Cross-border crime
Cross-border crime
Aims and scope
The European Journal on Criminal Policy and Research is a platform for discussion and information exchange on the crime problem in Europe. Every issue concentrates on one central topic in the criminal field, incorporating different angles and perspectives. The editorial policy is on an invitational basis. The journal is at the same time policy-based and scientific, it is both informative and plural in its approach. The journal is of interest to researchers, policy makers and other parties that are involved in the crime problem in Europe.

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The phrase 'cross-border crime' has complex connotations in terms of unknown threat, unrestrained criminals and unstoppable crime waves. It is not surprising that European integration provoked fear on the one hand and the adoption of countermeasures at a European level on the other. But what is there to be said about the real dangers of cross-border crime, the developments that can be expected, the actual extent of international criminality, and what is there to be learned from national and international policies and legislation? In this third issue of the European Journal on Criminal Policy and Research several experts in the field express state-of-the-art views on the subject.

M. Killias opens the issue with a statement about the specious dangers of opening borders. The 1992 referendum on EC membership triggered a great deal of discussion in the Swiss cantons as to whether such a measure would lead to an increase in international crime. Killias opposes this view – not uniquely Swiss – with the argument that borders have been much less an obstacle to criminal activity than to cooperation in fighting organized crime. The opening of the borders facilitates crime fighting more than crime itself.

P.C. van Duyne analyzes the developments in organized crime which might be expected in the nineties. He expects to see new patterns in cross-border crime because of the development of an economic vacuum in Europe and increased traffic between eastern and western Europe. The risks may not be evenly spread however. The author describes the developments in terms of crime markets, concentrating on the illicit drug market and business crime, such as commercial and EC fraud. He points out the growing cohesion of crime enterprises which are developing into international criminal trading communities. Law enforcement based on national jurisdiction is outdated, according to the author.

In the next four articles the cross-border crime issue is approached from different national perspectives. E.U. Savona refers to the Italian Mafia and money-laundering. Focusing on Mafia activities and on the related money-laundering schemes, the author suggests that recent developments within the Mafia can be interpreted as a kind of 'modernization' of the old established feudal organization. Having
examined the legal measures taken against money-laundering, the author goes on to predict a mirror effect in the interaction between legislation and organized crime. He expects the development of more secret structures and/or diversification of criminal organizations.

From Britain, M. Levi discusses the extent of cross-border crime. He warns against exaggeration of the supposed existence of organized crime, especially that with an international character: most crime is disorganized. Levi describes several subdivisions of cross-border crime and provides the available information on them: securities fraud, dumping of toxic waste, European Community fraud, value-added tax fraud, other frauds against corporations, cheque and credit card fraud, vehicle theft, art and antique theft and drug-trafficking. The author concludes that there is an urgent need for more information to support the necessary policy-making on cross-border crime.

M. Joutsen gives a general report on the growth of organized crime in Central and Eastern Europe. He describes the position of organized crime before and after perestroika. According to the author, organized crime has crossed the borders to the West only on a very small scale up to now. (In the Varia section, a series of reports on East-European countries commences; in this issue the Czech drug problem is described.)

From Belgium there is a report on the crime problem centred on the Belgian/French border region. Northern France suffers particular socio-economic disadvantages and this precipitates a flow of crime across the more prosperous region of southern Belgium.

The final article deals with EC fraud. D. Ruimschotel wonders why there is no systematic rational policy on EC fraud. He suggests several reasons, lack of information being the most important. After a description of the responsibilities in cases of EC fraud, the author tackles the dark number problem. What do we know more about EC fraud than the well-known estimates of Tiedemann and Magnusson tell us? The author proposes a new approach for estimating EC fraud. This kind of dark number research is needed for policy reasons although politics are not fully rational.

This cross-border crime issue provides a deep insight into the actual problems and at the same time it can be summarized as being a cry for more research and information. The next issue will be on police cooperation and private security.
Will open borders result in more crime?

A criminological statement

Martin Killias

Over the last ten years, considerable energy has been spent in Europe to remove border controls and to replace them with more efficient trans-border police work. In line with the general trend of scepticism which currently surrounds any efforts at building Europe’s union, the plans to remove border controls have been viewed with caution, if not hostility, particularly among police officers and politicians concerned with crime control. Even at this point, some countries have postponed the enactment of the Schengen agreement, and the question remains whether the whole project might not fail. During the Swiss referendum of December 6, 1992, concerning the European Free Trade Zone Agreement, the ‘threat’ of open borders might even have been among the prevailing fears of Swiss voters, although the Schengen agreement was in no way linked to the European Free Trade Zone Agreement.

Therefore, it may be necessary to examine to what extent the fears among the public that open borders will lead to more crime may be justified. The crime rate in any given country and in a given unit of time (i.e. one year) depends on the number of offenders as well as on their ‘productivity’ (i.e. the number of criminal acts they commit per unit of time). Theories explaining criminal motivations may be more helpful in understanding the high or low number of offenders who are active in a given space and time, whereas the opportunity structure (i.e. situational variables) might be more helpful in explaining the ‘productivity’.

How will these factors be affected by national boundaries or by open borders? On the one hand, it seems likely that facilitated mobility might increase the mobility of offenders as well. But open borders are also likely to induce osmotic processes which, in turn, could reduce the economic attractiveness of certain ‘rich’ areas. For example, in some parts of Switzerland, such as Geneva or Ticino where a considerable proportion of serious offences is being committed by offenders from across the border, it is possible that, in
the long run, the attractiveness of such areas will be reduced. Of course, if Europe's open borders favour production, exchange, and availability of consumer goods, as many experts hope, we might anticipate a general increase of crime as a result of changed opportunity structures. That change, however, would likely be general and not concentrated in certain particular areas, that is, it would probably leave unaffected what one might call cross-border crime.

In any case, the effects of Europe's merging on the opportunity structure are hard to anticipate. Let us therefore concentrate on the issue of the anticipated increase in mobility as a result of open borders, which is the foremost concern of the sceptics. The idea that national boundaries facilitate control merits some consideration.

Once again taking the example of Switzerland, there were, over the last few years, approximately 400,000 offences registered by the police at the federal level. According to the same sources, roughly 20 percent of the offenders known to the police have no legal residence in Switzerland. If we assume that these persons (mostly from countries outside the EC) should, theoretically, have been prevented from crossing the border, the border control officers would have needed to stop maybe 100,000 potential offenders at the border. This figure is to be contrasted with the 75 million legal and unproblematic passages of the border. It is simply impossible to single out such a small group of problematic immigrants without unduly harrassing millions of passengers who would not warrant increased searches. Obviously, the goal of efficient border controls (as Europe experienced them during more than forty years at the borders of the communist block) conflicts with the needs of increased international exchange, and 'efficient' border controls would seriously damage the national economies involved. Not surprisingly, drug offences cleared at the Swiss border control posts represent only about four percent of all cases of drug-trafficking known to the police in Switzerland.

In objective terms at least, the controls at national borders are hardly effective at reducing crime within the countries involved. Another consideration would be how potential offenders view this matter, but, unfortunately, no data seem to be available thus far on their perception of risks involved in crossing national boundaries.

In evaluating the effectiveness of border controls, one should not forget that they are extremely costly. Switzerland employs currently about 1,700 agents at its borders, scattered along the country's relatively long territorial boundaries. If the controls could be displaced to the exterior boundaries of Europe, these officers could be used at the international airports of Zurich and Geneva where adequate equipment for discovering drugs and other illegal goods are available.
The main advantages of open borders, however, will be found at the level of the police and prosecution. At present, international cooperation in police work is extremely time-consuming, costly and ultimately discouraging. The same holds for the judiciary. It is no secret that in many cases police officers and prosecutors prefer dismissing a trans-border case to opening an endless procedure of international cooperation, and only the most important cases might justify such efforts.

In the end, it may not be an exaggeration to say that criminal organizations abolished national boundaries long ago. Crossing borders is no major problem to them and the losses are marginal. They rather see the border as a handicap for police and prosecution. Crossing the border is one of the trivial precautions which are routinely taken in all kinds (including the most simple forms) of organized crime. Considering these aspects, one may conclude that national borders do not improve, but reduce public safety in Europe.
Any researcher who wants to do research on the structure of an organization will have difficulties in penetrating its subtleties. One is dependent on a variety of sources of diverse reliability, while the scene of action is a very dynamic one. It goes without saying that the participants in crime organizations usually deny their existence and by implication their own participation. The famous Mafia boss Riina pretends to have learned about the Mafia solely by watching television. Not all this denial is pure hypocrisy. Crime enterprises are often quite chaotic organizations or from the management point of view ‘non-organizations’ (Van Duyne, 1990; Reuter, 1983). Their most typical form is a small cooperative operating from project to project amidst a surrounding network of aides, frontmen and ‘facilitators’. Through personal and pragmatic connections they may be linked to other similarly structured ‘organizations’ forming flexible networks of interest (Rebscher and Vahlenkamp, 1989; Weschke and Heine-Heiß, 1990). Over a period of time mutual interest (and trust) can turn these flexible networks into more stable criminal trading communities (Van Duyne, 1993b). A second complicating feature concerns the changing landscape of crime in the sense of criminal market opportunities. For a researcher this could imply that the conclusions of his research are already outdated before the ink is dry. Should he stop doing research and wait until the dust of the turbulence has settled down? Of course that goes against a researcher’s temperament! If things are in a state of change he wants to be there to see it happen.

Before I continue my article I would like to warn the reader not to imagine that crime entrepreneurs in times of change are collectively

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2 One criminal with whom I spoke resented not having operated like a real godfather: his boys behaved too freely and showed too little respect. ‘This bunch an organization, and me the one in charge as a kind of godfather?’, he exclaimed. There was some truth in it, though despite all the juridical projections, he was the leading figure of a cooperative network which could be described as an organization, despite its haphazard and chaotic nature.
reacting to all changes in criminal opportunities which are taking place. Most crime trade is basically demand oriented (one cannot advertise forbidden commodities). Most crime entrepreneurs are not the diabolical creative geniuses described by the mass media, but mobile risk takers responding to changing opportunities and law enforcement by trial and (custodial) error. This may imply that individual changes usually take place gradually: smugglers change commodities, e.g. from smuggling hard drugs to smuggling soft drugs on a larger scale; some smugglers enter organized cross-border fraud, mainly fiddling the VAT system or EC regulations (Van Duyne, 1993b) or they broaden their trade to neighbouring branches while still using the same skills and social networks. Those who had been fencing stolen passports for forgery noticed that these documents were also valuable to those engaged in the smuggling of illegal immigrants. This yields a colourful sample of organizing criminals as pointed out by Block (Block and Chambliss, 1981; see also Dorn and South, 1988; Dorn et al., 1992) which is a different picture to that of Organized Crime as a monolithic organization on its march to take control of society.

Changes in market opportunities for crime enterprises

Any generalized picture of organized crime is refuted by the wide variety of market opportunities and market segments in which crime entrepreneurs may operate as well as by the diverse groups of participants, each group introducing its own way of creating an economic niche in the underground economy or finding its way towards the legitimate, upperworld, economy. One cannot speak of the drug market, it being composed of at least four main market segments: heroine, cannabis, cocaine and synthetic drugs, mainly stimulants. In the same way one cannot speak of the organized commercial fraud market, which may affect every aspect of the upperworld economy. In addition one has typical 'heavy' underworld crime like protection rackets.³ I cannot discuss all relevant markets in this short article. Let me concentrate on two of them: the drug market and the organized defrauding of the upperworld economy. The first

³ American literature speaks of the 'vice industry', encompassing the exploitation of human weaknesses like sex, gambling and the consumption of illegal drugs (Bequai, 1979; Dombrih, 1988). This primarily reflects the moralistic, puritanic American regulatory attitude towards human 'vices' if one chooses to call sex as such. It is at any rate a healthy one. Meanwhile the state profits from the (officially) exploited desire for excitement involved in the risks taken in gambling.
because of the waves of moral panic which are repeatedly evoked by organized drug trafficking, stimulating the media and politicians alike to take firm action. The second because of the peculiar and contradictory symbiotic relation between crime enterprises and the legitimate upperworld economy.4

The illicit drug market

When a few years ago the first prospects of an integrated Europe without internal border controls became clear, many law enforcement agencies were worried that this would enormously enhance the opportunities for drug traffickers. However, there are reasons to consider these worries as being premature. Professional drug entrepreneurs have never been that much impressed by border controls as to be frightened out of business. Given a certain market demand, stricter border controls have usually only served to increase consumer prices which meant a higher net profit per unit for the trafficker. This was the outcome of the USA's 'war on drugs' after the intensified efforts of 'interdiction and eradication' in the eighties (Perkins and Gilbert, 1989). Of course this applies to Europe too. For traffickers the most dangerous points of entry into the European market have always been the sea and airports (the outer borders) of the EC. This has not changed. The internal border controls have always been slack, certainly during the tourist seasons.5 Moreover, organized wholesale traffickers have their cannon fodder (rather border fodder): dispensable couriers with so many kilos of contraband and hardly any further information. I agree with Killias' reasoning in this volume that contrary to popular opinion, it is not the crime trade which will take advantage of the open borders within the EC but the law enforcement agencies for whom barriers against fruitful cooperation are gradually being removed.6

4 I realize that I may well neglect some interesting crime markets which at this moment are in a state of rapid development. One concerns the international fencing of stolen cars and art treasures. Since the opening of Middle and Eastern Europe the flow of stolen cars towards these regions appears to have increased considerably. Apart from police reports mentioning this phenomenon, no systematic analysis seems to be have been published yet. The same applies to other markets, like 'organ trafficking', 'man trafficking' (actually selling passports and permits of residency). For a description of the German situation see Peters (1990); Freiberg and Thamm (1992).

5 Concerning the national borders one should keep in mind the huge volume of travellers handled at the sea and air ports. In 1990 approximately 319 million travellers passed the leading European airports (source: Interpol General Secretariat Drugs Sub-Division, February 1993).

6 See also the less convincing book of Clutterbuck (1990).
Instead of creating general concern about the free movement of (criminal) goods and persons in Europe, I think it is of more importance to look at the structure and prospects of the different market segments. In addition, it is important to look at the participants: who are the suppliers fulfilling the market demands?

The heroin wholesale trade in Northwestern Europe is at present mainly in the hands of the Turks, whether or not of Kurdish descent: according to Interpol approximately 75 percent of heroin seized in Europe during 1988/1989 was routed via Turkey through the well-known Balkan Route. To date this proportion has not changed. The commodity itself is imported from the Golden Crescent: Afghanistan, North Pakistan, Iran, to which very recently may be added the unruly border regions of the erstwhile Soviet Union. The importance of the Turks, and especially the Kurds, derives from the geographical fact that they control the mountain passes in Kurdistan/Northeastern Turkey whilst having their ‘trading bridgeheads’ in the consumer countries in the form of relatives among the more than two million Turks residing in Western Europe. The Northwestern European target countries of the wholesale shipments appear to be Germany and the Netherlands where the multikilo cargoes are divided and distributed for retail sale in the same country or re-exported to neighbouring countries. That has been the picture since approximately 1986. However, the landscape is in a state of constant change.

Since the war in the previous territory of Yugoslavia the caravan of trucks (for legitimate goods as well as for contraband) has been forced to pass through the Donau countries using even Poland as a transit country. Alternatively they pass through Greece and Italy. More important than this possibly temporary shift in routeing is the change in supply. The changing landscape in Central Europe and the Commonwealth of Independent States (CIS) is not being brought about without consequences. Not only is illegal drug consumption increasing in Eastern Europe, but some countries have turned their domestic production of poppies for medical use at home into production for sale (Lee, 1992). Take for example the rough morphine

7 Contrary to popular international opinion The Netherlands are not the most important recipient country. In Northwestern Europe Germany ranks first (1594 kilos seized in 1991 followed by the Netherlands with a score of 406 kilos). In Southern Europe, Italy and Spain were the most important recipient countries (1,041 and 741 kilos seized in 1991). Source: Interpol, 1992.

8 See Joutsen (1993) for a brief overview. Of course the developments in Central and Eastern Europe do not only affect the drug market. The reduced living standards and noticeable difference with Western Europe will stimulate the more entrepreneurial inhabitants to trade, irrespective of which side of the law they operate on.
brewed by the Poles in their kitchens and sheds which is called by the Germans 'polnische Suppe' (Polish soup). Though the quality seems to be no better than other Eastern European products, it should be considered a first step towards commercial production. Another change concerns the entry of the West Africans into the heroine market, especially the Nigerians and to a lesser degree the Ghanaians. This is remarkable as they do not live in a production region. What is the case? Some time ago entrepreneurial Nigerians took the initiative and travelled to the Indian subcontinent to pick up the drug and transport it to the consumer countries in the West. This movement was facilitated by the influx of numerous Nigerian students and businessmen into India and the resident communities of Nigerians and Ghanaians in the United Kingdom and the USA. The volume of this air-based trafficking is limited by the amount a passenger is able to carry in a suitcase or on/in his body.

