East-meets West in Crime

European Journal on Criminal Policy and Research

ARCHIEF EXEMPLAAR

NIET MEENEMEN !!!!
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Editorial address
Ministry of Justice, RDC, mrs. K.E. Slabbers
European Journal on Criminal Policy and Research, P.O. Box 20301,
2500 EH The Hague, The Netherlands
Tel.: (31 70) 3706552
Fax: (31 70) 3707948

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Contents

Editorial 5

Post-Soviet organized crime; problem and response 7
Louise I. Shelley

Berlin: theatre of East-West organized crime 26
Hagen Saberschinski

Internationalization of organized economic crime; the Russian Federation case 34
Timur Sinuraja

Changes in crime control in Hungary 54
Katalin Gönczöl

Crime in Slovenia; a criminological analysis 64
Zoran Kanduc

The European Prison Rules in Central and Eastern Europe; progress and problems 73
R. Walmsley

On judicial mutual assistance in criminal matters between the states of Western and Eastern Europe 91
Peter Wilkitzki

East meets West in crime in Dutch history 99
Florike Egmond

Varia 108

Crime institute profile 125
Criminology at the Catholic University of Leuven, Belgium 125

Abstracts 132
Editorial

Historically speaking the fall of the Berlin Wall in 1989 can be seen as the major event in post-war Europe. However, its effects have proved to be other than entirely positive. The dichotomy of the 'old' continent into capitalist and communist sectors created a unique kind of stability. The 'cold war' was also a way of keeping a 'cold peace'. A convergence of the communist and capitalist systems was foreseen by several theorists; the communist system collapsed however, and the capitalist system did not fundamentally change. This development was not anticipated by any international scenario study. The bankruptcy of the communist system was fast, radical and almost absolute. The welfare states in the West had proved to be more attractive to their citizens than the communist countries had been to theirs. Paradoxically the Western welfare states went through a structural economic crisis. Unemployment grew, crime rates increased, welfare and care provisions were revised, and traditional cultural values became uncertain. The post-communist countries adopted a system that was, so to speak, questioning its own conditions and consequences.

This is an outline of the background for the topic of this issue: East meets West in crime. The crime rate in the East is increasing to a Western level or even beyond. Western entrepreneurs are seeking new markets for their products, some of them using criminal methods. There is also a criminal flow in the other direction: Eastern (criminal) money is looking for investments on the Western markets. The end of the cold war has had its price in terms of crime.

One of the most alarming developments in this respect has taken place in the former Soviet Union. The American expert Louise Shelley examines the dimensions of the post-Soviet organized crime problem and the domestic problems in mounting an effective anti-crime effort. The steps taken by the Soviet successor states to combat organized crime are analyzed. The type of Western assistance needed to help the successor states fight organized crime is assessed. The article focuses on Russia but its experience is applicable to many of the successor states.

Berlin can be seen as a hot spot in the interaction between East and West. The Polizeipräsident in Berlin, Hagen Saberschinski, discusses the development of the crime problem in Berlin. 'Berlin seems to have special powers of attraction as it is the first "rich" city on the road to the West'. It is a story of crime in relation to motor vehicles, nightlife, drugs, ethnic groupings etcetera.
In the following article Timur Sinuraja theorizes on the internationalization of Russian criminal entrepreneurship. The article is based on the study of Russian literature. He estimates the criminal activities in relation to the shadow economy that was always a feature of economic policy in the Soviet Union before 1989. In his opinion one of the main threats of economic crime in Russia is that it lowers the conventional standards of economic behaviour, which create a pattern of 'accepted' illegal behaviour, that is transferred to other countries.

In the next two contributions the interaction between East and West is seen in relation to the developments in market economies. Katalin Gönczöl from Hungary establishes the existence of repressive tendencies in both Western and Eastern countries. During the era of socialism collective interest rather than individual interest was dominant in the reaction towards deviance. This had a repressive but also a humane side. In preserving the self-protective needs of society it is now necessary to give this a modern constitutional base.

Zoran Kanduč of Slovenia sees the increase in crime figures in Slovenia as being a direct result of the sudden introduction of capitalist principles in his country. He uses insights of critical criminology to estimate the problem in post-communist states. The Slovenian criminal justice system may experience increased difficulties in preserving its relatively humane and mild penal policy, according to the author.

The article of Roy Walmsley deals with the application of the European Prison Rules in Central and Eastern Europe. These rules set standards for the management of prisons and the treatment of prisoners which almost all European countries seek to comply with. None achieve complete compliance but Central and Eastern European countries have particular difficulties because of their negative legacy. However, continued progress is likely, with increased contacts and cooperation across Europe contributing to the process.

Peter Wilkitzki from Germany discusses the changes in judicial mutual assistance between Eastern and Western countries as a result of open borders. Due to the former situation the states of Central and Eastern Europe were hardly oriented toward non-treaty mutual assistance, as other European states were. The Council of Europe criminal law conventions have now been ratified or signed by several of these states. A lot of problems have still to be overcome.

The last article of Florike Egmond gives an historic insight into the problem. She argues that from an historian's point of view most current research on organized or any other type of crime suffers from extreme shortsightedness – i.e. the lack of any long-term analysis. This article probes the connections between immigration, ethnicity and organized crime in Dutch history over almost two centuries.
Post-Soviet organized crime

Problem and response

Louise I. Shelley

Post-Soviet organized crime, characterized by diverse and sophisticated operations, operates on almost every continent and has forged strategic alliances with established international crime groups. Its excessive violence and rapid growth in the past five years have made many regret the Berlin Wall fell. A criminal brain drain has accompanied the intellectual. The paper focuses on the capacity of and the measures taken by post-Soviet states to fight the ever-increasing problem of organized crime. The problems of implementing a successful anti-crime strategy in the face of the collapse of the control apparatus are examined.

While post-Soviet organized crime becomes more threatening, many western countries as well as the business and political elites of the successor states watch helplessly as capital outflows continue at record rates and contract killings remain routine occurrences (RFE/RL Daily Report, 1994b; Federal News Service, 1995). Many CIS (Commonwealth of Independent States) residents and foreign governments believe that the successor states are passive and unwilling to fight organized crime. The domestic response to the organized crime problem in the CIS is inadequate. But in every major country to emerge from the former Soviet Union, there is the beginning of governmental action against organized crime.

The successor states need western assistance in fighting organized crime. Western efforts are important because the domestic capacity to fight organized crime is limited, but so far this aid has been fragmented, uncoordinated and often insensitive to the local political and legal environment. Significant improvements in western assistance and cooperation must be made if post-Soviet organized crime is to be successfully combatted.

1 Professor, The American University, Department of Justice, Law and Society, 4400 Massachusetts Avenue N.W., Washington (DC), USA.
Post-Soviet organized crime in perspective

The roots of contemporary organized crime lie in the pre-revolutionary and early Soviet years, but until the late 1980s the Soviet Union denied the existence of organized criminality. Today's organized crime phenomenon is an amalgam of the 'thieves-in-law' (vory v zakone, the professional criminal underworld who originated in the Tsarist period), the shadow economy, criminalized nomenklatura (party elite; Chalidze, 1977; Los, 1988) and law enforcement apparatus which proliferated in the post-World War II period (Ovchinski, 1993). From the late 1960s, these criminal groups were controlling large sectors of the consumer economy, were trading in valuable art and gems (Simis, 1982; Vaksberg, 1991), and controlling foreign currency prostitution in the domestic market (Jones et al., 1991). Illicit drug cultivation and distribution was limited. Embezzlement of state resources was routine among government officials, employees of factories and state enterprises.

Private economic activity and the collapse of border controls have permitted the expansion of illicit activities within the successor states and internationally. Different ethnic groups form loose associations within the former Soviet Union and with compatriots abroad to market goods and launder money (Handelman, 1995). There are approximately 5,000 organized crime groups, many of them with only limited numbers. Several hundred groups have international ties.

Post-Soviet organized criminals now trade internationally in narcotics, prostitution, raw materials, and dominate the consumer sector (Fituni, 1993). Organized crime exploits the legitimate economy while simultaneously limiting development of certain legitimate forms of investment and of open markets that benefit a cross-section of the population (Shelley, 1994). Research of the Russian Academy of Sciences Analytical Centre indicates that 55 percent of joint-stock companies and 80 percent of voting shares were acquired by criminal capital (Kuznetsova, 1994).

With the demise of the Soviet state, several other elements have become important in post-Soviet organized crime. The collapse of control over the military apparatus and the rise of inter-ethnic conflicts has led to a lucrative illicit weapons trade as well as that in radioactive materials (Rensselaer, 1994). The privatization of state resources has led to the rise of protection rackets as it did in Sicily in the previous century when there was a redistribution of land and property (Gambetta, 1993). Furthermore, the socialist practice of fraud and

2 The thieves-in-law number several hundred and are recognized as leaders of the criminal underworld. There are elaborate initiation rights and a code of conduct.

3 For a discussion of this in Georgia, see comments of Dr. Eduard Gudava (1995).
embezzlement has been transformed in the post-Soviet era into crimes against capitalist states such as a billion dollar fraud in Germany based on ruble convertibility (Der Spiegel, 1993). In the United States two major cases involving medicare fraud and gasoline tax evasion scams committed by Russian organized crime groups cost the American government over one billion dollars (State of New Jersey Commission of Investigation, 1992; Newsweek, 1993).

The Slavic dominance of the Soviet state encouraged organized crime among minorities denied positions of power. In the post-Soviet period, these ethnic groups, many of them from the Caucasus, have joined with the Slavic elite to perpetrate their crimes. For example, the Chechens, accused of multi-million dollar embezzlement from Russian banks, did not act alone. Moscow bank officials who controlled the capital had to be complicit. Russian officials in 1995 have tried to blame organized crime on non-Russians by denying the existence of a Russian mafia.4

The collapse of the Soviet state left 25 million Russians outside of Russia. Many now reside in inhospitable Central Asian states where they once were the intellectual elite. Eager to return to Russia, their meager resettlement allowances do not allow them to find housing. Without housing, they cannot obtain the residence permit that allows them to obtain work legally. Many of these returning Russians are forced to work for organized crime which eagerly solicits these highly trained individuals.5

The privatization of state resources, including the capital of the Communist Party, to gangsters, the former Party elite and members of the security apparatus, has resulted in criminalized banks, stock and commodity funds (Glinkina, 1994). Former KGB personnel with extensive contacts abroad assist in the transfer of capital abroad (Waller, 1994, pp. 373-378). Funds and banks not directly owned by organized crime are subject to its extortion threats.

Workers' pensions are in jeopardy. Many workers have lost their savings in bogus pension funds, operating without controls. Workers' retirement funds under state control have been lost when government officials placed these funds in corrupt banks controlled by their associates.6

4 The comments made by the Russian Ministry of the Interior at the world Ministerial Conference on organized crime in Naples in November 1994 that there is no Russian mafia, must be understood as a statement that it is not Russians who are perpetrators of this organized crime. This point was made to me by one of the individuals who helped write this speech in an interview in May 1995 in Moscow.

5 See Nesterov (1994) as well as interviews with returning Russians.

6 Two officials were prosecuted for this in Kazakhstan and, according to a high-level MVD official, similar problems exist in Russia, although there have been no prosecutions.
The insecurity of capital in the CIS contributes to capital flight. 'Smuggling profits have formed the foundation of post-communist wealth and the basis for the working cooperation between criminals and the nomenklatura' (Handelman, 1994). The total outflow of capital in the last three years has been estimated at between 50 and 100 billion dollars and some experts estimate that it continues at the rate of 2 billion dollars monthly (Abramov, 1994, pp. 8-11).

Money laundering is central to post-Soviet banking. Wire transfers and even suitcases are used to ship capital to western Europe, the United States, Asia and Latin America. CIS banks launder money from foreign criminal organizations (RFE/RL Daily Report, 1994a). So many banks launder money that banks and bankers who refuse cannot stay competitive.

Encompassing protection rackets undermine both domestic and foreign investment. The absence of effective insurance, weak state law enforcement and criminalized private security make businesses vulnerable to extortion threats. State monopolies have been replaced by private ones, operating in violation of state anti-monopoly laws.

The lucrative urban real estate markets are dominated by city officials allied with the criminalized banks and backed up by the force of organized crime. According to some estimates, organized crime controls half the commercial real estate in central Moscow (Klebnikov, 1993, p. 131). As one popular news account reported, 'The old bureaucrats dominate much of the privatization process, for example, often deciding who gets what at what price' (Klebnikov, 1993, p. 124).

**The difficulties in fighting organized crime**

Organized crime grew because Soviet officials denied its existence stating that such criminality existed only in 'bourgeois societies'. This official denial was not unique to the USSR. Russian specialists point out that they were not alone in failing to combat the incipient stages of organized crime. They recall that J. Edgar Hoover, the long-term director of the FBI (Federal Bureau of Investigation), denied that the United States had an organized crime problem until a major Cosa Nostra meeting in the early 1950s provided irrefutable evidence. The denial lasted longer in Italy, where until the early 1980s, the government failed to acknowledge that it faced a serious organized-crime problem.

The successor states have failed to combat organized crime because of: the absence of a legal framework, the collapse of the state control apparatus, the political pressures applied on the justice system, the endemic corruption, lack of financial resources to combat crime and a failure to understand the full dimensions of the organized-crime problem.
Absence of legal framework

In the post-Soviet period, almost all of the successor states have continued to operate with the criminal code and code of criminal procedure of the Soviet era. These codes did not address the problem of organized crime. They had no provisions for racketeering and money laundering, nor did they permit the heads of crime groups to be punished for crimes committed by their subordinates.

In the absence of new criminal codes, several of the successor states have issued presidential decrees or amended their codes to address organized crime. But comprehensive criminal codes with RICO (racketeer-influenced and corrupt organizations) statutes, money-laundering provisions or an anti-monopolistic practices law - all central legal tools to fight organized crime - have yet to be adopted. Passage of these provisions has been impeded by political in-fighting, corruption, and the dissolution of the legislatures of several of the CIS states.

As the chair of the Russian Duma Committee on State Security, Viktor Ilyukhin said, 'the mob using loopholes in the present laws influences the adoption of political decisions up to the level of member republics of the Russian Federation' (FBIS Daily Report, 1994a).

Key to an effective anti-organized-crime strategy is a variety of other legislation including the authorization of surveillance techniques in the code of criminal procedure, a witness protection program, controls over security exchanges, stock funds and financial markets (Horton and Saakashvili, 1995). None of these have been adopted. Past abuse of police powers explains the reluctance to grant enhanced surveillance authority to the law enforcers.

The failure to introduce controls over the emergent financial markets is explained by corrupt legislators and presidential staffs (Danilkin, 1994). Furthermore, many legislators formerly in the Party apparatus do not understand the laws needed to regulate a market economy.

Post-Soviet organized crime exploits the inconsistency of criminal legislation across the successor state. In the Soviet period, Moscow ensured that all the republics adopted the same laws. At present there is no centralization of the law-making process. Russia, Ukraine and Kazakhstan are developing organized-crime measures, often in consultation with foreign countries, but with no coordination within the CIS. In the absence of an organized-crime law, a presidential decree was issued on June 14, 1994 entitled 'On the Urgent Measures for the Protection of Citizens of Russia from Banditry and Other Types of Organized Crime.' Similar versions were subsequently adopted in Ukraine and some 7

7 Presidential decree number 1226 was published in Izvestiia, June 15, 1994, p. 1.
other states. At the time of its adoption, it was strongly criticized by both the Duma (Rossiiskaia Gazeta, 1994) and the Russian Ombudsman for its violation of the Constitution.

The decree, as one commentator pointed out, did not replace existing legislation but gave the operational services greater ability to gather information. The most strongly criticized provision of the decree was that it allowed suspects to be detained for 30 days (FBIS Daily Report, 1994b) in violation of the Constitution. Other important potential violations included: the suspect can be detained without a prosecutor's warrant; the denial of the right to bail; the inability to examine documents before the opening of a criminal case; commercial and banking privacy may be voided for those suspected of organized criminal activity and the regulations regarding searches give more power to law enforcement (Kachev and Pipiya, 1994).

There were few operational pay-offs from these potential violations of human rights because the decree did not allow the arrest of the leaders of criminal organizations. Consequently, almost all of those who were apprehended under this measure were low-level organized-crime figures, many of whom belonged to minority groups.

**Collapse of state control apparatus**

Post-Soviet organized crime benefitted from the collapse of the Soviet law enforcement apparatus. During the anti-corruption drives of the 1980s hundreds of thousands of experienced personnel were dismissed from the Ministry of the Interior. Their inexperienced replacements failed to stay because of the dangerous and inefficient work conditions. Private law enforcement paying several times the state salary could easily recruit from the Ministry of the Interior. The remaining police often received pay-offs from organized crime making them ineffective guardians of the law (see Shelley, forthcoming).

Corrupt law enforcement has undermined the controls of the internal passport and registration system. As previously mentioned, Russians returning from Central Asian states with limited funds cannot obtain a residence permit. Whereas numerous individuals connected with organized crime, even foreigners from China, reside in major cities either by buying registration permits from the police or by paying them large bribes (Revin, 1994).

Conscientious law enforcers are handicapped by old cars without gasoline, lack of telecommunications equipment and even typewriters on which to file their police reports. Apart from their technical handicaps, they lack knowledge of the market, international banking and securities trading needed to investigate organized crime's complex financial machinations. The law enforcers are no match for the criminals. The security police, although better equipped and with
more able personnel than the regular police, has been severely impaired by endemic corruption. Instead of taking the lead in fighting organized crime, many able employees with international experience have joined the lucrative and criminalized banks.

Organized crime is assisting the rise of regional powers in Russia. Local fiefdoms, protected by armed bands loyal to these local leaders, seek political and economic controls over their regions. Regional leaders may enjoy more power than in the Soviet period because they own rather than control property. The 'law enforcers' are employed by them rather than the state. In the absence of a legal framework, citizens outside major urban centres have difficulty protecting themselves from the abuses of organized crime.

The Russian judiciary has over a thousand vacancies because organized crime personnel intimidate judges who have no protection. Russia has adopted legislation to protect judges, but it does not have the resources to make this legislation effective. Many judges facing threats and low pay resigned. Similar problems affect the procuracy, the state prosecution arm, but to a lesser degree than police and judicial personnel. However, political pressure applied to procurators impedes their investigations.

No major organized crime trial has occurred since the dissolution of the former Soviet Union. The lesson of this is that large-scale organized crime enjoys impunity in the successor states.

The incarceration of organized crime personnel does not impede criminal activity. Russian penal institutions presently house 47 'thieves-in-law' (highest level in the criminal underworld), more than 2,000 leaders of criminal groups and over 1,500 members. The low wages of labour camp personnel, the physical attacks on them and the threats against members of their families have compromised many labour camp guards (Seliverstov, 1994). Criminal activity continues almost unhindered from places of confinement.

Porous borders now surround the former USSR permitting smuggling to and from neighbouring Afghanistan, Mongolia and China. Post-Soviet organized crime easily enters Rumania, Poland, Bulgaria and Hungary because their law enforcement apparati are weak. These countries provide bases for much money laundering, prostitution, transportation of stolen cars and radioactive materials.

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8 Interview with Bakatin, President Yeltsin's security advisor in July 1994.  
Failure to understand complexity of phenomenon

American and Italian law enforcers concur that they ineffectively combated organized crime before they understood its structure, membership and group dynamics. Post-Soviet law enforcers' recent research has provided insight into the particular activities of different organized crime groups and their regional variations (Dolgova and D'iakova, 1993). Without pentiti (mafia insiders turned informants), sustained law enforcement capacity to monitor and investigate different criminal groups and an understanding of market mechanisms, they cannot fight organized crime successfully. Russian law enforcers informed their American counterparts several years ago that 'Yaponchik', 'a major thief-in-law' had moved to the United States. Yaponchik remained at liberty until Spring 1995; Russians were annoyed that for years their warnings went unheeded. Before his arrest, American law enforcers monitored his business activities and associates providing them a detailed understanding of Russian organized crime in the US. Law enforcement in the successor states is unable to execute sustained police work because of turnover in personnel, the corruption of the law enforcers and a lack of MVD (Ministry of the Interior, the ministry which oversees regular policing) resources to conduct sophisticated surveillance.

Members of different ethnic groups assume a large role in post-Soviet organized crime, dividing different market sectors among themselves (Matveyeva, 1993). Russian researchers have identified the types of criminal activity associated with particular ethnic groups, but further analysis is often inhibited by lack of objectivity. The MVD's denial that a Russian mafia exists inhibits their analysis of the important links between different Caucasian groups, members of the Russian economic and political elite and the Slavic-dominated private security forces.

Ethnic prejudices impair CIS analytical capabilities, but most foreign law enforcement cannot differentiate one group from another. Therefore, foreign analysts fail to see linkages among ethnic group operating within different countries.

Response to organized crime

Many in the CIS states and abroad view the rise of post-Soviet organized crime as unstoppable. The newly emergent states cannot maintain a sustained and coordinated anti-crime effort because of the collapse of internal controls, the declining economy and the endemic corruption among the law enforcers and the political leadership. Because post-Soviet organized crime is transnational no individual country can launch an effective fight against these groups (Shelley, 1995).
Successful efforts to control organized crime, therefore, require coordination of national resources with international law enforcement efforts. Legislation and law enforcement efforts must be harmonized among the successor states and with countries in Europe, North and South America and Asia. Such recent efforts must be sustained to ensure that the transition to democracy and a market economy is not derailed by the activities of organized crime. Many journalists, justice personnel and community members are committed, even at great risk to themselves, to fight organized crime. The preconditions for an effective response exist but they have yet to be realized.

The preconditions for a broad response to organized crime

American success in fighting organized crime is a post-war phenomenon and is more recent in Italy. The factors which allowed Italy to combat against organized crime, despite its penetration into the economy and the political system, could galvanize within Russia if they were fostered. Italy's struggle against organized crime has achieved results because of the following factors:

- the legal framework adopted has facilitated the fight against organized crime;
- the law enforcement apparatus has the capacity to address organized crime: newly introduced anti-mafia groups in the prosecutorial and judicial branches have proved effective;
- a specialized and highly respected commission devoted to anti-mafia activity exists at the parliamentary level;
- an informed media addresses organized crime with sophistication and advocates democratic strategies;
- an informed populace has finally emerged ready to fight crime and cooperate with the government;
- significant literature and extensive research informs the citizenry;
- law schools now instruct students on the problems of organized crime.

Before 1980 almost none of these preconditions existed. Moreover, Italy was not able to achieve these results alone. Cooperation from the United States and countries in Europe and to a lesser extent in Latin America and Asia facilitated the anti-mafia effort. Examining the contemporary Russian situation in comparative perspective suggests that the situation may not be completely hopeless.

10 See Stille (1995) for a discussion of the cooperation of diverse countries with the investigations of Judge Falcone and his fellow investigating magistrates.
Legal framework

In the absence of an organized crime law, presidential decrees have been issued in Russia. These include decrees on anti-monopolistic practices, money laundering, the advertisement of fraudulent investment returns as well as the previously mentioned decree on banditry and organized crime (Dubik, 1994). Few if any cases have been prosecuted under any of the decrees except the one on banditry.

On the first anniversary of the presidential decree, Colonel-General Mikhail Yegorov, head of the organized crime directorate, reported that in 1994 263 cases were opened on the charges of 'banditism'. Approximately 12,000 weapons and 1,812 kilograms of explosives were seized from 500 individuals charged with bearing illegal arms (CEELI, 1995a, p. 11).

The importance of the crime issue to the electorate will probably force the passage of some anti-organized-crime legislation in several of the successor states shortly. Delays in the passage of the legislation in Russia can be explained by the armed dissolution of the parliament in Moscow in October 1993, the problems of corruption and ideological and personal differences among legislators in the Duma and Federation Council.

For a significant period the organized crime law and the Russian criminal code were not inter-related. The State Duma in mid-November 1994 adopted on the first reading a draft law on the struggle against organized crime. This comprehensive law, incorporating elements of American RICO and the corresponding Italian law, had harsh penalties for perpetrators. Under preparation for a long time by an inter-governmental working group headed by A.I. Dolgova, it was adopted after its initial rejection the previous week.

The prime concern raised by the organized crime law were: its imprecise definition of criminal groups, its authorized detention of suspects for 30 days (a constitutional violation), the ability of law enforcers to intervene in the commercial activities of enterprises and bank structures suspected of laundering money and the failure to specify penalties for the unlawful activities of investigating bodies.\(^\text{11}\) Political expediency and the crime situation led to the bill's initial passage over objections concerning its violations of legal norms.

In Russia, a law needs to pass three readings by the Duma before it is advanced to the Federation Council. By June 1995, as the second reading on the Criminal Code and Organized Crime law approached, it was apparent that criticisms of a separate organized crime law would force changes in the Criminal Code. The Federation Council had made clear it would not pass the separate organized

\(^{11}\) FBIS Daily Report, 1994c. There was also discussion of the law at the meeting of the Russian Criminological Society attended by the author in Moscow on January 7, 1995.
Post-Soviet organized crime

Crime law. It may await the same fate as the bill on corruption which was rejected by the Federation Council in Fall 1994.12

In June 1995, the draft of the Russian Criminal Code, which had previously not addressed organized crime added certain provisions to deal with the problem.13 The new draft Russian Criminal Code differs from the Soviet period code by eliminating the chapter concerning 'Crimes Against Socialist Property' and substituting 'Crimes in the Sphere of Economic Activity' including: impeding business activity, registration of illegal land deals, illegal bank activity, false business activity, receiving credit through false means, fraudulent deviation from debts, bribery of competitors, abuse in issuing securities and fraudulent bankruptcy (CEELI, 1995b, p. 8). On July 19, 1995, the Russian Duma approved the Criminal Code on the third reading. The new Criminal Code still needs to be approved by the upper house, the Federation Council, and signed by President Yeltsin. This will likely occur by the end of the year.

Ukrainian legislators have prepared comprehensive legislation against organized crime. In August 1995, Ukraine established a National Bureau of Investigation, modeled on the Federal Bureau of Investigation, to be funded by the Security Services and general state budget (CEELI, 1995b, p. 14). The presidential administration in Kazakhstan has also devoted itself to the implementation of organized-crime legislation and special law enforcement efforts to combat crime and corruption.

The organized-crime measures of the successor states, because of poor legislative drafting and endemic problems of corruption, will not generally achieve the legal standards of many western societies. They will not be sufficient to fight the full dimensions of post-Soviet organized crime. Yet they will contain measures that will correspond to many of the provisions of the Vienna convention concerning money laundering. Western countries will then be able to move against the capital and criminals of post-Soviet organized crime.

12 The corruption bill was rejected allegedly for its legal shortcomings. But the bill's provisions on economic disclosure threatened the financial interests of many wealthy members of the Federation Council. For a discussion of this see Aleksandr Danilkin (1994). The Russian Duma has not abandoned its efforts to pass corruption legislation because on July 14, it adopted a decree on fighting corruption.

13 The drafting process for these laws represents a significant effort by many committed practitioners in different parts of the government to develop effective organized-crime legislation. They have worked closely with the staffs and members of parliament in a process reminiscent of the behind-the-scenes negotiations of western legislatures. This analysis is based on interviews with many individuals closely involved in the drafting process for the last few years.
Law enforcement apparatus

The Russian MVD and the Security Police, FSB, bear the prime responsibility for the fight against organized crime. The FSB, the renamed KGB, searching for a new mission in the post-Soviet period, has assumed a large role in the fight against organized crime (Waller, 1994, p. 370; OMRI Daily Digest, 1995b). Its activities in this area are used as justification for enhancing FSB links across the CIS states and to expand its surveillance and undercover activities within Russia.

The Ministry of the Interior has a special branch devoted to the fight against organized crime and it employs over twenty thousand individuals nationwide. Important units exist in Moscow and St. Petersburg, their activities are hampered by political pressures and criminals' constant efforts to corrupt their personnel. But despite these problems, both foreign law enforcers working with them and analysts of Russian law enforcement, believe that many in these units are more competent and less corrupt than their counterparts in other branches of law enforcement.

Law enforcement is not totally disabled by endemic corruption. In 1993, law enforcement organs investigated 15,500 cases of corruption and abuse of public office. Among those investigated, 43 percent were federal and regional officials, 25 percent law enforcement officers, including members of the Federal Counterintelligence Service, 4 percent from presidential and federal oversight bodies and 2 percent members of federal and regional legislatures (RFE/RL Daily Report, 1994c).

The United States government has allocated 30 million dollars in 1994-1995 to improve the capabilities of post-Soviet law enforcement in addition to opening up an office of the Federal Bureau of Investigation in Moscow. The congressionally funded training will prepare employees of MVD organized-crime units and members of the tax police, customs' service and border troops.

A new law enforcement centre opened in Budapest in Spring 1995 to train personnel from Eastern Europe and the former Soviet Union. The financing for this centre has been provide by the United States, Germany, Italy and several other European countries. But there are serious curricular problems and problems in targeting the appropriate law enforcement personnel to be trained. The endemic corruption among the police makes the impact of this training questionable.

The United Nations Drug Control Program (UNDCP) provides assistance through its Eastern European and CIS programmes for training and law enforcement assistance in combatting drug problems. The UNDCP programmes for Central Asia, operated out of Pakistan, are facing ever more serious drug problems as massive shipments are being transported from Afghanistan to
Post-Soviet organized crime remains the Achilles' heel of any effort to fight post-Soviet organized crime. Its problems cannot be easily, inexpensively or rapidly addressed. They remain a serious concern of honest members of the legislative apparatus.

Parliamentary activity

The upper and lower houses of the Russian parliament have committees concerned with organized crime. The lower house, the Duma, has the Committee on State Security and the upper house, the Federation Council, has its committee on Questions of Security and Defense. Both of these committees have legislators who have worked in the Ministry of the Interior, the procuracy and the security services and have advisors with extensive field experience. The Ukrainian legislature has a large committee devoted exclusively to the problems of organized crime. Several of its members worked for many years in the security police combatting drug trafficking and organized crime. These committees are not totally free of corruption, but the majority of members on the Russian and Ukrainian parliamentary committees are honest individuals committed to fighting organized crime and adopting effective legislation. In Kazakhstan where the legislature was dissolved, legislative initiative in the organized crime area comes from the presidential administration. In all these countries, legislators may sacrifice human rights in the name of fighting organized crime.

