are expanding and attracting new recruits that favor “working” in a profitable business sector. Increasing the focus on attacking the assets of criminals ought to be prioritized higher. Economic crime needs more priority and more obstacles ought to be erected against criminals funneling illegal money to the legal sector. The solution is for individual countries to tighten placement regulations in national banks and sophisticate their swift systems for transactions. These measures are especially urgent since the profits of organized crime are surpassing GDP of some underdeveloped

countries, enabling criminal groups to hijack state structures and to create narco economies or, even worse, narco states.

### *Sharing and Intercepting Intelligence*

The axiom of criminals being one step ahead of the long arm of the law is more than true when it comes to technology. Criminals are often sophisticated in the usage of communication, the main technological facilitator of transnational crime. Today, transnational networks operate smoothly through borders and expedited by international communications. Therefore, governments ought to be more willing to share intelligence with foreign services. Also, legislation that enables government agencies to intercept, analyze and share information with foreign entities is equally as important. This is exemplified by the Swedish Wiretapping Law (2008) that enabled the National Defence Radio Establishment to intercept communication through cables passing Swedish territory.

### *Regional Joint Investigation Teams*

Lastly, international law enforcement needs radical innovations in order to keep pace with organized crime networks. The proposal of establishing a regional crime fighting unit, the Baltic Joint Investigation Team, never realized but holds potential as an effective tool against the activities of transnational organized groups. There is an urgent need to enable crime fighters to start simultaneous actions in multiple countries as organized crime of today operates the same way. This implies hastening the process of acquiring intelligence, issuing arrest and house warrants, conducting simultaneous raids and launching investigations simultaneously in two or more countries.