It is too early to predict the impact these changes will have on crime organizations. The Turkish criminal networks are well established in Western Europe but it may not be long before they are challenged by newcomers who are in the position to break the predominant position of the Turks in the supply side of this market.

The wholesale importation of cocaine into Western Europe was started by the Colombians who to date have not lost their grip on this market. Of course, Europe has never been 'cocaine free' but the significant increase in imports from South America did not start before the USA market showed signs of saturation and European users were prepared to pay prices which are 40 to 50 percent higher.\(^9\) The General Secretariat of Interpol reports a considerable increase of seizures from 2,280 kilos in 1987 to 15,447 kilos in 1992, with the most significant increase after 1989, when the Colombian government went onto the offensive after the murder of the presidential candidate by the Medellin cartel: 7,200 seized in 1989, 14,709 in 1990.\(^10\) However, the trade quickly readjusted: there appeared to be tremendous stocks and at the same time the pattern of production diversified and went 'upstream' to Peru, Ecuador and Bolivia. The prices in the US skyrocketed first from $12,000 to $60,000 only to go down again to $15,000.\(^11\) The dominant exporting group was the so-called Cali cartel which has more traditional bourgeois connections.

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9 According to the Working Group 'De Wereld van de Kook', Amsterdam, 1992
10 Retrospectively the killing of one of the leaders, Gacha, the 'major success' by the Colombian government seems trivial, despite the war cries of Clutterbuck (1990).
11 According to the most recent report of Interpol (February 1993) the impact of US and Latin-American law enforcement is being felt again: prices have risen between 5 and 27 percent while the purity has been reduced by 5 percent.
and never challenged the central Colombian government with the use of violence, so it has been less affected by the onslaught of the military law enforcement and neatly filled the gap (Labrousse, 1990). Recently the Colombian government identified a new cartel: the Villavicencio cartel operating independently of the two other cartels. It is an old capitalistic lesson of Adam Smith: do not fight the market.

A survey of the ports of entry in Europe reveals a high degree of territorial flexibility combined with professional preparation: first Colombian businessmen arrive to prepare the way by building a commercial bridgehead (Freiberg and Thamm, 1992) which may later be used as centres for the importation and distribution of cocaine. The Colombians appear to be well informed and have not been slow in following the attractive developments in Eastern Europe: in Poland alone, entry visas for about 1,200 Colombians were issued last year. One may presume they were not in Poland merely to visit the Masurian lakes! Not only Poland appears to have been identified as a potential transit country, but also Hungary with Budapest as a vital road junction between Romania and the Black Sea and Austria, Slovakia and Slovenia. In Czechia and Slovakia numerous 'pioneer firms' have been established for the importation of fruit and food. The assumption that some of these firms will one day operate as covers for other commodities is not an unrealistic projection.12

The global dynamics of this European market segment are also reflected by the entry of other traders into this crime market. Interpol again reports the activities of Nigerians not only participating in the importation of cocaine into Europe but also having started a cocaine laboratory of their own. Another, perhaps still hesitant, development is the participation of Turkish heroin traffickers in the domestic cocaine trade as well as in the European consumer countries. Apparently they do not cling to a 'monotrade'.

Cannabis products may be considered the popular beer of the narcotics industry. But the problem with drugs in general and with cannabis products in particular is that they are often derivatives from plants which can grow everywhere. They are just weeds, labelled by legislation and law enforcement as 'ill weeds', and the irony is that they will always grow! Everybody can grow cannabis plants, a fact which became the very undoing of another ill-designed and badly executed American example of its 'war on drugs' in Latin and South America. In the eighties the US government realized that they could not win the war on crime at home nor reduce the demand for drugs, the imagined source of all evil. Thus they exported their 'problem-solving' to cannabis growing countries, or rather, to the poor

12 Yearly report of the Dutch Criminal Intelligence Bureau (CRI, 1991).
countries that could not resist US political and financial pressure (Perkins and Gilbert, 1987). The 'philosophy' was simple: deter US consumers from smoking marijuana by increasing the price through shortage in supply. Such shortage would result from the destruction of the crop in producing countries by means of pesticides (e.g. the dangerous paraquat, spike and other pesticides forbidden in the USA) and stronger surveillance of the ports.

Given the continued rather than diminishing demand in the USA the results were shattering indeed. Colombia, whose main export was marijuana was so successful in its destruction programme that the impoverished farmers moved to less accessible areas and started to raise a more profitable crop: coca which is less affected by pesticides. Mexico, which suffered an economic collapse because of falling oil prices and earthquakes took over Colombia's place and in addition started to grow poppies. The success of the eradication campaign in Belize resulted in Guatemala taking its place while Belize found a new income by becoming a transit port for cocaine. The price increase in the US led to what every economist would have predicted: the prospects of higher prices stimulated the farmers in Latin America and in the USA itself to extend the area under cultivation. However, in the USA no crop eradication by means of paraquat was ever contemplated! The new technology of indoor growing soon found its way to Canada and Europe (Perkins and Gilbert, 1987), in particular the Netherlands where a stronger brand was developed (a higher degree of THC): Nederwiet. This product may well compete with the imported cannabis products. There is even concern that Nederwiet will eventually be exported.

Despite this Dutch domestic production, which may well spread to other countries, Morocco is for Western Europe still the most important source country: its share is estimated at a minimum of 30 percent (direct importation) which Interpol considers to be an underestimation as the origin of many seizures is not known. Many shipments seized in the UK or Scandinavia are re-exports of Moroccan cannabis but are not registered as such. The second source of cannabis is the Golden Crescent. Though the seizures are less frequent, the amount per seizure is much larger: shipments of more than 10,000 tons are no exception.

Cannabis products are still the most popular drugs in Europe. This does not only apply to Western Europe but to the CIS as well (Lee, 1992). If the statistics of the seizures are considered a measure of the demand (which is a contestable assumption) the data of the last ten years show no sign of any demand reduction. Such a huge unregulated market will always attract newcomers eager for a share of the expected profits. The latest reports of Interpol mention attempts of
Algerians, of whom little has been heard in this market so far, to penetrate Czechia.

At present the synthetic drug market shows a most remarkable 'boom' as well as interesting changes. This is mainly attributable to new forms of stimulants, particularly the MDMA tablets, or the XTC pills. The demand for this drug has strongly increased in the last four years. The market for this commodity is still in a state of rapid and unpredictable flux which makes any generalization premature. One can only describe the present state of affairs. According to the Dutch Criminal Intelligence Bureau, the Netherlands appear to have become the most important European producer of XTC, exporting to the United Kingdom and Belgium, where it is sold in so-called 'megadiscos'. Along with the MDMA the traditional amphetamine turnover has also expanded though there are no signs of a comparable explosive expansion.

This new commodity shows the dynamics of a hectic growth market with experienced drug entrepreneurs and eager newcomers who are attracted by the rumours of huge profits. In the Netherlands the proceeds of one crime enterprise appear to have been at least DFL 100,000,000 in less than one year, from selling the XTC pills to the UK where the market appears unsatiable. That enterprise also revealed the cross-border ramifications of the trade. The precursors were largely imported from Italy, diverted to Belgium, exported on paper to Africa but smuggled into the Netherlands where they were converted into XTC tablets. As stated earlier the new market attracts new entrepreneurs, not the least in Poland, Latvia, Czechia and Hungary where the precursor chemicals are freely available and where chemical factories with an overcapacity have an interest in earning hard currency. The Bundeskriminalamt reported that in December 1992 3,000 kilos of MDMA, produced in Latvia, had been intercepted near the Dutch border destined for the Netherlands. The Scandinavian countries have traditionally imported amphetamine from the Netherlands. Since 1990, drug officers have reported a change in supply as Poland moves rapidly into this market pushing the more expensive Dutch traffickers out. Trade is trade.

The drug market is an open, irregular and flexible market. The developments in that market do not appear to be primarily determined by the unification of the member states of the EC but by market demand and the expected profits (Van Duyne, 1993). It is comparable with any other open irregular market, as a former Commissioner of

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13 Yearly report Dutch Criminal Intelligence Bureau, Section Narcotics, 1991.
New York remarked: 'Organization in the drug business is largely spontaneous, with anybody free to enter it at any level if he has the money, the supplier and the ability to escape arrest or robbery' (Block and Chambliss, 1981, p. 57). What does that imply for law enforcement in the EC? Do we face Mafia-modelled organized crime or even the Mafia itself taking over the illicit drug market? Or is it more likely that the drug market will be supplied by a host of small criminal enterprises on various levels of organizational complexity? Any future is difficult to predict, but the present day market landscape may lead to two parallel developments.

In the first place, most market extensions, like the MDMA market, are characterized by a rapid influx of small and medium-sized enterprises trying their luck by meeting the market demand. The potential of such a market to attract is not local or national in its effects. The data of the national drug bureaus of Germany, the Netherlands and Interpol indicate an increase in multi-national participation. Given the general attraction of the rich countries of the EC for immigrants and political or economic refugees this should not be surprising. In addition many immigrants come from producing countries where they still have their relatives.

A second, parallel, development is the emergence of a wholesale drug trade, particularly specialized in importation and transit, as is the case with the Dutch wholesale marijuana traffickers. Though wholesale trafficking organizations are certainly not considered as 'open' cooperatives, they are in constant need of cross-border assistance and cooperation. There is always a fluid and flexible network of connections. Over a longer time span these networks may develop into well established trading communities, as indicated in Van Duyne (1993b). Such criminal trading communities develop along economic trading lines which may be considered economic crime regions: connected regions of crime trade which are characterized by a stable personnel and economic cohesion. In Europe as a rule such crime regions encompass several countries for which reason I have coined them 'Euro-crime regions'. It emphasizes that it is somewhat provincial nowadays to speak of 'the organized crime problem' in one country alone. This also applies to organized business crime which is described in the next section.

**Organized business crime**

The European Community is still an economic unity despite pretensions of becoming a political and social unity as well. If market developments in the area of illicit drugs are to a large extent autonomous, the market of legal goods and services and its fraudulent
criminal derivatives, is evidently directly influenced by developments in the European market. To what extent is this legitimate market affected by business crime enterprises? A quantitative answer to this question is mere estimation: all 'calculations' of business crime (which is necessarily confused with parts of the underground economy) have tremendous ranges of uncertainty (Boeschoten and Fase, 1984). From the macroeconomic point of view it is virtually impossible to differentiate between 'normal' fraud by otherwise legitimate enterprises and enterprises set up to defraud other companies, the inland revenue or the EC. Let us therefore look at economic areas which may be vulnerable to organized business crime enterprises, but before doing so we have to look at the conditions which may further the development and continuity of organized business crime enterprises.

The first condition goes without saying: there must be a stable demand which allows the crime enterprise to develop its market place and personnel network. But how to achieve this aim? To understand the tactics of the crime entrepreneur one must keep in mind that most commercial markets allow only marginal profits for the market participants. With open competition, high profits attract new entrepreneurs to enter the market with the consequence of rapid profit marginalization. This makes entrepreneurs, fighting for survival, liable to cutthroat competition and open to 'sharply priced' offers, creating a fertile soil for criminals to establish their 'trading posts'.

A second condition is a low complaint rate, either to the (fiscal) police or to the Department of Trade and Industry. When the 'marginal' section of a particular branch of the legitimate industry is venal and profiting from the crime entrepreneurs, as described in Van Duyne (1991 and 1993a) there are too few complaints to the police to unravel the complex crime enterprises (and their methods). One may well assume an interaction between low complaint rate and law enforcement inaction: most police forces shy away from complicated 'white collar crime' which is not felt to be 'really criminal' (Levi, 1985; Van Duyne, 1988).

A third condition furthering the penetration of crime enterprises in branches of legitimate industry is insufficient control, either by the branch itself or the authorities which may sometimes even profit from the crime entrepreneurs themselves.15 The reasons for this lack of control are too complex to enumerate exhaustively: for example markets with many medium-sized enterprises operating on a mainly

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15 This has certainly been the case with the labour racketeering in the Netherlands and Germany in the eighties and with the toxic waste scandals in Belgium and the Netherlands (Van Duyne, 1990 and 1993a).
cash basis are always difficult to control. This can be aggravated by the cross-border structure of the flow of commodities and money.\textsuperscript{16}

Let us with this general knowledge in mind look at some legitimate market segments which may be attractive for organized business crime. In order to create some order in the many forms of organized business crime I suggest the following general distinctions between crime markets, already described elsewhere (Van Duyne, 1993a).

- The \textit{price wedge market}: goods and services have their cost price. Regulations and taxes create a kind of ‘wedge’ between the cost price and the delivery price. Business crime entrepreneurs succeed in what every legitimate entrepreneur may be willing to do: as a way of doing business they systematically take a slice of that price wedge. Without such lifting of regulations they have no viability. Therefore I also coined them ‘regulation lifters’.

- The \textit{greed market}: this is in essence the area of the old time con man, modernized and operating internationally on a large scale. They lure people by offering far higher profits for their investments than can be realized anywhere. Or they have nothing to offer but fantasies (Levi, 1981) and dreams: as such they are what I coined ‘dreamgold traders’.

The examples below do not mean that I want to criminalize these branches of commerce exclusively or that other markets should be ‘clean’. But I have identified these markets during my research on organized crime in the Netherlands (Van Duyne, 1990 and 1993b).

\textit{VAT and excise} regulations have proved to be very attractive to criminals as well as to fraudulent ‘legitimate’ entrepreneurs. However, as far as has been documented, crime entrepreneurs have not penetrated all the branches of the legitimate industry by defrauding the VAT and excise. The branches which in the last ten years have proven to be very permeable indeed are the \textit{consumer electronics} market and the \textit{mineral oil} market. In the consumer electronics market there is evidence of large-scale abuse namely by defrauding the VAT system. This was particularly the case in the Benelux where the system of ‘open borders’ existed long before the other nine EC member states agreed to the system now in force. The technique is basically simple: you pay VAT in the country of consumption which means that an exporting firm can reclaim the VAT

\textsuperscript{16} Levi (1981) points at a more socio-psychological reason: entrepreneurs do not like to be controlled. The necessity of control always applies to \textit{others}. If you strive to ‘clean up the branch’ you have to intensify controls which will extend to \textit{every} member of the branch. Without projecting organized crime penetration into every corner of the legitimate industry, it is understandable that most entrepreneurs prefer a bit of criminal disorder in their branch of commerce to tax inspectors meticulously combing through everybody’s paper work.
it has previously paid. For crime entrepreneurs who either knew the market or had already developed a great expertise in smuggling, this proved to be an open invitation for organized criminal abuse. Starting in the early eighties they established extensive networks which finally went beyond the Benelux itself.

In the last decade the consumer electronics market for TVs, stereo sets, radios, cassette decks, household equipment and similar articles for which there has been much demand, has been a prime target area for crime entrepreneurs in the Netherlands, Belgium and Luxembourg. Professional VAT fraud cannot be committed without a proper organization and suitable access to the legitimate upperworld: one cannot run a scam by reclaiming VAT only and get away with it. The Inland Revenue Service must be deluded by some form of real business and the payment of some VAT. This all implies a legitimate front to buy from manufacturers\textsuperscript{17} and access to the retail market to sell the products without attracting unwelcome attention. In addition one needs front companies or cooperating crime entrepreneurs in the other states in order to create an opaque pattern of importation and exportation to fool the tax man. The shifty networks of the early eighties suited this purpose very well. Many lower ranking criminals had useful experience as marijuana smugglers and could handle cross-border exports. Others had experience with labour racketeering and had more than a basic knowledge of how to create smoke screens with false invoices spread over numerous front companies. It was not long before these networks professionalized and expanded into Germany and France. More important was the stabilization of the ‘cores’ of these networks: the principal organizers and useful aides in the Benelux who developed into a ‘trading crime community’. I emphasize that one cannot speak of a ‘VAT mafia’. The leading organizers did not form a strict hierarchy but they formed the ‘axes’ of the fraud business while the lower ranking aides turned around them, though some of them had smaller crime enterprises of their own.

From the mid eighties a similar development has taken place in the mineral oil market. However, the development of the ‘trading community’ took a more serious turn with the involvement of American organized criminals. The remarkable story of this crime enterprise is as follows.