Both houses of the Russian parliament have held hearings on corruption and organized crime. Major hearings were held in late October 1994 by the Federation Council. Those giving statements included members of law enforcement, economic and control bodies as well as invited experts from abroad. Serious documentation analyzing the threat of organized crime and corruption was prepared from this testimony (see Committee of the Federation Council on Questions of Security and Defense, 1994).

In June 1995, the Duma held hearings on corruption, organized crime and the economy. These well-received hearings are part of a continuing effort to document Russia's organized-crime problem. The poorly equipped legislatures

14 The author has met members and staff advisors of the Russian and Ukrainian legislative committees while on visits in the United States. She has also met with members of the Russian committees and their advisors on several occasions in Moscow in 1994 and 1995. The information on the situation in Kazakhstan is based on an interview with the president's legal advisor and the attorney general. A discussion of some of their views is in Demokratizatsiya (vol. 3, no. 3, Fall 1995, in press).

15 Report from S. Glinkina who testified in mid-June.
with their lack of permanent staff are, however, unable to maintain the sustained documentation of the Italian parliament's Anti-Mafia Commission.

**Mass media**

One of the prime weapons against organized crime is the press. To follow investigative journalism on organized crime in Russia, one needs to read as many as thirty different newspapers and magazines, many of which circulate throughout the CIS. Among the most hard-hitting of these are *Obshchaia Gazeta, Izvestiia, Literaturnaia Gazeta, Trud* and *Moscow News*. Because of declining newspaper circulation, radio and television have become increasingly important. Both national and regional television provide exposés on organized crime but they are not often as probing as the lengthy exposés which appear in the press.

Several problems exist in organized-crime reporting. First, many journalists engage in self-censorship having received threats not to publish the names of specific individuals or businesses. A public outcry following the assassination of the highly popular journalist Vladislav Listev in March 1995 followed, several months later, by the death of the journalist S. Kholodov who was investigating corruption in the western forces of the Russian military. Second, few journalists have much knowledge of organized crime in other societies or the strategies which have proved useful. Their intellectual isolation affects the quality of their reporting. Third, bribes are offered to journalists not to publish specific stories. Articles on organized crime may be purposely deceiving because organized-crime figures plant stories against their rivals or purposely mislead the public.16

Of even greater potential threat to objective reporting is the acquisition of the mass media by groups and organizations with known organized-crime links. For example, MOST bank, known to be active in money laundering, owns *Segodnia* newspaper and has established MTV television. At present these are some of the most independent and hard-hitting parts of the mass media, but many analysts wonder whether their independence will eventually be undermined by their owner. The banking sector, dominated by organized crime, has also been able to enter into state television through the privatization process. The most widely viewed national channel, *Ostankino*, was sold and 49 percent of its shares were acquired by banks.

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16 Interviews with journalists in Russia in July 1994 and January and May 1995.
**Public opinion**

Public awareness of the increased criminalization of government is affecting the selection of candidates. In St. Petersburg, Arkadii Kramerev heads the Committee on Questions of Law and Order and Legality of the St. Petersburg legislature. This former chief of investigations within the St. Petersburg MVD was forced out of his position for probing organized crime at the highest levels. Kramerev was elected because citizens knew of his integrity. Non-governmental organizations are mobilizing to elect candidates who will pass anti-organized crime legislation. The All-Russian Association of Independent Professionals and the Soldiers' Mothers group (an important NGO) have set up an electoral association called 'Against Crime and Corruption', to combat corruption in the judiciary, the use of gangster methods against arbitrators and the penetration of the police by organized crime. To restore justice and the rule of law, they want to elect members to parliament who will enact fair legislation in the commercial and tax arenas (OMRI Daily Digest, 1995a).

**Research**

Organized-crime research and analysis is at an incipient stage. The first conference on organized crime was held in St. Petersburg in 1989. Since then the Russian Criminological Society has conducted several conferences on the subject and has published two volumes on these meetings (Dolgova and D'iaikova, 1993). The Academy of the MVD has established a research centre on organized crime with a couple hundred staff members. It has held two research conferences; some of their findings are cited in this article. Few scholars have published serious and lengthy studies of organized crime. Many important research areas remain unstudied. For example, no researchers have yet examined organized-crime dominance of a particular sector of the market such as was done with the Palermo fish markets or the construction industry in New York. Without such knowledge, law enforcement personnel have been unable to apply the existing decree on anti-monopolistic practices.

17 The author met with Mr. Kramerev in St. Petersburg in May 1995 although the background to his election was explained by one of his colleagues and has been confirmed through other sources.

18 The most noted scholars of organized crime are A.I. Dolgova of the Research Institute of the Procuracy, Yakov Gilinski of the Academy of Sciences in St. Petersburg, S.V. Maximov of the Organized crime Institute of the MVD Academy and V. Ovchinskii, an MVD advisor on organized crime.
Law schools and legal education

At present, there is almost no capacity in law schools to train the next generation in the problems of organized crime. There are no textbooks on the subject and limited information is available in the required criminology course on the topic.

The author is presently directing a project to address this deficiency. With funding from the MacArthur Foundation and the United States government, research and policy centres to promote democratic strategies to fight organized crime have been established at the law schools in Moscow, Yekaterinburg in the Urals and Irkutsk in Siberia as well as a branch of the Academy of Sciences in St. Petersburg. They will provide outreach to their regions, prepare educational materials and training seminars. The purpose of these centres is to develop an institutional capacity in Russia to conduct research, train a new generation of lawyers and policymakers and to present needed information to the mass media as well as equipping individuals presently in the legal policy-making process with information they need at this critical moment in the formulation of Russia's legal framework. Through regular roundtables with the press, seminars with Russian and foreign experts, they will disseminate information on democratic strategies to fight organized crime developed by western and Russian scholars.

Conclusion

The preceding discussion reveals that many of the elements needed to combat organized crime presently exist in Russia and some of the CIS states. The view that the citizens of the CIS states are too corrupted or too passive to address their organized-crime problem is simplistic.

Those fighting organized crime are the dissidents of the 1990s – isolated, threatened and lacking material resources. They need support from abroad just as the human rights activists of the 1970s and 1980s needed moral encouragement and technical support. Yet any assistance needs to be carefully targeted because much foreign aid is misused and diverted by corrupt individuals. Furthermore, the fight against organized crime should not be conducted exclusively through law enforcement channels because civil society, the press, the academic community and the legislatures must work together to deal with the problem.

An effective strategy to fight organized crime requires the adoption of an integrated legislative programme of civil, criminal, economic and administrative legislation. Legislative and law enforcement cooperation needs to be encouraged across the CIS, within Eastern Europe and with other countries. Foreign
assistance programmes need to encourage the development of investigative journalism on organized crime and legal issues, research capacity and the dissemination of information to the citizenry. Western expertise in establishing organized-crime strike forces, parliamentary commissions and programmes to combat penetration of labour unions need to be established.

The provision of assistance needs to be coordinated. The fragmented delivery of aid by different ministries, countries, and international organizations leads to an ineffective response. Committed citizens and professionals in the CIS are willing to receive effective assistance that does not undermine their national integrity. But as one high-ranking official commented, 'We have numerous experts flowing through but it is like an orchestra without a conductor.' Western countries must coordinate their assistance if the CIS is to respond effectively to organized crime.

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After the reunification of the two German states and thus of East and West Berlin, the situation in the city in regard to crime and criminals has changed drastically. Berlin has become a constituent part of both national and international crime. Having been an island at the fringe of Europe, the city has turned up as its geographic, political and economic centre. This is particularly true when one thinks of the dramatic political changes in Eastern Europe. These new standards clearly find their expression both in the quantity and in the quality of criminal offences committed.

The strength of Berlin as an economically booming city offers – and that is the reverse side of things – many a possibility to cover up or conceal large-scale illegal dealings. This expanding financial centre with its connections to international finance markets offers the chance to launder illegal money, to re-invest it illegally, or to channel it into legal business thus distorting competitive economy into a black market. Existing traffic routes together with expanding national and international routes by land, water and air from East to West make criminals highly mobile and they are a decisive factor in the logistics of the illicit removal of all kinds and quantities of goods. Berlin, similar to other densely populated areas, is hit by mass crime and its resulting high concentration of criminals, among whom organized crime finds its recruits.

The large number of people living close together, of whom about 12 percent have foreign passports, the anonymity of a city and a high fluctuation rate provide good operational grounds for organized crime with international connections.

Organized crime became established in Berlin even before the Wall came down and the Iron Curtain crashed, and was committed by members of various nationalities in a multitude of illegal activities. However, against the background of the factors I described above, organized crime rate has escalated not least because of the considerable discrepancy in wealth between East and West

1 Police Commissioner, Polizeipresidium, Platz der Luftbrücke 6, 12101 Berlin, Germany.
and the immense movement of people, which comes close to mass migration. The horrendous political changes in Eastern Europe and the CIS, which are accompanied by fundamental economic and foreign-policy changes, make it easy for criminals and criminal organizations from those regions to become international and European. These groupings of criminals, some of them long established under the old system, some of them quite new, make reckless use of freedom of movement, mobility, international business links and all other chances to establish their own connections and markets in Central and Western Europe. To this end they seek close collaboration with resident ethnic minorities. Berlin seems to have special powers of attraction as it is the first ‘rich’ city on the road to the West.

Situation in Berlin

Organized crime is inconceivable without conventional crime. The former emerges from the latter; transitions between the two are blurred. This is why it would be a mistake – although we have to concentrate resources – to just go for organized crime and forget the fight against conventional crime. In Berlin with 3.5 million inhabitants of whom 11.9 percent are foreign nationals we recorded about 550,800 criminal offences and about 153,500 suspects in 1994. Among the suspects there were again 51,300 non-Germans, most of them Turkish nationals, followed by suspects from former Yugoslavia, Poland, Vietnam, Rumania, the CIS, Lebanon. This means that non-Germans accounted for 33.4 percent of the suspects, which is clearly a disproportionate share even when we deduct those offences which can only be committed by foreigners, such as infringement of the aliens or the immigration laws. With its ratio of crime per inhabitant, compared to other major cities in Germany, Berlin comes second behind Frankfurt am Main, followed by Hamburg and Bremen with similar figures on places three and four. The clearance rate was 42.3 percent and was thus six percent lower than before the Wall came down. However, geographic structures and conditions have changed since then and so have conditions of policing. The development of fields of crime in this overall situation suspected to be organized is a significant indicator for the actual extent of organized crime in Berlin. From the very beginning it has been difficult to recognize organized crime as such and very often the personnel needed to follow up indications, to make initial enquiries to get proof of this phenomenon are lacking. Compared to conventional crime, we have a disproportionately sharp increase in the number of these types of offences in Berlin. I would like to give you a few examples.
Offences in connection with motor vehicles

After a 6.6 percent increase in 1993, the number of motor vehicles stolen in Berlin in 1994 went down to 25,340 which was a 12.3 percent decrease compared to the previous year. About half of these stolen vehicles will never turn up again. In the first half of 1994, about 142,000 motorcars were stolen throughout the Federal Republic, 55,000 of them remained missing. Berlin, Hamburg and Saxony are the scenes hit hardest by this type of offence because they are close to Eastern Europe. In 1994, the police recorded 75 successful breakthroughs with stolen motor vehicles through the German-Polish border.

The following indicators show that we are dealing with organized crime in this type of offence:
- likely vehicles are pre-recorded on lists;
- clients at home go by these lists to order their vehicle with all extras;
- specially designed tools are used for stealing the cars;
- use of foreign licence documents and plates prepared in advance;
- stolen vehicles are moved in groups with protecting escort vehicles, so-called 'break vehicles';
- offenders are highly violent when breaking through the border in convoys;
- lawyers are retained before a possible arrest;
- detailed reconnaissance by offenders.

Crime in connection with nightlife

Offences suspected of being organized in the field of prostitution increased in Berlin by 35 percent in 1994, in the field of gambling and related offences by 23 percent compared to the previous year. About 40 percent of Berlin's streetwalkers are foreign ladies, 80 percent of them come from Eastern European countries. Turfs are clearly allocated. Police checks of brothels and similar establishments in Berlin showed that Thai women have been ousted from business, their positions are being taken by women from Eastern Europe. Young women from those countries, very often younger than 18 years of age, are being told by fellow countrymen that there is a job, they are brought to Berlin, they are given accommodation. However, their passports are taken away and they are kept dependent in other ways. They are then forced into prostitution, they are controlled and ripped of their takings. Some of the women are sold to other pimps.
Drug-related crime

Like anywhere else, the supply of hard drugs to Berlin's addicts is well organized through several levels of sale and distribution. Heroin is the hard drug most widely used in the city. We think that 8,000 to 10,000 people in Berlin are dependent on this drug alone. It is mainly Turkish groups who smuggle the substance to Berlin on the so-called Balkan route which, because of the war in ex-Yugoslavia, shifted a bit to the north via Czechoslovakia and increasingly also via the CIS and Poland. Heroin consumption shows a downward tendency whereas cocaine and amphetamines and their derivatives enjoy increasing popularity.

It is South American groups, mainly from Colombia, who smuggle cocaine. The favourite means of transport is air luggage but the couriers also transport it inside their bodies. Larger quantities get to Europe and Germany by sea. In 1993, we arrested on Tegel Airport in Berlin six black Africans within two weeks, who were smuggling cocaine within their bodies and who were apparently testing a new supply route via Accra/Ghana and Zurich. Each smuggler transported between 560 and 1,100 grammes of cocaine in his body. High-quality amphetamine is synthesized in Poland, to mention just one country, and sold in Germany. In Berlin, however, the amphetamine we find comes predominantly from the Netherlands.

In Berlin, we are seeing the emergence of a large techno-movement with ever better organized sales of the Ecstasy drug. We believe that there are 3,000 to 5,000 occasional users, and between 300 and 500 regular consumers of this amphetamine derivative.

In regard to drug dealing, Berlin is also a transit area. We fear that in some of the central Asian regions of the CIS the manufacture of cannabis and opium products will be refined and that criminal organizations will increasingly push onto Central and Eastern European markets.

Organized crime in Berlin – details and figures

When we go by the List of Indicators which defines organized crime and which is used throughout the Federal Republic, we made 88 complex enquiries into organized crime in Berlin in 1994, involving 525 suspects. These are being charged with having committed 2,680 single offences. The total damage caused amounted to nearly 23 million Deutsche mark, i.e. 14 million actual damage and 9 million expected profit. Forty-six percent of these crime complexes showed international links to a total of 26 states. Twenty percent extended over more than one German federal state. Of the suspects 65.9 percent did not have German nationality, they belonged to 35 different nationalities. The largest
groups of non-Germans were the Vietnamese (70), the Turks (57), and members of the CIS (40). In 53 cases, all members of the offender group had the same nationality.

Statistics show that, on a national scale, Berlin is very heavily burdened with recorded organized crime. After Hessia and North-Rhine-Westfalia, Berlin comes third in the number of cases each police force reports to the Central Criminal Records Office.

Characteristics of organized crime are, for instance, violence and intimidation. Both are applied in order to create an atmosphere of fear, mainly in order to influence witnesses and informants, punish members of the organization, eliminate competitors, and counteract law enforcement. The extreme brutality applied in Berlin obviously results from the fact that a disproportionately high number of non-German criminals is engaged in these activities. They account for over 60 percent in nightlife-related offences and illegal import of drugs, over 60 percent in the removal of stolen motor vehicles, and over 65 percent in counterfeit money and forgery.

In former times, the then mainly German criminals negotiated about ‘agreements’ among each other in order to avoid trouble in public and with the police. Nowadays, our foreign criminals do not seem to talk to each other anymore. Since 1991 we have had increasing numbers of shoot-outs between rival ethnic gangs, execution-like killings, bombing and hand grenade attacks as well as incendiary attacks on typical meeting houses of the scene. In 1994 we noticed that less and less people were willing to report to the police and to give evidence, and that victims of extortion withdrew their incriminating statements in court. We increasingly notice that specialists are called in to carry out specific actions, specialists who are experienced in the use of force in the war to assert personal interests. Specialists have become cheap in the East-West divide.

**Ethnic groupings**

Various ethnic groupings are particularly strong in organized crime in Berlin. Let me describe two of them under the aspect of East-West.

*‘Russian Mafia’*

The press use the term ‘Russian Mafia’ when describing organized criminals who come from the various regions of the Confederation of Independent States (CIS), the former Soviet Union. Since the eighties emigrants from the former Soviet Union have settled in Berlin and elsewhere who earn their money in import and export business, as antique and icon dealers, or running gambling
halls. Among these emigrants were criminals who traded in works of art illegally exported from the USSR or who committed fraud, coinage and forgery offences for international markets. With the political changes in Eastern Europe and the former Soviet Union, these criminals widened their field of illegal actions into the following regions whenever there was an opportunity to make money:

- illegal import or fictitious export of large quantities of dutiable or embargoed goods under the cover of EU regulations or of Article 16 of the Treaty about the Scheduled Withdrawal of Soviet Troops dated October 17, 1990;
- fraud in connection with the currency conversion at German unification;
- theft of motor vehicles and illicit removal of vehicles into the CIS;
- white slave trade of women from the CIS and Eastern Europe to Western Europe.

Since 1991 ever more former citizens of the Soviet Union residing in Berlin have become victims of criminals from the CIS. Extortion, violent fights for turf and markets, group punishment, execution-like homicide and bribery are apparently a concomitant phenomenon of profitable illegal dealings. In some cases brutal force was used against the Berlin residents under the pretext of having to settle old scores. We have to assume that such demands are raised because of criminal dealings in the past. The offenders come from criminal gangs from Moscow, St. Petersburg, Kiev and Lwow. Moreover, there are indications that victims resident in Berlin in turn use criminal gangs from the CIS to get rid of their extortionists.

At the moment, offences with violence seem to be directed only against members of one's own ethnic grouping. There are reports that in the CIS there are about 4,300 criminal gangs and organizations consisting between ten and several hundred members each. They are said to have a grip on essential areas of commerce and maintain control by corruption and use of force. Apparently they made use of the political vacuum to man strategic areas. One of our greatest concerns is that former members of the KGB with their knowledge and skills have joined these criminal gangs or even set up their own organizations. Some of these groupings have been in existence since before the communist empire crashed, that is at a time when the state was omnipotent. This proves that these organizations are highly dangerous and quite resistant to police action. We fear that these groupings will increasingly expand towards Central and Western Europe to seek new markets here. It is reasonable to suppose that to this end they will use their contacts with resident criminal fellow countrymen and their logistics.
One of the most impenetrable ethnic groups with very sophisticated organizational structures are the Vietnamese who are active mainly in the East of Berlin. They are in the profitable business of dealing in untaxed cigarettes and in pirate music and video cassettes. Initially, most of these Vietnamese were so-called contract workers, who had been sent to work in the former GDR who would remit their wages to the Republic of Vietnam. After reunification they lost their work places and so they looked for other jobs. Slowly but steadily they were joined by ever more Vietnamese who came illegally through various states of Eastern Europe. At the moment we have about ten criminal groupings, based mainly on their region of origin in Vietnam. Some of the members of these groupings are former soldiers of the North-Vietnamese Army.

The cigarettes they deal in come from fictitious exports and transits, from channeling off legal productions, from purchases in German free ports. Wholesale trade in illegal cigarettes is in the hands of Polish nationals and members of the CIS, whereas intermediate and retail trade is controlled by Vietnamese. Members of the organization keep strict discipline both internally and towards outsiders. Supplies to the street dealers, control and finance of this black market, are organized by the Vietnamese themselves.

In order to minimize the risk when being caught by police or customs, suppliers bring only small quantities of cigarettes into the city, stocks and amounts of money a small trader holds are kept low. No expenses are spared in logistics with always changing vehicles and the use of cellular telephones for arranging supplies and warning about police presence.

In spite of all these safeguards, police and customs in Berlin secured the following amounts of cigarettes: 31 million in 1991, 55 million in 1992, 65 million in 1993, and 85 million in 1994. And yet, these large amounts are only the tip of the iceberg. Illegal profits are considerable. The price difference between the cost of production and sale in the streets is DM 20 per carton. When you take a lorryload with 50,000 cartons of cigarettes and deduct your costs, the organization is left with a profit of DM 850,000. Most of these profits are transferred to Vietnam, however, there are indications that money is also invested in legal business in Berlin.

Extreme brutality accompanies this field of crime including ostentatious murders with iron bars, samurai swords and firearms, committed as a consequence of internal sanctions, fights for turf, demands for protection money and hawkers' fees, extortions, robberies, revenge. In the short period from January to August 1995 alone, 10 Vietnamese people were murdered in connection with illegal cigarette trade. In one case, six Vietnamese were found shot to death and
one wounded in an apartment. Furthermore, we cannot ignore the danger that these Vietnamese groupings will turn to other areas of crime as well.

**Approaches in fighting crime**

Organized crime is on the increase; it is set apart from conventional crime by the means and methods used and by its damaging effects on society, it threatens the fundamental positions of our constitutional state. It cannot be successfully fought with traditional methods of crime fighting. Above all, we need covert operations and the use of technology, first, in order to get through the defences of criminal organizations which were established with violence, intimidation, corruption, secrecy and modern technology, and, second, in order to collect the evidence necessary to obtain convictions.

In Berlin our approach is to investigate scene-related crime as a whole, and to target our enquiries on persons and groups. From the above follows that special attention is being paid to ethnic groupings associated with organized crime. The international nature of this phenomenon, however, calls for a practical internationalization of cooperation of law enforcement agencies. Regional or national limitations in procedures and technology have to be overcome by taking decisive action against the flows of illegal money and by making use of international contacts. In Europe, this applies to the collection, transmission and analysis of information, and in Berlin to the cooperation of police forces of the European capitals. In addition, the Berlin Police make use of all the possibilities which the system of twinned cities in the West and the East has to offer.
Internationalization of organized economic crime

The Russian Federation case

Timur Sinuraja¹

As reforms in the Russian Federation forge ahead, the problem of organized crime is becoming more and more significant. Despite numerous publications on organized crime accurate information about its related activities is quite sketchy, and even less is known about the international activities of Russian organized crime groups and those with Russian connections. Although inevitably not exhaustive due to the lack of hard information, this article draws on existing knowledge, using an interdisciplinary approach i.e. sets of different ideas and concepts, to establish a theoretical framework so that we may better understand the dynamics of the rapid development of organized criminal activities associated with the Russian Federation, primarily in the economic sector, during the recent transition period.

The first part of this article is based mainly on information acquired from Russian experts and sources, with the aim of identifying the unique features of crime in its most organized and dangerous forms in Russia today. In the second part the author attempts to develop the idea that internationalization of organized crime follows a pattern of internationalization or globalization of the economy in general. This model is applied to the Russo-West economic relation. The aim is to show that the forms of organized economic crime, including that involving international criminal associations, which are developing in Russia today, easily traverse the borders to Western Europe. The article advocates an interdisciplinary analytical approach for finding the key unit of analysis to the problem of organized economic crime connected with the Russian Federation.

¹ Research and Documentation Centre, P.O. Box 20301, 2500 EH The Hague, The Netherlands.
Organized economic crime in Russia

The definition

Most definitions of international organized crime relate in some way to familiar examples such as the Italian mafia or Columbian drug cartels and the same is true in Russia where this type of crime is often referred to as the 'Russian mafia', 'Red mafia' or 'Russian organized crime'. Although the latter is more precise than the other two, in fact, none of the three terms reflect the real situation. First, it is not Russian because besides Russians there are different ethnic groups of the former USSR involved: Slavic, Caucasians, Central Asians and so on. Russian-speaking is a better term, but it would not reflect the whole scope of the problem as this article also considers the international aspect of the problem. The term 'connected to the Russian Federation', seems more appropriate, because we can be more flexible in defining the problem which can include foreign criminal groups or individuals. Second, it is not 'mafia' as this term comes from Italy and implies, almost exclusively Italian specifics. It is much less 'red' as this term implies ideological preferences which are definitely not relevant here. Furthermore, the article concentrates on neither the drug- or weapon-trafficking nor prostitution or smuggling of radio-active materials, but on the activities of organized crime against and through the legitimate branches of the economy during the transition period in the Russian Federation. Therefore the whole scope of the problem under discussion here can be defined as organized economic crime connected with the Russian Federation.

The following detailed theoretical layout of the problem could be suggested. Russian experts point out that the main field of activity of organized crime in the Russian Federation is the economy (Dolgova and D'yakow, 1993, p. 270). In the words of Ageev (1995): 'In the West the money-laundering has grown on the drug-trafficking. In our country, fortunately, it is not that common (...) the main illegal incomes are coming from the crimes in the economic sector.' About 72.2 percent of all criminal offences registered in 1994 in the territory of the Russian Federation were committed in the economic sector with losses estimated at 4 billion dollars inflicted on the state (Kirichenko et al., 1995). The crimes committed in the economic sector fall within the scope of the Russian Criminal Code's Special Part² and include: theft and stealing of property including embezzlement; fraud, extortion; tax evasion; abuse of official position, acceptance of

² The crimes in the economic sector are defined in the Special Part of the Russian Criminal Code of the Russian Federation (with amendments, 1994): Chapter 2 'Crimes against property'; Chapter 6 'Economic Crimes'; Chapter 7 'Occupational crimes' (crimes committed using the official position).
bribes and bribery; currency transaction violations; violation of the rules of trade, illegal entrepreneurship and so on.

There are strong indications that the activities which constitute the crimes in the economic sector are spreading throughout the economic chain from distribution to production (Kirichenko et al., 1995, pp. 18-21). If at the end of the eighties the criminal groups were controlling the enterprises and individuals involved in trading, now the organized criminal groups are extending their sphere of interest to the manufacturing centres (raw materials, precious metals etcetera). This development in criminal activities tends to embrace anybody of any importance in the manufacturing process: officials, various organizations and enterprises. For instance, the process of stealing property such as raw materials and transferring it abroad, would probably include bribery and elements of smuggling, tax and custom duties evasion. In other words, an aggregate of the crimes in the economic sector which are dealt with under the Russian Criminal Code.

Kuznetsova (1994, p. 444) points out that lucrative economic crime in Russia is closely connected with organized crime. It is understandable, considering that the planning, implementation and management of the activities which constitute crimes in Russia's economic sector demand a certain, if not high, degree of organization and discipline. This degree of coordination is best achieved within a group, members of which sustain each other and are united by a common goal. The Decree of President Yeltsin no. 1226 of June 14, 1994 on combating organized crime says: 'Mandatory characteristics of a criminal group are stability, clear direction of activities, distribution of roles inside the group, planning and preparation of crimes.' According to the 1994 annual report of the Russian Ministry of the Interior (MVD), 11,566 organized criminal groups were detected in the Russian Federation in 1994 (MVD, 1995, p. 1). What does this tell us? It tells us that there is a tendency for criminals to consolidate their activities in order to achieve their goals. We can also call it a pool of criminal groups.

As I have already mentioned, the crimes in the economic sector tend to involve various officials. These corrupt officials form a network which has become an integral part of the organized criminal activity in the economic sector of Russia. It is also important to mention that the background for these activities is an undeclared economy which is sometimes called a 'shadow economy'. It includes, besides criminal economic activities, all the hidden volumes of sales, enterprises and individuals working without licences (for import or export, for

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3 This figure includes all groups: from small gangs (including in the prison camps) to organized associations (there are about 4,000-5,000 of them) with a considerable number of members. The term 'organized criminal group' was used in the MVD report and will be used further in the article.
example). In other words, the illegal economic activities which deprive the state of tax revenues. The relation between the shadow economy and organized crime will be dealt with later in this article.

According to one estimate, 36.4 percent (Kirichenko et al., 1995, p. 18) of all registered crimes in the economic sector in the Russian Federation were committed by organized criminal groups. To see the extent of the increase in this phenomenon in the Russian Federation from 1991 onwards, see figure 1 (information from Russia's leading business journal Kommersant).

The aim of the figure is not to show specific figures, but rather to demonstrate the steady growth of organized economic crime. On the figure the organized crime activities concentrated in the criminal sector, which accounts for up to 5 percent of the Gross Domestic Product (Kirichenko et al., 1995, p. 18). It is also important to mention that wide-spread tax evasion, which is an economic crime and a typical shadow economy activity, if it is, for example, connected with the transfer of funds to the West, is also most likely to include crimes which fall under different Articles of the Criminal Code4, forming a crime chain. This chain is either itself under control of the criminal groups or is extremely vulnerable to them. Having said that, the criminal sector can be defined as consisting of those economic activities which are either conducted or controlled by organized criminal groups.

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4 Article 88 of the Russian Criminal Code 'Violations of the rules of currency transactions', Article 170 'Abuse of authority or official position' and so on.
The activities of criminal groups in the economic sector can be divided into three forms. First, racketeering which is a comparatively primitive stage. Second, the gathering of sensitive information (for example, by a mole of the criminal group, who has infiltrated an enterprise) which can be used against an enterprise or its executives in extortion schemes. This is the more sophisticated stage. Third, is what the Russian experts call 'growing into' (Karpets, 1992, p. 51; Dolgova and D'ya kow, 1993, p. 273) the activities of the legitimate economy. For example, when organized crime can control the decision-making process of economic actors. This is, actually, an organized economic crime activity. These forms complement each other and are stages in the gradual process of the development of organized crime in the economic sector of Russia.

Relying on what has been said already, the phenomenon of organized economic crime during the transition period in the Russian Federation can be defined as a pool of certain individuals and groups who are linked together – in criminal associations (Kuznetsova, 1994, p. 444), according to their common in this case economic – goals: creating, protecting and controlling considerable profits by any means available to them, including the threat or use of violence.