The principal organizer can be described as a talented fraudster who, according to some ‘sources’, started as a labour racketeer for

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\textsuperscript{17} Some manufacturers who got information from their own distributors and dealers that electronic articles were sold below production prices, put the suspected ‘competitors’ on the ‘black list’ and refused to sell them their articles anymore. The fraudsters soon created new front companies headed by straw men.
which he was never prosecuted. Next he became managing director of a waste disposal plant which, in the early eighties, resulted in one of the biggest toxic waste scandals in the Netherlands and Belgium. After having served a prison term he discovered the profitable mineral oil industry. He soon found ways to deliver mineral oil to so-called 'white gas stations' at most competitive prices evading VAT as well as excise. When the fraud was discovered he changed to other methods. One was most reprehensible: mixing diesel oil with fluid toxic waste, paying cash for the waste he obtained and diluting the petrol he sold. Of course this fraud could only be operated short-term as the damage to the vehicles using this polluted fuel could not be concealed. Other methods employed were fictitious exports to reclaim the VAT, decolorizing high-taxed gas into low-taxed household fuel and simple hijacking of trucks. More interesting than these commonly used techniques is the socio-economic structure of this fraud syndicate. The entrepreneur soon had a large pool of accomplices lower in the crime hierarchy: Belgians, Dutchmen, hardened criminals, as well as captains of oil tankers were engaged and guaranteed the internal continuity of the enterprise despite the regular changes owing to arrests. Of equal importance was his stable access to the upperworld economy: captains of industry who could tell the police they did not know of any offence but only obtained oil at 'interestingly competitive prices'. Re-interpretation of the police evidence allows for the plausible theory that these legitimate entrepreneurs were at least co-organizers of the various fraud schemes. Signs indicated that 'higher interests' were at stake: investigative reporters were warned about the unhealthy consequences of their curiosity and witnesses were pressed into silence. The profits were used to extend their share of the 'white gas' market in Belgium as well as in the Netherlands. The organization extended into West Germany and Northern France.

Comparable organized fraud schemes have been carried out in the USA by an organized crime family involving high-level corruption and the manipulation of re-election funds (Block, 1993). This crime family managed to muscle into the Dutch-Belgium crime enterprise in

18 These are stations in which petrol is sold without a brand name: 'white'. In the Netherlands these gas stations are called 'white pumps'.
19 This pollution was technically not a felony, however. In Belgium the head of the crime enterprise was prosecuted for other environmental crimes, but never spent more than 30 days in prison. For the relation between organized crime and the toxic waste industry see Scarpiti and Block, 1987.
20 Involved in this oil tax fraud was ('Sonny') Franzese of the New York Colombo Family (Abadinsky, 1991) who told his accomplice (whose son had been kidnapped by the organization) 'to do the right thing' and flee the country to
such a way that one may get doubts about the resulting ‘independence’ of the Dutch organizer. After six months of preparation (1989/1990) in which the crime family explicitly referred to the ‘Europe 1992’ opportunities, Italian lawyers were hired who had the task of establishing front firms in Belgium, Northern France and finally in Northern Germany as well following the pattern of the Dutch entrepreneur. After these preparations the VAT/excise carousel started with a conservatively estimated yield of more than DFL 100,000,000 in less than a year. As they sold only for cash, a money-laundering scheme had to be worked out. They contacted a leading Swiss banker, who apparently felt morally satisfied by a written statement declaring that the money deposited for investment was not drug money. The money was brought to a hotel in Basel in bags which were picked up without the money being counted and without receipts being given. Sometimes they were not even opened. Part of the money which was laundered has been invested in real estate in Northern France and Southern Belgium. The rest of the money disappeared probably through a labyrinth of accounts in Liechtenstein, Austria and possibly a link to Poland.

Another example which revealed the development of a kind of ‘cooperative of regulation lifters’ in a Euro-crime region concerned the meat market. As is well known some of the crime opportunities have been created by the complex EC regulations which are meant to protect the legitimate entrepreneurs in the member states against competitive world prices. As this creates a ‘price wedge’ between the cost price and the delivery price, abusing the EC regulations is a

avoid trial. The latter, whose name is not mentioned here, disappeared for a while, was brought back to the US and as an informer entered a federal witness protection programme. Despite that programme he returned to the crime scene 1988/1989 to resume his oil trade with the members of the Crime Family (Midweek, March 1986; Vanity Fair, February 1991).

21 All over Europe Customs and the Inland Revenue Services are developing computerized systems in order to prevent the development of organized VAT fraud within the destination country system: VAT due in the country where the buyer is registered.

22 This hypocrisy did not differ much from what has been the target of Ziegler's sarcastic attack on the moral attitude of the Swiss banking community in his book La Suisse lave plus blanc.

23 The arrested son of the crime entrepreneur was, after 30 days, hurried back to the US where the apparently embarrassed federal officers stonewalled every request for information. This silence (also towards the State of New York law enforcement agencies) and personal communications with professor Block about the way the case has been handled raises serious doubts about the procedural and political 'purity' of this example of 'war against crime'. All criminal figures involved are still at large in the US apparently not bothered by US's law enforcement vigilance.
tempting option for individual and organized business criminals alike. This is not shocking news. However, the developments in Central and Eastern Europe, especially the liberalization of the trade in Poland, Czechia and Hungary have created opportunities for large-scale cross-border business crime enterprises, some of which seem to have developed into trading communities. Particularly interesting was the 'transit fraud' with Polish cows. Though the modus operandi of the trade has been uncovered, the pattern of the relations between the crime entrepreneurs remains unclarified. The technique is simple: Polish cattle are imported on paper for export to North Africa, so they travel through the EC territory as 'transit goods'. However, in Germany the animals are falsely transformed into German cattle thereby avoiding the EC import duties. On paper the cattle are still to be exported from a Spanish port to North Africa. The documents which apparently prove the export have been stamped by (a) corrupt official(s), and in reality the cattle reach their destination on the dishes of EC citizens in the Netherlands, Belgium, France and Northern Spain. At first sight the entrepreneurs seem to operate independently in loose networks, but 'common axes' or coordination points seem to exist. The following factors concern the organizations: well-protected access to the corrupt officials who rubber-stamp the export forms; pre-arranged points for selling the cows; the points of entry into the EC and the facility in East Germany to transform Polish cows into EC ones. The transportation branch consisted partly of new independent small entrepreneurs who had learned the craft as paid drivers of the transport companies which were already involved. These new independents were financed by the principal 'stringpullers'.

I cannot discuss other price wedge markets here: the fraudulent imports of 'third country' textile (Koch, 1988); the regular reappearance of labour racketeering24 or the so-called 'brand piracy'. As a matter of fact, little research appears to have been carried out in these fields. However, investigative journalistic publications reveal a very active and lucrative market with only a minimum of law enforcement activity, let alone public awareness which is in itself important for pushing reluctant law enforcement agencies into action (Brants and Brants, 1991).

The greed market is of course as old as human greed itself; market relations and income inequalities have come together. The early capitalism with new popular opportunities (or dreams) to get rich

24 In Belgium, the Netherlands and Germany this form of organized crime concerns the forbidden hiring out of labour with the intention of avoiding the employer's social security and medical insurance contributions (Van Duyne, 1983; Peters, 1990, ch. 2).
quickly by speculative investments in the seventeenth and eighteenth century was fertile soil for 'greed market operators', as with the Dutch 'wind trade' (speculation in tulip bulbs) and the well-known 'South Sea bubble' in England in the early eighteenth century. Though modern man is no less greedy, modern means of communications have broadened the geographical scope of the operations of professional investment fraudsters. And the illegal gains involved have also increased.

The most popular *modus operandi* of these fraudsters has been described in Francis (1988), Van Duyne et al. (1990) and Peters (1990). It consists basically of aggressive telephonic salesmanship: creating trust, selling some stock (with real value) followed by selling stock with little or no value, creating computer output on which the speculative gains of the clients are suggested, and then tumbling down as soon as the client wants to sell and cash in these hypothetical profits. This seems simple, but from the organizational point-of view one has to be more than just a con man if one wants to make big money. One has to create a real organization with division of labour: one must have specialists who initiate a relationship, others who continue and expand it and sometimes an additional crew who 'do the killing', pretending to have no knowledge of their colleagues. The office must be professional-looking, if not luxurious, while other organizational aspects concern accountancy (including money-laundering), the creation of (temporary) relations with the 'legitimate upperworld' such as the tax authorities or the stock market. Finally the staff must be able to work literally 'cross-border', as the golden rule of the organization is: 'do not make victims in the jurisdiction in which you work'. Therefore one organization working from Amsterdam had crews for the Far East, Middle East, Europe (not including the Netherlands) and the American continent.

When we look at the crime enterprises which have been able to operate in this market with more than a moderate success - which means profits of millions of dollars - we witness a phenomenon which is comparable to that previously described: the development of dynamic cross-border trading networks and even communities in which the principal organizers reappeared (after disclosure) in varying combinations having at their disposal a pool of experienced salesmen. The leading organizers were usually Canadians who appeared to have a long-standing tradition in this field (Francis, 1988). After having exploited the American and European stock market with valueless 'penny stocks' they reappeared in Amsterdam in 1990 selling emeralds and other precious stones to citizens in the Scandinavian countries, Ireland and the United Kingdom. Certificates describing the technical properties had been fabricated by an 'independent'
laboratory in New York. The precious stones (if delivered) were real, though their value was much lower. The certificate lost its value if the sealed package had been opened by the curious buyer to check the real value of his 'treasure'!

According to Peters (1990) similar groups operated from Germany. Moreover Germany has become a refuge for Dutch dubious commodity brokers who have been denied a licence by the Dutch authorities. They have continued their telephone sales operations in the Netherlands all the same, but with their office just over the border they are untouchable now.

The description in this section does not provide a full survey of all the dynamics of organized business crime in Europe. The reader may well miss a description of organized toxic waste trafficking. According to popular opinion there probably is a 'toxic waste mafia' (Verschuuren en Willems, 1991). Unfortunately, research in this area is still limited to a few journalistic investigative studies and a number of (Dutch) cases of large scale trafficking of toxic waste from the Netherlands to Belgium and Northern France. Another Belgian case concerned the trafficking of nuclear wastage to Germany involving 'captains of industry'. I am still uncertain whether all cases should be categorized as organized business crime. However, contrary to the theory of 'organizational crime' as described by Van de Bunt (1992) the crimes committed were not due to some form of social 'unresponsiveness', 'lack of awareness' or 'moral absentmindedness'. They were committed purposefully to gain or save money and they were unfeasible without the tacit condoning by the upperworld, including town and provincial councils. The picture is more in accordance with symbiotic crime enterprises and criminal corporations as described by Passas and Nelken (1993): the initiating crime enterprise in the centre and benefitting and facilitating legitimate corporations at the periphery. But where is the borderline?

Epilogue

As I stated in the introduction, it is difficult to write 'contemporary history' on organized crime in a time of rapid socio-demographic and economic change. The risks of becoming victimized by various forms of cross-border organized crime in Europe are certainly not decreasing (Van Duyne, 1993b). However, I certainly do not want to join the popular chorus of panic-stricken moralists singing the refrain of 'the Mafia on the march' or 'the take-over of organized crime'. The Mafia is not on the march but follows the changing trail of demographic and economic opportunities which is reason enough for serious concern.
The reports of the French Assemblée Nationale (1990 and 1993) on possible penetration of the Mafia in France and of the adventures of the (possibly) Mafia-linked couple of Parretti and Fiorini both reveal the geographical limitations (of the Mafia in France) as well as the global financial impact of the overflow of the profits of Italian organized crime.

Expressing my doubts about a pending 'take-over by the Mafia' or not fearing its 'long reach' (as formulated by Sterling, 1990) should not be taken as signs that there is nothing to worry about. There is indeed much to worry about. My first worry is that little attention is being paid to the relation between the density of the demographic changes and crime potential: the dim future of most of these luck-hungry refugees, socially dead-end situations on the one hand, and the huge human reservoir of discontent and criminal opportunities on the other hand. Take a look at the decayed 'minority quarters' of Paris, Brussels, London, Liverpool or other big cities in Europe. Instead of being alarmed at the present crime rate one should rather raise the question why there is not more crime. Is this situation similar to the second half of the nineteenth century in the United States? I think only partly. The new poor immigrants in the US entered a country with a violent and corrupt law enforcement system and a political system in which urban organized crime had already firmly established itself (Abadinsky, 1991; Peterson, 1983; Schoenberg, 1992). The Irish, Jewish and Italian immigrants took advantage of the existing situation and contributed to its further development. Based on the available literature organized crime in Europe has only been discovered during the last decade, with the exception of Italy of course (Fijnaut, 1990). This does not imply that organized crime did not exist before. But generally organized crime was (and mainly still is) a matter of networks of separate crime enterprises some of which, under favourable circumstances, have grown into 'trading communities'. Given this situation one should not dismiss the possibility of a fusion of these crime networks with the reservoir of immigrant human potential eking out a scanty living in our still affluent society. The latter need money, the crime entrepreneurs need aides for the courier tasks and straw men.

Another worry concerns the still very nationalistic, 'parochial' attitude and approach to organized crime. As stated before, this does no justice to a phenomenon which concerns cross-border trade, albeit a criminal one. However, if one wants to learn the patterns of this cross-border trade and the way the crime enterprises cooperate across

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25 See Pearson's study of the Kray twins' crime enterprise in London in the sixties which comes very close to American style crime syndicates (Pearson, 1982).
the European borders one will very soon find out that even simple questions cannot be answered. Like: how many wholesale (intercepted) importations of cannabis into Britain or France can be attributed to certain nationalities? Given this lack of knowledge one soon stops asking questions which may go slightly deeper, like the nature of the cross-border cooperation between enterprises. In individual cases CID detectives are of course better informed but at a higher level the information is not aggregated and analyzed from a cross-border, European point of view.²⁶

Finally I would like to express my doubts as to whether politicians and policy makers really do take the actual situation seriously. ‘Organized crime’ is a nice issue for political rhetoric, certainly at election times, but do politicians actually want to learn what the situation is really like? Despite an unabating stream of high sounding initiatives at intergovernmental level concerning drug-trafficking and other forms of cross-border crime,²⁷ we still have more policy papers and feasibility studies than empirically based research papers.²⁸ To what extent is independent research in this area stimulated and are funds made available to increase our knowledge? If one would use the presently available funds as a ‘yardstick of priority’ one must come to the conclusion that the development of knowledge scores very low indeed. Only a pitifully small number of research projects are funded. Is it only a matter of lack of funds in times of recession? Or lack of real interest?²⁹ Do policy makers really care to develop a cross-border crime policy based on a systematic accumulation of empirical knowledge?

In order to cope with the rapid changes in Europe such an accumulation of knowledge is essential. It does not provide the

²⁶ It seems to me that the analyses of the Bundeskriminalamt, the CRI and Interpol, section Europe are more systematic and analytically more elaborated. However, for the ‘outer-world’ data protection (Datenschutz) has made the ‘insights’ of the BKA useless ‘assets’ as they cannot share this information.

²⁷ After much squabbling we finally have only a European Drug Unit on paper in an otherwise non-functional Europol on which there is still no agreement. Everything being tentative, Europol consists of some prefabricated offices on a meadow surrounded by a fence. The country of residency is for the policy makers far more important than any flow of information, let alone something ethereal like ‘knowledge’.


²⁹ However, there are signs of an increasing interest by the European Parliament on cross-border crime problems (Van Outrive, 1992). His paper shows the lack of democratic information and the chaos under the cloak of a host of abbreviations (see also Schutte, 1992).
operational ‘recipes’ to catch any particular criminal. It provides the necessary accessible overview of crime trends and developments which affect all inhabitants in a turbulent Europe.

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Mafia money-laundering versus Italian legislation

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Criminals and criminal organizations have always had problems in separating the proceeds of crime from their illegal or criminal sources. Combating money-laundering and confiscating the assets produced by crime are, on the contrary, new strategies which many countries believe are useful in fighting organized crime. In implementing these strategies, governments have realized that it is impossible to effectively control the money-laundering processes without the close international cooperation of governments, banks and other financial institutions, police and prosecutors. This common conviction led, in the second half of the eighties, to the creation of many international instruments aimed specifically at dealing with money-laundering problems. One of the first instruments was the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and was followed by many others.

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2 The money-laundering problem comes to the attention of many countries for its relationship with the drug-trafficking problem. In Italy, especially in Sardinia, kidnapping for ransom was a profit-oriented activity frequently used by gangs of Sardinian shepherds during the 1960s and 1970s (Unsri, 1984). In 1974 a primitive way of following the money trail was established by the Italian Central Bank and the police. They had previously registered the serial numbers of the notes given as ransom in order to follow the money trail. This was occasionally succesful in tracing and identifying criminals involved in kidnappings.

3 As was recently pointed out by the reports of the governments at The Money Laundering Conference in Strasbourg on September 28-30, 1992.

4 The list is a long one. Following the 1988 Vienna Convention many other significant international initiatives have been established in the area of money-laundering. These, in chronological order are: the Statement of the Principles on the Prevention of Criminal Use of the Banking System for the Purpose of Money Laundering issued in December 1988 by the Basle Committee on Banking Regulations and Supervisory Practices; the 40 recommendations of the Financial Action Task Force in February 1990; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, of November 1990; the Directive of the Council of the European Communities of June 1991 on Prevention of the Use of the Financial System for the Purpose of Money Laundering which follows the Recommendation no. R (80) 10 of June
These instruments encourage countries to criminalize money-laundering and to provide legal instruments for the confiscation of the assets coming from criminal activities. They also provide guidelines for the consistent enforcement of banking regulations and other financial activities across borders. Behind these initiatives is the awareness that organized crime groups are moving faster towards the internationalization of their activities and that countries should provide domestic instruments and cooperate with one another in order to discourage criminal activities (Secretary-General of the UN, 1993).

To make these interventions more effective, decision-makers need to understand the factors influencing the way in which criminal organizations launder their money. Furthermore, they need to comprehend the impact of regulatory and criminal legislation on money-laundering on the behaviour of these organizations. Some of the questions that require a response are the following.

- How international is the structure of the organized groups in circulation today? What kind of money-laundering activities do they adopt, and in what direction are they developing?
- Does any relationship exist between changes in the money-laundering activities practised by organized crime groups and changes in the legislation against money-laundering?
- Can strategies against money-laundering and for the confiscation of the assets affect the structure and future of organized crime groups?

This article aims to address these questions outlining a descriptive framework of the money-laundering market and analyzing through it, the case of the Mafia in Italy. The Mafia is one of the world’s longest established and best-known criminal organizations, and will probably experience many changes in the near future. Focusing on its activities and on the related money-laundering schemes, this article suggests some interpretations of recent developments within the Mafia and of its response to legislation and law enforcement activities. After examining the legal measures taken by the Italian state to combat the money-laundering activities of Italian organized crime, a general hypothesis is suggested in the conclusion.

This article assumes that the interaction between criminal organizations and modern anti-money-laundering legislation will result in changes in the structure of criminal organizations. As a result of anti-Mafia legislation, there will be growing similarities in structure. Two main paths may develop: a more secretive structure or a diversified-decentralized one. Competition, on the one hand, and the

1980 on Measures against the Transfer and the Safekeeping of Funds of Criminal Origin; the Model Regulations prepared by a group of experts in March 1992 adopted by CICAD and presented to the Organisation of the American States.
risk of law enforcement, on the other, will favour those groups which have the organizational and informational skills to survive.

The money-laundering market

Both demand and supply can be distinguished in the process of laundering the criminal money. They are related to many factors which influence the structure of the money-laundering market. The descriptive framework which is outlined here can help address the Italian case. The process of money-laundering can be divided into three phases which can be described as (Fincen, 1990):

— placement: the physical disposal of the bulk cash profits that are the result of criminal activity.
— layering: the piling on of layers of complex financial transactions (e.g. wire transfer) to separate the proceeds from their illicit sources.
— integration: the provision of legitimate-looking explanations for the appearance of wealth by providing investments in the legitimate economy.

The concept of money-laundering encompasses these three phases. They can either be discrete (only placement, only layering, only integration) or remain in a continuum from the disposal of dirty currency through its investment in a legitimate activity. This demand of money-laundering could be related to four main factors:

— the liquidity of the criminal organization coming from illegal activities;
— the desire to infiltrate legitimate activities as a part of the continuum process which characterizes the action of organized criminal groups either in the illegal markets or in legitimate businesses (Smith, 1980);
— the need to avoid the 'law enforcement risk' such as the interception of the criminal organization and the arrest of its members through the money trail;
— the need to avoid the seizure and confiscation of the assets and proceeds of crime.

The first two factors are related to the structure, activities, income and duration of the organization; the third and the fourth directly relate the demand of money-laundering to legislative and investigative activities aimed at the 'money trail' (Colombo, 1990, p. 25). Developments in money-laundering methods correspond to the capabilities of the organization on the one hand, and to the reactions of law enforcement on the other. Increased sophistication in the law enforcement and prosecutorial control methods tends to be matched by
increased sophistication in money-laundering activities. This means that the more professional the financial investigative and prosecutorial activity becomes, the more the criminal organization tends to avoid the risk of being intercepted through the money and the risk of losing the money produced through the criminal activity.

Supply of money-laundering services is demand-oriented. The choice of the optimal method depends on the opportunities offered, the ability of the criminal group members and affiliates, the advice and counsel of experts, and the complicity of bank and financial operators. In Mafia money-laundering operations, one of the services to be bought and sold, alongside expertise, is trust (Gambetta, 1988a and 1988b). This has a high value and often the people who offer this asset present the weak link of the chain, and are a frequent target of financial investigations.

The combination of supply and demand produces the selection of the laundering method preferred. Its dimension is important. It could be local, national or international and depends on the social culture, the extension of the activities, and the opportunities. Colombian cartels, more than other criminal groups, have operated at the international level and with the advice of experts because of the international structure of their operations which are mainly concentrated in cocaine-trafficking outside Colombia. The international dimension helps to minimize the law enforcement risk and, in some cases, to maximize the returns.

Another important issue is the cycle. Some money-laundering activities stop at the placement and layering phases, while others proceed and are integrated into the legitimate economy. During those years when bank cash transactions were not controlled, investments in real estate were favoured as a means for laundering money. The same occurs in cash-societies, as in the case of many Eastern European countries which provide the direct opportunity to launder dirty money through investments in real estate.

Money-laundering methods can be simple or complex depending on the dimension of the operation, the number of phases, the amount of paper work needed and the instrument/organization utilized (Chaikin, 1992, pp. 263-276). Smuggling currency is a simple method, whereas the creation and use of a front or shell company is more complex. Both are frequently used together with other methods such as: smurfing and structuring, tax havens or financial havens, loan back methods, cash business, gambling and casinos, underground banking systems, use of false or inflated invoices, currency exchanges.

5 In Italy, the control of bank transactions to avoid money-laundering is regulated by law no. 197 of July 1991.
brokerage houses and non-transferable currency (Möbius, 1992).

It is questionable whether money-laundering is evolving from simple to complex schemes. Furthermore, this evolution is related to the internal development of the criminal organization. This can only be traced by studying the development of the organization. In fact, it is known that both simple and more complex methods are still being used today.

In general terms, it is possible to outline a typology of money-laundering activities which takes into consideration different sets of variables such as:

- the degree of complexity of the organizational structure of the criminal organization, such as the creation of a specialized section within the organization dealing with money-laundering purposes, as in the case of the Colombian cartels (Post, 1991, p. 21);
- the type of criminal activities in the illegal markets and their infiltration into the legitimate industries, as well as the volume of the income produced;
- the opportunities provided by the collusive relationships between criminal organizations and administrative institutions (local administration), and among criminal organizations, banks and financial institutions.

This typology could be summarized as follows.

- **Hand wash.** When a criminal organization uses the money (generally a small amount) to buy goods and services for the organizations. This is the simplest method and is generally used by kidnappers in Italy.

- **‘Family’ washing-machine.** Each criminal organization or family launderers its money according to ‘family’ goals and collusion with banks or financial institutions. ‘Washing programs’ can consist of the short cycle, such as opening a deposit account in a bank in the name of a given person and depositing the money there (this system is used less frequently because of the new systems of controlling money). The long cycle which involves the prewash, wash, rinse and drying to describe the different passages from cleaning the money to its investment in legitimate activities.

- **‘Condominium’ washing-machine.** In this case several ‘families’, belonging to the same criminal syndicate, such as the Mafia, organize a laundering enterprise with the complicity of someone in a bank or financial institution.

- **Launderette.** In this case a criminal organization offers criminals and criminal syndicates a money-laundering service with different cycles: the short cycle for cleaning the money only, or the long cycle which includes all the activities from laundering to investment. Cases such as the black network of the Bank of Credit
and Commerce International (BCCI) are good examples of this type of activity.

The case of the Sicilian Mafia

The Sicilian Mafia provides an excellent case study in which to understand the process of money-laundering. As the oldest organized crime group in Italy, it has had to launder money for an extended period of time. The understanding of its internationalization processes helps to explain current trends in money-laundering activities (Rey and Savona, 1993).

The internationalization of most criminal organizations, including the Sicilian Mafia, follows the immigration flows. Migration has definitely been the most important channel for the development of most traditional internationalization processes of the Sicilian Mafia. Other tradition-based 'Mafias', such as the Chinese Triads, the Japanese Boryokudan (Yakuza is only one of the Boryokudan groups), the Vietnamese, the Cubans, and the Dominicans, have used the migration route to replenish their ranks in the United States, a favourable market for crime to flourish in (Savona, 1992). These 'Mafias' have permanently settled in the United States, Canada and Australia and have internationalized organized crime.

In the early 1960s, the Sicilian Mafia had already 'internationalized' its activity in the cigarette-smuggling market and applied the same policy to its drug business; in the early 1970s, it moved to the heroin trade, to exploit the new opportunities offered by the growing demand for heroin, which arose in the United States and then steadily spread to all the industrialized countries. These are the years in which the international drug market started to burgeon.

The Sicilian Mafia historically had a minimal involvement in the drug trade, but the time had come to attempt some form of internal reform. The rifts between the 'families' started to deepen and the Mafia wars fought in Sicily since the second half of the 1970s are a consequence of this internal restructuring of the Mafia organization. This process required a generational change, a new leadership, and new values if the Mafia were to be adequately equipped to compete against other illicit organizations operating in the international market. The re-organized structure, however, was to remain embedded in the 'hand-made' local 'culture', within the traditional boundaries of

6 The report (Questura di Roma, 1983) against Bono and others shows, in a very clear way, the transitional dimensions of Mafia drug-trafficking and money-laundering between the 1960s and late 1970s.
the land of the Sicilian Mafia gangs. Some of the Sicilian mobsters may have become entrepreneurs and businessmen, but their cultural horizons, their attitudes and information background have restricted their capacity to launder money. These elements are among some of the obstacles to the persistence of the Mafia in the international narcotics market. Negotiations and competition with the ‘Marseilles’ mobs, helped by damage inflicted by the United States and French governments on the French Connection (Moore, 1969) facilitated the establishment of refining plants in Sicily. A continuous cycle spanning from the purchase of raw material to its refinement and exportation of Southeast Asian heroin to the United States was created. ‘In 1982 the U.S. Attorney General W. French Smith of the time said that Sicily was the source of perhaps 80 percent of all heroin entering the northeastern U.S.’ (President’s Commission on Organised Crime, 1986, p. 57). In the early 1980s, the position of the Sicilian Mafia on the international narcotics market started to decline. This process was fuelled by a number of concurrent factors at the local level, like pressure of police investigations (location of refining plants) and enforcement and judicial action. At the international level, competition grew from more aggressive organizations, better equipped in this trade than the Sicilian Mafia, namely the Chinese gangs. Henceforth, heroin was to be directly purchased on the supply markets by ‘squads’ of mobsters, who were responsible for its introduction into Europe through the Balkan Route and to the United States.7

The cocaine trade is a more recent phenomenon. The Sicilian Mafia, the Camorra and the ‘Ndrangheta jointly tried to enter this highly profitable market in the mid-Eighties. The typical structure of this market (concentration of production in a specific area and a monopolistic market ruled by the Colombian cartels) prevented them from reproducing the temporary oligopoly they had been able to establish in the heroin business. They subsequently tried to obtain from the Colombian cartels exclusive import rights for Italy and, perhaps, as rumour goes, for the whole of Europe. On several occasions, such as in the case of ‘Big John’ related to the exportation of 600 kilos of cocaine from Medellin to Palermo (Direzione Centrale della Polizia Criminale, September and October 1991), the Mafia tried to acquire the monopoly of this market, challenging the Colombians by threatening to kill all their independent couriers.8

Many sources suggest that the Mafia received a negative answer to its demand. The number of Colombian cocaine couriers which

7 For a narrative description of the Sicilian Mafia and the heroin markets see Sterling, 1990.
8 Investigative source.
continue to pour into Italy\(^9\) is proof that the attempt to convince the Colombians of a Sicilian monopoly of the importation of cocaine domestically failed. Instead, it has been substituted by many different independent agreements between Mafia families and members of the Colombian cartels. Collusion at high-level trafficking, mainly in a dependent position as the Green Ice Operation shows, and competition at the low level of importation and distribution have been the two main features of the Mafia-cocaine nexus.

Looking more closely at the distribution side it has been traditionally believed that the Mafia and other Italian organized crime groups have monopolized the distribution of narcotics in Italy. This common belief, which may have been true in the past, is today controversial. Research results show a fragmented distribution market crowded by many operators acting as disorganized and inefficient criminals in many areas of the country (Becchi and Turvani, 1993, p. 126). Further confirmation that narcotics are losing importance in the Mafia's budget comes from recent data on narcotics in Italy. Such data show a strong decline for the first time after ten years. Comparing the first semester of 1993 with the first semester of 1992 there is a strong decrease in three main indicators: drug deaths (-56 percent), seizures of heroin and cocaine (-74 and -44 percent respectively) and drug arrests (-17 percent).\(^10\)

Close observation of the processes that characterized the Sicilian Mafia's entry, presence and loss of part of its importance on the international narcotics market, mainly the heroin one, compared to those adopted by other criminal organizations\(^11\), discloses the fact that the former has been unable to produce the changes that would have made it competitive on the international markets. Its local enterprise culture, rooted in its land of origin, and its coarse style of business management, reproduced itself in its 'cross-border, internationalization' mechanisms. Through the migration route expansion, numerous equally coarse and provincially minded groups were cloned. The 1980-1983 Pizza Connection case is quite emblematic: most of the United States operatives were members of the Sicilian Cosa Nostra, posted in the US to control the narcotics trade on behalf of

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\(^9\) The number of Colombians reported by the police involved in cocaine-trafficking in Italy is: 76 in 1990, 151 in 1991 and 112 in 1992.

\(^10\) These data were elaborated on June 14, 1993 and produced by the Servizio Centrale Antidroga of the Italian Ministry of the Interior.

\(^11\) Mr. Rich LeMagna, Deputy Chief, Heroin Desk of US Drug Enforcement Agency, in an evaluation of the threat posed by organized crime groups to the United States, declared that 'we see Sicilians as less of a threat and the other Asian groups and African groups as much more of an emerging threat' (Congressional Research Service Library of Congress, 1991, p. 14).
the 'family' to which they belonged (Sessions, 1988, pp. 407-410).

The need for 'loyalty' has been a vitally important factor. Only the members of one's family are trustworthy, they and they alone. When external experts are required, they are coaxed into entering the organization's hierarchical structure. This is exactly what the Mafia did in the sixties to develop its cigarette contraband business. It affiliated a group of expert cigarette smugglers for the purpose of controlling them more closely. It did the same with drug traffickers in the seventies and, perhaps, this is what it plans to do today for money-laundering such as in the Lottusi case (Direzione Centrale della Polizia Criminale, September 4, 1990).

Loyalty, however, has its benefits as well as its costs, one of which is to limit one's fields of business. In the international drug market, this means losing market shares to international competitors. It is perhaps because of the Mafia's inability to evolve, that in the last few years, there have been signs indicating that some sort of reconversion has taken place in all market sectors. It could be assumed that a 'tax crisis' of some nature has compelled the Mafia enterprise to turn back and to rely more on its older lines of business. In the last few years, there has been growing pressure through extortion, by means of which the Mafia has maintained local control, exerted through various forms of micro-criminal action. It has revived its cigarette contraband business and, most importantly, it has acquired more stringent control over public works contracts and public funding, a sector in which no progress can be made without political backing.

Italian ways of laundering the proceeds of crime

The total amount of money produced by Italian criminals has recently been estimated by the Italian Central Institute for Statistics at between approximately 27,000 and 30,000 billion lire per year (1990) (Rey, 1992), i.e. between approximately 21.5 and 24 billion dollars at that time. Considering the number of people involved, at least 50 percent of this amount can be attributed to organized crime, approximately 10-12 billion dollars. Considering also the incidence of Mafia groups, it is possible to estimate that the Sicilian Mafia's share amounts to between one third and a half of this amount, i.e. approximately 3.5-6 billion dollars per year. Data for 1991 and 1992 confirm this amount (Rey, 1993). These revenues require a diversity of money-laundering techniques. They are related to the opportunities offered and to the cultural skills and creativity of the participants.

Using investigative reports, law enforcement information and court records together with other public sources such as newspaper articles,
it has been possible to analyze how diverse laundering operations were carried out by the Sicilian Mafia at the international level. Some examples are described below.

- The movement of money, in cash, to countries that are not subject to financial controls and its deposit in current accounts therein. This was done for example by investment in real estate as a part of the Mafia enterprise ruled by Caruana and Cuntrera, two mafiosi who moved from the Sicilian village of Siculiana to Venezuela during the big Mafia exodus of 1963. They built a powerful centre for exporting narcotics and laundering the money mainly used for their 'family' needs (Il Sole 24 Ore, 1989).