*The case of the oil business*

Trade in Russian oil is a very lucrative business indeed. Unfortunately, it has also proved to be a very violent trade, which is evident in the cases cited below. Once the biggest crude oil producer in the world, Russia is still among the top oil producers, ranking third after Saudi Arabia and the United States. The rapid privatization of oil industry enterprises and oil trade liberalization in Russia created an opportunity to make big profits (in hard currency) fast. According to Ovchinsky one of the reasons for the sky-rocketing of oil exports was the speed at which Russian oil prices were brought into line with the world market price under the IMF requirements (Ovchinsky, 1993, p. 69). This, he says, diminished demand for oil within Russia – as for many enterprises the price was too high – whilst simultaneously releasing a considerable part of it for export. He points out that in 1992 organized crime exported 67 percent of Russian oil.

As the result of the illegal export of oil the Russian Federation sustained a loss of 300 million dollars in 1993 alone with most of this money being deposited in Western banks (Ovchinsky, 1993, p. 70). In 1992 one of the first major illegal oil trade operations between Russia and the Baltic states was detected. The oil was sold by the Russian oil-refining enterprises to the front companies in Kaliningrad Oblast (Russia). In actual fact, oil was purchased by Latvian and Lithuanian firms. On the way to Kaliningrad Oblast the oil was intercepted in Latvia or Lithuania. From there the oil was transported further abroad, including to Western European countries (Ovchinsky, 1993). Another method of
illegally exporting oil is what experts call 'tolling' operations. The oil from Russia is delivered to an oil refinery in one of the Commonwealth of Independent States countries (so there are no custom duties to pay and also no quotas). However, only a third of it ever returns, the rest being sent to Western countries (Terebov, 1995, p. 14).

The problem of internationalization is seen in the so-called Joint Ventures, primarily between Western and Russian organizations engaged in the Russian oil business. Today in the oil industry of Russia there are some 40 Joint Ventures and, according to Terebov, most of them are involved in illegal trade practices (Ovchinsky, 1993). One of the reasons for diminishing controllability of the oil trade is corruption among the state officials (Terebov, 1995). For example, in October of 1992, during a check conducted by the control officials in Orenburg Oblast, over 100 officials of the Orenburg Oblast's administration were found, in violation of the existing law, to be involved in the activities of 95 commercial structures, many of which were engaged in the oil trade (Burenin et al., 1993).

One of the examples of the abuse of power is when a state official signs an agreement with an oil trader or even with himself, in the form of a Joint Venture registered under another name abroad, to sell oil by-products. In reality, quality gasoline is shipped. The state receives payment for the fictional lower-priced product but the official and overseas partner sell the real product overseas at its international market price (Pavlov, 1994). On average there are about 10,000 crimes detected annually in the Russian energy industry, all connected with the export of raw materials and a considerable part of it is in the oil trade: most of it is in the form of bribery, but there is also theft and abuse of official positions. It is evident that corruption is an integral part of the problem (Terebov, 1995, p. 13).

Now for some more serious cases. In Russia, in May 1992 the oil company 'Nefsam', director Anatoliy D., was established by the oil-refinery enterprise from Samara (Russia), director Gennady Z. and the company 'Teraplast' (Belgium), director Vladimir M., a former Soviet citizen who, allegedly, had connections with organized crime. The average sales of oil and oil products amounted to 100,000 tons per month. However, after a certain period of time both the Russian and Belgian founders of this venture, quite independently, came to the conclusion that the profits from the sales were lower than they had expected. Apparently, the enterprise was engaged in illegal practices, bribery or tax

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5 The 'Law on Joint Ventures' of 1987 set out the first business form of foreign investments in the Soviet Union in over sixty years, opening the door for Western companies. The aim of the Joint Ventures was to bring in much-needed technology and know-how. That is why, for example in the oil industry, they have favourable treatment such as low export duties.
evasion, which was one of the reasons why the parties in the conflict did not resort to legal means in order to resolve their problems (including gaining control over the operations).

Samara's oil-refinery executives felt distrust towards their Belgian counterparts. Gennady Z. was very active in trying to clarify the situation with Nefsam. He was killed in October 1993. During the meetings in the winter of 1993/1994 an attempt was made to clarify the situation, but on January 15, 1994 a group of gunmen armed with automatic assault rifles opened fire on Vladimir M.'s car, seriously wounding him. Vladimir M. left Russia and in May 1994 during the discussions which took place in Switzerland, he appointed his old friend Valeriy V., as a director general of Nefsam. On May 15, 1995, at 10 a.m. Valeriy V. was shot dead near his office in Moscow. About 15 executives from the companies which were involved in this venture are now hiding abroad (Leskov, 1994).

Sergey T. was a leader of one of Moscow's biggest organized criminal groups. In September 1994, he was, allegedly, killed by a car bomb in Moscow (Shcherkokchikhin, 1995). At the end of the eighties Sergey T. had gained a great deal of respect among Moscow's criminal groups. In 1991 he began to get more involved in the oil business. He registered an off-shore company in Cyprus and invested money in the Russian oil companies. Sergey T. had close connections with Viacheslav I., one of Russia's well-known criminal leaders and who, operating from New York, was also involved in the Russian oil business. There were at least two other criminal leaders killed as the result of 'oil' conflicts (Otdel Bezopasnosti, 1995). More than ten of the top executives in the Russian oil industry have been killed recently in Russia (Terebov, 1995, p. 15). The last piece of information is from Brussels, Belgium: The Russian oil-trader M. was killed early in the morning of December 18, 1994 near his house in Ukkel (Belgium). The police were almost certain that the assassination was ordered by his competitor. According to the investigators, M. was active in the ruthless world of the Russian oil traders which has connections with Russian organized crime (Y.B., 1995).

Following the pattern of the definition of organized economic crime, it is evident that these cases have some common features: private trading activities in the Russian oil business; considerable profits; the connection with the shadow economy (its criminal sector) or organized crime in Russia; use of violence; the connection with Western countries through the sales of oil, transfer of funds, business partners, use of a new place of residence or a hiding place. All of this connected with the corruption forms a phenomenon which is sometimes called 'oil mafia'. We can observe that the problem of the 'oil mafia' in Russia tends to cross the borders, into Western Europe. The oil trade is not the only example of
organized economic crime. It is endemic in every economic sector in Russia which can provide considerable profits in a short period of time. It seems appropriate at this stage to investigate the causes and background of the growth of economic crime in its organized forms in Russia today, especially in the light of Russo-Western European (economic) relation in the period between 1991-1994.

The causes

Most of the experts point to two factors which form a background for the growth of organized economic crime. First, the existence of the shadow economy during the Soviet era (Dolgova and D'yakov, 1993, p. 272) and, second, the transition period as such (Kuznetsova, 1994, p. 443). I will touch only briefly on the first factor as, although it is an important issue, our attention should be on the present situation pertaining to organized crime in Russia.

Shadow economy

It is generally presumed that during the Soviet era the shadow economy served as a factor which contributed to the growth of crime such as theft and stealing of property (Joutsen, 1993) and, eventually, led to the development of illegal entrepreneurship. Feldbrugge had defined the shadow economy during the Soviet era as those economic activities which were somehow not controlled by the Soviet state. He points out that the shadow economy was the product of the Soviet system (Feldbrugge, 1984). The simplest way of showing it, in my view, would be to refer to the now abolished articles of the Russian Criminal Code, which represented the legal translation of the Soviet ideology of preventing people from owning the means of production and prohibiting all private economic activities (Feldbrugge, 1984). These are some of the articles of the Russian Criminal Code which no longer exist: Art. 153, Private entrepreneurial activity and activity of a commercial middleman; Art. 154, Speculation (buying up and reselling goods or any other articles for the purpose of making profit); Art. 154-2, Buying up, selling, and exchanging currency or securities.

As one can see, these articles represented fundamental barriers for the development of free enterprise. However, as Yergin and Gustafson write (1994, p. 49): 'The state also never quite managed to control the black market. In one way or another, the entire Soviet population was involved in informal, semi-illicit ties, which the Soviet government increasingly tolerated as time went on.' The key unit of analysis here is who controls these economic activities, especially those which involve large amounts of money. If the state does not have control, organized crime is most likely to fill this gap. He who has control, sets out the
rules of behaviour including enforcement methods, such as the threat or use of violence. The Russian experts Dolgova and D'yakov (1993, p. 270) stress that the criminal business is profitable because it does not pay any taxes to the exchequer. They point out that the capital of the shadow economy and especially its criminal sector was made on breaches of the norms of law. Their methods, they go on to say, cannot be used in the framework of the legal order and enacted anti-trust legislation. A good illustration of this is another, now abolished, article of the Russian Criminal Code: Article 152-1, Additions to and other distortions of accounts concerning fulfilment of plans. One of the types of the 'distortions of accounts', was so-called double bookkeeping, which means keeping two versions of accounts: one for the official auditors and another as the real record of the flow of assets or money. This method was widely practised in the former Soviet shadow economy and is still being used during the transition period as a means of fraud.

Transition period

Karpets writes (1992, p. 50) that 'the transition (...) period triggered an unprecedented increase in crime, primarily organized, economic and gravely violent. Only when there are stable economic, social and political relations within a society is it possible to combat the crime successfully. Unfortunately, we do not have it right now.' The transition to the market-oriented economy in Russia demanded a radical reconstruction of the society. Implementation of the reforms during the transition period falls into two main parts: governmental (economic) policy which is expressed through legal reform. Governmental policy has been heavily criticized for its controversy and mistakes which, allegedly, have contributed to the growth of economic crime in Russia (Glinkina, 1994, p. 385; Kuznetsova, 1994, p. 443). However, one of the features of the transition period in Russia is the diminution of the administrative manageability of the society and economy (Vedeneev, 1995). One would think that writing all the necessary laws and putting them into place would resolve most of the problems. But as the practice shows, for the laws to be workable they must have certain economic and social foundations. Even if the laws are put into place there are problems which '(...) did not arise from the flaws in the legal regime but from the underlying dynamics within the Russian markets' (Brown, 1994, p. 511). To explain this notion in relation to the problem of organized crime we should consider it in more detail. Along with the diminution of authority of the state and law as a result of the break-up of the Soviet Union, it appears that organized crime in Russia has been able to take advantage of practically all aspects of the transition period in
Russia from 1991 onwards. Most experts agree on the three main aspects of the transition to a market economy: privatization; elimination of command economy; trade liberalization (Burgess, 1992, p. 194).

Privatization in Russia is an unprecedented transfer of property rights from the public to the private sector (Brown, 1994, p. 514). The difficulties which were encountered sometimes exceeded the potential of the market to deal with them. There was no experience as to how to conduct public trading of the shares of an enterprise and with no controlling system in place, it was open to abuse: fraud, embezzlement etcetera (Kuznetsova, 1994, p. 449). As a result of privatization many enterprises and, most importantly, their new owners were unprepared for what followed. Their behaviour in the new economic environment was not subject to real state control and an appropriate set of rules, resulting in illegal activities (for example, in oil export), abuses in the area of corporate governance etcetera. Because many enterprises needed ready cash (Brown, 1994, p. 513) to keep them going, the origin of the cash inflow on offer was a secondary matter. So for organized criminal groups it was also an opportunity to successfully invest their ill-gotten income and by so doing establish a direct link with the legal economy.

Elimination of command economy includes removal of planning; removal of price control; demonopolization. One of the results of the removal of planning is well-illustrated by the words of Karpets, who said (1992, p. 50): '(...)' if a plan demanded from an enterprise a production output of 100 percent, but the enterprise was supplied with resources and materials for only 50-70 percent, this inevitably led to the occurrence of criminal activities. But (paradoxically) it was easier for the law enforcement agencies to control the criminal activities of this kind and detect the criminals.' The removal of price controls allowed the organized criminal groups to make profits from creating dumping prices which meant huge profits over a short period of time. Demonopolization meant that the role of the ministries in managing the industries diminished. It also meant that control over enterprises was lost to the point that the enterprises were not responsible to anybody, as no control system of any kind had been put in place. This contributed to the situation where economic criminal activities (stealing, fraud, embezzlement) within the enterprises (including the oil industry) were very difficult to prevent, detect and prosecute.

Trade liberalization allowed organized criminal groups to move their capital abroad on a really large scale. Enterprises received the right to establish directly any form of economic contact with foreign partners. In this situation, control – including control over hard currency transactions – was an almost impossible task. According to Bernshtam (1994) the new system of licenses and quotas for exports introduced by the trade liberalization resulted in abuse and corruption of which organized crime took advantage (c.f. Serio, 1992). A state
official, for example, who is responsible for the issuing of a license for the export of petroleum products from Russia, will be offered a fee by a criminal group which is a hundred times higher than his salary. On the other hand, the establishment of joint ventures and other trading ventures without any real form of state control in place, was an ideal situation for flight of capital and, eventually, cross-border money-laundering schemes. These underlying dynamics of the Russian markets during the transition period have created an environment in which money can be made, virtually, overnight. This has also become a feeding time for criminal groups as the absence of appropriate state control over the economic activities during the transition period has made the shadow economy, and the whole new private sector in Russia, a playground for organized crime. Yergin and Gustafson write about the situation in Russia today (1994, p. 86): 'Organized crime is currently a major economic force (...) At this point, one of the most important issues for the future is how the next generation of gangsters will choose to invest their gains and how they will exert control.' In my view, they have already chosen foreign countries for these investments, in particular Western Europe, for three reasons: geographical proximity; the fact that it is safe, for example, to deposit their money in banks in Western Europe where the financial operations are easy to conduct and confidentiality of these transactions is protected by the law; the stability of the political and economic situation in Western Europe. Ironically, for their investments abroad they would, I am inclined to think, use the same criteria as the normal investor would, including the risk of crime. It is this internationalization phase that I intend to discuss next.

**Internationalization of criminal activities**

*The basis*

Taking a little digression, let us take a look at recent developments in world economy. The structural change (Strange, 1992) which has been taking place in world economy since the end of World War II, has challenged the old order as now nations are competing for wealth rather than territory. The success of Singapore serves as an example to show how wealth can be achieved within a small territory. The structural changes consist of: technological change (the speeding-up of the production process), capital mobility (the liberalization of international finance) and (the intensification of) cross-border communication and transport. The economies which were able to take advantage of all these factors were able to hold on to a good share of the world's markets. The Western economies were able to deliver high-quality products as a result of technological change. The liberalization of international finance removed the old
difficulties of raising money for investment. The real cost of cross-border communication and transport decreased, contributing to the development of international trade.

The demand for high-quality products in the former Soviet Union could never be met by the supply within the Soviet economy. In addition, a difference between the official hard currency rate and the unofficial rate made trade between the West and the former Soviet Union a very profitable enterprise indeed, even though it had a semi-legal status. So, basically, there are two important factors of the cross-border 'shadow' transactions between Western Europe and the then Soviet Union, now Russia: the currency fluctuations and difference in prices (Andrade, 1993). Furthermore, there are three stages of the cross-border transactions, including 'shadow', transactions: international trade in goods and services; international flow of capital or transactions in assets including acquisition of real estate; movement of people across the borders (Henderson, 1992). We can divide the cross-border illegal transactions into two periods: before and after the fall of the Soviet Union in 1991.

International trade

During the Soviet era the cross-border transactions, except for the relatively rare large illegal operations, were mostly concentrated around some sort of small trade operations such as, the then illegal, speculations with Western-made products (clothing, perfume) and hard currency (if the official rate was 1 dollar : 1 ruble, the unofficial rate would be 1 dollar : 5 rubles, this created a 'black' market of hard-currency exchange). This formed a part of the shadow economy which was especially vulnerable to racketeering (extortion of money or other assets under the threat or use of violence). After the beginning of perestroynka, most of these activities were still semi-legal, but were taking a more and more organized form. This applies both to those who conducted these activities and to those who controlled the activities (the racketeers).

The organized criminal groups in the former USSR have always shown interest in trade where profits could be made rapidly and, especially, when it involved Western Europe with its high-quality products and hard currency. Ever since the introduction of the Law on Joint Ventures (1987) between foreign and Russian enterprises, most of which specialized in intermediary trade, there were constant indications that criminal groups were creating, controlling or trying to exert their influence over them. Apart from that, the legal and semi-legal trade with the West was intensifying. For example, between 1987 and 1990 there was a great demand for computers in the Soviet Union, and the computers purchased in the West could cost up to 150,000 rubles in Moscow. Even if the unofficial rate was 1 dollar : 15 rubles, a 2,000 dollars computer would make several hundred percent profit on the purchase price. Such a lucrative
trade, which was still semi-legal, did not pass the attention of gangsters in Moscow. They could force a computer trader to pay more than half his profits. If one criminal group controlled only one channel of computer trade, it was able to make hundreds of thousands of dollars in less than a year. This is just one example of how Moscow gangsters made their money. The trade transactions from the Soviet Union to the West were not as significant. Caviar, icons, and watches were the items which had some market in the West.

With the launch of the cooperative movement in 1986, one of the first and most lucrative private trade deals between the USSR and Western Europe took place. Cooperative ‘Tekhnika’, headed by Mr. Tarasov, sold a big shipment of copper to one of the Western European countries, making over 3 million rubles in profit. I would say that this was a turning point for the trading relation between Russia and Western Europe. New entrepreneurs did not hesitate to take advantage of the astronomical differences between the prices of different commodities and products in the West and Russia such as copper, aluminium, and other materials. It did not take long for the organized criminal groups to take notice of this lucrative trade. From that point on the organized criminal groups were seriously involved in this kind of trade.

International flow of capital and movement of people

With the dismantling of the Soviet Union (after 1991) the links between the various systems and branches of law enforcement have been substantially weakened and this has contributed to the environment of impunity in which organized economic crime has flourished. The criminal sector actively capitalized on the previously mentioned factors (international illegal trade connections) and new opportunities which were created by the virtual uncontrollability of international economic transactions. By 1991 the money which had been accumulated by the organized criminal groups amounted to millions of dollars. Most of it was channelled to the West (and elsewhere). The fact is that when money crosses the border from Russia to the West, it becomes increasingly difficult to prove that this capital is not ‘clean’. Similarly, the capital which comes from abroad is not properly checked due to the present situation in the Russian economy, and this simplifies the money-laundering process (Glinkina, 1994, p. 390).

According to one estimate, over the last two years about 16 billion dollars has been brought to Russia for money-laundering (Ageev, 1995). In all, the flow of criminal capital can be divided into three main forms: business-like activities,
acquisition of real estate (also in Western Europe) and deposition with the banks. An example of business-like activities is seen in Joint Ventures. In 1992, Terechov of Moscow's Interpol said, referring to Joint Ventures: 'Only a quarter are involved with their declared activities. Two or three out of five are financed with money of dubious origins. Many Joint Ventures are fictitious. Often they are one-man operations to swing hard-currency deals (...) at least five hundred of our mafia groups use them to link up with international crime.'

Further, acquisition of real estate, as part of the international flow of criminal capital, is one of the most important, tangible and sound investments which an organized criminal group could make in the West (Drozdova, 1994), as they gain a foothold in the territory of the Western country, with the minimum risk of being stopped. Depositions with the banks are, apparently, the most common form of criminal capital flow to the West. Again, the chances of being detected among the stream of capital flowing from Russia is minimal (Smol'kin, 1995). Even investments within the territory of the former USSR are often designated to support the export activities of organized economic crime (Kirichenko et al., 1995).

Another important factor which contributed to the internationalization of organized economic crime, was the intensification of movement of people across borders e.g. the ability of people to travel from Russia to the West and from the West to Russia more freely. People, including the representatives of organized criminal groups, could travel if they had the money, which means they could gather the necessary information and establish the necessary contacts (Williams, 1995, p. 67), in other words engage in networking.

International networking

Now back to the issue of organized crime in Russia today. According to the Russian Ministry of the Interior, in 1994 organized criminal groups had control over 48,000 different commercial structures (about a half of which were in the financial services, retail, restaurant business, and construction); 1,500 state enterprises (mainly in the production of energy products such as oil, as well as in the construction, transport, and other industries); more than 800 banks (over a third of all banks) are subjected to the orders of organized crime representatives (Shvearkov and Klin, 1995). According to the Russian Ministry of the Interior report, 16,500 occupational crimes – committed by state officials – were detected in 1994, which represents an increase of 8 percent compared to
5,000 cases of bribe-taking by state officials were detected in 1994, which is an increase of 9.4 percent compared to 1993 (MVD, 1995, p. 7). These figures reveal only part of the situation regarding corruption in Russia. Undoubtedly, as organized criminal groups can spend up to a third (Gurow, 1990) of their huge incomes (possibly amounting to 30 billion dollars in 1994; Kirichenko et al., 1995, p. 17) to influence and bribe, their capacity to corrupt is immense. In all, what do these figures tell us? They tell us that Russian organized crime is able to control or influence practically all types of economic actors: individuals, groups acting in concert (including so-called holdings), local authorities and governmental bodies and merging entities (Burgess, 1992, p. 200). They control a considerable part of the infrastructure which now shows signs of economic recovery – banking, financial services, construction (Craik, 1995). They also, as was mentioned before, control a considerable share of the market which represents one of the greatest assets of the Russian economy – natural resources including the oil industry. Organized crime has now enough space to manoeuvre. It has gained monetary power (Strange, 1993); that is to say the ability to earn money and to move it around through banks (and in other ways).

With this kind of economic penetration organized crime offers serious advantages for a would-be counterpart (not only criminal organizations but also legitimate foreign economic actors): control over the country's market, such as: control over access to the market in general, ability to offer an important market when the economic functions of the state are controlled or can be influenced by organized criminal groups; control over factors of production, such as: natural resources, low-cost production, control over the means of production. It is most likely that foreign business organizations (criminal and legitimate) would (or would have to) cooperate with anybody who has these advantages. The question of who is that 'anybody' will be a secondary matter.

On the other hand, the organized criminal groups from Russia, which are operating abroad, will be looking for: assistance in improving their financial transactions such as money-laundering, including managerial assistance (know-how); access to funds of hard currency; access to information; access to foreign markets. Again, the organized criminal groups from Russia would establish contact with anybody who could offer them at least one of these advantages. This is the basis for the international networking involving the Russian Federation's organized crime. These cross-border activities are graduating into cooperation with foreign organized criminal groups or other foreign economic actors.

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8 I would call it the 'corruption schemes' whereby the criminal group influences the decisions of individuals, using financial resources, in order to coerce them into abuse of power.
Internationalization of organized economic crime

One common feature which legitimate and criminal enterprises operating abroad have is that they all strive to maximize their profits and constantly try to reduce the risk for their operations. Networking or establishing the necessary connections is essential for successful operations abroad. For example, many Russo-Western business linkages are formed around the so-called commodity chain (Williams, 1995, p. 60). In other words, the chain from raw materials to finished products. This chain creates a series of supplier relations (for example, between the aluminium factory and ports in Russia, and the Western companies) and also connections with companies which provide specialized services, for example a Western law firm providing legal services for the aluminium trade in Western Europe. Consequently, it is almost impossible to trace trade transactions conducted in violation of Russia's tax, banking or other legislation, when for instance a commodity is sold (to a Western European country), according to the contract for 30 cents per X, but in actuality is sold for 40 cents per X. In addition, if this deal is being formulated by skilled lawyers, and all the documents are kept in a Western European law firm, access to the documents is very limited and from the outside the deal looks 'clean' (Smol'kin, 1995). On the one side of this chain can be a criminal organization (which controls the aluminium factory and Russian traders), and on the other, a quite legitimate Western company (a factory which uses Russian aluminium). In between, a complicated and integrated structure of subsidiaries, joint ventures, various operating linkages, and licensing can exist. Cooperation between Russian and foreign organized criminal groups is a natural response to the need to secure their operations (economic and financial including money-laundering) both inside and outside Russia. Both foreign and Russian organized criminal groups share the need to circumvent the law and other regulations. With the considerable financial assets gained by the organized criminal groups in Russia and their willingness to move their money abroad (for example, to the West) the problem of securing their assets (or investments) abroad arises. Organized criminal groups from Russia cannot negotiate on this subject with foreign governments, which is why they have to establish contacts with similar organizations to themselves abroad, such as Italian mafia groups which have been operating in the West for a long time. By the same token, if a foreign criminal organization has invested money in the economic sector of Russia, as it is now a good place for money-laundering from abroad, they will have to make sure that their operations and investments are secure. That is why they would cooperate with Russian criminal groups. It can be called 'mutual favours' or mutual cooperation, which has now become a feature of the Russian-linked organized crime internationalization. Networking through cooperation, apparently, will develop further, strengthening the positions of organized crime in both Russia and the West.
Self-contained growth

Dolgova and D'yakov write (1993, p. 272): 'International experience shows that it is a mistake to think that the market is self-sufficient enough to overcome economic and organized crime.' This point of view is explained by Ageev, who said that (organized) economic crime undermines economic relations e.g. by controlling the prices and removing competition. Thus, economic stimulus is taken away from the economic process and the self-regulation of the market is destroyed (Ageev, 1995). Organized economic crime in the Russian Federation during the transition period has reached a stage in its development when there is no need for outside factors (disorganization in the economic sector, weakening of law enforcement) to facilitate its growth. This process can be called the self-contained growth of organized economic crime. That is to say, it develops using its own resources: financial and economic, networks of corrupt officials, experience and manpower, and connections abroad.

On the other hand, organized crime in Russia is not a single and unified conspiracy. Its structure can be described as fluid. For example, when some of the leaders of organized criminal groups are arrested, they are most likely to be replaced by other people (Williams, 1995, p. 59), which makes combating organized crime very difficult. In addition, as organized criminal groups from Russia have established their presence in the West, the organized crime from Russia has gained the advantages other Russian economic actors could not. Organized crime from Russia received the chance to extend its activities over to the Western countries. It is now an economic force in Russia which is interested in expanding its operations, has no problems in fund-raising and can enter the Western markets without asking permission. Palmieri, head of Interpol’s organized crime task force, referring to the situation in Eastern Europe, said: 'The stream of the trade brings huge fortunes which are being laundered and used to penetrate normal economy. Mafia-entrepreneurs are very self-assertive and have a lot of profits, they don’t have to borrow money and they meet little resistance. They can hire very good experts who can show them the way in a complex world of international finance' (Palmieri and De Pauw, 1995).

Here I would like to take the liberty of taking the discussion a step further. There was, in my view, a gap which was created in Russo-Western economic relations after the fall of the Soviet Union and it was filled by organized economic crime. On the one hand, for big Russian high-technology industries (aerospace, defence etcetera) the Western markets were not open. For example, the policy behind the major Western high-technology industries towards Russia can be described as the following: 'Why reconstitute our former adversary and boost its economic capability and competitiveness at the expense of our own?' (Cook, 1992). In actuality, the opening of Western markets and direct foreign
investments into those industries would have stabilized the economic situation in Russia, creating an environment in which organized economic crime could not have grown so rapidly.

On the other hand, the aid from the West had no focus in any particular field which could have really benefitted and was uncoordinated which created a situation whereby the aid was open for abuse. Mr. Sobchak, Mayor of St. Petersburg and radical reformist, said that Russia does not need aid but rather integration into the World's economy (Sobchak, 1992). This point of view is supported by Alexander Smolensky, president of one of Russia's leading 'Stolichny' banks, who said that Russia does not need credits from the West which are used for purchasing Western products. What Russia needs are the markets, he says (Smolensky, 1995). Given the wealth of Russia (for example, oil) and an unsatisfied eagerness for opportunity, limiting the development of the Russo-Western economic relation will channel a wave of risk-taking and entrepreneurial ferment (Wannisky, 1992) into illegal methods of doing business or will cause it to be replaced by (organized) crime in the economic sector, both in Russia and abroad.

It would be wrong to think that the situation regarding organized (economic) crime in Russia is hopeless. Some parts of the economy show signs of recovery and growth, which by far outweigh the criminal sector. For example in the energy (oil and gas) sector, the giant integrated companies such as 'Gasprom' and 'Lukoil' represent part of the new Russian economy which is much stronger than the criminal sector. However, organized economic crime has become one of the major drawbacks of the transition period in Russia. The biggest problem here, in my view, is that the influence of organized economic crime on the present situation in the Russian economy is such that it tends to lower significantly the standards of economic behaviour: precedents are established which create a pattern of 'acceptable' behaviour in the Russian economy. Social awareness of the consequences of the behaviour of the organizations and individuals (including those from the West) involved in business activities which are connected with Russia, is even further removed from the main task of profit maximization. While the transition period is a time when new sets of values are formed, setting low standards of economic and eventually social behaviour would have a negative impact not only on Russia but on the Western countries as well. One of the solutions here could be what is called a 'positive sum gains' approach, when internationalization of organized economic crime is counterbalanced by well-considered policy towards the real integration of Russia into the Western markets. Unfortunately, this was not the Western policy priority in the first part of the transition period in Russia. The opportunity to correct the situation is there, but it would require a review of Western (economic) policy towards Russia.
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Changes in crime control in Hungary

Katalin Gönczöl

The control mechanisms of post-modern societies

Modern social science deals with the averting and intervening mechanism used for the purpose of social self-defence as a problem of social control. Authors motivated by various ideologies, using very different arguments, have come to the conclusion that one of the most significant problems of post-modern society is the crisis of institutionalized control. Within the welfare society an interesting dual process took place. On the one hand, the sphere of forms of behaviour which might be interpreted as deviant became more normative and better defined, as far as only those phenomena responded to institutionally and thus judged by society as deserving of care were embraced. On the other hand, the need for response increased and the sphere of types of behaviour to be controlled expanded. In order to restore the operational ability the concept of social self-defence itself had to be reformulated (Garland, 1985; Christie, 1993; Joutsen, 1993; Sherman, 1993).

The process that has now become self-generating was formulated in the last century, when the member of the state changed into a citizen of the state and, in addition, the concept of liability was re-evaluated. In the period of commonly accepted social inequalities, citizens were responsible for their deeds on a moral basis and were called to account in a manner that was clearly understandable to them. They could hold themselves responsible for their lot and had to accept individually the moral consequences of their deeds. Later, in the fabric of professional considerations, this clear responsibility became clouded. The infrastructure organized on a professional basis increased the care-provision role of the welfare state. The state kept account of its citizens according to their needs and opportunities. It tried to take care of them in their own interests. This paternalistic attitude and the professionalism developed in conjunction with it, dissolved the outlines of individual responsibility.

1 Eötvös Loránd University, Criminological Department, Egyetem tér 1-3, 1364 Budapest, Hungary. I would like to thank the Rockefeller Foundation for the very useful four weeks spent in the Bellagio Study and Conference Center in 1995, where I was able to complete this article.
In the new concept of responsibility the moral criteria for determining responsibility were joined by technical and empirically founded, ever-increasing requirements. A broad range of professional services came into existence. The professionals' self-confidence and readiness to intervene was increasing and, parallel to that, the number of those being controlled grew. Citizens under protection, as a return for the care provided to them, voluntarily submitted to the control that increasingly saturated their lives. The sphere of their needs expanded, as professional services took over an increasing number of natural extended-family functions. Citizens had to realize they were becoming less and less 'able' to take care of the ill, to raise their children, to look after the old. The more they were convinced of their own incompetence the more irresponsibly and ungratefully they behaved.

To remedy these ills, experts proposed early intervention, but its implementation meant that even more 'needy' clients were registered under institutionalized care. As an effect of another often-voiced professional argument, namely that a person displaying deviance can be changed only if his environment also changes, intervention and control were also extended to the families of the clients. Thus, it is not surprising that despite good intentions, the mass of problems to be remedied and the number of people to be helped did not decrease but continued to increase. It became clear that either the state had undertaken more than it could cope with or society did not wish to be made happy by experts if intervention was the price to be paid. Naturally, the problem was that beyond a certain point the system proved to be an unsuitable vehicle for solving the fundamental problem which was to ensure more equal social opportunities. The harmony of market forces and state intervention was disturbed. The increase of control, the imperialism of expertise, the expansion of the sphere of deviance and its increase in scale may be regarded more as a consequence of the crisis than its cause.

Failure, however, was blamed on deviants and experts. The former were judged to be ungrateful, deserving to be taught a lesson, the latter fell from grace. Expensive and ill-defined professional services were replaced by cheaper and more practical ones. For example, the educational and medical monopoly exercised by institutes responsible for child education, psychiatry and work therapy came to an end with most of them being simply closed down. Small communities were given back those functions which had been taken away from them two decades earlier. Human freedoms were re-valued and the idea of pure moral responsibility was restored. Citizens who had become used to being made happy found themselves bearing total responsibility for their own happiness and that of their families.

Professional policies, no longer fulfilling their primary role in education, treatment or cure, found themselves under scrutiny and being called to account.
Since such policies are difficult to evaluate the response, in general, was to avoid them. As a consequence of rethinking the methods of control and the increased importance of calling to account and scrutiny, it was criminal policy that increased its responsibility. In accordance with these trends, the division of labour in the social treatment of deviance was disrupted and the role of crime control policy and prevention of crime increased while the role of other institutions decreased.

This process, which is still continuing, has produced a moral inflation. The cumbersome system of the administration of criminal justice is now in motion against the great mass of behaviour types which are more heterogeneous than previously. Criminal law prescribes the prosecution of the murderer, the robber, the violators of anti-smoking regulations, conspicuous drunkards and exponents of graffiti. Criminal policy influences the fate of an unprecedented mass of people. European countries such as Sweden, England, the Netherlands and Belgium used to have quite an extensive (criminal) welfare system. That system has undergone a considerable change of direction towards a more punitive 'justice model'.

Wide-ranging crime control policy is most characteristic of the United States. In the United States the prison population has doubled since 1983. The number of people in prison and under other forms of criminal law control (probation and parole) was in excess of 4.5 million, almost 2 percent of the population, in 1991. In the same year, the number of the recorded victims of crime approached 35 million, almost 14 percent of the population, but during the preceding ten years, this rate was 17 percent lower. Of those sentenced to imprisonment, 65 percent were convicted for offences against property and public order, 15 percent, however, had not committed a crime, and were kept in prison not because of a new offence but because of the violation of the conditions of parole. Actually only 20 percent perpetrated one or other of the most serious offences.

On the basis of all this, Nils Christie (1993) has arrived at the conclusion that in the United States it is not the real crime threat that has produced the increase in the social role of criminal policy control, but the crisis in the system of control itself. Sherman (1993) expressed a similar view in the course of relating the criminalization of behaviour to a lesser degree of deviance.

The institutional system of crime control is subjected to ever-increasing social and political pressure. The efficiency of crime investigation is deteriorating. The whole criminal procedure is lengthy and complicated. There is a backlog of cases and not infrequently one must wait years for the final unappealable judgement or the implementation of the sentence. These phenomena reinforce moral inflation. However, owing to its internal nature, crime control policy is incapable of adaptation. So far, constitutional guarantees regulating criminal procedure have proved to be stronger than measures which could be introduc-
ed to accelerate and simplify the proceedings. All attempts at expansion are limited by the values of traditional democracy. The great dilemma today is what and how much may be sacrificed of traditional democratic freedoms for protection, for the feeling of safety.

However, the pressure on criminal policy has resulted in a significant, if not spectacular, transformation in both the procedure and the system of sanctions. Guarantees considered to be traditional and to represent hard values have a marked effect on proceedings carried out against the perpetrators of more serious offences. It may increasingly occur that it is not the court but the police who brings the decision against the perpetrators of relatively minor offences. The discretionary powers of the investigative authority and the public prosecutor are growing (Farkas, 1994a and 1994b). The sanction system is becoming increasingly differentiated. Although novel forms of punishment, concentrating on control but not amounting to a full deprivation of liberty, appear, the prison population is rapidly growing (Lévai, 1994). In the implementation of penalties it is increasingly difficult to ensure the protection of the convicts' human rights and the realization of the professional considerations of reintegration.

A significant number of experts considers the privatization of control in crime prevention as a phenomenon of moral inflation. A considerable portion of today's demand for personal, property and business security appears under market conditions. It may be purchased since it can no longer be guaranteed by the state. State regulations and institutions are increasingly replaced by market forces. In the opinion of the experts, the dominance of the market and the increased privatization of control may become a new source of social inequality since it may increase the vulnerability of the less protected. The burden of crime, it is feared, will fall upon the poorer section of the population not yet, or no longer, capable of buying security (Kerner, 1994). New conflicts may also develop in the realm of constitutional guarantees. The danger of anarchy or of taking justice into one's own hands may arise owing to the overlap of the authority of private and state control or due to the increase in the social significance of private control, which is less burdened with guarantees. This is most visible and significant in those parts of the criminal justice system where the principles of the rule of law are at their weakest, in its entrance and its exit institutions, that is in the police and in prison (Sack, 1994).

In the heterogeneous system of averting and intervening, institutionalized by the state, crime prevention is given a monopolistic position. Interventions of treatment, cure and education, which serve the aims of normalization and correction, are limited today mostly by aspects of the expediency of crime prevention. Responses to aversion and intervention are chiefly applicable to public order and public security and do not aim at making people happy. For this reason, in the practice of prevention the techniques of direct aversion and
control are in the foreground. Despite the changes in attitude, the circle of controlled forms of behaviour and that of persons considered harmful, has not decreased, but has perhaps been transformed. For example, alcoholics, drug addicts or smokers are the cause of intervention only when their unsociable habits cause damage to someone else. Self-destructive conduct provokes moral outcry at most but not an institutionalized response.

A group of influential criminologists intend to adjust the strategy of prevention to the model of the market. The reason in their scenario is that demand is symbolized by the offender and that the victim behaves according to the rules of supply. If there is a high level of supply – the quantity of accessible goods, the number of opportunities for crime – and control is at a low level, the number of offences will increase, for the perpetration of an offence is a low-risk investment. For this reason, the quality and extent, even the methods, of intervention in the interest of prevention must be organized in accordance with the laws of the market, and because of the rapid return, investment is more rewarding on the side of supply than on that of demand. Perpetration of offences must be made more difficult and more risky, and the number of opportunities must be reduced. Institutionalized support must be given to victims striving for greater protection against crime.

In order to realize this idea, a strongly decentralized programme is adequate. It is the model of prevention that must be formulated at a central level, and its operation is to be effected by an apparatus of modest size. The actual programme is formed at the local level and responds to real public-security problems of the public administrative unit, of the neighbourhood, and includes solutions to meet the challenges and protective measures required there. It is in this medium that the supply-demand mechanism freely operates. The common interest of public security mobilizes the local population, thus it may even become a community-forming factor. Van Dijk, to whose name this model is most closely associated, in addition to the advantages described, also recognized the disadvantages of the model. The one-sided application of the system described reinforces social segregation. The areas isolated from it are those most involved in the social reproduction of crime, for example where there are many young people, large families, and where poverty and unemployment exist. In these places 'demand' and 'solvency' for increasing the potential of defence are equally lacking. If the processes of crime manifested on the break line of social inequality remain intact, then only the walls thicken, at most, between the threat and the threatened, but the real danger does not decrease. Redistribution, the reform of social policy becomes unavoidable. However, if this takes place, within the central and local programmes of crime prevention, there will be a need for an offender-oriented strategy, concentrating on social causes, thus, one of a narrower sense as compared to social reform (Van Dijk, 1991).
It was by no means scientific curiosity that made me survey the control mechanisms of post-modern societies. In Hungary, there is an urgent need to form a strategy for crime prevention. Concern about public security is on the increase, but defence mechanisms are, for the time being, more on the basis of spontaneity than of organization. International crime prevention instruments, including the 1987 Recommendation of the Committee of Ministers of the Council of Europe, on Organization of Crime Prevention also urge that a solution be found to this problem).

The control mechanisms of Hungarian society

During the era of socialism, in Hungarian society, collective rather than individual interest was dominant in the self-defence mechanism against deviance. The responses of intervention and aversion were influenced by two trends. One led toward too much paternalism by the state, the other suggested trust in the automatic effect of social justice of the socialist ideology. Both were fed by the illusion that the bulk of deviance, primarily crime, would automatically lose its social significance in the course of achieving social justice. Although this illusion later changed, as far as the social controllability of deviance was concerned, optimism remained the characteristic feature. Institutionalized responses were under direct political control, thus expertise could make its effects felt only in subordination to that and only then with limitations. Deviance which had been kept under strongly over politicized control, increased at the time of the crises of the system of political institutions (1951-1953, 1957-1960), and at the time of the change of the regime grew explosively.

Two levels of norm-violating conduct developed. One developed among those participating in the 'quasi market' in some way, who knew the rules and had the opportunity to participate in it as 'sellers' or 'buyers'. Here we talk about corruption, which penetrated society and was declared in a formal sense to be antisocial, but was very seldom disguised. The institutionalized mechanisms against this type of conduct were undeveloped and their operations were inhibited by a silent 'consensus'. The other level embraced those excluded from the 'game', people who were able to participate in the officially undeclared competition only by violating the most traditional norms and since their deeds violated the interests of all the other 'players', the use of strong and intensive control against them could not be prevented.

Faith in the elimination of social inequality and optimism regarding deviance forced disciplines and professional institutions to view the types of deviance in isolation from each other. The fact that they recognized common social roots could not be expressed and by that they 'hindered' themselves in the formation of a comprehensive social policy, and a welfare policy within that. Because
of the lack of a comprehensive social policy, in many respects the strategic aims were missed. As a result of this attempts were made to compensate for the ineffectiveness of criminal investigation through police crime prevention (Szabó, 1994). Criminal policy 'undertook' the curing of alcoholics and drug addicts within its own framework and in accordance with its own value system. A similar process took place when psychiatry took social policy measures in the interest of the social integration of the mentally ill and alcoholics. In these cases the use of unsuitable methods led to dysfunctional consequences. By the acceptance of tasks of social policy, social stigmatization was promoted and the circle of those treated as deviants was expanded. In turn, owing to the deformation of institutionalized control mechanism, interventions of compulsion and control took place even when they violated or endangered civil freedoms deserving universal protection.

The crisis of values of socialism lasted a short time, perhaps six or eight years, when the crisis became manifest but appeared to be manageable for the largely technocratic political leaders of that time. This was the opportunity for professionals to prepare action programmes for the comprehensive and expert handling of the social control of deviance. The conception of the comprehensive reform of social policy and the proposals for the comprehensive social treatment of the disturbances of social adaptation could be considered such strategic plans (Bánfalvi, 1989). In the course of the change of regime, the implementation of these programmes on the one hand became impossible, and on the other hand failed. The situation is not favourable for the development of comprehensive and constructive reforms of social policy even now. The negation of the system of the 'replaced' socialism is now accompanied by a new illusion, the faith that the market automatically organizes society. The institutions that previously served (in varying degrees), the institutionalized control of deviance, are in crisis and their existence and functions are in danger. Under the pressure of the new ideology and the difficult economic situation they must prove that they are indispensable and they must have a defence against vulnerability on the market. They are expected to keep deviance, produced in new economic and social conditions, under control by using more or less the old methods. Many institutions show cracks, others are still struggling, but, in general, the scope of services has decreased whilst the figures on deviance have escalated (Gönczöl, 1994).

Replacing the state by the market has involved a further weakening of the traditional social role of morality, particularly when the illusion of the omnipotence of capitalism has been spreading. For, it was not a new and mature moral and political order that citizens have been confronted with, but an economic system creating new, hard conditions (Sack, 1994). Under the new conditions, collective interest and collective good is forced into the back-
ground, it is individual interest and individual achievement that has come to the fore. This puts individual responsibility in a new dimension and increases its significance. The new challenges originating from the new economic situation and arising in the sphere of social security put adaptability to a severe test. The observance of the norms by the masses, controlled earlier by policy and the 'quasi' market, decreases.

The amount and social significance of deviance was already on the increase at the time of the crisis in the socialist regime, and, in the learning process of adaptation to new conditions, it has grown to unnerving dimensions, particularly in the realm of crime (the number of registered offences has more than doubled since 1987; Gőnczől, 1993). Thus it is not by chance that, according to public polls, after inflation and unemployment the third most important area of concern is public security and crime (*Népszabadság*, February 22, 1994). The automatic response, and according to public opinion, the way out is to be found in more consistent, more effective control, and in the application of more severe sanctions. If society yields to automaticity, a situation similar to that in Western societies may develop whereby criminal policy would have a monopoly in the social treatment of deviance.

So far Hungarian criminal policy appears to have been effectively protected against such a confusion of roles by the traditional system of guarantee of penal law which has never been formally relinquished and which now represents an increasingly important social value. Its role is reinforced by historical experience. Since during the course of modern history Hungarian administration of criminal justice has more than once become a direct servant of politics, its averting mechanism has become very strong. Control regulated by criminal law has not increased since the change of regime and the scope of acts controlled by criminal law has not expanded. In the process of criminalization, it was the obligations originating from international relations and the transformation of economic and market conditions that the legislature took into consideration. The values of the new system also prevailed in decriminalization, for example by eliminating the punishment for being work-shy and prostitution or by limiting the punishment for drug addiction. It seems likely that as a consequence of decriminalization, broader strata have left the domain of criminal policy than have entered it, aided by the ineffectuality of investigation.

The deterioration of the conditions of public security has not resulted in an increase in the severity of sentences and in an expansion of the circle of those under control. The death penalty has been abolished (Constitutional Court, 1990, Resolution no. 23, November 30, 1990). Legislation has relaxed the rigid rules applying to recidivists (Penal Code, Act XVII of 1993). Sentencing practice has become less severe, despite the increased proportion of dangerous offences in the structure of crime. The number of those serving sentences has decreas-
ed, although the numbers convicted and sentenced has grown. In 1987, the number of prisoners serving sentences was 15,950, in 1992 it was 11,424, a 28.4 percent decrease. On the other hand, the number of convicted persons in 1987 was 64,996, in 1992 it was 69,642, amounting to a 7.1 percent increase. The number of those imprisoned and those under the effect of a sentence in any form (probation, suspended sentence, parole and supervision) in my calculation approached 50,000 in 1993, which represents almost 0.5 percent of the population, in other words five in every thousand. In the United States, that group amounts to 2 percent of the population.

The deterioration of the conditions of public security is a significant burden on criminal law enforcement and on the administration of criminal justice. The effectiveness of criminal law enforcement has deteriorated, the success of investigation has decreased. The proportion of investigations classified by the authorities as successful in 1987 accounted for 66.2 percent of all cases, this proportion in 1993 fell to 54.2 percent. Criminal proceedings – owing to the more consistent use of guarantees, to the complexity of cases and the increase in their number – are also lengthier in Hungary now. The proportion of cases requiring more than a year from the beginning of the investigation to the final judgement was almost 17 percent in 1987, and in 1993 this proportion was close to 30 percent. In connection with the evaluation of these indices the requirement for an improvement in work conditions arises. In addition, more and more is said of the complex and coordinated system of crime prevention and of the need for it. Thus, it seems, professionals do not wish to expand the scope of their competence, they hope a more reassuring solution to the situation of the more comprehensive means of social policy will arise.

The formation of the coordinated system of comprehensive crime prevention may assist the clear definition of the social function of criminal policy. For, crime prevention finds its place in the broader system of the social control of deviance, in which the various institutions cooperate in the way determined by law. One of the criteria of the division of labour among them is professional while the other affects human freedoms and is related to the manner and extent of intervention and aversion. However, institutions operate in a democratic way and as a system only if they satisfy equally both the self-defence needs of the given society and modern constitutional requirements.

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Crime in Slovenia

A criminological analysis

Zoran Kanduč

According to official statistical data, crime appears to be increasing in Slovene 'post-socialist' society. There has been a continuous rise in the number of crimes known to the police over the last five years. In addition, these figures indicate that in Slovenia, during the period in question, crime is to a large extent dominated by property offences. In 1993, for instance, 80 percent of the police-recorded conventional crime (not including business and governmental crime) were crimes against property. Crimes of violence, especially the most serious ones which usually attract the attention of the media and provoke the concern of the general public (grassroots), form a very small part of all crimes. By and large, as the police registered 22.4 offences per 100,000 people in 1993, criminal victimization seems to be quite a rare event, particularly in comparison with neighbouring countries (Italy, Austria and Hungary) or other societies in transition (Svetek, 1994, p. 133).

Of course, crime statistics as provided by the police are only an imperfect, approximate measure of the actual amount of crime in Slovene society. They tell us as much about reporting and recording procedures as they do about crime itself. Thus, it can be assumed that 'unknown' crime, traditionally referred to as the 'dark figure', exists, particularly in the field of economic and governmental activities, where the effectiveness of the formal and informal social control mechanisms is low or even negligible. In consequence, it is difficult to say whether the growing concern of the general public about crime is exaggerated, i.e. out of all proportion to the objective threat that a realistic appraisal could sustain, or even totally misplaced, so that it would be appropriate to speak of the beginnings of moral panic (Goode and Ben-Yehuda, 1994, p. 36). It is a fact, however, that crime (previously almost a taboo subject), especially street crime and use of illegal drugs, has become over-reported and

1 Institute of Criminology at the Faculty of Law, Kongresni trg 12, Ljubljana, Slovenia.
has been accorded a place in the mass media far out of proportion to its importance. Be that as it may, what appears to be unquestionable is that Slovene society has become more criminogenic than it was in the past, that is in the period of so-called self-management socialism. In the following, I shall attempt to portray some basic features of the existing social conditions which can account for the significant increase in the crime rate.

**Society in transition**

Let me begin by focusing on some major changes which have occurred at economic, political, cultural and ideological levels of Slovene society in the period of transition. The introduction of the 'hard-core' capitalist system, based on private ownership of means of production and on a free-market economy, has created several phenomena, previously little known in the 'socialist' system, such as: extremely unequal (i.e. unjust) distribution of wealth and income, poverty, relative deprivations, mass unemployment, underemployment (incorporating low-wage work, occasional work, and no work at all) and harsh exploitation accompanied by anti-working-class politics stripping the former social democratic welfare state and denying basic economic, cultural and social human rights essential for the individual's dignity and free development of his personality.

Consequently, social class has become an important explanatory category, along with differential distribution of opportunities, choices, incentives and motivations for both criminal and non-criminal behaviour (Lynch and Groves, 1986, p. 46). In addition, the increase in the redundant population has created the problem of how to control all those who are forced to endure a very low standard of living and who in the main find it unjust and intolerable to remain outside the sphere of production, particularly because under the old regime the state (i.e. the political bureaucracy) guaranteed that everyone (in Slovenia at least) had a right to participate in the work process. With no stake in life, no property and sometimes not even a social network (as in the case of foreigners and members of ethnic minorities) there is very little or even nothing to lose.

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2 Conceptually speaking, the socio-economic system in the former Yugoslavia should not be described as 'socialist' if, of course, socialist society is to be synonymous with the just social order. On the notion of the just social order, see Phillips, 1986.

3 In 1991 unemployment (measured as a percentage of the labour force) was 12.3% (in 1993, 13.7%). Youth unemployment (measured as unemployment of the population under 24 years, as a percentage of total unemployment), which is a particularly critical aspect of unemployment in Slovenia, was 47.2% in 1991 (Ferfila, 1994, p. 177).
In order to avoid oversimplified, monocausal, reductionistic, positivistic, mechanistic, and economic deterministic approaches to the issue of causation, it must be recognized that objective social conditions do not speak for themselves. It is of crucial importance how the society's members, i.e. the members of different classes, groups and segments, subjectively – individually and collectively – interpret and evaluate the objectively given social facts. In this connection, the role of a dominant ideology has to be emphasized. Namely, almost all criminogenic social structures and processes are 'explained' or justified by the ruling polity as: (a) the inevitable price paid for political independence (achieved by the violent separation from the former Yugoslavia) and for the transition to a free-enterprise economy; (b) the consequence of the deficiencies and mistakes of the 'socialist' political and economic system. These ideological messages, emanating from the orchestrated functioning of the 'ideological state apparatus', seem to be very powerful and persuasive, particularly because of the prevailing opinion that there is not and cannot be any palpable alternative to the capitalist society. What is possible and desirable – so the story runs – are only partial improvements of existing social arrangements which are primarily to be brought about by the experts, specialized in resolving particular social problems.

The increase of crime in Slovene society is often, especially in the mass media, attributed to 'the absence of the appropriate values and rules'. Because of the apparent 'normative vacuum', many members of society, in particular youngsters, have no adequate normative orientation and cannot resist the attractiveness of the forbidden or criminalized behavioural patterns. Such idealist explanations are obviously false. In fact, there is no vacuum of values and norms. The problem is twofold. On the one side, the dominant set of values, being a logical expression of the needs and functional necessities of a capitalistic political economy, has an important criminogenic potential, already analyzed in detail by anomie theorists. On the other side, there is of course a normative system, but its regulative power has diminished significantly in the transitional phase, in particular because there are many conflicting interpretations (even among the members of the 'new' social elite) of the rules concerning the process of privatization. In consequence, there is no fundamental consensus on what economic activities should be treated as illegal, anti-social or (even) criminal: the 'same' state of affairs is described by groups struggling over the control of political power in almost contradictory ways (e.g. what seems to be quite 'normal' for the governmental parties is condemned by opposing groups as immoral, illegitimate, unconstitutional or unlawful). Since the line of demarcation between the legal and illegal has become extraordinarily vague and blurred, the day-to-day functioning of the various mechanisms of the formal social control is to a large extent paralyzed.
Slovene society is characterized by egoism, i.e. normative inflammation of aspiration (which should not be equated with individualism). It has to be emphasized, furthermore, that egoism - ‘a situation in which a value has been placed on the unrestricted pursuit of individual desires’ (Taylor et al., 1973, p. 87) - is by no means a new normative phenomenon. Rather, it already existed, as a ‘subterranean’, informal, real and effective socio-psychological force in the former political system, although officially denigrated and denounced by ‘socialist’ ideology. With the advent of a free-market economy and (re)privatization of means of production, self-interested striving has been raised to an institutionalized cultural ideal. So, success, defined in monetary terms and accompanied by insatiable conspicuous consumption, the possession of additional status symbols and the limitless pursuit of income and wealth, has become the culturally prescribed goal, extolled above all others - the core value of Slovene society. Since this egoism leads to a situation in which social regulation is to a great extent ineffective, the indirect precursor of deviance and crime is not the ‘valuelessness’, but, paradoxically enough, the dominant value system. Consequently, Slovene society resembles more and more the utilitarian ideal of society, in which ‘calculations of advantage and fear of punishment are the sole regulating agencies’ (Merton, 1993, p. 112). Of course, in such a condition, wherein ‘everything is possible’ and the end-justifies-the-means doctrine becomes a guiding principle for social action, various forms of anti-social conduct have to be described as quite ‘normal’. In particular, this is true in the economic and political spheres. Namely, in these domains the weakness of both the formal and informal social control mechanisms and regulations leaves members of the ‘upperworld’, i.e. the rich and powerful, seductively free to deviate. On the other side, upper-class crime, characterized by and large by relative immunity from prosecution and the penal sanction, and other anti-social activities of the powerful, such as unlawful appropriation of capital (previously in state-owned property), corruption, trafficking in weapons, bankruptcy frauds, tax frauds etcetera, influence lower-class crime.

As Matza (1957) and others have noted, one of the ways in which offenders justify (or neutralize) their offences – called ‘condemnation of the condemners’ – is by reference to the view that ‘everyone is on the fiddle’ and mostly getting away with it. In this regard, Roshier (1989, p. 102) has suggested that in order to believe in and accept the restrictions of conventional ‘rules of the game’, the society’s members need to feel that others, particularly those in power, are doing likewise – that they are not being ‘mugs’. Lack of such a belief enhances the sense of injustice. If the beliefs in the moral validity of normative structures

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4 By the way, it was egoism (perhaps even more than nationalism/chauvinism) that was the most powerful socio-psychological force at the bottom of the Slovene separatist movement.
are weakened, the probability of committing delinquent acts is increased. And this is exactly what is going on in Slovene society. The ruling political bureaucracy, especially political parties, government and members of parliament (alongside other representatives of the 'state'), has lost almost all its credibility, legitimacy, authority and respect (Bibić, 1995, p. 225).

In addition to Durkheimian anomie, Slovene society is characterized also by anomie as conceptualized by Merton, i.e. as disjunction between culturally prescribed goals (aspirations) and the institutionally available means of goal attainment (opportunities). In this connection, the causal role of the relative deprivation has to be emphasized. Namely, it has been argued by left realists that it is relative poverty, not absolute levels of deprivations that causes crime (Lea and Young, 1984). So, the subjective experience of economic disadvantage is of crucial importance. Such an experience comprises: the awareness of the fact that one is worse off than others, i.e. disadvantaged, underprivileged or deprived; the evaluative judgement that this is unfair. Furthermore, relative deprivation occurs throughout the whole social structure and is not limited to the marginalized segments of the population.

Apart from the anomie of the disadvantaged, attention ought to be paid also to the anomie of the advanced, prevalent at the top of the social structure. In a way, the latter is a more important crime-generating variable than the former since, in Slovene society, there is a ruthless struggle for economic, political and ideological power between the old 'communist' elite and the new 'democratic' one. In this pursuit of wealth, privileges, status and authority, motivated by greed and selfishness, there are no normative limitations, no common obligatory 'rules of the competition'. This is why the illegal predatory appropriation of the state-owned property, often referred to as 'the theft of the century', is endemic to the extent that effective formal control is practically impossible. Moreover, principle formal control (i.e. in accordance with the valid civil, criminal, administrative and constitutional norms and principles) would completely undermine the process of privatization of the means of production and provoke a collapse of the current, formally democratic capitalist system.

The social condition of anomie in Slovene society, also characterized by growing unemployment and disproportionate impoverishment and marginalization of large sections of the population, calls for individual and collective adapta-

5 In this connection, the criminogenic role of the political party has to be mentioned. It has become clear that the high position in the party hierarchy (sometimes even a membership suffices) is one of the most efficacious protective means against criminal investigation (and particularly against being prosecuted or punished in some way or other).

6 The sociological research regarding the phenomenon of poverty in Slovene society is very scarce. The work of Mojca Novak (1994) represents the first step in this direction. She has shown, among other things, that the so-called 'Slovene success story' is to a large extent a myth (an ideological
tions. Apart from conformity, the most commonly used adaptation in every society, two others appear to be particularly widespread: retreat, i.e. individual escape (for instance by becoming a drug addict, an alcoholic, a psychotic or by committing suicide); and 'dropping out' (Jeffery, 1959). In addition, collective solutions to commonly experienced problems, such as obstruction of opportunity, status frustration, inadequate housing, economic and social insecurity, socially induced tensions, alienation, powerlessness, sense of desperation etcetera, have been developing. Among symbolic responses to the problems of adjustment, created by the emerging capitalist society, the following have to be mentioned: the 'criminal' subculture (as manifested in acquisitive delinquency, e.g. theft, extortion and other illegal means of securing an income, often associated with organized crime); the 'hedonistic' subculture (as manifested in the increased consumption of legal and illegal drugs); the subculture of violence (as manifested in various forms of apparently 'senseless' or 'meaningless' aggressive delinquency).

In summary, the economic, political and cultural causes of crime and delinquency – as specified above – are by no means peculiar to Slovene 'post-socialist' society. On the contrary, in varying degrees, they can be found in all industrial, urban societies, based on a capitalist market economy and 'democratic' political institutions (for the situation in Eastern Europe, see Bienkowska, 1991). Nevertheless, Slovene patterns of crime and delinquency appear far milder and less prevalent, even in comparison with other 'societies in transition'. What accounts for this rather paradoxical fact? First of all, it has to be taken into account that Slovenia is a very small country. There are few big towns. In fact, more than 25 percent of all police-recorded offences are concentrated in Ljubljana which is the capital of Slovenia. Because of the smallness of Slovene society, the mechanisms of informal social control are still powerful, particularly in small towns and provincial regions (where people know each other very well, so that social distance is not of particular importance7). Also, the role of the family as a social institution has to be mentioned. Namely, apart from functioning as a control apparatus stricto sensu, the family structure, as an informal support network (i.e. as the most important source of the intra- and inter-generational solidarity), to a large

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7 The role of social distance in creating crime has been stressed by Christie (1994, p. 23): 'Distance increases the tendency to give certain acts the meaning of being crimes, and the persons the simplified meaning of being criminals. In other settings – family life is only one of several examples – the social conditions are of a sort which creates resistance against perceiving acts as crimes and persons as criminals.'
degree soothes economic problems and is in this way the most effective anti-
dote to the various criminogenic 'pushes' (Cernigoj-Sadar, 1994, pp. 78-80).
Furthermore, there are almost no slums, i.e. socially problematic urban areas
comparable to those described by the Chicago school and 'ecological theory' in
general. In the former 'socialist' regime, there was no particular social under-
class. So, the actual Slovene capitalist society has inherited almost negligible
criminogenic structures from the former 'socialist' system. Since the majority
of crime-generating social conditions are concomitant with the process of
reprivatization of the Slovene economy, it can be predicted that the crime pro-
blem will continue to grow in the future. Namely, human evaluation of the pre-
dicaments, such as unemployment or underemployment, unjust deprivations,
powerlessness etcetera, normally take time to develop. Crime-producing social
facts do not lead automatically and immediately to crime (Young, 1994, p. 109).