- Use of current accounts belonging to non-suspect persons and/or shelter corporations for the purpose of moving money (Tribunale di Roma, 1984). A good example of the family washing-machine is an export-import firm named IDA owned by the Mafioso Michelangelo Aiello and used frequently for laundering money of the 'family' of Bagheria in the Pizza Connection case (Tribunale di Roma, 1986, pp. 22 and 101), and also for EC frauds.

- Purchase of bank drafts for amounts smaller than those subject to regulation (smurfing) used in many operations and in the first stages of the Pizza Connection case (US Court of Appeals for the Second Circuit, 1989).

- Investment in securities in the name of corporations (this is the case of one particular activity performed by the chartered accountant Fernando Savorana (Direzione Centrale della Polizia Criminale, reports of October 21, 1990 and April 18, 1991). This case also exemplifies the emerging role of an independent business consultant offering his money-laundering services to more than one criminal organization. A similar role was played by the business consultant Giuseppe Lottusi. He has been working for a long time as a consultant for the Medellin cartel and the Mafia in laundering the money such as in the Galatolo case (Direzione Centrale della Polizia Criminale, reports of September 4-27 and October 17, 1991).

- The purchase of jewels, preferably diamonds, which are later resold on the legal market. On occasion fake jewellery shops have been used as coverage for money-laundering operations, such as in the Polar Cup case.

- Counterfeit invoicing, for the apparent purpose of certifying transactions or services, but for the real purpose of justifying the movement of money to be laundered (Lottusi case). Examples include goods paid for but never exported (Aiello/IDA case) and the purchase of non-existent fruit juice from Sicily by a British partner and paid for by EC subsidies (Mafioso Francesco Di Carlo) (Il Corriere della Sera, 1990).
— Compensations paid into the accounts of clients of a bank located in one country and immediate availability of the laundered money in a bank located in the country at the receiving end (evolution of money-laundering in the Pizza Connection case and Lottusi cases).

— Simultaneous, continuous-cycle laundering and reinvestment systems. These are becoming more and more popular. In the Bahl case, for instance, the trafficker had planned to purchase roubles, illegally exported from the former USSR. He had 40 billion lire for the planned purchase of the Russian roubles at the black-market price of 80 to 90 lire each, while the official exchange rate was in the range of 2,500 lire per rouble. The plan was to take the money back to Moscow and deposit it in a bank account. The emission of gilt-edged certificates would then be requested against the bank deposit. The certificates, at this stage, would be cashed in an American or European bank. The operation was of course to be supported by officials, notaries and diplomats, who were to warrant that the roubles re-entering the USSR had been taken out of the country legally (Il Corriere della Sera, 1992).

The Green Ice Operation of September 1992 shows the recent developments of the international connections between the Colombian Cali cartel and the Mafia (Drug Enforcement Agency, 1992). This operation, which has involved other countries such as the United States, the United Kingdom, Spain and Costa Rica, shows an attempted agreement for the importation of cocaine in Europe by the Mafia and its role in laundering the money at the national and international levels. It appears, from this operation, that the Mafia was acting simultaneously as an importer of cocaine and as a money-laundering agency for Colombians using the legitimate activities into which the Mafia had infiltrated. The Italian authorities (as part of this operation), closed five companies through which illicit drug dollars were recycled as clean Italian lira. One of them was a small wine importer from the Sicilian village of Corleone connected with Toto' Riina, leader of the Mafia faction arrested in January 1993 (Pear, 1992, p. B3).

**Mafia money-laundering trends**

The money-laundering activities of the Mafia are becoming increasingly sophisticated. A sharp distinction can be drawn between the traditional money-laundering practices of the Mafia and those which are presently being undertaken, often with the assistance of special money-laundering firms.

Italian money-laundering has been rooted in the Sicilian culture.
Mafia mobsters have provided for their own money-laundering systems, and only called upon highly-trusted experts when the need arose. They avoided complicated investments which would incur the payment of commissions. Instead they sought to maximize returns on their investments, by choosing sound businesses over which they could exert direct control. Choices seem to have been determined by the final use of the money, by the opportunities offered by the operation, and by the background information and personal contacts available, rather than by a specific strategy. They preferred to acquire apartments, shops, import-export firms, restaurants and pizza houses. Their choice of investments reflects the European investment strategy of acquiring real estate\textsuperscript{12} or the immigrant tendency to acquire tangible businesses rather than the less tangible investments of stocks and bonds. The selection of these investments, whether in Italy or abroad, depends on the individuals entrusted to make the investments. When investing abroad, the latter are usually Mafia members who have emigrated to a foreign country and have a very good knowledge of the local investment regulations.

The Sicilian Mafia has not used the elaborate and complex forms of laundering employed by the Colombian cartels. But there has been a definite transformation in the level of sophistication of their investment strategies – a change from ‘do it yourself’ to ‘money laundering firms’ (Van Duyne, 1993, pp. 128-134) offering laundering investment services with the support of professional consultants offered to other national and international criminal organizations (Rossi, 1992, p. 67).

An acknowledged priority is to establish an independent enterprise which is not necessarily associated with the criminal activity producing the illegal assets. It might be useful to use a metaphor to describe how things are changing. All criminal organizations, both past and present, own a washing-machine for their laundry and they set the washing cycle on a harsh or soft wash, according to how soiled the items are and the degree of cleanliness desired at the end of the washing cycle. The trend which is now becoming rather widespread is to open independent ‘launderettes’ or ‘laundries’, providing either preset washing cycles or customized cycles, as requested by the criminal organizations, the centres of political and administrative corruption, tax evaders and anyone who, for whatever reason, wishes to avert the risk of identification of the source of the laundered money (Walter, 1989).

\textsuperscript{12} These are also the main investments of the Mafia in Germany, as reported in a study of the Bundeskriminalamt, a summary of which appeared in Der Spiegel, 1992.
These operations were carried out at the international level, but often they were linked with domestic market operations. This can include the acquisition of bankrupt companies or targeted Mafia activity to bring about the bankruptcy of a selected company such as Manifattura Fidelma in Prato after which the Mafia acquires it at reduced cost (Il Mondo, 1992).

Investigations by the customs police synthesize the recent trends of economic activities carried out by Italian organized crime groups in legitimate activities. These investment strategies, not that different from the objectives of other investors, reveal the increasing sophistication of the Mafia. They have been outlined (Petracca, 1993, p. 144) as:

- acquisition of the control of specific economic activities in particular areas of the country;
- intervention in those economic sectors affected by recession;
- intervention in those economic sectors with better prospects of development;
- investment of illicit money in foreign economic activities.

The Italian Anti-Mafia Investigative Police (Direzione Investigativa Antimafia) has identified the main circuits of money-laundering: the banking system, the non-banking system, leasing and invoicing, commercial enterprises, the acquisition of casinos and other gambling systems (Cappelli, 1993). In these circuits, money-laundering methods may not require much time (if the 'washing cycle' is short). This is the case when cash is deposited against the issuance of a bank draft. Such action precipitates the enforcement of legislation to control cash deposits. In other cases, much more time may be required for the money to circulate from one bank to another, until it reaches its destination (the 'washing cycle' is long and involves soaking, washing and rinsing). The Pizza Connection case, in the early 1980s, is a good example of this long cycle.

In conclusion, in the case of the Sicilian Mafia, money-laundering and reinvestment activities are carried out in association with the narcotics trade and a number of offences that are instrumental to it, i.e. the provision of false documents, intimidation and corruption, counterfeit accountancy, fraud (case Bono and others, Questura di Roma, 1983). We might suggest that the 'family washing-machine' system is preferred in this case. Only recently, there have been signs of money-laundering operations being contracted-out to the Sicilian Mafia by other Camorra families, indicating that there are consistent ties between the Mafia and the Camorra.

The Mafia's traditional attraction to casinos led to activities in the south of France (Assemblée Nationale, 1993, p. 68) aimed at obtaining control over some of the biggest casinos on the Côte
d'Azur, entering construction enterprises, as well as the tourist industry (case of the Menton Casino in: Direzione Centrale della Polizia Criminale, September 25, 1990 and April 2, 1991). This project envisaged a continuous laundering reinvestment cycle. The casino owners were to offer mobsters from other 'families' facilities for the laundering of 'hot' money by simulating fake wins. Half of the returns due were to be paid through the purchase of local property, and the other half was to be paid in laundered currency. This pattern could be called the 'condominium washing-machine' system, set on a complete washing cycle; actually it could be named the 'wash and wear' system. It is not certain if this case is unique or if it should be considered as part of a trend to develop more sophisticated laundering systems. It is certainly a quasi-entrepreneurial approach to this operation, albeit not yet a 'launderette'-type organization and far from the professionally qualified BCCI specimen.

Combining the information on international and national money-laundering schemes, it is possible to state that the current Mafia trends are directed towards a major development at the local level with the infiltration of legitimate activities, and a development on the international scene through links with other, sometimes dependent groups, also offering them money-laundering services provided by the legitimate Mafia activities.

Recent Italian legislation and its implementation

The described trend is related to the recent changes in the Mafia at the international and national levels and to the laws allowing for the seizure and confiscation of the proceeds coming from Mafia activities passed in 1982 and strengthened in 1990, together with the money-laundering law of 1991. The money that the Mafia earned in the international heroin market and in the control of the national one during the 1970s and the early 1980s has been invested in legitimate enterprises. Slowly, with the reduction of the heroin control, the Mafia has insisted more and more on the traditional local sources of money: public contracts (making pacts with the local ruling class) and extortion (for control of the territory) (Commissione parlamentare d'inchiesta sulla mafia, 1989). Money-laundering is a part of this process and its evolution corresponds to the new local and territorial dimension of the Mafia activity. Getting into business is a way to invest criminal money, to conceal the criminal source, to minimize the risk of confiscation and to empower territorial control.

At the international level the Mafia has probably restructured its interests towards greater investments in legitimate interests in foreign
countries, following the migratory path and in collaboration with other groups such as the Colombians, by offering to them and other criminal groups money-laundering services mainly through the Mafia's local enterprise system, as the Green Ice Operation shows. This trend went on until the middle of 1992. The murder, in March 1992, of Mr. Lima – the Italian member of Euro-Parliament who had long 'represented' the Mafia interests at the local and national levels (Commissione parlamentare d'inchiesta sulla mafia, 1993, p. 83) – signed the breakdown of the pact between the Mafia and part of the ruling class. The killings of Judges Falcone and Borsellino in May and July 1992 helped to speed up a parliamentary process aimed at improving anti-Mafia legislation.

The Italian legislature has in recent years developed the political will and the societal consensus to build a body of legislation to address the problem of money-laundering. It modified relatively old legislation such as law no. 191 of May 1978 and law no. 15 of February 1980 requiring banks to identify people involving transactions over twenty million lire (Fera, 1987). Contemporary legislation starts with the Rognoni-La Torre law (no. 646, September 1982) which paid particular attention to the supply sources of organized crime, to all its operational structures, as well as those used to penetrate the legitimate system, and lastly to the profits from illegal activities. Since then numerous pieces have been adopted that have broadened the Italian state's ability to address the money-laundering of organized crime.

The Rognoni-La Torre law has been modified by law no. 55 of March 19, 1990, which made it a criminal offence (art. 23) to launder money or assets deriving from crimes such as armed robbery, aggravated blackmail, kidnapping for ransom and drug-trafficking. The same law made it a criminal offence (art. 24) to invest money obtained from these crimes.

This intervention establishes the basic conditions for stemming the flood of money to finance criminal activities. It explicitly criminalized every form of investment made possible by specific criminal activity. Law no. 197 of July 1991, the so-called anti-money-laundering legislation, provided a complete new set of regulations for the banking and property sector by prescribing down operating terms and conditions for so-called 'financing' companies. It forbade the use of cash and notes for exchange transactions exceeding twenty million lire, and established a register of financial and non-bank intermediaries.

Such provisions, in addition to the rules for identifying operators and registering financial and moveable property operations, have provided the essential pre-conditions for the greater transparency of
the whole system. This increased control in the sector is accompanied by the improved access to banking documentation pursuant to art. 8 of law no. 413 of 1991. This law has a predominantly fiscal content, but mention should also be made of the provisions regarding major unaccounted-for funds, which in all cases must be verified for tax purposes.

As regards the final aspect – the need to secure the profits deriving from illegal activities – a new law of remarkable import has been introduced, which is entirely innovative for Italy’s juridical culture. Art. 12 (5) of law no. 356 of August 1992 provides the possibility of compulsory acquisition of goods and liquid assets from persons who are subject to proceedings for armed robbery, aggravated blackmail, kidnapping for ransom and drug-trafficking, and persons who show a clear disparity between their declared income and their disposable property. It also allows (art. 12 quater), for the first time, undercover operations in the area of money-laundering to be carried out by law enforcement personnel. This new legal architecture has been designed to improve the conditions for an effective attack on organized crime and thereby on the whole Mafia phenomenon. These new laws should empower the financial investigations by law enforcement agencies (Berlenghi, 1993).

The Italian position is based on a full awareness of the international and transnational dimension of laundering, and harmonizes the recommendations of the Financial Action Task Force and of the Council of Europe, with those of the European Community.

This is related to another very important factor, that is, the introduction of a close sequence of amendments to the criminal law in economic matters since 1974, with the creation of a number of laws – CONSOB, OPA, insider trading, property and ownership structures of credit institutions and then corporations. The criminal law has finally acknowledged the importance of transparency in economic matters, the re-penalization of unlawful banking activity with all its relevant problems, introduced in the anti-Mafia law of 1990. The existence of a very close connection between criminal law and banking regulation is proven by the fact that, for the first time, the anti-laundering law of 1991 provides a discipline for financial trusts, also according to the principles of transparency. This law seeks for full cooperation between the banking system and law enforcement agencies.

Summing up, there are two separate approaches. First a substantive approach concerning ways to repress laundering. The second, a procedural approach regarding ways to gather and manage the economic information necessary for the repression of laundering. As concerns the former, Italy is among the first countries to include in its criminal code – although probably not in the appropriate position (in
the section on offences against property) – rules against laundering, punishing those who substitute money, obstruct the identification of the origin of money, and knowingly use money from illegal sources.

The main problem of these provisions is the difficulty in enforcement. Furthermore, only four types of offences – different in nature and selected on the basis of diverse indications – are considered, i.e. drug-trafficking (which is subjected to repression internationally), aggravated robbery, extortion (which create social alarm but have nothing to do with the three other offences), and kidnapping for the purpose of extortion. The provision against laundering is based on the condition that the person laundering money is aware of the fact that the money comes from one of the four mentioned offences. This results in difficulty in enforcing the law.

Coming out of this impasse is not easy. Countries differ in their opinions concerning the designation ‘offence’. The Italian position is reflected in the new bill no. 688 proposed on October 12, 1992 by the government for approval by the parliament. This bill aims to ratify the Council of Europe Convention and consequently amend the anti-money-laundering criminal legislation. According to articles 3, 4 and 5, the money-laundering crime is no longer linked with a typology of predicate crimes. This proposed law states that there is a money-laundering crime when the proceeds come from a criminal offence punishable with a penal sanction of not less than five years.

Regarding the latter aspect, i.e. information gathering, there exists a 1991 law which contains provisions that are extremely valuable in theory, such as the elimination or limitation of the use of cash, to be substituted by bank transactions. It is only in theory, however, because if this law were (actually) enforced, the Public Prosecutors of Milan would be jobless and all proceedings would come to an end. If all the money circulating in Italy in amounts that exceed twenty million lire did actually only circulate through bank transfers, the circulation of illegal money would cease to exist (Flick, 1993, p. 77).

The other aspect of the anti-laundering law, the one governing financial trusts and imposing on them the same duties that apply to banks, is extremely important. A curious situation arose whereby the strict controls and obligations imposed on bank intermediaries resulted in certain types of money escape in the direction of other, less strictly controlled intermediaries. Consequently the banks complained of unfair competition.

Achieving full transparency of the banking and financial systems, has been attempted in three stages (Flick, 1993, pp. 78 and 79). The first stage is that of refusing cooperation when banks and other intermediaries, exploiting the shield of banking secrecy and the culture of bank and property confidentiality, do not in fact provide
any information, apart from the limited amount laboriously requested by judges, who have to slowly dismantle a wall of secrecy.

This is followed by a second stage, that of forced cooperation. At this stage the bank intermediary, and nowadays also the financial intermediary, is forced to collect information which does not respond to their corporate logic, which they probably do not need but must collect and keep at the disposal of the justice system and the police.

The third stage is that of active cooperation. The bank or financial intermediary is called upon to act as a screening valve between money movements and the perception of anomalous, suspicious operations. It is the intermediary's task to spontaneously report suspicious operations to the relevant authorities, the police or others. Much still remains to be done in this direction. In Italy a classification and a checklist of anomalous, suspicious operations has now been identified, which enables banks and financial intermediaries to fulfil the obligation stated by the anti-laundering law, but which has thus far been substantially ignored (Banca d'Italia, 1993).