Concluding remarks

In conclusion, it can be noted as a fact that, in Slovene 'post-socialist' society
(as in other modern societies), crime is primarily a function of social, cultural,
economic and political arrangements. In addition, it should be pointed out that
criminogenic nature of multiform governmental interventions into domestic
affairs is determined basically by the real or perceived needs of capitalist accu-
mulation. If the sources of criminality – need, relative deprivation, greed, indif-
fERENCE to others, indignation etcetera – are generated and reinforced by a com-
petitive capitalistic society, crime policy should of course not be restricted to
individual rehabilitation, treatment or deterrent punishment. Namely, the
crime problem, consisting of both the lower-class crimes and crimes of the
powerful, is not a problem of a supposedly inefficient criminal justice system
which can obviously not deal with the crime-generating and victim-producing
socio-economic structures and processes. Unfortunately, with respect to pre-
sent experiences, it seems rather hopeless and naive to expect the Slovene capi-
talist state to abolish the inequalities of wealth, income and power, and in parti-
cular the hereditary and lawfully sanctioned inequalities in life-opportunities.
In view of the steady growth in the number of crimes reported to the police and
the growing concern of the general public, the Slovene criminal justice system
may experience increased difficulties in preserving its relatively humane and
mild penal policy.8 Namely, in Slovenia the prison population has declined
since 1973. In that year the number of custodial sentences was 3025 and in
1991 the number was 1337 (Brinc, 1994, p. 308). Besides, there has been a con-

8 As Christie (1994, p. 199) has shown, this can happen in other Western European countries too.
tinuing trend to lower the general punitive level. The question whether the
permissive penal policy will continue in the near future cannot be answered in
a precise way. The future remains open, although there are few reasons for
optimism.

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The European Prison Rules in Central and Eastern Europe

Progress and problems

R. Walmsley

Building on the United Nations Standard Minimum Rules for the Treatment of Prisoners (1957), the European Prison Rules (EPR) seek 'to establish a range of minimum standards for all those aspects of prison administration that are essential to humane conditions and positive treatment in modern and progressive systems', to stimulate prison administrations to develop good policies and practice, to encourage professional attitudes among staff and to create conditions in which they can optimize their own performance, and to provide realistic criteria against which inspections of conditions and management can judge performance and measure progress (Council of Europe, 1987). As the preamble to the EPR states: 'In these rules, renewed emphasis has been placed on the precepts of human dignity, the commitment of prison administrations to humane and positive treatment, the importance of staff roles and effective modern management approaches' (ibidem).

Almost all European countries aim to apply these standards but it is unlikely that a single one has succeeded in applying them fully. Western European countries which have been visited by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment have rarely been criticized by the Committee for the occurrence of torture in penal institutions but have invariably been found to have failed in certain respects. These countries themselves recognize that the EPR are not being fully applied: for

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1 Research and Statistics Department, Home Office, Queen Anne’s Gate, London SW1H 9AT, Great Britain. This article is based, with additional new material, on a report (Walmsley, 1995) published by the European Institute for Crime Prevention and Control, affiliated with the United Nations Heuni. For further information on this topic the reader is referred to that report, and to a further report, including descriptions of developments in each of the prison systems covered by the study, which is due to be published, also by Heuni, at the end of 1995.
example, responding in 1993 to a request to Council of Europe member states to report on the extent to which the EPR were applied, the United Kingdom identified fifteen rules which were not fully implemented for a variety of reasons, including shortage of staff and resources and the need to modernize prison buildings (Home Office, 1993).

Legacy of the past

For the Central and Eastern European countries applying the EPR fully is much more difficult. In seeking to introduce reform following the political changes of 1989-1991 they faced a number of obstacles including, most notably, the legacy of totalitarianism itself and the disruptive events that occurred in the penal institutions of some countries in the immediate aftermath of the political developments. In addition, changes in patterns and levels of crime have provoked much public concern and steadily rising numbers in the institutions, so that incarceration levels in most countries are now high.

It is worth indicating more precisely what is meant by the legacy of totalitarianism and describing some of the events which followed the political changes and aggravated the problems in introducing reform. The totalitarian legacy includes prison buildings which are old and sometimes decrepit because the ideology was that crime would disappear in a socialist society and that prisons would not be needed. Thus refurbishment was neglected, new building was banned or severely limited and, bizarrely, new pre-trial institutions in Bucharest and Moscow were completely demolished. The legacy also includes an economic situation in which there is little money for refurbishment and reconstruction and, in most countries, none at all for building new prisons. Again, the institutions are often very large; in Belarus, Latvia, Lithuania, Romania, Russia and Ukraine the average capacity is over 900. It is much more difficult to manage a positive regime in a large prison.

The legislation of the totalitarian period, and the attitudes of staff who were accustomed to working in repressive institutions where prisoners had few privileges and no right to complain, are an important part of the legacy. New laws are not yet in place in most countries of the region and, although reforms have been introduced, including instructions no longer to enforce some of the harsher features of the old laws and instead to anticipate more enlightened measures which are in the new legislation that is being prepared, some staff are resistant to the reforms and prefer to abide by the old laws that are still technically in force.

In the immediate aftermath of the political changes, most of the countries which in 1989 went through a democratic revolution declared large-scale amnesties, as did several others. In Czechoslovakia, for example, over three-
quarters of sentenced prisoners were released (more than 40 percent of those on remand). These amnesties provoked riots in several countries. In Poland where authority in the prisons more or less collapsed late in 1989 almost every institution in the country was affected – eight lives were lost and three prisons destroyed. The hopes of many inmates, including multiple recidivists and long-termers, that they would be included in the amnesty were first raised and then dashed. The staff were protesting at the same time, demanding better conditions of employment and more support from the authorities. In several countries there were many staff changes; some were dismissed because of their behaviour under the old regime while others resigned because they were unwilling to accept the reforms. New staff were appointed but they were young, inexperienced and had much to learn.

These then were some of the circumstances which confronted the countries of Central and Eastern Europe after the political changes of 1989-1991 and which made it more difficult for the prison systems to apply the standards set out in the European Prison Rules.

The progress of recent years

Despite this negative background to reform, criminal justice experts in seven countries visited for a recent study (Walmsley, 1995) reported that the progress made in the last few years has been extensive. Statements to this effect from senior officials in the responsible ministries and the national prison administrations were confirmed by senior parliamentary figures, academic experts, non-governmental organizations and by direct observation. The most important developments concern the organizational structure within which the prison system is administered, the policies and attitudes of the national prison administrations themselves and the work of the personnel in the penal institutions.

Organizational structure

The changes that have been introduced to the organizational structure within which the prison systems are administered are predominantly changes in legislation, in the ministry responsible for the prison system and in the role of the prosecutor. The legislation that is being prepared and which in several countries is already in force seeks to sweep away the most objectionable features of the systems that existed under the totalitarian regimes. It is the penal executive (or punishment enforcement) code which most directly concerns the administration of penal institutions and, despite delays in finalizing the exact form of new legislation, instructions have generally been issued, as indicated above, bringing practice more closely in line with the international standards. Among examples of major legislation and regulations, new prison
rules were issued in Poland in 1989 and 1991, the corrective labour code in Russia was substantially amended in June 1992, a new Act amending punishment enforcement provisions was introduced in Hungary in April 1993, a new Act concerning the execution of pre-trial detention came into force in the Czech Republic in January 1994 and new penal executive codes were adopted in Estonia in June 1993 and Moldova in March 1994.

The countries of Central and Eastern Europe are increasingly taking the view which generally prevails elsewhere in Europe that it is better for the administration of penal institutions not to be under the ministry that is responsible for the police, and that the human rights of prisoners are best protected in the Ministry of Justice. Thus the prison systems which were already under that ministry before the political changes (those of the Czech Republic, Hungary, Poland, Slovakia, Slovenia and Croatia) have since been joined by Bulgaria (April 1990), Rumania (January 1991), Estonia (August 1993) and Albania (November 1993). Lithuania has announced its intention to do likewise (probably late in 1995 or early in 1996), and Moldova has approved such a move in principle. The question is also under consideration in other countries of the region.

A third organizational feature in which changes are bringing about a situation generally regarded as more conducive to the standards contained in the European Prison Rules concerns the role of the prosecutor. Under the totalitarian system the prosecutor was responsible for investigating crimes, prosecuting suspects and ensuring that any period of pre-trial detention or sentence of imprisonment was carried out in accordance with the law. In practice he frequently denied or severely restricted contact with families and legal representatives prior to the trial. These powers are being reduced in some countries and questioned in others. For example from January 1994 the prosecutor's office was abolished in the Czech Republic and replaced by a state representative who acts only as accuser, bringing suspects to court. Where the prosecutor retains his traditional powers he has generally become somewhat less restrictive in terms of pre-trial visits from lawyers and family.

National prison administration

The quality of a prison system depends greatly on the efforts and skills of its national prison administration. Even where resources are very limited, progressive policies enthusiastically pursued can produce good results. In the seven countries visited for the study already mentioned it was clear that senior officials in the prison administrations are fully committed to improving the management of prisons and the treatment of prisoners, in accordance with international standards including the European Prison Rules. This conclusion was confirmed by academics and non-governmental experts. The same pattern seems to prevail elsewhere in central and eastern Europe.
The commitment to progress is exemplified by the leading and vigorous role of the national prison administrations in developing new legislation. In addition, a policy of openness is widely practised, and there are increased contacts with experts abroad and with non-governmental organizations, including university law departments, religious bodies, pressure groups and parliamentary experts in penology and human rights. There is much use of publications and contact with the media to inform criminal justice personnel and the public generally of the work that is being done, including progress, problems and objectives. Some prison administrations produce quarterly journals for experts inside and outside the prison service (e.g. Bulgaria, the Czech Republic, Hungary and Romania), and Hungary also publishes a newspaper which is available to prisoners and public alike. Interviews are given, press conferences are held and many have allowed the media into their institutions.

Such openness increases public knowledge of the important service to the community that is played by prison staff (in accordance with EPR rule 53), despite the inevitable tendency of the media to focus on sensational material. It has also been justifiably described as 'the best preventive of abuses' (Human Rights Watch, 1993). The links with non-governmental organizations are seen as a constructive means of exposing the work of the prison service to critical debate and new ideas and enlisting support for reforming measures. It is widely recognized that prison administrations share with such groups the aim of getting the institutions closer to best practice and that much is to be gained from collaborating as far as possible. The contacts with experts abroad provide opportunities to learn from other experiences and insights and introduce the most useful initiatives in their own countries.

Prison staff

Just as prison systems need high-quality prison administrations, these in turn are dependent for good results on the prison staff. As with senior officials in the prison administrations, it was clear that the determination of the best governors in the region to achieve the highest levels of practice was not just a matter of professional pride but also of personal conviction. Some, as well as being efficient managers of their prisons, take great trouble to improve the morale and working conditions of their staff. Many have found imaginative ways of raising money to refurbish their prisons or have particular skills in obtaining employment for prisoners. Much has been done to reduce tensions between custodial staff and prisoners, and the former military-style supervision is being progressively discontinued as it is recognized as counterproductive in terms of positive staff-prisoner relations. Improved relations in many countries are said to have resulted in fewer assaults on staff (e.g. in the Czech Republic and Russia) and to have created in the best-run institutions in the
region a sense of partnership and mutual respect. Another important indicator of progress is the extent to which specialist staff are used, in addition to medical personnel. There are an increasing number of psychologists (Bulgaria has one for each institution) and of what have traditionally been called educators or detachment leaders but now go under a variety of titles including 'social workers' and 'case managers'. They are responsible for a group of prisoners for whom they have to develop a programme of positive activities, developing good relations, offering individual assistance and preparing them for release. There is increasing recognition of the value of this role (which is particularly highly developed in Poland) and of the need for such specialists to have responsibility for smaller groups of prisoners. Several countries see special value in the part that religion has to play in improving prisoners' attitudes and chances of rehabilitation: Rumania has decided to employ a priest for each of its institutions and in mid-1995 more than three-quarters were already in post.

The prison systems of Central and Eastern Europe contain many further examples of positive developments in almost all aspects of prison management and the treatment of prisoners.

- Nearly all national prison administrations now conduct their own internal inspections some of which (for example in Bulgaria, Poland and Rumania) involve a structured programme of visits with elaborate follow-up procedures to ensure that recommendations are implemented (e.g. EPR rule 4).
- Most institutions report that recognition is given to the need for formal efficiency in the reception process to be accompanied by a supportive attitude towards newly admitted prisoners (cf. EPR rule 9).
- In almost all countries the quality of food prisoners receive has improved and is now comparable with communal catering outside; the size and frequency of food parcels that may be sent in by families has generally been increased (cf. EPR rule 25).
- The quality of medical attention is thought to be as good as that outside, and better if account is taken of its greater availability (cf. EPR rules 26 et seq.).
- Emphasis is placed in several countries on the fact that rewards for good behaviour can be more effective than punishments for bad behaviour. Prisoners under punishment are no longer subject to an inferior diet and in one country (Rumania) solitary confinement is carried out in rooms which isolate the prisoner from others but in which conditions (space, lighting, bedding, access to sanitation, reading material etcetera) are no different from elsewhere (cf. EPR rules 33 et seq.).
Opportunities for prisoners to make requests and complaints have multiplied and in some countries complaints may be made not only to the governor and the national prison administration but also to the responsible minister, the Ombudsman, the Helsinki Committee, Parliament and even the President (cf. EPR rule 42).

Prisoners are now able to have much better contact with families and friends: there is no restriction on the number of letters and visits are allowed at least once a month in most countries. Physical means of separating prisoners from visitors are increasingly being confined to exceptional cases (cf. EPR rule 43).

An increasingly wide range of regime activities is arranged in some countries, to provide a constructive use of time for those without work, as far as possible in accordance with individual needs (cf. EPR rules 64 et seq.).

Since employment continue to be regarded as the most significant feature of prison regimes, there is vigorous pursuit of work to replace that which has been lost when traditional markets collapsed (cf. EPR rules 71 et seq.).

There has been a great expansion in many countries of the opportunities for prisoners to have home leaves and to be transferred to low-security institutions from which, as a preparation for release, they may be able to work outside during the day (cf. EPR rules 87 et seq.).

Increased attempts are being made to ensure that pre-trial detainees are treated without restrictions other than those necessary for the penal procedure and the security of the institution. In most countries they are now allowed to wear their own clothes and restrictions on contacts with families and other prisoners are being reduced. In several there have been successful experiments with unlocking cells for part of the day, allowing more movement, choice and variety of company and activity (cf. EPR rules 91 et seq.).

The problems now

But despite all these developments, which represent very substantial progress in the application of the EPR, the problems currently faced by the prison administrations in Central and Eastern Europe are many and often serious. The main problems are common to all, although the degree of seriousness varies, with the Central European countries generally having the least severe conditions and the countries of the former Soviet Union, and also Albania, the worst. The rest of this article will focus on the nature of these problems, especially those which are most vital in terms of the application of the European Prison Rules, and on suggestions, mostly from prison experts in the region, for tackling them constructively.
It is the size of, and continued increase in, the numbers held in the penal institutions that constitute perhaps the greatest problem of all. It is the prime cause of overcrowding, especially in pre-trial institutions, which together with the length of the pre-trial process and the limited nature of the regimes makes the conditions of pre-trial detention a matter of serious concern throughout the region. The state of the buildings and the need for refurbishment, reconstruction and new institutions compound these problems, as do the limited resources available in present circumstances for improving conditions and for the day-to-day running of the institutions. Recruiting and retaining good quality staff, committed to reform, is a further major difficulty. In several countries great concern is caused by the prevalence of tuberculosis in the institutions and the shortage of medical equipment and medicines with which to treat it. These matters, together with the difficulty throughout the region of finding sufficient employment for prisoners, will be considered successively.

The numbers

The numbers held in the penal institutions of Central and Eastern Europe are, with a few exceptions, very much larger than those in the rest of the continent. Table 1 demonstrates this by setting out the rate per 100,000 of the general population for 16 Central and Eastern European countries and for 20 other European countries. Just four of the former countries have rates that are within the range of the latter. The situation is made even more difficult for the countries of Central and Eastern Europe by the fact that the numbers are still rising. Although (in every country but Albania) there was a peak in the mid or early 1980s and the numbers then fell, notably through the amnesties which followed the revolutions of 1989, the numbers have been rising (again in every country except Albania) at least since 1991 (table 2). Thus the new reforming directors general of the national prison administrations have continually had to cope with the effects of this problem and have been unable to concentrate without distraction on improving the management of the institutions and the treatment of the prisoners in accordance with the international standards (specifically the EPR). Almost every aspect of prison administration is affected by high and rising numbers. The need to ensure respect for human dignity and the need to sustain health and self-respect, which are stressed as basic principles by rules 1 and 3, the need for decent accommodation arrangements (cf. rules 14-15), the need for adequate regime activities and treatment programmes (cf. rules 65-69), and the need for opportunities for employment (cf. rules 71-76) are all crucial requirements that are more difficult to achieve when numbers are high and rising.
The European Prison Rules in Central and Eastern Europe

Table 1: Numbers in penal institutions: rates (per 100,000 of the general population) for Central and Eastern Europe and elsewhere in Europe, 1993-1994

<table>
<thead>
<tr>
<th>Central and Eastern Europe</th>
<th>elsewhere in Europe</th>
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</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Austria</td>
</tr>
<tr>
<td>25</td>
<td>90</td>
</tr>
<tr>
<td>Belarus</td>
<td>Austria</td>
</tr>
<tr>
<td>290</td>
<td>70</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>Cyprus</td>
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<tr>
<td>95</td>
<td>30</td>
</tr>
<tr>
<td>Croatia</td>
<td>Denmark</td>
</tr>
<tr>
<td>45</td>
<td>70</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Finland</td>
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<tr>
<td>160</td>
<td>60</td>
</tr>
<tr>
<td>Estonia</td>
<td>France</td>
</tr>
<tr>
<td>290</td>
<td>85</td>
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<tr>
<td>Hungary</td>
<td>Germany</td>
</tr>
<tr>
<td>130</td>
<td>80</td>
</tr>
<tr>
<td>Latvia</td>
<td>Greece</td>
</tr>
<tr>
<td>350</td>
<td>70</td>
</tr>
<tr>
<td>Lithuania</td>
<td>Iceland</td>
</tr>
<tr>
<td>275</td>
<td>40</td>
</tr>
<tr>
<td>Moldova</td>
<td>Ireland</td>
</tr>
<tr>
<td>280</td>
<td>60</td>
</tr>
<tr>
<td>Poland</td>
<td>Italy</td>
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<tr>
<td>160</td>
<td>90</td>
</tr>
<tr>
<td>Romania</td>
<td>Luxembourg</td>
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<tr>
<td>195</td>
<td>110</td>
</tr>
<tr>
<td>Russia</td>
<td>Netherlands</td>
</tr>
<tr>
<td>565</td>
<td>50</td>
</tr>
<tr>
<td>Slovakia</td>
<td>Norway</td>
</tr>
<tr>
<td>135</td>
<td>60</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Portugal</td>
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<tr>
<td>45</td>
<td>110</td>
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<tr>
<td>Ukraine</td>
<td>Spain</td>
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<tr>
<td>310</td>
<td>115</td>
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<tr>
<td></td>
<td>Sweden</td>
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<tr>
<td></td>
<td>65</td>
</tr>
<tr>
<td></td>
<td>Switzerland</td>
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<tr>
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<tr>
<td></td>
<td>United Kingdom</td>
</tr>
<tr>
<td></td>
<td>90</td>
</tr>
</tbody>
</table>

Note: Since general population figures are only approximate the rate for the numbers held in penal institutions has been rounded to the nearest five, to avoid a spurious appearance of precision.

Source: Rates for Central and Eastern Europe are for 1.1.94 and have been calculated from information supplied by the national prison administrations and from general population figures published by the Council of Europe; rates for the rest of Europe are for 30.9.93 and are based on Tournier, 1994.

The conditions

The conditions, especially of pre-trial detention, are generally poor and in some countries are below the standards required to ‘ensure respect for human dignity’ and ‘to sustain (prisoners’) health and self-respect’. This is attributable principally to overcrowding, the length of pre-trial detention and the limited nature of the regimes available in pre-trial institutions.

Overcrowding in pre-trial institutions is very serious, and occurs in most countries of the region. Several prison administrations have had to house prisoners on three levels (triple-bunking). The standard specifications of the minimum amount of space considered necessary for each pre-trial detainee vary from country to country and range from 2m² in Belarus, Latvia, Lithuania, and Moldova to 4.5m² in Slovenia, but invariably prison administrations find them-
Table 2: Numbers in penal institutions: rates (per 100,000 of the general population) for 1980s peak and 1989-94*

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>***</td>
<td>60</td>
<td>60</td>
<td>90</td>
<td>45</td>
<td>30</td>
<td>25</td>
<td>30 (1/6)</td>
</tr>
<tr>
<td>Belarus**</td>
<td>310 (31.12.85)</td>
<td>190</td>
<td>145</td>
<td>140</td>
<td>165</td>
<td>215</td>
<td>290</td>
<td>445 (1/7)</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>190 (1.1.86)</td>
<td>140</td>
<td>125</td>
<td>80</td>
<td>90</td>
<td>95</td>
<td>95</td>
<td>95 (14/4)</td>
</tr>
<tr>
<td>Croatia</td>
<td>90 (1.1.82)</td>
<td>60</td>
<td>30</td>
<td>20</td>
<td>30</td>
<td>35</td>
<td>45</td>
<td>50 (31/12)</td>
</tr>
<tr>
<td>Czech Rep.</td>
<td>290 (31.12.84)</td>
<td>230</td>
<td>215</td>
<td>80</td>
<td>125</td>
<td>135</td>
<td>160</td>
<td>180 (31/12)</td>
</tr>
<tr>
<td>Estonia</td>
<td>565 (1.1.86)</td>
<td>295</td>
<td>285</td>
<td>280</td>
<td>305</td>
<td>290</td>
<td>290</td>
<td>270 (1/10)</td>
</tr>
<tr>
<td>Hungary</td>
<td>235 (31.12.86)</td>
<td>200</td>
<td>155</td>
<td>120</td>
<td>145</td>
<td>155</td>
<td>130</td>
<td>125 (29/12)</td>
</tr>
<tr>
<td>Latvia</td>
<td>660 (1.1.85)</td>
<td>330</td>
<td>325</td>
<td>320</td>
<td>315</td>
<td>320</td>
<td>350</td>
<td>365 (31/12)</td>
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<tr>
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<td>415 (1.1.86)</td>
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<td>230</td>
<td>235</td>
<td>245</td>
<td>265</td>
<td>275</td>
<td>340 (31/12)</td>
</tr>
<tr>
<td>Moldova</td>
<td>525 (1.1.86)</td>
<td>320</td>
<td>275</td>
<td>255</td>
<td>265</td>
<td>245</td>
<td>280</td>
<td>260 (31/12)</td>
</tr>
<tr>
<td>Poland</td>
<td>310 (30.4.86)</td>
<td>180</td>
<td>105</td>
<td>130</td>
<td>155</td>
<td>160</td>
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<td>160 (30/9)</td>
</tr>
<tr>
<td>Romania</td>
<td>265 (31.12.86)</td>
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<td>125</td>
<td>110</td>
<td>175</td>
<td>195</td>
<td>195</td>
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<td>****</td>
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<td>480</td>
<td>485</td>
<td>505</td>
<td>565</td>
<td>590 (May)</td>
</tr>
<tr>
<td>Slovakia</td>
<td>280 (1.1.88)</td>
<td>225</td>
<td>225</td>
<td>85</td>
<td>120</td>
<td>125</td>
<td>135</td>
<td>140 (31/12)</td>
</tr>
<tr>
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<td>75 (1.1.83)</td>
<td>55</td>
<td>55</td>
<td>40</td>
<td>40</td>
<td>45</td>
<td>45</td>
<td>50 (31/12)</td>
</tr>
<tr>
<td>Ukraine</td>
<td>****</td>
<td>****</td>
<td>230</td>
<td>****</td>
<td>250</td>
<td>310</td>
<td>345</td>
<td>(May)</td>
</tr>
</tbody>
</table>

* The rates given for 1989-1994 are those at January 1 (or December 31 of the preceding year).

** The figures for Belarus (apart from that for mid/late 1994) may relate only to sentenced adults. The rate for sentenced adults in mid-1994 was 345 (per 100,000 of the general population).

*** Not applicable.

**** Not known.
selves unable to adhere even to these minimum standards, especially in the main pre-trial institutions in the capital cities. In 1994 the pre-trial institutions in Bucharest and Moscow could only provide prisoners with an average space of under 1.5m², despite the national minimum specifications being the equivalent of 3m² and 2.5m² respectively. One institution contained over 3,300 prisoners and the other over 6,500, in each case approximately twice the official capacity. The institutions in Budapest, Prague and Warsaw provided an average of between 2.2m² and 2.8m², despite the national minimum space specifications being 3m² or 3.5m². Although the European Prison Rules do not specify the amount of space that should be allowed, stating merely that prisoners shall have 'a reasonable amount of space' (rule 15), many experts in the region regard 3m² as the minimum acceptable. Certainly the overcrowding in these institutions, especially in those where prisoners have less than 2m², cannot in any way be considered 'reasonable'. It may be assumed that similar conditions prevail in the capital cities of most other countries in the region, in view of their national space specifications and the fact that they report overcrowding in their pre-trial institutions. Only four countries (Croatia, Latvia, Moldova and Slovenia) reported no overcrowding in such institutions but, as already noted, two of these specify the need for only 2m² of space. The problem in managing institutions with such levels of overcrowding are clearly enormous; so are the implications in terms of working conditions for staff, the opportunities for providing positive regimes for prisoners and consequently the morale of staff and prisoners alike. The length of pre-trial detention is generally regarded as excessive and as contributing significantly to the unacceptable conditions faced by pre-trial detainees. This is not only because of its direct link to the level of overcrowding but also because it is felt to be fundamentally unjust to hold unconvicted people in detention for long periods. It is not unusual for pre-trial detention to last as long as three years. The length of pre-trial detention is not of course within the control of the national prison administrations. It is attributable first to the length of the investigation procedures and then to the length of time waiting for the court hearing after the investigation process is complete. In many countries there is no effective limit on the time that investigation may take so long as the prosecutor or the court is willing to authorize repeated extensions. A principal source of delay seems to be the requirement to investigate in depth every aspect of the case against the suspect in order to make conviction almost a certainty, rather than handing the matter over to the court as soon as the chances of conviction are good. The delays between the end of the investigation and the start of the court hearing are attributed to shortage of court staff, including judges. What-
ever the reasons for the length of pre-trial detention, it is clearly unacceptable that it should last longer than absolutely necessary.
The regimes in pre-trial institutions are generally poor. A detainee can expect to be locked in his cell or dormitory for all but one or two hours of each day. Only in a few countries (e.g. Bulgaria, the Czech Republic, Hungary and Poland) do rooms remain open during the day in some units. Partly because of overcrowding and low staffing levels little attempt is made in some countries to get prisoners out of their rooms and provide constructive activities to occupy the day, and there is often little for them to do while they are locked in their rooms. Even the opportunities for exercise which should occupy at least one hour a day for everyone who is not employed in outdoor work or located in an open institution (rule 86) are reduced in some institutions because of the overcrowding, the limited space available for exercise and the time needed to move large numbers from one part of the institution to another.

Another aspect of the conditions faced by pre-trial detainees which is not in accordance with the international standards and specifically the European Prison Rules is the practice of the prosecutor, mentioned above as part of the totalitarian legacy but continuing albeit in modified form in many countries of the region, in placing restrictions on correspondence with family and friends and on visits. In some countries visits are almost totally banned for pre-trial detainees and in others they may only take place infrequently and with visitor and detainee separated by a physical barrier of some sort, such as a glass partition. Placing restrictions on such contacts that are tighter than those placed on sentenced prisoners can only be justified in very exceptional cases. Pre-trial detainees are supposed to be presumed innocent until they are found guilty and treated accordingly (rule 91).

Buildings and resources

The state of prison buildings and the need for refurbishment, reconstruction and new institutions is another major problem throughout the region. As already indicated it compounds the difficulties brought about by the large numbers and, in pre-trial institutions, by the overcrowding and other unsatisfactory conditions of detention. Some buildings are so decrepit that they need expert assessment as to whether reconstruction is worthwhile or demolition and new construction would be more economical. Many prison administrations need new institutions, either to replace ancient buildings that would be expensive to run even if renovation and reconstruction were justified by the state of the structure, or in order to accommodate the increasing numbers that are being placed in pre-trial detention or sentenced to imprisonment. Unfortunately few prison administrations in Central and Eastern Europe are
able to make available significant funds for refurbishment, renovation and reconstruction, and even fewer can afford to build new institutions. Indeed several cannot be certain that they will be able to complete new buildings whose construction is at an advanced stage. A new national prison hospital at Lovech in Bulgaria was three-quarters built in April 1994 but work had been discontinued indefinitely through lack of resources. A new prison was being constructed at Radom in Poland but here too there was no certainty of funds to complete it. A new pre-trial institution at Bucharest, Rumania, due to be completed in 1995 has also been delayed for financial reasons.

The shortage of economic resources in Central and Eastern Europe has its effect not only on the prison buildings. Countries in the most difficult circumstances of all are unable to provide satisfactorily for the day-to-day running of the institutions. Even the most basic requirements, such as paying staff salaries and providing prisoners with proper food are problematic in several countries (including Moldova and Russia), with staff sometimes being paid late and prisoners' meals sometimes containing fewer calories than specified by the national regulations. Special diets required for religious or cultural reasons can only be supplied in a few countries although it seems that those needed on health grounds are usually provided.

In the countries worst affected the shortage of resources is a significant problem in all aspects of prison management and the treatment of prisoners, including the provision of positive regimes, the employment of sufficient staff, the availability of equipment and vehicles (e.g. for escorts to court and to other institutions) and the health care of prisoners. Few countries are satisfied with their resources for vocational training or for cultural and leisure activities. Several prison administrations, including in countries which do not face the worst problems in the region, receive from their governments only about 50 percent of the annual budget which they regard as necessary for the proper running of the system.

**Recruiting and retaining good quality staff**

The importance of having staff who are well-qualified, well-trained and committed to the objectives of the national prison administration is stressed by the European Prison Rules and fully accepted throughout the region. But there is difficulty in recruiting and retaining sufficient staff of good quality, including medical and other specialists. As private businesses increase, they often offer better pay than is to be obtained by working in penal institutions. Difficulties in recruitment and retention are exacerbated by the fact that work in the prison system carries low status as well as low rewards.
Reference was made earlier to the fact that the personnel in many prison administrations include a significant number of young newly-recruited guards and of older staff who have worked in penal institutions since before the introduction of current policies. Much is being done to ensure that the new staff are properly trained and that those who were used to working under the former authorities are fully convinced of the importance of improving prison systems in accordance with international standards. Despite the time and effort that are being devoted to this work, winning over the older staff to a commitment to the new policies is regarded as one of the greatest problems faced by the prison administrations.

**Health**

Unlike the rest of Europe, where HIV/AIDS is generally regarded as the most difficult health problem facing the prison systems (Tomaševski, 1992), it is a comparatively minor difficulty in Central and Eastern Europe where tuberculosis is the greatest health concern, though not a problem everywhere. Many countries have national prevention programmes for the disease, including annual checks for example in Bulgaria, Hungary and Poland. In the penal institutions checks are undertaken on admission for example in the Czech Republic, Moldova, Rumania and Russia. The threat is increasing and is already serious, especially in Russia, but also in Bulgaria, Moldova and Rumania and some other countries in the region. The incidence in penal institutions in Russia was said to be 34 times higher in 1993 than in the general population; in one pre-trial institution in Moscow the medical department reported that 1000 cases were detected in that year. In the Czech Republic the frequency in penal institutions was reported to be ten times higher than outside. In several countries the number of prisoners admitted with tuberculosis is increasing annually and where there is overcrowding it can be very difficult to prevent it spreading. The shortage of medicines and of medical equipment to deal with the disease is itself a major problem in the countries worst affected.

The European Prison Rules draw attention to the duty of prison administrations to sustain prisoners' health while they are in custody (rule 3). They must consequently provide sufficient medical staff to satisfy this requirement. All administrations report that a medical officer can attend without delay in cases of urgency but the fact that in several countries there are many vacancies for doctors and other medical staff suggests that improvements are necessary. The failure to fill all medical posts is sometimes attributed to being unable to afford to meet the salary costs of the full complement of staff.
There are a number of other major problems facing the prison administrations of Central and Eastern Europe but the most important, in terms of the application of the European Prison Rules, is finding sufficient suitable employment for prisoners. Rule 71(3) states that 'sufficient work of a useful nature, or if appropriate other purposeful activities, shall be provided to keep prisoners actively employed for a normal working day'. Before the political changes the law in countries of the region required that every able-bodied adult should be in employment. This applied equally to those held in penal institutions and consequently prison administrations ensured that everyone had a job. However, with the introduction of the market economy, unprofitable firms have collapsed and unemployment has increased. Because of the difficulty of organizing production geared to market needs inside a prison and with prison labour, the level of unemployment in penal institutions is now greater than elsewhere. Only work which is needed to maintain the institutions themselves is as plentiful as before. The result is that only one-third of the countries of the region have more than half their sentenced prisoners working and none has an employment rate over 70 percent (table 3). Although Rule 71(3) indicates that 'other purposeful activities' may be a suitable alternative to employment, it is not usually possible to make such arrangements at present.

### Table 3: Sentenced prisoners and employment, 1994

<table>
<thead>
<tr>
<th>country</th>
<th>percentage employed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>0</td>
</tr>
<tr>
<td>Belarus</td>
<td>38</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>40</td>
</tr>
<tr>
<td>Croatia</td>
<td>70</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>50</td>
</tr>
<tr>
<td>Estonia</td>
<td>31</td>
</tr>
<tr>
<td>Hungary</td>
<td>60</td>
</tr>
<tr>
<td>Latvia</td>
<td>42</td>
</tr>
<tr>
<td>Lithuania</td>
<td>30</td>
</tr>
<tr>
<td>Moldova</td>
<td>30</td>
</tr>
<tr>
<td>Poland</td>
<td>26</td>
</tr>
<tr>
<td>Romania</td>
<td>22-25</td>
</tr>
<tr>
<td>Russia</td>
<td>67 in colonies, 53 in prison</td>
</tr>
<tr>
<td>Slovakia</td>
<td>62</td>
</tr>
<tr>
<td>Slovenia</td>
<td>70</td>
</tr>
</tbody>
</table>

Source: Walmsley, 1995
Suggestions for the future

Experts on the prison systems of Central and Eastern Europe have made a number of suggestions for tackling the problems outlined above, some of which are already being put into practice in particular countries or in individual institutions. The following are some of these, together with additional ideas which may also contribute to improved application of the European Prison Rules.

The numbers
Suggestions for reducing the numbers in pre-trial detention include:
- simplifying and thus shortening investigation procedures;
- ensuring that court proceedings commence as soon as the investigation is completed;
- setting time limits to the various stages between arrest and court proceedings;
- increasing the use of bail and providing that pretrial detention may only be ordered by a court.

Suggestions for reducing the numbers of sentenced prisoners include:
- abolishing legislation which sets minimum sentences and requires that recidivists should receive greater penalties than others;
- reducing the length of sentences and making more use of non-custodial penalties.

The conditions
Suggestions for improving the conditions, especially of pre-trial detention, include:
- reducing occupancy levels to the planned capacity of each institution;
- increasing the amount of space available to each prisoner;
- confining restrictions on communications between pre-trial detainees and their families and friends to exceptional cases;
- creating more positive regimes including greater opportunity for exercise and more activities to occupy the time constructively.

Buildings and resources
Funding for large-scale building and reconstruction of institutions may not be available but suggestions for tackling the problem of inadequate buildings include:
- targeting first, when planning refurbishment, those parts of institutions which most affect health and self-respect;
- seeking the support of local firms and using prisoner labour;
- adapting existing prison buildings and acquiring additional suitable
buildings that are no longer needed for their original purposes;
- leasing new purpose-built institutions from the private company which
  owns them, and thus spreading the cost to the prison administration.
Several directors general have pointed out that, because of the shortage of
resources, their task is to identify ways of making progress, in accordance with
international standards such as the European Prison Rules, 'without money'.
In particular they believe there is scope for further progress of this kind, for
example by working to change staff attitudes, by devising imaginative ways of
raising money, by encouraging useful contributions to the institution's life from
groups in the community, by exchanging information with other countries
about methods of achieving desired objectives, and by enlisting technical
cooperation help, for example from the United Nations, the Council of Europe
and other governmental and non-governmental groups.

Staff
Suggestions for recruiting and retaining good quality staff and improving the
quality of existing staff include:
- improving the image of work done by prison personnel and maintaining
  staff morale;
- paying particular attention to the needs of specialist staff, including
  medical specialists;
- placing emphasis on staff training and its continued development;
- stressing the importance of good staff-inmate relations.

Health
In respect of the most serious health problem in the region – tuberculosis –
experts are unanimous that its prevention and treatment need to be dealt with by:
- effective screening of new detainees who must be segregated until their
  condition has been checked;
- greater availability of suitable medical equipment and medicines; it is
  recognized that this will require international assistance.

Employment for prisoners
Suggestions for improving the opportunities for employment include:
- focusing on particular lines of business for which there is an identified
  market and a suitable prison work force;
- arranging joint ventures with outside firms for whom prisoners can work
  on contract;
- giving businesses special inducements (e.g. tax incentives) to invest in
  production in penal institutions.
Conclusion

At the beginning of this article attention was drawn to the fact that, despite the widespread acceptance of the principles contained in the European Prison Rules, it is unlikely that any country has succeeded in applying them fully. The progress that has been made in Central and Eastern Europe has been highlighted, together with the current problems. These problems are such that it is impossible fully to implement the EPR in present circumstances. However the vigorous commitment to reform that prevails among senior officials guarantees that further progress will be made. Technical assistance and cooperation, based on a careful appreciation of needs and circumstances (see e.g. Joutsen, 1994), can make an important contribution to that progress and help to ensure improved practice in all European prison systems.

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On judicial mutual assistance in criminal matters between the states of Western and Eastern Europe

Peter Wilkitzki¹

The present study reflects the specific German experience in the area of mutual assistance in criminal matters and cannot therefore claim to provide a representative picture of all Western European states. That said, the knowledge which Germany has gained in this area due to its geographical location at the heart of Europe and the seam joining the former Blocs, is particularly rich and is to a large extent transferable to other states. After reunification of the two German states, Germany was faced with the unique situation of having to bridge within its own borders the social and legal structures of the former Blocs. This essay will be limited to the legal, practical and policy problems arising in the past five years in mutual assistance in criminal matters. It does not however claim to provide a criminal law dogma or criminological details, nor is there much of a system of academic notes. The area of cooperation between interior authorities or police forces has not been covered where it is performed outside the area of mutual assistance in criminal matters.

Transition

The radical changes in Europe's criminal law and criminal policy landscape over the last few years have been no less dramatic than those which occurred in the political arena. The situation as it was until the end of the eighties was dictated by the Cold War situation. The East-West frontiers were sealed almost hermetically and kept the movement of people, and hence of crime, over these

¹ Head of the section 'International Criminal Law I' in the German Federal Ministry of Justice, Heinemannstrasse 6, 53175 Bonn, Germany.
Bloc boundaries to a level which was so low as to be negligible. Where states of the then Eastern Bloc did address requests for extradition or mutual assistance to Western European states, the suspicion frequently arose that the persons concerned might be subjected to political persecution in the requesting state. Even where this suspicion did not arise, the fundamental differences between the legal and social systems of the two Blocs for the most part excluded the possibility of the assumption of the confidence that the proceedings in the other state are conducted in accordance with the rule of law ('ordre public'), which is an absolute precondition. When, and this only occurred with cases of the most serious manifestations of crime, any rudimentary kind of cooperation was possible, it was usually limited to application of the principle of aut dedere aut iudicare, which has not been particularly successful here.

The changes which have occurred since the end of the eighties in what used to be the monolithic Bloc of states in Central and Eastern Europe have also entailed an about-turn in this situation. The process of growing together in Western Europe since the end of the Second World War, entailing the partial abolition of border checks, was suddenly confronted by a comprehensive opening of borders in the Eastern half of Europe (within the region as well as towards the West) for goods, information and people, including criminals. In the Central and Eastern European societies which were in a state of 'transition', the number of criminal offenders had grown dramatically, for which the increasing reliability and openness of criminal statistics were insufficient explanation.

The collapse of the old systems and traditional values had made it easier for criminal and even mafia-like structures to gain a foothold. The spread of capitalism and the market economy, the effect of which in the West had long since been softened by social elements, made the gap between rich and poor wider instead of narrower. The creation of new structures in the legal systems of the new democracies revealed itself to be particularly difficult since in the eyes of the people the justice and police authorities were in particular discredit in these countries. There was a large-scale lack of the material and personnel resources required for effective crime prevention, to say nothing of the rise in corruption. Despite all the good will, a climate of insufficient political stability made it difficult to use this good will in order to overcome shortcomings in human rights and the application of law.

A treaty basis

The necessity of efficient cross-border crime prevention was thus self-evident. There is however a lack of sufficient instruments of cooperation and relevant practical experience. Under the law of most European states most kinds of
mutual assistance, including extradition, can also be executed on a non-treaty basis, i.e. on the basis of the respective domestic laws on mutual assistance. However, because of their former structures, the states of Central and Eastern Europe in particular were hardly oriented toward non-treaty mutual assistance. Also, mutual assistance between parts of Western and Eastern Europe soon took on such numerical dimensions that it became desirable to have a treaty basis on which to rely in order to regulate the preconditions and procedures concerned with mutual assistance in a general and predictable manner, and to create actual duties to provide mutual assistance instead of a mere potential. Whilst such treaties had existed within the former 'Eastern Bloc', they took on a completely different form to those in Western Europe. Whilst in the West extradition and mutual assistance in criminal matters were largely carried out on the basis of multilateral Council of Europe Conventions, the tradition of the states of Central and Eastern Europe was to comprehensively cover all areas of criminal and civil law cooperation in bilateral treaties. It would have been possible in theory for such bilateral treaties to have been concluded between East and West after the opening up of the borders, but the following mathematical example demonstrates the lack of feasibility of such a course of action: if 36 states (the present number of member states of the Council of Europe) wished to build between themselves a comprehensive network of bilateral mutual assistance treaties, this would entail negotiating 630 treaties! There is no need for me to stress the fact that negotiating multilateral agreements and/or accession to existing agreements would save phenomenal amounts of time and administrative effort.

**Council of Europe**

There is fortunately no shortage of this kind of multilateral agreement in Europe. Since the mid-fifties, the Council of Europe has been building a network of criminal law conventions unique in the world, which by now number

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3 Cf. for instance the collection of mutual assistance treaties concluded by the GDR (repealed after German Unification) in 'International mutual assistance of the GDR in Civil, Family and Criminal Cases' (Der internationale Rechtshilfeverkehr der DDR in Zivil-, Familien- und Strafsachen) published by the Ministry of Justice of the GDR, 3rd ed., Berlin 1987.
20, allowing execution of every kind of mutual assistance in criminal matters. These conventions are open to all member states and, with the exception of 'closed' conventions, are under certain preconditions also open for accession by states which are not members of the Council of Europe. The fact that in the last five years a total of eleven former 'Eastern Bloc' states have been accepted as members of the Council of Europe is a result not least of the desire to enable these states to accede to this kind of convention.

That the Council of Europe needed to go through a difficult period of change in its admission policy towards the states of Central and Eastern Europe is something on which we may not remain silent. On the one hand it may not compromise its high standards of the rule of law and human rights, but on the other hand exaggerating the requirements for accession could contribute to political destabilization in the young democracies concerned. The compromise solution practised today after various phases of admission policy consists of requiring each new member to comply with certain basic structures and elements of the rule of law prior to admission, whilst entering a period of 'deepening' democracy afterwards, in which the Council of Europe is to play a 'dynamic role'.

If one were to attribute the success of this policy to the accession of states in Central and Eastern Europe to the Council of Europe criminal law conventions, the end result is encouraging. The 'classic' Council of Europe criminal law conventions, the 1957 European Convention on Extradition and the 1959 European Convention on Mutual Assistance in Criminal Matters, have now been ratified or at least signed by several Central and Eastern European states.

In contrast here the possibility of accession to its criminal law conventions on the part of states which are not Council of Europe members, used for instance by Israel, is less significant. If the Council considers that the preconditions for the admission of such states to the organization are not (yet) met, it will as a rule also not be possible to obtain the necessary majorities in the Committee of Ministers for accession to the conventions since the criteria for admission to the organization are very similar to the parameters for opening of mutual assistance in criminal matters, which are very much characterized by human rights dimensions. Under certain circumstances, the possibility of non-mem-

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4 An up-to-date summary is contained in the Council of Europe loose-leaf collection 'Chart showing signatures and ratifications of Conventions and Agreements concluded within the Council of Europe', pp. 38 et seq. (as of July 17, 1995).


ber states acceding to the conventions should not be neglected. In relations with the Russian Federation, for instance, it could form the basis for initiation of mutual assistance in criminal matters on a treaty basis, which is a matter of urgency.

Accession to the Council of Europe conventions is not always sufficient on its own for mutual assistance on a treaty basis. Especially in relations with neighbouring states (for instance between Germany and Poland or the Czech Republic) where the volume of cooperation is particularly high, it may be desirable to provide for closer cooperation by means of additional agreements to extradition and mutual assistance conventions, such as those existing between Germany and a series of Western European states. Conclusion of such additional agreements requires a large amount of negotiation and legislation, as well as further confusing overall perceptions of mutual assistance in criminal matters in Europe. These disadvantages however are less significant than those of restricting matters to the lowest common denominator in relations with all European states.

Joint records of results

The present state of the ratification of European conventions by the states of Central and Eastern Europe shows that there is still a long way to go before extensive application of these conventions in all these states can be achieved. Hence there is a need for agreements – to be reached prior to accession to the conventions – in order to facilitate the processing of the growing mountain of requests for mutual assistance without requiring the administrative and parliamentary workload entailed by the conclusion of treaties. As a country particularly dependent on agreements, Germany has thus enriched its treaty policy with the instrument of 'Joint records of results' (agreed minutes). This kind of agreement has been reached with a total of nine Central and Eastern European states in the past five years after expert discussions lasting between one and three days each. On the whole, these contain the following elements, although because of legal and material circumstances differences exist between the various partners:

— confirmation of the intention of the state in question to accede to certain Council of Europe criminal law conventions in the foreseeable future;

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7 Germany has concluded additional agreements with: France (mutual assistance only), Israel (mutual assistance only), Italy, the Netherlands, Austria and Switzerland. Additional agreements are reached with other states by exchanging notes.

— declaration of German willingness wherever necessary to negotiate on conclusion of additional agreements to the European Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters;
— joint declaration that extradition and mutual assistance will be executed in accordance with the principles contained therein even before the Council of Europe Conventions apply, insofar as this is possible under domestic law;
— declaration of the intention to draw up generally applicable wording for the exchange of notes on assurance of mutuality and speciality, as well as that the death penalty will not be carried out;
— establishment of the authorities which may issue requests for mutual assistance (including, if the other state allows this, restricted inclusion of mutual assistance between police forces);
— agreement on transmission of requests via channels lower than diplomatic channels which are as direct as possible (from court to court, public prosecution office to public prosecution office), irrespective of the possibility of using Interpol channels;
— assurance that requests received by an authority which is not competent are to be forwarded to the competent agency;
— agreement on special channels for transmission of criminal records and for the laying of information with a view to proceedings, intended for criminal prosecution, and with regard to the latter including the assurance that the major procedural steps carried out in the requested state will be notified to the requesting state without delay;
— general permission of the presence of parties to the proceedings when acts of mutual assistance are executed in the requested state;
— declaration on particular legal preconditions applying to requests for seizure and forwarding of objects;
— agreement on the duty to translate and to bear the costs in the case of requests for extradition and mutual assistance;
— provision of lists and directories detailing the judicial authority competent in individual cases;
— assurance of drawing up and use of bi-lingual forms;
— where appropriate information on the extent of consular powers in mutual assistance (examination of persona and service of documents).

Since these protocols lie below the level of international treaties, and thus do not require parliamentary acceptance, they do not allow provisions to be made beyond what is possible under the domestic law of both states. At the same time, they are on the whole almost as efficient as treaty agreements, especially where they provide for the use of direct channels and general provision of
On judicial mutual assistance in criminal matters between the states of Western and Eastern Europe

written materials. In this respect, they also retain their value after the state in question has acceded to the Council of Europe conventions.

Problems

The following problems have revealed themselves to be both of particular importance and typical in practical mutual assistance with the states mentioned above.

Obstacles to extradition stem less from substantive criminal law than from the criminal procedures and the prison systems of the states concerned, in particular from shortcomings in respect of minimum rights of defence (trial in absentia) and of the detention conditions, which are often still a far cry from Western European standards. They have an effect not only on extradition of criminal offenders to serve terms in these states, but also on the filing of extradition requests to these states, which are only justifiable if enforcement of the expected detention awaiting extradition complies with minimum human rights requirements. Also, in many of these states the legal possibility of the imposition and enforcement of the death penalty continues to exist and place a burden not only on extradition procedures, but also on other acts of mutual assistance.

In other types of mutual assistance in criminal matters, apart from the establishment of channels, problems of competence are prominent within national criminal proceedings. Even within Western Europe there is a multiplicity of fundamental structures in national criminal proceedings, and serious problems are caused – in particular with regard to the role played by the police, public prosecution offices and courts in these procedures – which occasionally are difficult to overcome. These problems are amplified in relations with states where the public prosecution offices (prokuratura) and the police not only played a traditionally dominant role, but are also plagued to a great extent by the reputation of being burdened with the shortcomings of the ancien régime.

German law severely limits police competence in the context of mutual assistance in criminal matters. The police may only act independently on the basis of an effective international agreement and if cooperation is restricted to measures such as searching for fugitives, establishing identity, providing information from police records, establishing the willingness of witnesses to testify. Coercive measures in criminal proceedings (detention, seizure), which are not the role of the police in national proceedings, also remain the exclusive reserve of the justice system in international relations.

Continually growing practical significance, as well as dogmatic controversy attaches to the use of 'special' and modern police methods in mutual assis-
tance in criminal matters, in particular cross-border observation, cross-border pursuit, the cross-border deployment of undercover investigators and similar measures. The reservations and declarations submitted to the 'Schengen Agreement'\(^9\) show clearly how difficult it is even for our Western European neighbours to deal with these questions. How much more difficult must it be to reach a satisfactory solution in relation to states with which only a few years ago the exchange of 'simple' criminal law information hardly took place. Council of Europe sub-committees\(^{10}\) have concerned themselves with this question. One should not realistically expect a comprehensive, generally accepted solution to be reached in the short term, either bilaterally or multilaterally. This is a less than satisfactory prognosis in the light of the urgent need to get to grips with crime.

At the same time, the result of the German experience is a positive one. Regarded in the light of the complex nature of the problems, considerable progress has been made over the last five years. The improved atmosphere is particularly encouraging. The basic precondition has arisen for every form of criminal law cooperation, and this is something which cannot be created artificially: trust and understanding between states and between the individuals concerned. The quantity and quality of contacts between the West and the East have reached a level which allows one to hold great hopes for the future. The Council of Europe will continue to play a central role with its multiplicity of forums for the exchange of information.

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\(^9\) Declarations of the parties to Article 41 (cross-border pursuit) of the Schengen Agreement dated June 19, 1990, concerning gradual abolition of checks at common borders.

\(^{10}\) PC-OC (Committee of Experts on the Operation of the European Conventions in the Penal Field); PC-TC (Europe in a time of change: crime policy and criminal law).
East meets West in crime in Dutch history

Florike Egmond

The term 'organized crime' has come to be associated with large-scale criminal networks, international drug and arms dealing, protection rackets and the exploitation of prostitution, with mafia, political corruption and so on. Some of these phenomena belong mainly to the nineteenth and twentieth centuries. Yet, organized crime is hardly a modern invention.

From a historian's point of view most present-day perspectives on organized (and other types of) crime suffer from extreme shortsightedness. It is hard to understand why criminologists and those involved in planning and policy generally fail to take into account the growing and increasingly sophisticated body of literature on crime, criminal justice, deviance, policing, and state organization in European history. This is not to say that a simple 'step back into the past' will serve to remedy current problems. But a long-term historical approach can certainly help to clarify, for instance, whether certain recurring patterns in crime do occur in a particular country or region, and whether these may be linked to social, political, cultural, or economic developments.

With these and other questions in mind I studied the criminal sentences of the more than three hundred competent courts in the provinces Holland (modern North and South Holland), Brabant (modern North Brabant) and Zealand for a period of almost two centuries: from about 1620 to 1800. My main purpose was to reconstruct the groups, bands, networks, clans and other 'organizations' involved in organized crime in the Netherlands during this period, and to

1 Rijksuniversiteit Leiden, Vakgroep Rechtshistorische vakken, Pieterskerkhof 6, 2311 SR Leiden. This essay is based on 'Underworlds – Organized Crime in the Netherlands, 1650-1800' (Cambridge, 1993; translated into Dutch as Op het verkeerde pad – Georganiseerde misdaad in de Noordelijke Nederlanden 1650-1800, Amsterdam, 1994), which presents a more extended discussion of ethnicity, marginality, stigmatization, and the structures and patterns of organized crime in the early modern Netherlands. For all bibliographical references and archival sources, see Underworlds.

2 Until the end of the eighteenth century each of these three hundred criminal courts had its own territorially defined jurisdiction. They were almost completely autonomous, to the extent of pronouncing and executing death sentences. In the vast majority of all criminal cases there was no right of appeal.
discover the principal organizational characteristics of these groups as well as qualitative changes and continuities in criminal styles. The criminal records not only contain verdicts but also frequently include reports of interrogations, thus offering a wealth of detail about all sorts of defendants, their way of life, and their illegal activities. Thanks to the magnificent Dutch judicial archives, we even have relatively detailed information about two issues that were no less significant in the past than they are now: the connections between immigration and crime, and the role of ethnic minorities in organized crime. East meets West in crime is not a new phenomenon in Dutch history.

**Immigration**

Throughout the seventeenth and eighteenth centuries the Netherlands was attracting large numbers of immigrants. For most of the time, in fact, a far larger part of the population in the western provinces consisted of newcomers than nowadays. Every substantial wave of immigration left its imprint on the composition of vagrant groups and criminal bands. This applies both to non-ethnic immigrants – for instance from Flanders and Brabant during the seventeenth century, from various German inland areas during most of the period 1650-1800, or from Wallonia during the late eighteenth century – and to ethnic immigrant groups: that is, to Gypsies and Eastern European Jews (Ashkenazim). While some of the mostly extremely poor immigrants joined vagrant (but not necessarily criminal) groups, a small number made their way into indigenous gangs of thieves, burglars, or robbers.

Now and then immigrants managed to form their own criminal networks. A good example are the Walloon bands, which consisted largely of male and female migrant rural labourers from the area of Liège, and slowly moved north to the central provinces of the Netherlands during the last quarter of the eighteenth century. The situation with respect to Gypsies and Jews was more complicated. Both ethnic groups played a considerable part in Dutch organized crime from the 1690s onwards. The prominence of Gypsy bands was only relatively shortlived, however, while (Eastern European) Jews continued their professional involvement in crime – both as receivers of stolen goods and as pickpockets, thieves, burglars and robbers – at least until the end of the eighteenth century, possibly much longer.

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3 There is no point in even trying to discuss quantitative aspects. Apart from the ever-present dark figure, the extant records are incomplete, while early modern methods of registration cannot be approached with modern statistical methods.

4 In the Netherlands no research has been done as yet regarding organized crime in the nineteenth century.
The obvious questions are the following. Why was one ethnic group far more permanently involved in organized crime than another? Was the over-representation of both ethnic minorities in the criminal records a result of their actual prominence in crime, or of the policy of the Dutch authorities, who either consciously criminalized their activities or unconsciously regarded their behaviour as suspect and thus arrested them sooner than any other category? And finally, can their prominence in crime – if real – be linked to any of the circumstances that are usually mentioned, such as poverty, incomplete integration into established Dutch society, stigmatization and socio-economic exclusion, or the breakdown of norms and social or family control within these groups themselves?

Gypsies

We will start by looking at the Gypsies. Unlike any other group they were criminalized in the Netherlands at least from the sixteenth century onwards: that is, their way of life itself was declared punishable by criminal law, and Gypsies could be arrested and sentenced without having committed any further offence than spending their life on the road. Yet, for most of the seventeenth century only small numbers of Gypsies were actually convicted by Dutch courts, and punishment was generally light. During the last quarter of the century the situation changed. Perhaps the end of the Thirty Years War in Germany (1948) had made travel from Central and Eastern Europe to the west easier. In any case larger numbers of Gypsies began to arrive in the Netherlands in the course of the 1670s and 1680s: they certainly travelled in larger groups than before, and were perceived as more of a threat by the rural population. During the late seventeenth century local and regional authorities issued repeated warnings against vagrancy, poaching, fortune-telling, and the establishment of encampments of tents and straw huts by Gypsies. Sometimes rural inhabitants turned to the provincial as well as the local authorities to request protection. In 1695 new and much harsher legal measures were proclaimed against Gypsies. Gypsies arrested for the first time were to be whipped; the second time they could expect branding as well as whipping; a third detention could end in death on the gallows. Those who had been involved in violence and those who resisted arrest might be hanged outright. Understandably, Gypsy groups began to close ranks, travel in larger companies, and carry arms for self-protection.

5 It should be noted that the name Gypsies (derived from Egyptians, Dutch Egyptenaren), like the name of Heijdenen (Heathens), was a derogatory designation.

6 We cannot be completely certain about their immigration patterns since the only available evidence about Gypsies consists of the information presented by the criminal records.
Between 1695 and 1725 the situation escalated. Rural inhabitants panicked sooner at the sight of the larger Gypsy groups and repeatedly threatened to use violence. Conflicts between groups of Gypsies and local constables occurred more frequently. Serious crimes and the use of violence began to figure more prominently among the illegal activities committed by Gypsies. The Dutch authorities responded by adhering more strictly to the letter of the harsh legal ordinances. More Gypsies were convicted, and punishment became increasingly severe.