Spontaneous cooperation on the part of financial intermediaries marks an essential turning point. First of all, it settles the controversies (to which Italy had become accustomed in the last few years), concerning central data banks and their transparency. Assigning responsibility to the financial intermediary is also an attempt to rationalize the collection and management of financial information, thus preventing the judicial authority and police from being flooded with tons of useless information which, as is known, is the best receptacle for hiding the little information that is of any use.

With regards to transparency, another type of action needs to be undertaken. It is not sufficient to control the circulation of money, as is done through financial intermediaries. It is also necessary to control the end accumulations of money, that is, the money in possession of individual subjects.

Eleven years ago the Italians began to control the unjustified possession of assets with property preventive measures. But a number of filters and problems have made the Rognoni-La Torre law obsolete.¹³ One particular problem is represented by the connection of dangerousness and the adoption of the preventive measure with the condition that a subject is suspected. However, a suspected individual will set up a number of filters and intermediaries between himself and the wealth he enjoys. Therefore it is extremely difficult today to enforce preventive measures such as those devised in 1982. A

¹³ Data on the implementation of this law show that seizures and confiscation of the assets have increased in number and value during the first four years and then slowly decreased after 1986 (Santino and La Fiura, 1990, p. 211).
progressive step would be represented by analyzing the possibility of
drawing up a substantive criminal law, applying penal sanctions
against the unjustified possession of wealth, which per se represents a
condition of dangerousness.

It is too early to fully understand the impact of the legislation upon
the Mafia structure. The results of its implementation are poor. The
success of the first two years of anti-money-laundering legislation can
be represented by analyzing data of the suspicious transactions
reported (as it has been prescribed by art. 3 of the anti-money-
laundering law no. 197 of 1991). A year after its implementation, i.e.
June 20, 1992, only 86 suspicious transactions were reported, of
which 60 came from banks, 22 from post offices, and 4 from other
financial intermediaries. From a closer examination of these
transactions, only 22 referred to money-laundering, and of these, only
four operations referred to the same person who, on more than one
occasion, bought bonds of considerable value (Mezzetti, 1992, p. 54).

Eight months later (February 26, 1993), a new analysis was
conducted by the Custom Police. The total amount of suspicious
transactions at that time were 122. That constitutes 36 more in eight
months, certainly not an increase compared with the previous year. The
trend is the same as that of the one year period. Of all the total
suspicious transactions, 82 came from banks, 29 from post offices, 7
from the SIM (non-bank institutions) and 4 from other institutions
(Galullo, 1993a). According to a high-ranking official of the Ufficio
Italiano Cambi, a complete data base for the bank transactions will be
completed by the end of 1993. By that time it will be possible to have
a more comprehensive analysis of the implementation of the anti-
money-laundering law (Galullo, 1993b).

An analysis carried out by the Custom Police on 16 cases reported
for prosecution shows that 60 percent are in the financial sector, 17
percent in real estate, 11 percent in commerce, 4 percent in the
production sector of agriculture, and gold for jewellers (Petracca,
1993, p. 156). These data cannot be interpreted for the proportion of
sectors preferred by criminals for money-laundering. The number of
cases investigated is too small to allow for such an interpretation. It
could be that the relatively large proportion of suspicious transactions
reported by banks is probably influenced by the fact that banks are
more closely monitored than other financial institutions.

14 Difficulties in its implementation have been outlined in the annual report of the
Commissione parlamentare d'inchiesta sulla mafia, 1992.
15 From April 1993 the data seem to show a small increase. In April and May, 15
and 19 suspicious transactions respectively were reported (data kindly provided
by the Guardia di Finanza, Custom Police Rome).
Looking more in general, the financial sector could be connected with other data coming from a recent analysis (Masciandaro, forthcoming). According to the author, a link exists between the density of criminal economy, measured by the number of crimes, and the geographic distribution of the non-bank corporations (tab. 11.2). This means that where there are more crimes, such as in the southern regions, there is a greater demand for non-banking services. It might be argued, that some of these institutions are used for money-laundering activities and will be incorporated into a launderette system offered by criminal organizations to all those who need to clean their money. As in other countries, non-bank institutions are becoming the key place for money-laundering purposes. Their level of compliance with the Bank Secrecy Act is 'generally regarded to be substantially lower than the level of compliance by banks' (Department of the Treasury of the United States, 1991, p. 5).

There is a general consensus that 'while non-bank institutions closely resemble their regular bank counterparts in key ways - they provide many of the same services and must comply with the same Federal anti-money-laundering statutes and currency-reporting requirements - they are not subject to the same degree of regulation, oversight, and enforcement' (United States Senate, 1992). The demand for non-bank institutions has increased and, as the Italian data show, has increased where there is more criminal demand. This increased demand for non-bank institutions is probably due to the fact that, in recent years, the banking sector has been strongly monitored by legislation and internal regulation. It has been officially reported that 'knowledge by criminals of the Bank Secrecy Act reporting requirements and the generally high compliance by the financial system with those requirements, often discourages the criminals'. And, even though some criminals still want their money in financial institutions because of the services only those institutions provide, the criminals are, as a result of the BSA reporting requirements, compelled to be more creative and sophisticated in their efforts to insert their ill-gotten cash into the financial systems. They are forced to engage in more complex or convoluted schemes which frequently require the employment of more individuals to make them work.' (Department of the Treasury of the United States, 1991, p. 4).

Conclusion

Is this American trend applicable to the Italian case and to other criminal groups outside the US? How can Italian legislation affect the future development of the Mafia? Or rather, how does the Sicilian
Mafia plan to counter government policing policies, both domestic and international? What impact does the interaction between organized crime groups and the legislation have on the international scene?

Despite its flaws, anti-Mafia action on the part of the Italian government will make it difficult for the Mafia to invest the returns of its illicit dealings, while the international money-laundering market is demanding highly-specialized schemes. Is the Mafia doomed to succumb, once again, as in the case of its involvement in the narcotics market? Or will it be capable of reconverting its structure, finding new allies and different connections? In short, will the lack of an enterprise culture erect a higher entry barrier, thus preventing the Mafia from entering the international money-laundering market?

In the future, the internationalization of the production processes for illegal goods and services should increase demand for transnational and international organized crime. The money to be laundered will no longer only result from drug-dealing or the illicit trade of weapons, art treasures and human body organs. It will include money employed in speculation, bribery and tax evasion (Pansa, 1992). The boundaries between different kinds of money may become extremely blurred as time passes. The mob bosses may become financial speculators, while financial speculators may use organized crime services to launder the money.

The links between organized and economic crime may become closer. International money-laundering will have to expand and provide services capable of satisfying new demands. There will be a need for greater professional skills, while modern technology will be employed to exploit the immense potential offered by the free circulation of capital funds across borders and by international investment opportunities. The 'unlaundered', and 'hot', money mix is polluting the economies of developing countries and is a severe hazard for the entire international community.

There are probably other BCCI's! This is an emblematic example, however, of how an organization with an almost industrial level of specialization in the laundering of money from the most diverse sources could survive Bank of England control for such a long time (Truell and Gurwin, 1993). The future will probably be marked by many similar cases, by increasingly frequent collusive agreements among criminal organizations, aimed at exploiting the opportunities afforded by the free circulation of capital in the next two years. This will require the general rearrangement of organized crime, along new lines and diversified activities. There might be a greater number of oligopolies.

The interaction between organized crime and legislation could
produce a 'mirror effect' in the long term, increasing similarities between criminal organizations and the laws against them. On the one hand, organized crime groups will become more uniform as far as their organizational structures are concerned. On the other hand, international instruments in the area of anti-money-laundering and confiscation of the assets are unifying the legislation of the countries and facilitating police cooperation in pursuing financial investigation.

According to this hypothesis, the criminal groups will orient their organizational structures through two main paths: a more secret structure such as the cell system, or a more diversified and decentralized one. Law enforcement risk and the level of competition in the illegal markets will be the two key factors influencing the development of one or the other organizational structure.

Criminal organizations dealing with only one activity, such as the Colombian cartels for cocaine-trafficking, will develop their organization along the lines of the cell structure (Post, 1990, pp. 17 and 18) in order to avoid the major risks: conspiracy crime legislation, interception by the police through the help of informants and undercover operations, and the new technologies of electronic surveillance. The cell system requires no information and no communication between the members of different cells. All of them are governed from a central headquarters located in Colombia.

The direction of other criminal organizations, such as La Cosa Nostra in the United States or the Sicilian Mafia or Chinese Triads which are opportunity-oriented, is more problematic. They will probably be confronted with different choices determined, on one hand, by the perceived level of law enforcement risk, and, on the other, by the available opportunities for making money where markets are fragmented and competition is high. Although the cell system is more efficient in minimizing the law enforcement risk, it is less efficient in taking advantage of opportunities where information and communication among members of the organization are needed. In an attempt to minimize risk and optimize opportunities, they will try to be more selective in their recruitment procedures by reducing communication to the minimal level needed to achieve flexibility in different markets and to gain competitive advantage over other criminal organizations. Legislation, law enforcement policies and competition will play a significant role in determining the preferred direction. In a context of high law enforcement risk and low competition (as in the case of the Colombian cartels) the organizational structure will evolve more toward some kind of cell system. Where there is a wide range of opportunities and high competition, a diversified and decentralized structure will be preferred.

For La Cosa Nostra in the United States, the process has been
accelerated by the many convictions LCN members have suffered in the last eight years. Being smaller, they have to deal with competition from other criminal groups operating in the United States. For opportunity reasons, they are increasing diversifying and decentralizing their structure, trying to minimize the law enforcement risk and paying more attention to the selection of new members (Pennsylvania Crime Commission, 1990, p. 188). Given the fight for opportunities and confrontation by law enforcement agencies, they will probably decline.

For other groups, such as the Sicilian Mafia, the convictions they have recently suffered through the high number of ‘pentiti’ and the high pressure coming from legislation and law enforcement agencies could lead to the development of a form of reorganization in cell structures modelled after the Colombian cartels. If this does happen, it will be for a limited period, just for the time needed to survive law enforcement pressure and to restructure the organization. Also, as the level of competition in Italy is not as strong as that of the United States, other criminal groups could take advantage of the Mafia’s weakness and replace it. This process could be domestic, through the creation of other criminal groups, or external, through a process of immigration. There are signs of both. ‘Stidde’, stars, is the name given to some domestic criminal organizations that are competing with Mafia families in certain areas of Sicily. Chinese Triads are also infiltrating legitimate business in increasing numbers (Il Mondo, 1993).

What is more likely to happen is that the Mafia will undergo a restructuring process in order to take full advantage of the open international markets of illegal goods and services, both traditional and new ones (Savona, 1993) such as money-laundering. This activity will require internal skills and information. The Mafia will be successful if it improves the capabilities of its members, thus reducing the need for external advice that is usually risky and costly.16 This will accelerate the changes inside the organizational structure of the Mafia families and lead to an improvement in synergies and flexibility.

A white-collar Mafia will probably emerge as a new leadership among Mafia families. It will be more competent and less violent than the present Cosa Nostra leadership. It will combine its efforts on the

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16 In the past, they have asked for the advice and help of experts in the field. This experience, as in the cases of Sindona and Calvi, was not profitable. They were linked to the Mafia and were acting as Mafia money launderers (Tribunale di Roma, 1985). A frequent interpretation (never proved but with substantial evidence) is that they had exploited some Mafia money and, for this reason, were killed.
international markets with the activities of the blue-collar Mafia on the local extortion markets. This manpower will provide the essential instruments, such as enterprises acquired through extortion and loan shark activities, where it will be possible to conceal the dirty money. These enterprises could also be used to launder money domestically and to offer to other criminal organizations money-laundering services. This process of the creation of a new leadership will result from the breakdown of the Mafia ruling-class nexus. The recent investigations by the Palermo prosecutors, and the revelations of high-level political corruption have reduced Mafia access to public contracts.

More than in the past, international cooperation in building a protective net will be the only effective answer to the international challenge provided by the Mafia. Countries, both rich and poor, should be aware of the exploitative power of dirty money. There is a long list of things which should be done in this area. Among the urgent priorities are: solving the political problems of persuading reluctant countries to open their banking and financial systems, enforcing the money-laundering legislation, developing investigative, prosecutorial and judiciary cooperation among countries.

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The extent of cross-border crime in Europe: the view from Britain

Michael Levi

The low-key style of this article is intended to communicate the empirical poverty of our understanding of cross-border crime and to stimulate us to think more carefully in future than we have often done in the past. The premise upon which this review is based is that studies of criminal organization should concern themselves with first, how criminal markets are organized and what factors influence their development; and second, as a subsidiary issue of the first, what barriers to entry there are – technical, social, and financial – to the greater development of intra-national and international crime. I shall begin by making some general comments problematizing ideas about the organization of crime in Europe and go on to set out some data and analysis of what my preliminary research using interviews with police, offenders and commercial agencies has revealed about the nature of cross-border crime as it affects the UK.

The haphazard development of criminological research, and a fortiori of research on sophisticated crime for financial gain, in different parts of Europe means that our understanding of the way in which criminals organize themselves for a variety of different criminal markets is very patchy. There is always a tendency to contrast Northern European forms of criminal organization with the ‘crime corporation’-like structures supposedly existing in North America and Southern Italy. British and German work from the 1970s was obsessed by distancing Northern European crime from American organized crime (Mack and Kerner, 1975), implying that if crime is not syndicated (and supported by widespread police corruption), it cannot be ‘organized’. McIntosh (1975) more usefully distinguishes methods of organizing crime in terms of the technological and policing barriers the particular crime confronts: where prevention precautions are high, organization shifts from routinized craft groups – pickpockets, and even the now largely defunct safebreakers – to looser, perhaps even one-off, alliances between project criminals.

Where the continuous supply of an illegal service (drugs and
prostitution) has to be arranged, *business* organization arises. These forms can co-exist in the same society at the same time for different forms of criminal activity, and their modes vary between societies.

An interview-based study of bankruptcy fraudsters found substantial variations in the organization of this particular form of crime during the 1960s and 1970s, but since the sixteenth century, fraudsters in particular have found cross-border crime attractive because it creates problems of legal jurisdiction, investigative cost, and practical interest by police, prosecutors, and even creditors themselves (Levi, 1981). European Community harmonization does not in itself make any difference to this, except (1) in providing new pretexts or 'storylines' for fraudsters to use to get credit or investment, and (2) inasmuch as it changes the structures of control, e.g. reducing customs paperwork makes VAT evasion easier; the abolition of border controls makes the smuggling of credit cards across frontiers even less risky; or the UK's ratification of the European Convention on Mutual Assistance makes *judicial* cooperation and therefore conviction of those against whom there is already good evidence easier.

More recent comparisons between organized crime in America and Western Europe (e.g. Fijnaut, 1990) have not actually looked at cross-border criminal activity itself, and even their comments about criminal organization within different European countries vary enormously. The lack of a research base on patterns of criminal relationships in most European countries – including, regrettably, the UK – means that we have little information about how domestic criminals meet and decide what to do, let alone how and to what effect Eurocriminals meet. Major offenders do not advertise their services in the media, and apart from common holidays in Spain, marinas, and casinos, such contacts - mediated no doubt by language difficulties which British criminals may experience in more acute form than most – may often be tentative. Most plausible is the notion that Eurocriminals are either crime entrepreneurs who already exploit international trade for the purposes of fraud and/or smuggling, or money-launderers who put their clients in touch with each other. Beyond that, in the area of serious crime for gain, there is only speculation and some variably developing intelligence organization under the umbrella of the National Criminal Intelligence Service. This makes deeply problematic the evidential basis for the confident statements of some police officers and politicians about the 'major threat' represented by this or that 'Mafia group' (as if there were any commonality in what 'Mafia' meant).

To address such issues in a sophisticated way would require more space (and more research) than I have here, but though there is
abundant evidence for the existence of 'organized crime groups' in America and some parts of Europe, one distinguished American commentator has characterized most US cities as having disorganized crime (Reuter, 1983). Kelly (1986), reviewing articles on organized crime in a number of countries, asserts that '(...) in England there are no criminal syndicates of the size and scope of those in the United States. The reasons for this are mainly economic. Great Britain's legislators and law enforcement officials have recognized the public demand for certain goods and services (gambling and drugs) in a highly administered manner which has taken the market away from criminal organizations that would have developed to fill the gap. Criminals (...) tend to work in small groups but, nonetheless, maintain extensive networks of contacts through which they can procure wider services (...) [Sicilian] Mafiosi are not a residue of a state of lawlessness; they are not bandits or outlaws; Mafia groups are not outside the mainstream of social life living on its margins; rather they belong to, and often occupy, prominent positions in a reliable, protective and successful chain of patron-client relationships (...) Mafiosi resemble local party bosses operating the urban political machines which for votes and support return favors and provide a range of services that the large municipal and state governments are incapable of performing.'