By about 1718 many Gypsies had joined the Band of the White Feather, which numbered well over a hundred (and perhaps up to two hundred) members. It consisted of several segments and might be described in terms of organization as an extensive, segmented, and clan-based network. Each segment had its own leaders, several of whom were connected by ties of kinship. Military ranks were regularly used to designate the commanders. By this time the Band of the White Feather had constructed a semi-permanent base of straw huts and tents in the almost inaccessible border area of Holland and Brabant near 's-Gravenmoer. Between about 1718 and 1725 members of this band joined in various large-scale burglaries and numerous thefts. They also committed three major and extremely violent murders and robberies which caused a general outcry all over Holland and its neighboring provinces, and triggered a further deterioration of relations with the Dutch local and regional authorities. This was a period of outright and coordinated persecution of Gypsies by the Dutch authorities. Although no Gypsy was tried without due process, they were arrested sooner and punished much more harshly than non-Gypsies who had committed similar offences. Dozens of Gypsies were hanged, or imprisoned for life; many were whipped, branded, and banished. Many more must have fled, and from about 1727-1730 onwards hardly any Gypsies were to be seen in the Netherlands until new groups arrived in the course of the nineteenth century.7

With respect to Gypsies the answers to most of the questions raised above are contained in this brief description. Gypsies were not permanently involved in serious crime. They were criminalized, stigmatized, and excluded from established Dutch society: first on account of their mobile way of life (which was defined as vagrancy); second because of their unrestrained use of brushwood, peat, cats, dogs, geese and empty farmsteads etcetera for warmth, shelter, or food (which was defined as theft or as breaking and entering); and third by their practice of future-telling (which was doubly illegal, as fraud and as a heathen activity). While there is no doubt that Gypsy bands committed some

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7 In 'Underworlds' I have tried to show that Gypsies did not completely disappear from the Netherlands, but that those who were left became much less visible to both contemporary authorities and modern historians by lowering their profile and joining other itinerant groups.
of the most violent robberies and murders that occurred in Holland during the eighteenth century, it is also clear that such major crimes took place only after relations between the authorities and Gypsies had deteriorated for a number of years. During the later phases of this process of escalation Gypsies had to reckon with death penalties even if they committed only minor offences. By then, they had nothing to lose by eliminating the witnesses of their illegal activities.

While stigmatization and criminalization thus did not form the immediate cause of Gypsy involvement in major crime, it seems clear that fear and panic reactions on both sides, underpinned by the permanent social exclusion of Gypsies from established Dutch society, strongly contributed to a process of escalation which ended in violent crime on one side and violent punishment on the other. Poverty had little to do with it: after all, Gypsy groups had been no richer or poorer before, when they committed only small offences. There is, on the other hand, some evidence of a crisis of internal social control in Gypsy society. From the 1680s onwards, when increasing numbers of immigrant Gypsies arrived in the Netherlands, we hear more of clan rivalry, fission, and occasional armed confrontations between Gypsy groups. The most violent murders and robberies of the late 1710s and early 1720s, moreover, were committed by a relatively small group that may well have constituted a virtually unmanageable division within the White Feather Band. By the early 1720s, in any case, the situation was completely beyond anyone's control. By that time the only solution the Dutch authorities could imagine was the virtual elimination of Gypsies from Dutch society.

Jews

The position of Jews in the Netherlands was different in most respects. To name only two: whereas the arrival of Gypsies in the Netherlands formed part of their more extensive tours throughout Western Europe, Jewish immigrants from Central and Eastern Europe generally arrived in the Netherlands to stay. Most of them tried to settle down and join one of the already existing Jewish communities. For nearly all of them Amsterdam was their first destination in the Netherlands, even if they eventually went on to smaller towns or villages. Second, there was no question of criminalization: as regards criminal law and procedure there was no difference between Jews and Christians either in theory or in practice. It should not be inferred, however, that they were treated as equals in other respects. Dutch society marginalized Jews as well as Gypsies, only the instruments of exclusion were different. Jews were barred from a broad range of occupations by dint of their exclusion from the guilds. In most regions they could not own land. They were not allowed to settle freely in most parts of the
Netherlands. Until the French Revolution some towns, like Utrecht, did not even permit Jewish residence for more than 24 hours. And even if Jews were allowed to settle in a town and could obtain citizenship, their children still did not inherit this status. Jews had no access to public office. And finally, sexual contact and marriage between Jews and Christians were forbidden and fell within the competence of the Dutch criminal courts. Nonetheless, conditions in the Netherlands were slightly better than in most neighbouring countries, where Jews could never hope to obtain urban citizenship and where religious observance by non-Christians was prohibited. By the seventeenth century several Jewish communities existed in Dutch towns, but it was only during the last quarter of this century that large numbers of indigent Eastern European Jews (Ashkenazim) began to arrive in the Netherlands. With brief intervals and considerable fluctuations, immigration continued right up to the end of the eighteenth century. The numbers of immigrants should not be underestimated. From the mid-eighteenth century onwards waves of westward migration from Eastern Europe had begun to overlap with new migrations in Germany, caused largely by demographic growth and the exclusion of poor Jews from various German towns and principalities. As a combined result of immigration and natural population growth, the total number of Ashkenazim in Amsterdam alone almost doubled between 1748 and 1780 (from 10,000 to 19,000 in a total population which remained more or less stable at 200,000); it grew even faster toward the end of the century (to 24,000 in 1805).8 The extent to which immigration and criminal involvement were linked in the minds of the general public (not excluding the Jewish thieves themselves) is illustrated by the statement of a Jewish band member and recent immigrant from the area of Nüremberg who was caught breaking into a country house: seeing so many foreign Jews arriving here, he thought that he might try again to steal alone, because he imagined that no one would suspect him. More reliable evidence of the link between immigration and crime can be found by an inspection of the background of Jewish band members. Almost without exception Jews involved in organized crime were Ashkenazim and all of them were poor. A large majority were first-generation immigrants from Eastern and Central Europe, many of them having only recently arrived in the Dutch Republic. This was the case throughout the eighteenth century. Both in 1695 and in 1795, for instance, between one-half and two-thirds of all Ashkenazim convicted of burglaries, theft, or robberies had been born outside the Dutch Republic. The prominent role of Jews in organized crime in the Netherlands was characterized throughout the eighteenth century by three particularly striking charac-

8 At the same time, housing conditions in Amsterdam deteriorated, food prices rose, and opportunities for employment became more limited.
teristics: their crucial position as receivers of stolen goods from Jewish as well as non-Jewish bands (which made them a linchpin in the criminal infrastructure of the early modern Netherlands); their specialization in the theft of textiles and silver, and in church robbery; and the tendency of Jewish thieves and burglars to keep themselves to themselves in social and cultural matters even if they cooperated with non-Jewish (Christian or Gypsy) thieves and burglars for professional reasons. Association of Jewish and non-Jewish thieves occurred relatively frequently – and by the 1790s resulted in the formation of several internationally operating and highly professional criminal networks – but it did not bring about social or cultural integration.

The role of Jews in organized crime is complex and more difficult to assess than that of Gypsies. A few points are obvious, however. It was not restricted to a relatively short period, nor was it triggered by persecution by the criminal courts. Jewish prominence in organized crime throughout the eighteenth century cannot be disentangled from the desperate poverty in which most Ashkenazim were living. And at any point during the eighteenth century the majority of Jewish professional thieves and band members were recently arrived immigrants. This implies that continuity in the ‘criminal business’ was heavily dependent on the influx of large numbers of poor Ashkenazim. It also implies – even more importantly – that the large majority of all second generation Ashkenazim (as well as many newcomers, of course) did not turn to crime in spite of mass poverty and in spite of the rigorous social, economic, and sexual exclusion by Dutch society.

It might seem worthwhile to ask what kept this majority from theft and burglary, rather than to try and find out why some of the newcomers did turn to crime. However, some of the answers to both questions may be found in the same direction. Upon reaching Amsterdam, most newly arrived Ashkenazim were quickly taken up by distant relatives or new acquaintances, who provided food and shelter at least for the first few days or weeks, and assisted them with further plans and contacts. This appears to have applied to nearly all Jewish immigrants, whether they were involved in crime or not. However, Jewish society was divided internally: not just between Sephardim and Ashkenazim, but also between respectable and disreputable poor. Whereas the respectable poor clearly formed part of the Jewish community and could apply for poor relief to the leaders of their community, the disreputable poor – whether or not they had newly arrived – were very much kept at a distance. Such a division was stronger than in circles of non-Jews for reasons which had everything to do with the general exclusion of Jews from established Dutch society.

9 This does not apply to the receivers of stolen goods, however, nearly all of whom were established dealers with permanent residence.
For their survival Jewish communities were completely dependent on the continuing goodwill and tolerance of the local authorities, who held Jewish leaders responsible for the good behaviour of their people. Any serious infringement – in particular crimes committed by Jews against Christians – might thus threaten the precarious existence of the whole Jewish community. Many of the more well-to-do, established Jews regarded itinerant fellow Jews as a potential threat to their own respectability and moral integrity, and thus to their continued communal existence. Some of the newcomers had already been living on the fringe of Jewish communities before their arrival in the Netherlands. Others had ended up in vagrant or criminal circles in the course of their migration to the west. Their new contacts in the Netherlands generally belonged likewise to the fringe of the established Jewish communities. When we are discussing Jewish professional criminals during this period, then, we are mainly talking about poor and unskilled recent immigrants who were excluded twice over: by established Dutch society, and by the established Jewish communities.

Disadvantages and skills

The involvement of either Gypsies or Eastern European Jews in organized crime in the Netherlands is thus unthinkable without widespread poverty. It looks, however, as if the combination of ‘immigration’ and ‘social exclusion’ – that is, the tendency to exclusion from and by established society in response to increasing immigration – has been a far more decisive factor in stimulating criminal involvement. Gypsies were not involved in serious crime (unless we start counting vagrancy, poaching and petty theft as such) until panic measures by Dutch authorities in response to the growing numbers of Gypsy immigrants triggered an increasingly violent chain reaction, which may well have led to the demise of internal social control in Gypsy society. In the case of the Jews, it was mainly the policy of segregation practised by the Dutch authorities which caused established Jews to dissociate themselves from those newcomers who might be considered disreputable. Integration of all other Jewish immigrants appears to have posed no serious problems to public order and safety – in spite of their radical exclusion from a large part of the labour market, and in spite of their often desperate poverty, which it was left to the Jewish community to alleviate.

In this concluding paragraph three provisos should be made which are crucial to any serious way of discussing connections between organized crime, immigration, ethnicity, and poverty. First, none of the processes described above – whether they concerned patterns of immigration, involvement in criminal activity, or social exclusion – was unique to the Netherlands. A further analysis of the stigmatizing attitudes of established Christian society should therefore
not be confined to specifically Dutch conditions or measures. It should take into account much more widely prevailing ways and means of excluding – and notions of 'us' and 'them' – in Western Europe. Second, any discussion of organized crime, ethnicity, and immigration should also consider the by no means inconsiderable role of non-immigrant groups in organized crime, if only because of the interaction between immigrant and non-immigrant, ethnic and non-ethnic groups. Third, it would be extremely simplistic and almost criminally negligent to base even the most preliminary explanatory model of the social background of organized crime on an approach which takes into account only 'negative' factors. After all, by no means all poor and stigmatized immigrants managed to become (let alone stay) prominent in organized crime. Positive skills, qualities, and talents are needed to become a professional in any activity. Why it was especially Jewish fences who became such crucial figures in the criminal infrastructure, for instance, can only be understood if we also take into account their professional contacts, legal occupations, kinship networks, and so on.10 A focus on the aspect of disadvantages would, moreover, repeat and intensify the stigmatization by past (and present) established European society. There is no way of analytically coming to grips with all of the relevant aspects of the complex relations between crime, ethnicity, immigration, and poverty but to hold on to the particular without losing track of the pattern.
If any lessons can be drawn from the past they would be that not immigration itself but the exclusion and stigmatization of certain immigrant (ethnic or non-ethnic) groups is conducive to crime: that any long-term policy with respect to immigrants and crime should address means of integration besides means of control; and finally that a long-term analysis, preferably spanning at least three generations, of the successful integration of poor immigrants in a new society and of the reasons why most of them did and do not turn to crime, is urgently required.

10 For further discussion of this issue concerning qualities and skills see especially the final chapter of 'Underworlds'.
The European Sourcebook of Crime and Criminal Justice Statistics

Background
The interest in comparative criminological data is as old as criminology. De Tocqueville was sent to America by King Louis-Philippe to gather whatever he could learn on the American prison system (De Beaumont and De Tocqueville, 1833; De Tocqueville, 1984). At the same period, Quételet (1831 and 1984) started his interregional and international statistical comparisons. In a sense, one may even suspect that the interest in comparative research had been greater among criminologists and policymakers at that time than later in the history of criminology. Since the data collection in the field of criminal justice started throughout Western Europe early in the 19th century and particularly after the Restoration of 1815, Quételet and his colleagues did not have much to analyze over time, but were left with cross-sectional data as the only relevant material available. Given the absence of surveys and studies based on police or court files at that time, these early criminologist were virtually obliged to turn to international and/or interregional statistical comparisons.

With this focus of research, they had to struggle with all the difficulties and pitfalls of comparative research which so many researchers in this field have encountered and criticized ever since. Interestingly, the often-heard criticisms that valid comparisons across jurisdictions are virtually impossible given the many differences in legal definitions, reporting and recording practices, are about as old as the earliest writings in comparative criminology. As early as 1832 – Quételet's main works were first published in 1830 and 1832 – a Genevan biologist, Alphonse de Candolle (1830, 1832 and 1987), came up with most of the criticisms we have been hearing ever since. These difficulties and the resignation they provoked may have contributed to the relative scarcity of international comparative data in criminal justice, compared to other fields such as public health, the economy, public finance etcetera. Although international victimization surveys (Van Dijk et al., 1990) and international self-report studies (Junger-Tas et al., 1994) have been published in the meantime, it may be fair to say, given the echo these studies received so far in parts of
the published reviews, that critical reservation is the prevailing attitude among most criminologist towards international research (see e.g. Bruinsma et al., 1992; Kellens et al., 1993).

This general reservation may do as much harm to criminology as uncritical use of questionable data. If the ultimate aim of criminology is theory testing, we necessarily have to rely upon data in order to reject wrong hypotheses. Without data, no theory, no matter how invalid or even absurd it may be, can ever be disconfirmed. The less data available, the better for the survival of theories! In this sense, an excessively critical attitude towards data ultimately leads to uncritical tolerance towards wrong theories (Killias 1991, p. 104).

This pitfall is particularly sad in an area where, more than with national or local data, policy-related variables could be studied. Does, for example, a lower age of penal responsibility reduce or foster juvenile delinquency (see e.g. Council of Europe, 1994)? How do sentencing practices affect imprisonment (Kommer, 1994)?

Does a higher certainty of conviction reduce crime rates? What impact do policies towards drug use have on drug-related crimes (Inciardi et al. 1995)? All these and many other questions can reasonably be studied only across jurisdictions with different approaches. Europe's legal fragmentation may offer many opportunities for evaluating the effects of different criminal justice policies. This, by the way, may be one of the best reasons for not centralizing Europe's criminal law and justice systems: too much chance for innovation and learning may be lost if we abandon diversity in this field. But we will not be able to take advantage of this chance without data measuring the outcomes in countries with different policies.

The American model
Since 1973, the US Department of Justice publishes every year the Sourcebook of Criminal Justice Statistics, a manual full of tables and graphs of some 800 pages. This volume contains data on offences recorded by the police, offenders known to the police, victimization, public attitudes toward criminal justice related topics, corrections, and some varying topics of general concern, such as the death penalty, or expenditures for the criminal justice system.

The American Sourcebook of Criminal Justice Statistics definitively is a great model to follow. As such, it stimulates interest and admiration, but may also discourage any initiative to try something similar elsewhere, i.e. in Europe. In this connection, one easily forgets that criminal law and procedure are, in the United States, matters regulated by the states. This means that many difficulties which seem to make impossible any European data collection in this field are harassing American statisticians just as much. The FBI index, on which substantial parts of the American Sourcebook are based, is
indeed a compilation of many data collected at the local and states' levels without too much coordination (see the details given in the Sourcebook e.g. for 1991, Flanagan and Maguire, 1992, appendix 3). If Americans were able to overcome the measurement issues we are struggling with, we may conclude that efforts in the same direction in Europe should not automatically be viewed as wasted energy.

The admiration for the American Sourcebook has already produced a number of paradoxical consequences in European criminology. Except perhaps for colleagues from major research centres with huge international libraries (where virtually all national statistical data collections are available), criminal justice statistics even from neighbouring countries may be hard to locate for most among us, even harder to read and almost impossible to use, given the lack of familiarity with legal and statistical definitions as well as routines in the data collection process. In our daily work, it may be much easier to locate, in order to confront a domestic figure with some external data, a comparative figure from the US rather than from a bordering country.

This is a most unfortunate situation. It certainly weakens our European identity, and it does not help us to learn from experiences in other European countries. As far as reference is made to current innovations in criminal justice somewhere else in Europe, it is done typically in an anecdotal manner without any attempt at systematic comparison. To put it simply: European criminology is rarely comparative and hardly European.

The Sourcebook Project
As a modest attempt to change things in this domain, the Council of Europe's Comité Directeur des Problèmes Criminels (CDPC, European Committee on Crime Problems) approved, in its plenary session of June 1993, a proposal to charge a small experts' group to work out a so-called feasibility study on a data handbook. This experts' committee started its work in September 1993. After five meetings and considerable homework, the committee submitted its feasibility study to the CDPC plenary session of May 1995.

The members of the group\(^1\) agreed that the best way to do a feasibility study might be to draft a pilot data handbook covering the seven countries which are represented in the experts' group. On these countries, the members felt that they could with reasonable investment in time and resources gather the necessary data and indicate all the definitional pro-

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1 Members of the committee are G. Barclay and C. Lewis (United Kingdom), H. von Hofer (Sweden), J.-M. Jehle (Germany), I. Kertész (Hungary), M. Kommer (The Netherlands), P. Tournier (France), and M. Killias (Switzerland, chair), with Mr. W. Rau acting as the secretary. During two meetings, Heuni had been represented by an observer.
blems related to law and routines in the handling of statistical data. In order to extend the coverage to a few additional countries, an effort was made to gather data from five more countries on which some members felt confident to locate data with sufficient background information on definitions and statistical routines, often through helpful colleagues in the respective countries. These additional countries are Ireland, Italy, Norway, Northern Ireland, and Scotland. The experts also agreed to use data on 1990.

In substantial terms, the sourcebook project covers the usual areas of data collections of this sort:

1. police data on known offences;
2. police data on known suspects;
3. other police data;
4. data on prosecution, courts, and sentencing;
5. correctional data;
6. survey data.

(1) The group established a list of offences to be included: homicide (total and completed), assault, rape, robbery (total, and with a weapon), theft (total, motorvehicle theft, bicycle theft, burglary, and burglary from a dwelling), as well as drug offences (total and trafficking). In order to make the data as comparable as possible, the group opted for a standard definition of all these offences. In addition, tables on legal definitions will give, in a tabular and summary form, the essential information on deviations from the standard definition for every offence, so that the reader may be in a position to relate differences in the figures to definitional variations. In connection with homicide, for example, this table indicates whether or not, in some countries, the concept of homicide (as used in its national crime statistics) includes or not assault with fatal consequences, abortion, infanticide, euthanasia and help with suicide (see table 1).

In addition to these definitional tables, the document will contain tables on statistical routines in the process of recording the various offences. These tables inform, among other things, on the existence or not in the respective countries of written guidelines how offences are to be recorded and classified, on the time at which recording occurs (i.e. at the time police learn about it, or when they have concluded their investigation), on the unit of counting (i.e. the offence, the victim), on whether or not secondary (usually minor) offences are being recorded, and how serial offences (of the same type) are being counted.

The group hopes that this way of treating the information will allow identification of potentially important sources of deviation from the standard definitions, without bothering the user with endless comments on national legal definitions and recording practices.

(2) This chapter contains tables with information, for the same types of
Table 1: What does 'homicide' include in national statistics (as used in the Model Sourcebook)? (The pragmatic standard definition used is: 'Intentional killing of a person')

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(1) Not mentioned in the statistical guide for classifying offences.
(2) In table 1a, cases of assault leading to death are counted under assault. Illegal abortions are included under a heading Other offences against public health and the regulations governing the medical professions. Attempted infanticide is recorded under attempted homicide.
(3) Also included: homicide at the request of the victim (not available as a special entry in the statistics, though).
(4) Statistics on infanticide available from homicide database for completed crimes only.
(5) 'Assault leading to death' assumed to be murder.
(6) Abortion defined as procuring illegal abortion - Help with suicide - coded as aiding and abetting suicide.

Offences, on suspects known to the police. The tables will indicate the proportion of females, minors, and foreign citizen among the suspects. Again, tables on the definitions (e.g. the age of criminal responsibility) and statistical routines will follow the quantitative tables.

(3) Additional tables will indicate the number of police officers and the expenditures related to police work. Tables on the definition of police officers and categories of expenditures will be included in this section.

(4) The group has established tables on prosecution, courts, and sentences. The tables on prosecution provide information on the total number of cases treated by prosecuting authorities and their resources, the proportion of cases dismissed, the percentage of cases where the prose-
cutor himself sentenced the (consenting) defendant (common practice on the continent), and the proportion of cases brought before a court.

In the section on persons convicted, information is given on convictions for all the offences included in the previous sections, with indication of the percentages under age 18, females, foreign nationals, and the rate per 100,000 population. For all the offences included, detailed information will be given, in additional tables, on the sentences imposed (total, fines, non-custodial sentences, suspended custodial sentences, unsuspended custodial sentences). For the unsuspended custodial sentences and for every offence included, details on the length and time served in prison will be given (total, 0-6 months, 6-12 months, 1-2 years, 2-5 years, 5 years and over, life sentences, other indeterminate sentences, average sentence length).

Finally, this section will contain rates of convictions and unsuspended custodial sentences (for any of the offences included, and for the total) per 100,000 population, per 100 recorded offences, and per 100 suspects. These tables will illustrate the relative 'certainty' of convictions and imprisonment for a given offence in the several countries included. Farrington et al. (1994) have presented impressively the potential of such comparisons between Sweden, England and Wales, and the USA. In order to complement the picture of sentencing styles in the several countries, a table will give on the percentage of unsuspended custodial sentences which are shorter than one year.

Again, this chapter will give the appropriate information on legal definitions and statistical procedures wherever they might deviate from the common standard.

(5) Taking advantage of the work done previously under the umbrella of the Council of Europe, by Pierre Tournier and his colleagues in the area of correctional data, the pilot document will include data on the number and the capacity of prison facilities, and the number of prisoners on remand and serving sentences. Additional tables will inform on the number of persons serving community sanctions, and expenditures related to corrections including community sanctions. We also hope to add a table summarizing recidivism rates from studies done in various countries, as well as on the life-time prevalence of convictions and imprisonment (for a few countries).

(6) It was first planned to include survey data from national and regional studies. But the heterogeneity of these materials in methodological respects convinced us to stick to the few internationally designed studies which already exist.

Thus, the main findings from the two waves (Van Dijk et al., 1990; Van Dijk and Mayhew, 1993) of the International Crime Survey on victimization, crime reporting, crime prevention'
measures and attitudes have been included. In addition, some data from the International Survey on Crime against Retailers (Van Dijk and Mayhew, in preparation) which has been conducted in 1994 in eight European countries will be reproduced. This survey covers areas such as ordinary crimes against shops, restaurants, and businesses, including— in some countries— extortion of 'protection money' and corruption.

Finally, we opted for inclusion of some key data from the International Self-reported Juvenile Delinquency Project (Junger-Tas et al., 1994). These pertain to those five European countries where this survey has been conducted on national random samples of juveniles (England, The Netherlands, Switzerland, Spain, Portugal). The inclusion of these survey data is thought to promote their dissemination among policymakers and other users of the data handbook. We also hope to broaden the perspective beyond simple crime statistics. Combining survey data and statistical materials in the same volume, might also contribute to make policymakers more aware of the usefulness of international survey research in this area.

**Future perspectives**

On May 31, 1995, the CDPC has favourably received the feasibility study, and charged the experts' committee to prepare the next steps in the realization of the Sourcebook Project. During the upcoming months, the committee will deal mainly with the question how an European Sourcebook should be managed and established within the activities of the Council of Europe. The CDPC has expressed its agreement with a few suggestions made by the experts' committee in its feasibility study. It also has approved the publication of the Model Sourcebook which the experts' group has prepared along with its feasibility study. The essential elements of the future work will be summarized here.

First, the CDPC shares the experts' group's view that a data handbook is feasible, i.e. that it is possible to gather statistical data from a variety of countries and to present them in synthetic tables. It also turned out to be possible to collect the necessary background information on statistical routines and legal definitions, and to present it in an easily readable form.

Second, the pilot study's relative success has been possible thanks to a close cooperation of eight specialists from the countries included. In other words, an approach by questionnaire, no matter how well designed, might never have produced the same result. What is needed is personal involvement of competent specialists, individualized (and publicly acknowledged) responsibility, as well as motivation and commitment to the common product.

Should the Sourcebook ever succeed as one of the Council of Europe's standing activities, it will, therefore,
be crucial to have at least one responsible contributor in each country, and to create among them a firm commitment to the common goal by appropriate measures (for example, a common meeting at Strasbourg in order to 'get the message through' and to receive all sorts of helpful comments and reactions from their side). A coordinating committee will be needed to manage and coordinate the initiative.

Which countries should be included? Basically, the understanding is that all the member states of the Council of Europe should be covered in a future Sourcebook. On the other hand, this might be too ambitious a standard at present. Our feeling, therefore, is that the project might start on a somewhat narrower basis and then continue to grow in the future. This might also be a good solution for the question of which subject areas should be covered by a data handbook of this sort. Starting with only a few offences, would by no means preclude augmenting the list in future editions.

Another important point is the question of the periodicity. For the Model Sourcebook, the experts' group has chosen the year 1990, for obvious practical reasons. Although some additional data on trends have been included, most of the material presented in the pilot project is cross-sectional. In the future, it will be much easier to cover trends. This seems especially desirable, given that many limitations of cross-sectional comparisons do not necessarily affect data on trends.

How often should a handbook of this sort be published? The answer will obviously depend on the available resources of the Council of Europe. Given the rather pessimistic outlook for the next few years, a five-years interval might be a realistic perspective.

A final question is how an European data handbook should be coordinated with the UN Surveys of Crime Trends and the Operations of the Criminal Justice System. Our feeling is that the two do complement and not exclude each other. The UN surveys cover an admirably large array of countries, whereas the Council of Europe's data collection will necessarily be limited in geographic respects.

Of course, Heuni might no longer need to proceed by the questionnaire method to gather data from the nations covered by the European Sourcebook, but it could directly take them over from Strasbourg. This would allow to invest more energy in the collection of data from other countries, and especially in the assessment of their reliability and validity.

Martin Killias
School of Forensic Science and Criminology
University of Lausanne
CH-1015 Lausanne, Switzerland
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Victimological research in Slovenia

During the last three decades a number of studies concerning the subject of victims of crime have been carried out in Slovenia, and this paper will try to present and assess the findings of past research and to compare these findings with the present currents of victimological thought in the world.

We shall present the work already accomplished in the framework of four issues, which present in the author's view four basic orientations (or perhaps dilemmas) of victimological research.

Towards victim assistance
Initially victimology was in the beginning concerned almost exclusively with the victim of crime on the one hand, and on the other hand, with his/her characteristics and their contribution to the genesis of a crime. This orientation was followed in the sixties by the first victimological studies in Slovenia (Selih, 1963; Uderman, 1974). Two studies on violent offences (assault and battery, and homicide) dealt with, among other things, victimological problems and both found that due to a certain form of the subculture of violence, victims often contributed to their own victimization. From the black-and-white perspective of a relation between the offender and his victim, dominant at the time, arose a grey vision, which deprived many a professional in the field of criminal justice of that moral and ethical value that ultimately alleviated and legitimized his work – namely the idea of innocence of the victim for whom he fought.

A change of this original orientation of victimology, which was also evident in other countries from the 1970s onwards, found its expression in a research project on restitution to victims of crime (Vodopivec, 1977 and 1978). The research study provided two interesting results: it demonstrated that one-third of victims of
crimes examined in the study received some form of restitution before the beginning of the main trial; as far as the rest of the victims were concerned, the court satisfied their claims for compensation in two-thirds of the cases. To the same line of research belongs a study, carried out practically at the same time, which dealt with shoplifting in self-service stores (Pečar et al., 1978 and 1981).

The victim and victim assistance, as a research's primary subject, found its full expression in a study on child abuse (Šelih et al., 1985; Kos, 1988). The study dealt with the forms of protection afforded to children against maltreatment and formulated proposals for preventing child abuse. One could say that this study concluded the first phase of the research work: it began with emphasizing the negative aspects of the victim's role in a criminal offence and finished by establishing the victims's need for assistance.

**Structural victimization**

It seems rather obvious that the first studies carried out by researchers of the institute dealt with specific groups of criminal offences, particularly those in which the interpersonal relation between offender and victim was one of the basic criminogenic (and victimogenic) variables.

As far as the victimization of individual groups of victims is concerned, we have to mention probably one of the most original results of this research - namely, the finding that in numerous cases, victimization is not only a consequence of the interaction between offender and victim, i.e., the pair involved in the criminal act - which was till then the prevailing doctrine - but that in personal crimes, such as murder, this relation should also be extended to the involved bystanders. While the foreign literature of that time already paid attention to the 'innocent bystanders', Pečar was the first to put forward the thesis on the involvement of third parties in the victimogenic complex and developed it later in a theory of 'inductology' (Pečar, 1972 and 1984).

The first traces of structural victimization can be discovered in the study on child abuse, where some of the considerations went beyond the framework of the forms of abuse in individual cases and beyond abuse in the domestic environment: this study also raised the question of the institutionalized abuse in such establishments as child day-care centres, schools, hospitals and institutions for children and juveniles.

Structural victimization, as one of the forms of abuse of power, was in a very specific way the main component of the study, dealing with one of the staged political trials in the years following the Second World War and was presented in the form of a research report on the Dachau Trial (Bavcon et al., 1990; the study started in 1985, the results were published in 1990). The finding that a Stalinist
model of political criminal repression was used and that these trials were a logical result of the oppressive regime in the years between 1945 and 1951 was one of the principal messages of this research, which had at the time of publication (in April 1989) a strong moral (and political) message.

Prevention of crime
The researchers who have dealt with victimological research in Slovenia, have emphasized from the very beginning the significance of the results of these studies for the prevention of crime. At the beginning, these results consisted of general statements and recommendations, of which the implication and the application to everyday life could not be measured. However, the results of at least two of these studies had immediate impact on preventive activity. This applies to the findings obtained by both research studies on shop-lifting in self-service stores, and to the study on child abuse. Here, the researchers were confronted with the problem of drawing a line between victimology as a research discipline and victimology as victim advocacy. This line, which is in victimology generally hardly discernable, is particularly fluid where such a vulnerable category of victims as children is concerned.