From this juxtaposition, we can see the contrasts even within Europe in the forms of criminal organizations. In Italy, the weakness of the central state and peculiar historical characteristics have shaped the form of organized crime there, though even in Sicily, 'the' Mafia really takes the form of networks of alliances rather than a line-management national criminal organization (Arlacchi, 1986; Hess, 1986; Walston, 1986). (Though recent revelations suggest that the stability in the core alliances is greater than had previously been appreciated, and that the apparent weakness of the central state was attributable mainly to the mutual desire of office-holders and 'organized criminals' to eliminate the risk of a Communist-influenced elected government exercising real control.) In Italy, as in many parts of the US (Chambliss, 1978), organized crime groups are linked closely to the local and national political networks, frequently combining with right-wing political groups with whom they have more temperamental affinity than groups of the left (see further, Savona in this issue).

In most European countries, almost all crime is local in character, and is not highly organized in the sense of being conducted under the aegis of a crime syndicate. This does not exclude small-scale alliances, even involving systematic corruption of police and public officials, in areas such as smuggling, dumping of toxic waste, fraud,
and narcotics distribution. In a sense, except where it is officially tolerated – as cannabis is in the Netherlands – 'service crime' almost requires such corrupt liaisons, for vice has to advertize in order to inform potential clients of its availability. But we ought to be careful in asserting that 'there is organized crime' in country X when all we mean is that some tiny proportion of criminal activity is run by a syndicate.

Statistics on cross-border crime

There is very little hard information available about the numbers of cross-border crimes for gain in Europe, nor about their economic cost to individual nations or to the EC as a whole. Because police forces and national governments define their responsibilities in terms of recording crimes occurring within their own jurisdictions, and because most existing European victimization surveys exclude crimes against organizations and do not specify the social or geographical origins of offenders, no data are collated routinely. Nor are there any specific research studies which demonstrate (accurately) the proportion of crimes across the board which possess a cross-border dimension, even as regards recorded, still less unrecorded, crime.

There are individual forms of crime which constitute exceptions to this: terrorism cases, and – because the agency's scope is restricted to importation – customs data on drug-trafficking. For example, in Europe, the total heroin seized rose from 1,850 kilos in 1985 to 6,100 kilos in 1990: the proportion of this going through the Balkan route – from Turkey via Greece or Bulgaria and Yugoslavia – rose from 25-35 to 70-80 percent, partly reflecting the opening up of Eastern Europe. While the proportion of heroin coming from or via other EC countries rose from 18.8 percent in 1987 to 37.4 percent in 1991, as did herbal cannabis from 10.5 to 18.8 percent, the proportions of other drugs coming from the EC fell from 23.8 to 6.1 percent (for cocaine); from 78.8 to 62.9 percent (for cannabis resin); and from 99.1 to 98 percent (for synthetic drugs). These percentages are misleading in some respects: though the proportion of cocaine coming in from the EC dropped dramatically by a factor of four, the rise in the total quantity of cocaine seized means that four times as much cocaine was seized coming in from the EC in 1991 as in 1987. Nevertheless, this is an unknown and possibly fluctuating proportion of the 'true' total: though a certain amount of retrospective analysis can be done on the origins of drugs seized on the streets to correlate with those seized by Customs and Excise, it is generally true that the data on patterns of drug-trafficking reflect the places in which
The extent of cross-border crime in Europe

The extent of cross-border crime in Europe

detection resources are put. It is a logical truth that in proactive work, the assumptions made about where risks are highest will generate their own justifications about where 'successes' are most likely to be found: for example, if black Africans and Latin-Americans principally are searched, they will be very heavily represented among the population of officially defined drug traffickers (though we cannot automatically assume that they are therefore overrepresented)!

Even though we may know reasonably accurately the number of terrorist attacks, it may be hard to be sure how many of them involve cross-border liaison, and the amount of terrorist-related activity - extortion, narco-terrorism, fraud - certainly is unknown. In the case of burglary, robbery, vice, white-collar crime, and even (before 1990) frauds against the European Community, cross-border crimes simply merge into the general (and often unilluminating) statistics of recorded crime. This does not mean that nothing can be said about these phenomena. It means that transnational crime cannot be presented and tabulated in the same way as can crimes occurring within the borders of the individual European states. Indeed, even if we were to tabulate data on cross-border crime, much of it would be highly speculative and not amenable to the sort of household surveys that produced the European victimization data (Van Dijk et al., 1990). Drug enforcement authorities, for example, have an interest in maximizing public concern about a problem by focusing on 'new' drug epidemics; and those who wish to do something about fraud and money-laundering may be tempted to generate large figures to 'demonstrate' the scale of the problem (Levi, 1987, 1991 and 1993). Whether international or domestic, 'organized crime' statistics tend to take on a life of their own and there is seldom any serious attempt to deconstruct the method by which they are compiled: the hunger of the media generally ensures a welcoming reception to any apparently authoritative data.

Types of enterprise crime and their extent

The term 'organized crime' is unhelpfully global in its nature. What follows is some modest analysis of those forms of enterprise crime that I judge to be most likely to have a cross-border component, given the natural geographical barriers to simple cross-border movement offered by the English Channel and the North Sea. I have used here the term 'enterprise crime' because the conventional division into 'white-collar' and 'organized crime' is no longer appropriate, if it ever was. I admit that most fraudsters never commit any other type of crime, and that most drug dealers, let alone other criminals, have no
sophisticated criminal networks. But at least some of the same professional smugglers transport drugs, help to evade value-added tax, commit subsidies frauds against the European Community, dump toxic waste across the border (or within the borders), and evade excise duties on imported/exported goods such as tobacco (from Ireland to England via the Netherlands). Are they white-collar criminals sometimes and organized criminals at other times?

Such a categorization has no point, for the crucial empirical question is what range of activities they embark upon and what affects that range of criminal choices. Armed robbers from one country may operate to a limited extent in another country, but for them, the main cross-border connection arises should they decide to move their money off-shore (Levi, 1991; Van Duyne, 1993 and in this issue), and/or flee abroad. The Extradition Act 1989, having placed Britain in line with the European Convention on Extradition reinforcing Mutual Assistance treaties, means there is no hiding place within the EC any longer, so criminals will have to move further afield. One possible destination is the Turkish Republic of North Cyprus, which is not recognised by the UK government and which in May 1993 welcomed former Polly Peck International Chairman Asil Nadir after he fled bail on substantial fraud charges brought by the Serious Fraud Office.

As a result of their banking secrecy rules, some European countries – Austria, Liechtenstein, Luxembourg, and Switzerland – have a well-deserved global reputation for laundering the proceeds of crime (and of conduct that may later be viewed as crime if a Third World government falls: vide Haiti, Panama and the Philippines). This has been highlighted once again by the problems encountered in the enquiry into how the late Robert Maxwell and his alleged collaborators succeeded in defrauding pension funds of £ 400 million. But for persons outside Britain, the UK is an offshore financial centre, and it too offers many services for foreign criminals. Looking at other crimes, the main ones with a cross-border component are smuggling (of legal and illegal goods), fraud, and drug-trafficking. (Britain ‘suffers’ from cost disadvantages for prospective international toxic waste dumpers, due to the Channel: even after the Channel Tunnel is completed, it will still be relatively expensive to dump Continental waste illegally there.)

As far as fraud is concerned, some 70 percent of all investigations by the City of London Fraud Squad during 1992 had an international aspect. The proportion in the Metropolitan Police Fraud Squad is similar, and that in cases dealt with by the Serious Fraud Office – which investigates and prosecutes high profile frauds (Levi, 1993) – is almost 100 percent: major frauds by corporations, lawyers, and
accountants usually involve financial transfers overseas at some time. By definition, any drug cases dealt with by HM Customs and Excise involves importation. Let us look what my interviews and reading of case files have revealed about some subtypes of cross-border crime. (My understanding of what links there are between the perpetrators of these different forms of crime is currently limited, but though it seems plausible that those crimes involving smuggling are likely to have less specialized offenders (see Van Duyne, 1993 and in this issue) those involved in major frauds of the kind dealt with by the Serious Fraud Office are unlikely to be part of some 'organized crime underworld'.)

**Securities fraud**

First, some European economic context in which to place fraud cases may be helpful. The amount of international securities trading has been increasing substantially: the UK has a dominant position which we are keen to maintain. During 1991, London had 94.67 percent of Europe's turnover in cross-border equities trading. (Germany had 2.86 percent, France 1.37, Belgium 0.69 and the rest of Europe 0.41 percent.) In world terms, London had 66.11 percent of turnover. Almost half of the non-UK equity turnover in London involved shares in other EC countries.

In the UK, the Financial Services Act 1986 made it illegal to make an unsolicited call offering investment advice to someone who has not requested financial services. Moreover, all people selling investments must be licensed by a state-authorized body, a Self-Regulatory Organization. However, during the mid and late 1980s, people – mainly Canadians – set up in Amsterdam and 'cold-called' people in Britain with 'wonderful' investment opportunities that later proved valueless. When the Dutch tightened up their law and enforcement, the fraudsters moved to Belgium. These are termed 'boiler room operations', and all they need is a respectable country and a good telephone system. Likewise, company directors, accountants, surveyors, and bankers with inside information about a company's prospects can arrange, using overseas corporations, to purchase or sell that company's shares.

As regards the UK, cases handled by the insider dealing unit of the Stock Exchange suggest that some 40 percent of time spent on 'detected' (though mainly unprosecuted) insider dealing has a European dimension at some stage, whether in the use of nominee accounts in countries with banking and/or corporate secrecy (such as Austria, Liechtenstein, and Switzerland), or in the laundering of the money afterwards, about which far less is known. (Austria has
experienced considerable inwards capital flight since it allowed foreigners to open accounts without full personal identification, though I remain puzzled about how banking secrecy countries can reconcile this with their signature of the Council of Europe Convention on Money Laundering and the Seizure and Confiscation of Assets!) With the exception of Germany, however, which commonly appears as a trading source in cases of suspected insider dealing investigated by the Stock Exchange and Department of Trade and Industry, the role of EC member countries in this is less certain.

Dumping of toxic waste

Internal rather than external waste-dumping is more likely to affect the UK directly, since ceteris paribus, it is cheaper to transport across land borders. However, a European example will illustrate the likely activity: see Van Duyne (1993 and in this issue). A Dutch company paid a Dutch transport company to dump waste containing the dangerous chemical PCB in Belgium. However, before crossing the border, the transporter covered the waste with a thin layer of earth and described the waste as 'loose earth from market gardening'. This was then dumped (more cheaply than if described properly) in the Belgian site and elsewhere, even more cheaply. Either way, the environment was damaged. Sometimes, this is accompanied by false documentation to misdescribe the goods.

European Community fraud

This is dealt with in the article by Ruimschotiel in this issue, so my comments will be brief. Agricultural frauds include misdescription of the quantity, quality, and composition of imported or exported goods, and false declarations of their origin or final destination. For example, in cases detected in the UK, some producers applied for aid in respect of a number of animals 10-40 percent greater than the actual stock numbers; made more than one application in respect of the same stock; and made applications in respect of non-existent stock. During 1990, in the area of 'own resources' (i.e. customs duties, agricultural levies) the UK was the largest provider of reports (followed by France), with 117 out of 410 reports (28.5 percent). In terms of amounts defrauded, this totalled Ecu 22.4 million out of a total Ecu 89.5 million (25 percent). The relationship between number of reports and amounts involved is more complex than one would expect from the UK example, however. France, with 25.6 percent of the reports, 'netted' Ecu 7.8 million (8.7 percent of the total fraud reported); while Denmark, with only 32 reports (7.8 percent), 'netted' Ecu 33.7
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million (37.6 percent of the total fraud reported, or half as high again as the UK which was the second highest reporter in financial terms). Ireland was the lowest reporter on both criteria, with one report involving Ecu 30,000. This indicates the problems of inferring levels of fraud from reported fraud: the processes of detection and reporting may vary considerably within the EC.

In the area of agricultural guarantee funds, the UK was again the highest provider of information about fraud and other irregularities, making 188 reports – 30 percent of the EC total – involving, however, only Ecu 2 million – 1.5 percent of the total – of which Ecu 313,000 was recovered (3.1 percent of total recoveries). 158 reports involved guarantees in relation to beef and veal, 18 sheep and goatmeat, 9 cereals and rice, 2 milk products, and 1 protein plant. At the other extreme, Ireland reported three cases with apparently no funds involved, possibly indicating unsuccessful attempts.

The anti-fraud unit of the UK Intervention Board was established in June 1990 and by the end of the year had identified over £ 900,000 in ‘errors’ on the 217 scrutiny visits it made (compared with the £ 1.3 million of errors detected during the whole of 1989). Investigators recovered £ 132,388 on 33 completed cases during 1990. To place these figures in perspective, the turnover of the Agency that year was £ 2.6 billion. Under EC Regulation 283/72, the Intervention Board reported 25 ‘irregularities’ to the Commission: 8 of these related to external trade, 13 to crops, and 4 to livestock products.

The only EC fraud prosecuted by the Serious Fraud Office in 1991-1992 was a Customs-originating case entitled Operation Amaizing which concerned some £ 3.4 million in EC levies which were suspected of being evaded by grain-smuggling from Northern Ireland to Eire. During the investigation into grain-smuggling, cattle-smuggling was detected.

Value-added tax fraud

Here, pending VAT harmonization at least within the EC, advantage is taken of differential VAT rates in European countries. One of the major areas of fraud involves gold bullion, where fraudsters take advantage of the opportunity to earn more than the usual one percent profit on gold dealings. Gold can be purchased in Luxembourg or Belgium with only 1 percent VAT, smuggled into England (in one recent case, behind the bumpers of imported Honda Integras), and sold to English bullion dealers who pay 17 percent to companies claiming to be VAT-registered, who then simply disappear. Preventative measures have been taken by Customs and Excise to have main bullion dealers pay them direct, but this is imperfect. More
recently, people have claimed to be exporting the gold and have falsely claimed input tax back. Other frauds have involved Belgian carpets. Other types of business crime exist – price-fixing cartels, for example – which, like the above examples, can be carried on within national boundaries or internationally.

Other frauds against corporations

In late 1991, the third corporate victimization and attitude survey designed by me was conducted by accountants Ernst and Young (1993). (For earlier ones, see Levi, 1988; Ernst and Young, 1989.) This involved anonymous surveys of 100 large companies, which are broadly representative of British large businesses as a whole, and I included a limited number of questions which had a bearing on cross-border crime. As regards executives' perceptions of changes in particular types of fraud, 61 percent thought that international fraud had increased (and 16 percent that there had been a big increase) in the previous five years.

Turning to actual fraud experienced (whether or not reported to the authorities), it seems that most identified frauds are national rather than international in character. In our sample, of companies who claimed (or admitted) that they had been the victims of frauds by companies to whom they supplied goods, only five lost under £10,000; five lost £10,000-100,000; and five lost over £1 million to fraudsters operating in the EC. Those outside the EC defrauded five UK suppliers of less than £10,000, so in this sense, fraud by other EC residents is the dominant mode of international credit fraud. As regards individuals outside the company who defraud it, the EC features only in two frauds of £10,000-100,000: there, frauds originating outside the EC were much more common. More generally, large financial services frauds appear normally to contain some offshore element, though this may often be in tax havens in the West Indies or the Channel Islands, or in Liechtenstein, rather than within the EC or even Switzerland, whose mutual assistance provisions have become much more liberal in the last five years. Some bankruptcy frauds are committed by 'organized crime groups' who have moved up-market from their previous careers in armed robbery and drug-trafficking to criminal activities where the risks of conviction and sentences are low. Likewise some Electronic Funds Transfer frauds and computer hacking cases are committed willingly or under physical or blackmail pressure from English or foreign 'gangsters'. But the great majority are planned or 'slippery-slope' (Levi, 1981) operations which are unconnected with offenders outside the immediate specialist team or even sole operator.
Cheque and credit card fraud

In the year ended June 1991, net fraud losses on the Visa network totalled US $516 million, which equated to 0.14 percent of the sales volume globally, but which represented a rise of 56 percent over 1990. This is a similar increase to that in the UK, where net fraud losses by UK Visa issuers in the year ended September 1991 amounted to £67.3 million, a rise of 59 percent over 1990. Of the losses to UK issuers, 16 percent (£10.8 million) represents fraud losses arising outside the UK. The ratio was similar during 1990, so we may assume that it indicates a consistent trend, or one that may increase (both proportionately and absolutely) as greater crime prevention measures are taken against UK credit card fraud in the aftermath of the report of Levi et al. (1991). Some other countries have higher proportions of losses arising abroad: 60 percent of fraud on Belgian-issued cards takes place outside Belgium. So the English Channel offers some, though decreasing, protection.