Victimization survey
Although there has not been any comprehensive, country-wide representative victimization survey conducted so far in Slovenia, one study was nevertheless devoted to the problem of hidden crime, and in addition to that, a victimization survey was carried out in the city of Ljubljana as a part of an international crime survey. The study on hidden crime investigated the unreported conventional property crime in the area of Ljubljana (Pečar, 1982). It established that the rate of hidden crime in the offences examined by this study was relatively high (according to the data, for every recorded theft there were 4.8 to 6.9 unrecorded). The victimization survey as part of an international study was conducted 13 years after the first survey, but in a very similar way (mainly by responding to the questionnaires with written answers) and gave more positive results: it demonstrated a lower degree of hidden crime (Pavlovič, 1992).

Hiatuses
So far, orientations and types of victimological research have been presented and the positive achievements have been emphasized. However, it is necessary to assess also the weaknesses and traps of research completed to date. In general, one could say that victimology in Slovenia, as elsewhere in the world, presented in the beginning one of the most promising novelties in criminology and that even after three decades of research of victimological problems, it has not entirely betrayed original expectations, although these were probably higher than the results achieved. The
view on crime has been enriched by victimological knowledge; the search for the balance between the rights of offenders and rights of victims has brought new findings and also new approaches. In spite of this positive assessment, there are, still, many questions which remain open.

It seems that victimological research in general, in the same way as criminological research, tends to be too empirically oriented, or at least, it has been up till now. So far results have not been assessed as a totality of new knowledge and the attempt to elaborate theoretical generalizations, which would be formulated on the basis of individual empirical results, has not yet been realized. The question is, of course, whether the accomplished empirical research offers sufficient basis for such generalizations, but certain elements for that nevertheless exist. This applies to the problems of causality in violent crimes; to issues of involved bystanders; to phenomenology of some forms of victimization (for example, of children); to the problems of victimization of legal persons (especially in connection with property victimization).

However, with regard to the studies conducted in Slovenia so far, there exist certain gaps in the research field of victimology: there are very few or almost no studies in the area of victimization of different groups of minorities, especially social and cultural minorities, such as women, people with different sexual orientations, socially marginal groups etcetera; the same applies to the newly established area of victimization in the economy which remains unexplored and where the mass of processes involved in transformation of property create new (often illegitimate) elites and give rise to new forms of victimization. Plugging these gaps and the formulation of a theoretical system of victimology is one of the tasks to be accomplished.

From the first victimologically orientated research studies, victimology has never been a neutral research category: at the beginning it contributed to the blackening of a victim's character; when it directed its research attention towards victim assistance, it became a prisoner of this situation in the sense that it sometimes offered shelter to the advocates of one or other non-scientific orientation. From there also the reproach, that by taking the victim's side, it sometimes pleads also for the 'criminal policy of the strong hand' and supports thus a repressive orientation in society.

It seems that Slovene victimology has so far avoided these traps and dangers, be it consciously or by luck. This does not mean, however, that it is not necessary to put here a small but firm 'caveat': it would be wrong and harmful if victimological studies eventually contributed to an increased level of repressiveness in society and if researchers were not able to make a subtle judgement regarding the balance between the rights of
offenders on the one side, and those of victims on the other, and to take both of them into consideration. Last, but not least, it is worth paying some attention to the clearly pronounced tendency in victimology, which at least a part of research results serves to develop, that of victim assistance. If we disregard for a moment the danger which lies in such orientation – i.e., the application of results of scientific research for non-research purposes – it has to be said that programmes of victim assistance are precisely one of the most positive results of the victimological research. And yet, for example, the introduction of diverse forms of mediation between the offender and the victim has not (yet) found its place in the Slovene victimological research; the same applies to the new forms of providing different kinds of assistance to the victim of crime (legal aid in criminal proceedings, specialized assistance to particular groups of victims), which have also been implemented very slowly, painfully or not at all. The introduction of non-repressive forms of resolution of a conflict arising from an offence, certainly presents one of the areas, where there is still a lot of empty space for victimological research in Slovenia.

Alenka Šelih
University of Ljubljana
Institute of Criminology
Kongresni trg 12
61000 Ljubljana, Slovenia

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A world of opportunities: life-style and economic behavior of heroin addicts in Amsterdam – a review

Martin Grapendaal, Ed Leuw and Hans Nelen

A world of opportunities: life-style and economic behavior of heroin addicts in Amsterdam
Albany (NY), State University of New York Press, 1995

The issue of the life-styles of heroin users and, in particular, their criminality attracts public attention for many reasons. For example, a better understanding of the nature and causes of drug-related problems may be considered necessary to direct social policy. More specifically, determining how much property crime is attributable to heroin users may help to divide resources more effectively between law enforcement and welfare agencies.

This book aims to explore the life-styles, criminality and economic behaviour of heroin users in Amsterdam in order to determine how far the 'pragmatic' Dutch approach to drug policy has been a success compared to the strategies adopted by other countries. Specific issues which are focused on are the links between heroin use and acquisitive crime and the effect of methadone maintenance programmes on criminality.

The explanatory framework used by
the authors is theoretically eclectic and, using the concept of the 'deviant career', attempts to integrate elements of labelling, strain and sub-cultural theories of deviance. The first two approaches are particularly well brought together, the last two less so. This is surprising given the extensive sociological and criminological literature in this area (e.g. Downes, 1966; Hall and Jefferson, 1976). Nevertheless the framework is clearly set out and works well with the empirical material used later in the book. Its eclecticism indicates the complexity of the subject rather than any lack of coherence. Other theoretical approaches are also used implicitly at various stages of the book. For example, aspects of Hirschi's (1969) control theory underlie parts of the account of drug users' life histories, particularly the consideration of the effects of early socialization on later behaviour.

One particularly interesting section in the book is the one on income sources for heroin users (a relatively under-researched area) which confirms that, contrary to lay public opinion, income from acquisitive crime forms only a small proportion (24% in this study) of heroin users' total income. This finding is compatible with other research studies, not only in Europe but also in the United States, as reviewed for the UK government by ISDD (Dorn et al., 1994). However, an incorrect comparison is drawn on this point with the research of Parker et al. (1988) in Liverpool which in fact only determined the proportion of users who cited acquisitive crime as their main source of income rather than the proportion of income deriving from this source. The authors attempt to develop from this false comparison an argument about the effect of different levels of state benefits on the amount of income-generating crime committed by heroin users. Their hypothesis (that low benefit payments lead to more crime) is plausible (and is supported by a US study they cite) but its confirmation in the European context will have to await further research.

Although the book is generally thorough and fairly comprehensive, there are some omissions. For example, the discussion of the effect of methadone maintenance programmes on crime rather surprisingly does not refer to either Hartnoll et al.'s (1980) classic study or the frequently cited work of Bennett and Wright (1986). However, this does not affect the quality of the argument which is lucid and persuasive and demolishes some of the myths which still persist on this subject particularly in the USA.

All in all, this book offers a fascinating and theoretically informed account of the heroin scene in Amsterdam. The strongest parts deal with the issues of drug-related criminality and the function and consequences of methadone distribution. The main weakness is the final chapter on the policy implications of the research which does not do justice to the richness and sophistication of the
preceding analysis. Most of the main points are raised and the temptation to go for easy solutions is avoided but not all the options are worked through carefully enough or in sufficient detail. Nevertheless, for most drug researchers, especially those concerned with the issue of drug-related criminality, A World of Opportunities will be a valuable and helpful work. Policymakers and criminologists may also find it of interest.

*Toby Seddon*
Research officer at ISDD (Institute for the Study of Drug Dependence)
32 Loman Street
London SE1 0EE, United Kingdom

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In May 1994 an International Course of Criminology was held at the Katholieke Universiteit Leuven, in cooperation with the International Society for Criminology. The occasion for this was the 25th anniversary of the complete and independent Criminology programme, which was established after the splitting of the university into a French-speaking 'Université Catholique de Louvain' (in Louvain-la-Neuve) and a Dutch-speaking 'Katholieke Universiteit Leuven' (in Leuven). Since that time, the number of students has increased, and empirical research has become a weighty part of the activities, as a consequence of which the staff has also grown. In October 1994, the staff of Criminology-Leuven consisted of five full-time and four part-time professors, six posts for university assistants, sixteen posts for researchers on external research contracts and one or two secretarial staff.

At the Catholic University of Leuven, Criminology is organized within the Faculty of Law. The Faculty is divided into Sections and it provides teaching through Curriculum Commissions. Criminology is part of the Penal Law and Criminology section, which is divided up into three relatively autonomous subsections: Criminology, Penal Law and Sociology of Law. Intensive cooperation exists between the subsections. Education in Criminology is provided by a separate Criminology Curriculum Commission, composed of delegations of the professors, the assistants and the students, who are involved in the Criminology programme. Supervised by the Faculty of Law, the Commission programmes education in criminology and it manages its day-to-day functioning.

1 Professor of Juvenile Criminology at the K.U. Leuven, Hooverplein 10, B-3000 Leuven, Belgium.


Education in criminology

Graduate studies in criminology are structured in a pattern involving a four-year full-time course, which moves progressively towards increasing specialization. The first two years (the 'candidate' years) aim to give a wide theoretical training. The first year is comparable to that of the law programme and offers a basic introduction to psychology, sociology, law, philosophy, statistics, economics, political and social history, and anthropology. The second year offers introductory courses in penal law, criminology and victimology, together with criminological applications of disciplines, such as criminological psychology, criminological sociology, and forensic psychiatry. Also seminars in research methods are given.

The next two years (the 'licentiate' years) concentrate on the different areas of the criminological field and methods of intervention and research. Courses like penology, youth criminology, police sciences, and forensic sciences are obligatory in the first licentiate year, as are social law, youth law, penitentiary law, specialized penal law, forensic medicine, and history of penal law. The students also have to choose one seminar in the application field and one methodological seminar.

The fourth year of the Criminology programme is composed of 'reflective' courses (sociology of law, psychology and law, criminal policy, ethics and criminal justice, critical data analysis on crime and criminal justice), a practical criminological training of four days a week over a 4.5 month period and a 'master thesis' of about eighty pages. The practical criminological training is accomplished in one of the six specialization areas: juvenile criminology, penology, victimology and social welfare, police and courts, forensic mental health and criminography, and media and society. Having successfully completed this curriculum, one becomes a 'licentiate in criminology' and can apply to start preparations for a 'Doctorate in criminology', which is comparable to a PhD thesis. Moreover, a special one-year postgraduate programme is organized for lawyers and medical doctors. It comprises the main theoretical courses of the licentiate programme.

There are three ways of gaining access to the Criminology programme. Students with only a secondary school diploma have access to the first candidate year. Those who have obtained a diploma of a non-university high school (e.g. social workers, police officers, educators) have access to a single-year candidate course which incorporates the basic courses of the two candidate years. Students who have obtained at least a candidate diploma in another academic discipline such as psychology, sociology, law or similar, have direct access to the licentiate programme, but have to add some basic courses from the candidate years to their curriculum. In the academic year 1994-1995, about
400 students enrolled as full-time students in criminology.

After many years of uncertainty on the labour market, career opportunities for licentiates in criminology are fairly good now. They are employed on prison staffs, in the social services of juvenile courts, on the staffs of residential institutions for the homeless or juveniles, in police forces, victim-aid programmes, and prevention programmes. Very often they are co-initiators of innovating private initiatives in such areas as assistance to youths in trouble, ex-prisoners, victim-aid, and school crime prevention programmes. Recently two governmental initiatives in prevention and in victim-aid have opened great new opportunities for criminologists.

The social visibility of criminologists in a wide range of governmental or local administrations and in private organizations, together with the increasing number of criminologists in highly responsible positions, increases the acceptance of the criminology degree as a prerequisite for many kinds of jobs in the criminological field.

Research in criminology

Funds for research are obtained from three different sources: most of it comes from projects decreed by authorities like the Federal Ministries of the Interior, Social Affairs and (to a lesser degree) Justice, or the Flemish Ministries of Welfare, Education or Health. Most of these projects are rather short-term (with a maximum duration of two years), focused on practical policy problems which belong strictly to the competences of the authorizing ministry. Scientific funds, like the National Fund for Scientific Research, the Impulse programmes of the Ministry of Science or the Research Fund of the University provide opportunities for projects on more fundamental questions on a longer-term basis (four years, for instance) but they are more difficult to obtain. Finally some private funding, especially from the King Baudouin Foundation, regularly offers opportunities for smaller, innovating action-research projects in the field.

Research in criminology is organized in working units, which are briefly described below. Many projects are carried out in close cooperation with members of the Penal Law subsection (Professors Lieven Dupont and Cyrille Fijnaut)

Criminograph Working Unit (Professor Jaak Van Kerckvoorde, †1994)

The main project, sponsored by the Ministry of the Interior, is intended to create and develop an integrated criminal data bank. The first phase (1985-1987), in collaboration with research teams from the Université Catholique de Louvain and the Free University of Brussels, examined how an integrated registration system of the activities of the parts of the penal system could improve the transparency of the criminal justice system. The second part of
the project was oriented towards the creation of a criminal data bank, to be used by the various police forces. It resulted in a statistical instrument for the gathering, processing and publication of statistical data. Since 1978, regular surveys have been carried out among alumni criminologists from the KU Leuven, in order to ascertain their integration and functions in the criminological professions. The death of Professor Van Kerckvoorde in May 1994 has caused problems in the follow-up of these important research activities. Debate on the subject is still going on.

Research Group on Juvenile Criminology (Professor Lode Walgrave)
For about fifteen years, the Research Group on Juvenile Criminology has been doing research in the field of juvenile delinquency and youth policy in relation to it. Research was oriented mainly towards societal vulnerability and associated patterns of juvenile delinquency (unemployment and delinquency, school experiences and delinquency), football violence (societal and psycho-social backgrounds, prosecution policies, education of fans), methodology of general social preventive measures, legal and instrumental issues in juvenile justice. For the moment the major lines of research are:
- further research on the theme of societal vulnerability firmly entrenched in the project ‘Self-concept and the prospects of societally vulnerable youngsters’;
- urbanization and problems for youth, with the projects ‘Recreational opportunities, recreational activities and conflicts with juveniles in the cities’, ‘Social exclusion mechanisms and street crime in the big cities’ and ‘Feelings of (in)security and (dis)contentment in the city’;
- research on juvenile justice has led to the projects ‘Theoretical and ethical issues in restorative justice for juveniles’ and ‘Legal status and results regarding the effectiveness of community service for juvenile offenders in the Belgian Courts’;
- further research on prevention is being conducted in the project ‘The organization of prevention of non-integration of juveniles in Flanders’ and in several action-research projects on methodological issues, especially into streetcorner work and into the use of sport and adventure activities in the programmes for societally vulnerable youth;
- a more isolated project deals with ‘Problems of public order in and around the mega-dancehalls in Belgium’;
- the group also participates in the International Survey on Self-Reported Juvenile Delinquency, coordinated by the SRD (Dutch Ministry of Justice, The Hague).
**Research Group on Police and Judicial Organization (Professor Lode Van Outrive)**

For many years, this group has done a lot of research on the problems of police and police organization. Recent developments in society have prompted the group to examine two topics in particular, namely international police cooperation and the emergence of all kinds of private policing practices. For the moment, three empirical projects are being carried out: 'Methods of private and public investigation, “Grey” policing and fundamental rights', ‘International police cooperation - the exchange of information between Belgian and foreign police forces’, and ‘Cooperation between Belgian police forces’. A recent development, which has not yet resulted in systematic empirical projects is the study of internationally organized crime, especially the Mafia.

**Research Group on Victimology and Forensic Social Welfare (Professors Tony Peters, Johan Goethals and Frank Hutsebaut)**

Until nine years ago this group was exclusively involved in research oriented towards the field of sentencing and corrections. The group's interest changed direction towards crime analysis in the late eighties. An initial project was dedicated to a broad descriptive analysis of thefts with violence, burglary and robbery committed in 1986, followed by a victimization study based on extensive interviews with 96 victims of theft with violence, burglary or robbery. A qualitative research study followed, based on 50 in-depth interviews, concentrated on the long-term experiences (six months or more) of victims of serious violent property offences. The victimological orientation has been continued on the basis of action-research projects. First, the development of victim-oriented activities in five centres for mental health was tested. For the moment, the group is carrying out four more projects. A mediation for reparations scheme has been set up together with the prosecutorial service of Leuven and the local service for forensic social work. It is focused on cases of serious violence. Together with a team from the University of Liège, an analysis is made of the training programmes in police academies, focused on the attention given to the problems of victims of crimes. The influence of the offender's gender on the decisionmaking of the prosecutor is under scrutiny. In cooperation with the institute of Penal Law, a project on Penitentiary Law is being carried out.

**Forensic Health Care (Professors Frans Baro and Jo Casselman)**

The research of this group is located partly in the Faculty of Medicine and focuses on comparative studies in mental health legislation, illicit drug injectors and aids, abuse of the elderly, vehicle accidents and use of drugs, epidemiology of avoidable death and the development of new tools for criminal laboratory investigation.
International involvement

Criminology in the KU Leuven is involved intensively in international scientific exchanges. Members of the subsection have close contacts with colleagues from European, American, South African, and Australian universities. Some of these contacts have led to comparative research activities and publications on self-reported delinquency, victim-offender mediation, community service, and juvenile justice systems. Leuven criminologists are often invited to participate actively in international events as co-organizers, speakers, and chairmen. Several of them have been appointed as experts to the Council of Europe, the International Academy of Law and Mental Health, the World Health Organization and similar organizations. Some have been guest professors at universities abroad. Members of the Criminology subsection are members of the most relevant international organizations, such as the International Society for Criminology, the American Society for Criminology, and the International Network on Juvenile Criminology. The education programme is part of ERASMUS circuits in the universities of Tilburg, Utrecht, Pau, Catania, Edinburgh, Sheffield, the Basque country, Las Palmas, Tübingen, Hamburg, and Greifswald.

Services to the community

Since 1993, the Criminology subsection has been editing a monograph series, together with members of the Penal Law subsection, under the title 'Samenleving, Criminaliteit en Strafrechtspleging' (Society, Crime and the Administration of Criminal Justice), published by Leuven University Press. Up to now, seven titles have appeared, and a further two are forthcoming. Members of the Criminology subsection are rendering a great service to the community, by acting as experts in all kinds of working groups or 'think tanks', as regular members of policy-making or policy-supporting commissions, as co-organizers of experiments in the field, as consultants, by organizing educational and training sessions, and by being active on several editorial boards. The library of the Faculty of Law has a separate criminological division, which is very well stocked. Moreover, several working units have their own documentation centres. All are, under certain conditions, open to public.

A look at the future

Obviously, the Criminology subsection at Leuven University is an important centre of criminological research and teaching. In order to stay in that position, a thorough renewal of the education programme is being prepared. On the basis of the increasing professional involvement of the graduates in crimino-
logy, the specific contribution of the criminological science to the tackling of crime problems in society will be expanded: the interdisciplinarity of it will be stressed in theoretical and methodological courses. Specialized criminological intervention methods will be taught, including prevention, victim-aid, evaluation, and compulsory assistance. Theoretical and ethical problems in criminalizing and in law enforcement will be developed.

Criminology Leuven wants to play its role on the international forum. Supported by the International Society for Criminology, it is organizing an inquiry into academic programmes of criminology education in Europe. It could result in a closer cooperation of these programmes in the future. The possibilities for setting up a one-year English masters programme in criminology, addressed at an international public are being considered. It would be organized in concert with other criminological institutes.
Abstracts

This section contains a selection of abstracts of reports and articles on criminal policy and research in Europe. The aim of publishing these short summaries is to generate and disseminate information on the crime problem in Europe. Articles that generate comparative knowledge are seen as being of special interest. Most of the articles have been published in other journals in the English language. More information can be supplied by the RDC Documentation Service. Single copies of the articles mentioned in this section can – when used for individual study or education – be provided by the RDC Documentation Service at your request. A copy charge is made.

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Arnao, G.
Referendum deletes criminal sanctions for drug users in Italy
On April 18, 1993, a referendum concerning national drug policy was held in Italy. According to the Italian constitution a referendum can abolish some law or parts of a single law. In this short article the history of drug law 162/90 is sketched and the results of the referendum are explained. In order to understand the complexity of the issue, it is important to understand the backdrop in the story of Italian drug law over the past five years. The main features of the law include sanctions, the option between sanctions and treatment and average daily doses.

Bovenkerk, F.
A delinquent second generation? Explanations for the extent, nature and causes of juvenile crime in various immigrant minorities
Research Notes from the Netherlands, 1994, no. 2, pp. 2-10
It has long been a taboo in the Netherlands to study crime in relation to ethnic minorities and it is still a field for heated discussions among criminologists. There is one thing, however, that experts more or less agree upon: crime rates of youngsters of some minorities are higher compared to their Dutch peers. This article examines the differences in nature and extent of juvenile crime among minorities. The suitability of the most debated criminological theories within the Netherlands are discussed.

Cheatwood, D.
Drug policy as a cause of violence: the drug war in America and implications for Europe
This article explores some of the lessons from the American war on drugs as they may apply to Europe. The specific focus is on the relation between the war on drugs and the most extreme form of criminal violence – homicide. Based upon both theory and data derived from the ten year American experience with the
drug war, Cheatwood argues that the attempt to reduce criminal violence through a criminal justice based attack on drugs may not only have been an ineffective means to address the problem of violence, but may in fact have made the problem worse. By implication, then, any similar attempt in Europe may have the same outcomes.

Den Boer, M.
Police cooperation in the TEU: Tiger in a Trojan horse?
Den Boer focuses on the developments in criminal justice cooperation, in particular police cooperation, evolving from the arrangements under Title VI Treaty on European Union (Third Pillar). The issues discussed are: the organizational structure of Title VI, the possibility of transferring criminal justice matters to the main core of the European Union, the relation between Schengen and Title VI, the developments concerning the Europol Drugs Unit, the coordination of international anti-organized crime strategies, the relation between the Second and the Third Pillar, the capacity of the European Union to develop itself into a regional security community.

Egan, M.
A Polish autumn
The Polish prison service has made amazing progress over the last four years, particularly in eradicating institutionalized brutality, but it still faces many problems: a rapidly-rising prison population, lack of funds, old buildings in poor repair, and the absence of after-care services for prisoners among them. But there is evidence of a profound commitment to change, astonishing energy, and a talent for devising imaginative solutions to some of these problems.

Hay, C.
Mobilization through interpellation: James Bulger, juvenile crime and the construction of a moral panic
*Social and Legal Studies*, vol. 4, 1995, no. 2, pp. 197-223
In this article the author sought to examine the processes involved in the mobilization of a moral panic, considering the following subjects: the way in which the video footage of the abduction of the James Bulger affair came to act as a point of condensation and connotive resonance for a variety of wider social anxieties; the nature of the textual practice and discursive strategies deployed in the hailing and interpellation of participants in the panic; the inherently active, creative and engaged nature of the decoding of such panic discourses; and the complex ways in which such discursive hailings are retranslated in the practices of everyday life into ideological and material effects. In so doing the author demonstrates that, in the construction of the moral panic surrounding the James Bulger incident, a multitude of 'newsworthy' or 'panic-worthy' primary narratives (the abduction and murder of James Bulger, the murder of Edna Phillips by two teenage girls, and so forth) were selectively drawn together and unified around the twin themes of the threat posed by juvenile criminality, and the subversion of otherwise 'innocent youth' through the breakdown of the traditional 'moral' family unit. What such an account emphasizes is the importance of the mediated constructions placed upon events.
Hood, R., S. Shute
*Paroling with New Criteria: Evaluating the Impact and Effects of Changes in the Parole System: Phase Two*
Oxford, Oxford University, 1995, p. 58
This is the second report of a longitudinal study which aims to monitor and evaluate the changes made to the parole system by the Criminal Justice Act 1991 and by subsequent administrative action. From the summer of 1992 onwards, several changes in decision-making procedures were introduced which affected the consideration of prisoners sentenced under the 'old system'. This provided the opportunity to evaluate the impact on decision making separately from the impact of other changes to the structure of the parole system made by the introduction of the DCR scheme. This report, therefore, analyzes the reasoning of Board members and the outcome of their joint decisions when using the new criteria on old-system cases. The decisions are compared with those observed in the baseline study before the new criteria were introduced and before other less important changes were made.

Kaiser, G.
*Detention in Europe and the European committee for the prevention of torture*  
Kaiser discusses detention in Europe and the European Committee for the Prevention of Torture: (1) torture and the historical development of criminal justice; (2) changes since the period of enlightenment by innovations of the law of evidence, the prison reform movement and by new needs against 'crimes of the powerful'; (3) UN conventions and European treaties against ill-treatment of detained people; (4) goal and procedure of the European anti-torture convention; 5. The European committee for the prevention of torture in practice – experiences and main observations; (6) fundamental safeguards for human rights at the onset of deprivation of liberty; (7) endangering human rights by conditions of imprisonment; (8) special problems of aliens and other groups of detainees; (9) female detainees and the principle of equal treatment; (10) the potential impact of CPT activities on European standards of deprivation of liberty.

Kjellberg, F.
*Conflict of interest, corruption or (simply) scandals? 'The Oslo Case' 1989-91*  
The unprecedented municipal corruption scandals that occurred in Oslo in 1989-1991 illustrate the contrasts and interrelationships between publicly-perceived scandal and actual corruption. What was depicted at the time as massive corruption has resulted in no convictions of politicians. On close examination the corrupt behaviour appears to have been limited in both significance and scope, though official reports do suggest the possibility that more serious wrongdoing may have occurred. The case illustrates not only the mechanisms by which scandal is propagated, but also the contrasts between legalistic and other definitions of corruption. Analysis of four possible categories of corrupt behaviour shows the difficulties of applying legalistic definitions to actual practice, and offers a clearer understanding of how corruption and scandal can diverge so sharply.
Liebling, A., M. Bosworth
Incentives in prison regimes: a review of the literature
*Prison Service Journal*, 1995, no. 98, pp. 57-63

It is hoped that a properly structured system of incentives based on prisoners' behaviour and willingness to cooperate will encourage active and responsible engagement in constructive regimes and will facilitate progress through the prison system. It is expected that prisoner compacts will form one element of this incentives structure. The introduction of incentives schemes is linked to several of the current goals of the Prison Service. The clarification of the precise aims of incentives, and the establishment of their compatibility and relative significance will be an important part of this programme of work.

Organized Crime (Special issue)
*Demokratizatsiya*, vol. 2, 1994, no. 3, pp. 341-452

The issue of post-Soviet organized crime has been sensationalized by the Russian and the Western presses in the past few years. From these journalistic accounts it is very difficult to understand how the former USSR, once a country with a relatively low crime rate, has rapidly become one with a serious crime problem that threatens its citizenry as well as many nations in the world. The articles included here by leading Russian and American scholars try to put the contemporary Russian crime problem in a larger context.

Savage, S.P., M. Nash
Yet another agenda for law and order: British criminal justice policy and the conservatives

The British government has recently launched a new package of legislation for criminal justice, one that is widely regarded as marking a return to traditional right-wing strategies of increased police powers and harsher punishments for offenders. This paper examines that development against the backdrop of Conservative policy for law and order as it has developed since the conservative government came into office in 1979. It concludes that it is now possible to identify three clear phases in criminal justice policy under the conservatives, each linked to wider political objectives. The effect of such policy shifts has been to destabilize the criminal justice system and to subordinate criminal justice policy to political expediency.

Scholl, R.
Sweden: no paragon of virtue
*International Journal of Drug Policy*, vol. 6, 1995, no. 2, pp. 74-77

For years, Sweden's drug policy has been regarded as an example of a successful drug prohibition system, a paragon. However, careful analysis of official government data does not support this image. The current Swedish drug policy – officially described as restrictive – was developed from a study documenting the Swedish experience of the 1960s. To get a more unbiased view of the Swedish rationale for their current policy, one need only analyze official state documents and the statements of government spokespersons.

Snacken, S., K. Beyens, H. Tubex
Changing prison populations in Western countries: fate or policy?

Rising prison populations and prison
overcrowding are an internationally widespread phenomenon. In order to be able to discuss possible solutions, one should try to understand the phenomenon and the mechanisms behind it. Many Western countries experienced a general increase in their prison population during the 1980s, linked to a more specific rise in the number of remand and/or long term prisoners, foreign inmates and drug-related offenses. The authors discern factors external to the criminal justice system (demography and economy), internal factors (criminal justice policy, for instance the abolition of the death penalty) and interfering factors (public opinion and politics).

Stattn, H., D. Magnusson
Onset of official delinquency: its co-occurrence in time with educational, behavioural, and interpersonal problems
Using a longitudinal sample of Swedish boys (686), the aim of the study was to examine whether age at the onset of official delinquency is associated in time with school and problem behaviour generally. As was expected, boys for whom onset was early (their first registered offence before the age of 13) manifested educational difficulties and externalizing problems in early school grades (at the ages of 10 and 13) to a greater extent than other boys, and they also exhibited such problems at the age of 15. Educational and externalizing problems were most manifest at the age of 15 (less so at earlier ages) among the group of boys with middle adolescent onset of official delinquency (first registered offence at the age of 14, 15, or 16). Boys with early and middle adolescent onset had school and conduct disturbance in common at the age of 15, had frequent peer contacts in both early and late grades, and perceived their peers as endorsing norm-breaking. In comparison with boys who were not registered by the police for some offence up to the age of 16, they had lower IQ, lower socio-economic status, and a higher frequency of dropping out of school.

Van der Poel, S.
Solidarity as boomerang: the fiasco of the prostitutes' rights movement in the Netherlands
In the Netherlands, the prostitutes' rights movement emerged with the formation of an influential coalition of feminists and policymakers who devoted themselves to an improvement in the juridical and social position of prostitutes. By seeking to connect to the priorities of the government's emancipation policy, this coalition succeeded in placing the issue of prostitutes' rights onto the political agenda. This paper addresses the question why this policy has failed to strengthen the position of prostitutes.