During 1991, fraud on UK-issued cards occurred in 103 countries, but 74 percent of the fraud (by value) occurred in just 8 countries and 68 percent within Europe. During 1991, Germany entered the Top Eight, while Malaysia dropped out. As it affects UK issuers, for the past two years, Italy has been the top fraud-producing country, accounting for 17 percent of UK overseas fraud, France is second (16 percent), Spain is third (12 percent), fourth is Hong Kong (8 percent), and joint fifth are the Netherlands and Germany (6 percent each). It is helpful for analytic purposes to indicate the rates of growth of fraud against UK issuers in these countries. In Italy, the fraud growth rate on 1990 was only 1 percent (reflecting measures taken by Visa in closing down the right of merchants who handled many fraudulent transactions to accept Visa cards); in France, 76 percent; in Spain, 9 percent; in Hong Kong, 12 percent; in the Netherlands, 139 percent; and in Germany, 306 percent. (For completeness, it should be noted that seventh was the US, with 5 percent of fraud and a growth rate of 132 percent; while eighth was Thailand, with 4 percent of fraud and a growth rate of 93 percent.) Among the European countries, Italy, the Netherlands and Germany have conspicuously higher ratios of fraud to legitimate sales. (The reverse is true of the US, where the higher volume of authorizations – 83 percent compared with our 13 percent in 1991 – makes credit card fraud more difficult and riskier.)

What types of fraud on UK issuers arise overseas? Those arising from cards lost or stolen account for 66 percent of losses (compared with 70 percent in the UK domestically). There is far less of a problem with postal interception of cards, because few are sent to people overseas. However, France is the most popular destination for
cards not received by customers, followed by Italy, Germany, Austria, and – in Europe – Ireland. In 1990, Germany, Austria, and Ireland did not even feature in postal card intercepts, their subsequent rise showing clearly the entrepreneurial skills of some credit card fraudsters in adapting to new business opportunities. Some cards are redirected by post to countries such as Italy where floor limits for transactions are typically higher than in the UK, indicating cross-border links.

The major domestic/international difference in fraud patterns arises for counterfeiting: a UK card is ten times more likely to be involved in a counterfeited transaction outside the UK than inside the UK. Counterfeiting can mean either a manufactured look-alike or a card used in collusion with a merchant who knows that the transactions are not genuine. (These can be detected because of an abnormally high number of fraudulent transactions passing through a single merchant.) In 1991, Italy leaped to second favoured location for counterfeit losses (from eighth in 1990), while Spain remained third. The only other European country with a significant involvement in counterfeit card losses on UK cards was Greece. From a low base rate – which makes percentage rises easier – these losses have increased fast: by over 1,000 percent in Italy, 750 in Greece, and 160 percent in Spain.

Very little is known about how the international market in credit card fraud is organized. Postal interception fraud is generally committed by staff working in Post Office sorting sections who simply redirect mail to their favoured destination, or by postal workers in the country of destination. Ethnic links are often implicated there. There are well-recognized trails of lorry drivers who collect stolen cards from particular locations within the UK – sometimes after they have been heavily used already by local teams of fraudsters – and then use them systematically overseas, to pay for relatively low value transactions such as fuel which are below authorization limits for retailers. The popularity of the UK as a place to use cards and Eurocheques stolen abroad is inhibited by the fact that it is more costly to go to the UK from other European countries; there is a geographical bottleneck to leave the country; and there is a fairly incorrupt judicial system. Despite the abolition of border controls, these factors will remain post-1993. Preliminary analysis on one type of card reveals that in the first six months of 1991, 18 percent of the cards used fraudulently overseas were used in more than one overseas country, and that the average number of days from the date of card loss to first use overseas was 17 days. This suggests a high level of confidence among offenders in the unlikeliness of their being detected, which in turn reflects the absence of pan-European practical cooperation in prevention.
Cheque guarantee fraud
Cross-border crime on conventional UK cheques is limited by the fact that they are not valid overseas. Stolen cheques may be presented for payments through false accounts overseas, but the delays involved plainly make this a problematic exercise. Switch debit cards, as contrasted with Visa Delta debit cards such as Barclays' Connect, cannot be used in the rest of Europe, though negotiations are under way. The main medium for cross-border cheque fraud is through Eurocheque.

Some commercial background is helpful in understanding Eurocheque fraud. In Austria, Belgium, Germany, the Netherlands, and Switzerland, Eurocheque is the standard national cheque guarantee system as well as an international one, and 95 percent of Eurocheques in those countries are used domestically. Altogether, one billion Eurocheques, with a value of almost £100 billion, are used annually (the normal guarantee is for £100 per cheque). Eurocheque has the largest ATM network in Europe, and 6.2 million cross-border transactions were conducted through their ATMs in 1991. Eurocheque fraud losses in Europe as a whole are very substantially lower than credit card fraud losses, though of Eurocheques cleared abroad but issued in the UK, fraud levels reflect the vulnerability to crime of UK tourists abroad. In Europe, about 60 percent of the frauds are cross-border losses.

The cross-border fraudsters appear to be principally professionals, as deduced from handwriting examination made of the returned fraudulent cheques, and of those identified, over two thirds are South American, who tend to come over for some two months — generally entering the EC in Spain — before returning. Apart from the cheque counterfeiters — and one recent UK fraudster used cheques that were very well colour-photocopied before finally being arrested in France — the major fraud organizers have to buy Eurocheques on the black market, and this may be organized as discussed earlier in the context of UK credit cards.

It is important to appreciate the intersection between some types of cross-border crime and the domestic 'crime problems' of individual nations. Thieves appear to target travellers with foreign license plates as persons who will both possess valuable goods and create less policing 'heat' than would local people. Bar owners act as focal points for the redistribution of stolen Eurocheques, as they do credit cards. Interestingly, thefts from motor vehicles feature very modestly in 'domestic' Eurocheque fraud losses, burglaries and thefts from dwellings being the dominant sources for subsequent local fraud. The cross-border aspect of cheque and credit card fraud has to be kept in perspective. The 1991 UK 'plastic' card losses totalled £165.6.
million, and though approximately 16 percent of this arose from misuse overseas, the domestic criminal market is central to that overseas distribution. It should be noted that in Germany, the counterfeiting of 'plastic' cards and Eurocheques is treated with the same seriousness as the counterfeiting of banknotes: this is not so in the UK.

**Car and other vehicle theft**

The proportion of motor vehicles that are stolen and 'exported' from the UK is unknown, and is very difficult to retrieve from other police data. During 1991, the Stolen Vehicles Squad of SO (1) in the Metropolitan Police made 275 arrests and recovered 790 vehicles worth £10 million. Of the vehicles recovered, 114 were overseas and the number of arrests involving these cross-border car thefts was approximately 50. This ratio of one in seven vehicles recovered being a cross-border theft cannot reasonably be extrapolated to whatever proportion of the 582,000 cars taken without authority in England and Wales are never recovered, and the proportion found in the EC is unknown.

A survey by the Association of British Insurers and their European counterparts in October 1990 revealed that in the eight European countries surveyed, out of 130 million vehicles reported stolen in the study period, 100,000 to the value of £1,000 million had disappeared illegally out of the country. The Germans found over 5,000 German vehicles in Poland alone, of which some 600 were also the subject of false insurance claims. Has the cross-border vehicles crime problem been getting worse? UK information is not sufficiently reliable to make deductions from, though there is general agreement that the problem has got worse. The UK (along with Germany and Switzerland) appears to be a net exporter of stolen vehicles, while Italy and Spain are net importers of them. A significant amount of the stolen vehicles traffic uses other European countries merely as a conduit for final destinations outside Europe. Clearly, given the convenience of land borders and their relative poverty, the newly liberated Eastern European nations will become readier destinations for stolen vehicles, since they are no longer so concerned about controlling inward traffic as they were before the collapse of Communism. (This also affects narcotics smuggling.)

**Arts and antiques thefts**

This area of crime is intermittently dealt with by UK forces. The two officers of the Metropolitan Police squad dealt with 132 overseas
enquiries during 1991. Nevertheless, granted that investigators are unlikely ever to discover how many stolen goods are exported from or imported into the UK, there are serious problems of statistical collation and of communication between divisional officers attending burglaries and the specialist squads. The art theft docket provided by the police are four pages long (because they have to cover a wide range of objects) and, though easy to fill out, are infrequently used by local officers. Relatively little is known about the art thieves themselves, and there is some controversy about the networks of dealers that give false provenance to what are in fact stolen art and antiquities. The trial in 1991 of a former employee of Sotheby's gave rise to allegations of systematic 'blind eyes' being turned to authentication of such provenances by those who conduct auctions. The main detective work is carried out by insurance-linked private sector agencies and art magazines.

Drug-trafficking

Unlike all the above crimes, since the UK produces little home-grown narcotics or precursor chemicals, almost all the drugs problem has its origin in cross-border crime. During 1991-1992, approximately 53 percent of the drugs seized by UK Customs came via the EC, some of the larger shipments in semi-rigid boats which do 70 knots and cannot be caught by existing craft. The successes in restricting the procurement of precursor chemicals have led to the importation of drugs such as amphetamines and ecstasy which otherwise could be manufactured domestically: many of these are manufactured in the Netherlands. During 1991, of the drugs seized by HM Customs and Excise, 37.4 percent of heroin, 6.1 percent of cocaine, 62.9 percent of cannabis resin, 18.8 percent of herbal cannabis, and 98 percent of synthetic drugs, came from or via other EC countries.

The future of cross-border crime and its control

Whether or not EC membership expands to include the (ever-growing!) number of Eastern European countries, sources indicate that there has been a significant escalation of cross-border problems connected with the emergent states of Central and Eastern Europe. These take the form of trafficking in drugs and in weaponry, fraud, counterfeiting, art theft (which is a major export to Western Europe), stolen vehicles, smuggling, and extortion. The policing (and even legal) infrastructure in those former socialist countries might best be described as chaotic, and although new laws are being generated to
cope with business enterprise, they have moved in a few short years from a situation where the possession of private property was a crime to a fully fledged capitalist structure; and from sophisticated state intelligence apparatuses to a minimalist criminal intelligence structure dominated (as Britain's was before 1829) by fear of a powerful Central State.

The moral and political pressure is so great that it is hard for countries to resist agreement at a formal level on mutual assistance, though this is easier for drugs than it is for serious fraud, and much easier for non-tax fraud than it is for tax evasion. How the formal rules work out in practice is another question. It should be noted, however, that if a regulatory 'level playing field' is to exist at a substantive rather than merely at a formal, symbolic level, more attention will have to be given by regulators to rule compliance if competitive under-enforcement is not to undermine the effect of these developing rules. This indeed is the rationale given by the European Commission for their intervention in money-laundering. The Financial Action Task Force does monitor compliance, but there are no independent studies of this or of the impact of the measures. (For a UK study, see Gold and Levi, forthcoming.)

In no area is cross-border crime, whether European or not, likely to diminish naturally. Extreme measures of prevention are not feasible and would not be permitted for other EC countries under the Treaty of Rome. The counterfeiting of documentation - whether passports, cheques and credit cards, letters of credit, or other financial media - are a key vulnerability of many institutions and affect immigration as well as financial crime and drugs smuggling. Organized groups from the Far East, West Africa, and Eastern Europe have strong traditions in this aspect of criminal skills.

Apart from action against terrorism and drugs, the most commonly discussed area of pan-EC cooperation is in relation to combating money-laundering. The powers of governments to investigate financial transactions, including money-laundering, have witnessed an extraordinary growth. Since 1983, the UK has moved from a situation in which customer confidentiality was de facto and, except following the institution of criminal proceedings, de jure sacrosanct, to one in which there is criminal liability - about to be enhanced slightly in the Criminal Justice Bill 1992 - for bankers who assist in disposing of what they suspect to be the proceeds of drug-trafficking or terrorism; bankers can report with civil impunity transactions that they suspect to be the proceeds of fraud or robbery; and they are regularly in receipt of (a) instructions from the Director of the Serious Fraud Office to disclose information under s.2 of the Criminal Justice Act 1987, and (b) Production Orders made by circuit judges under
Schedule 1 of the Police and Criminal Evidence Act 1984 to disclose details of accounts and background papers (see Levi, 1991). The changing obligations may be usefully distinguished in terms of 'proactive' obligations (to inform the authorities about customer transactions of which they may be ignorant) and 'reactive' obligations (to respond to investigative enquiries about persons who are already 'known to' the authorities).

Given its purported importance in the development of European and global organized crime, what is meant by money-laundering? The realpolitik is that it is a term of opprobrium to describe the movement of money to or from undesirable persons, organizations, or countries. When the CIA or MI6 move and disburse money via BCCI (Bank of Credit and Commerce International), we call it facilitating the national interest; when the Mafia does the same thing, we call it money-laundering. The label may be used contemporaneously, as when a bank under surveillance knowingly launders 'drug money'; but the judgment may also be applied retrospectively, as we can see in the succession of Serious Fraud Office cases such as Barlow Clowes, Polly Peck International and Maxwell, all of which involved financial transfers from the UK to other parts of Europe of many millions of pounds. We note immediately one crucial difference: drug-trafficking proceeds are criminal ipso facto; indeed, under US law they are the property of the government. However, what are in fact fraudulent transactions are labelled laundering only if and when the fraud is discovered and recorded as crime. (Though sometimes civil cases that involve constructive trust or Mareva injunctions which freeze 'vanishing assets' worldwide are really laundering the proceeds of fraud cases which are dealt with by non-criminal means.) Fraudsters also have the advantage that they already have corporate structures to utilise for 'layering' and 'integration' purposes – making suspicion less likely – and that they probably have legitimate financial instruments rather than cash to process through their accounts.

But the traditional method of looking at problems of funds reintegration may not apply so readily to fraudsters. The 'problem' depends on what one is seeking to achieve. In the past, fraudsters could hide quite happily in overseas locations where the governments were friendly: the history of Robert Vesco and others connected with Investors Overseas Services in the 1960s and 1970s illustrates this perfectly. There was no risk of asset confiscation. Now that the globe is shrinking, their problem may be not just getting the money overseas but keeping it (and themselves) out of the repatriative clutches of the authorities. One objective is to create an absolute break in the money chain, if necessary by withdrawing the funds in cash from one institution and depositing it elsewhere. Some of the
manoeuvres connected with the transfer of funds in the Guinness 'share support operation' are an example. It depends on whether the fraudster wishes to create a chain which is hard to follow and will deter most people, or whether (s)he wishes to make it impossible, in which case the purchase of bearer bonds or securities is a relatively simple ploy, if one whose legitimate objectives may be hard to explain to the sceptical.

Criminal law matters are normally an issue reserved for member governments individually under the principle of subsidiarity: they are not within the legal competence of the Community as a whole. However, in the interests of developing a single European market in financial matters, the UK and other EC countries have agreed to treat attempts to combat money-laundering as being within the competence of the Community. The preamble to the Council Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering of May 31, 1991 seeks to justify this competence by noting, inter alia, that 'when credit and financial institutions are used to launder proceeds from criminal activities (...) the soundness and stability of the institution concerned and confidence in the financial system as a whole could be seriously jeopardized, thereby losing the trust of the public.'

Some might regard this involvement in regulating money-laundering with (justifiable) suspicion as the 'thin end of the wedge' for Community interference in domestic criminal justice issues, insofar as much significant crime for gain involves the use of financial institutions at some stage. However, given the problems that arose for Banco Ambrosiano and for the Bank of Credit and Commerce International as a result of their involvement in money-laundering internationally, there is a plausible case here in relation to capital adequacy (and the consequences of large fines for money-laundering), even if there is no evidence that the public are likely to be disturbed or directly harmed if the major banks do take deposits from international criminals. One should, in other words, distinguish between those laundering activities that imperil soundness and stability of the bank itself, e.g. non-arms length loans to fraudsters or high-living friends of the lenders, and those that are in some sense immoral but not unsound from a banking viewpoint. (Though, depending on their competence and integrity with the bank's funds, the imprisonment of bank directors would normally count as 'unsound business'! Obviously, if the unlawful capital were materially large and prone to flight, prudential concerns would be high even to the morally tolerant.)

Ironically, the EC Directive will apply mandatorily to the proceeds of drug-trafficking but not to the proceeds of fraud against the
European Community. The latter is surely more central to Community competence than is the former, but despite vast losses, political issues of 'subsidiarity' currently militate against Euro-policing of these frauds. The measures contained in the Criminal Justice Bill 1992 represent an intermediate position in extending money-laundering rules to all serious crimes, which probably excepts tax evasion. In practice, however, whether or not specifically provided for by law, mechanisms that detect or prevent drug money-laundering are likely to affect other forms of money-laundering (Gold and Levi, forthcoming).

Concluding comments

There is an almost total absence of any available or even readily collectable systematic data from policing agencies on cross-border crime, particularly where information is sought on which countries are involved. However competent their work is on an individual case level, very little appears to be known even by specialist squads about patterns of criminal trading overseas. It is no accident that the best and most systematic data in this article come from my exploratory analysis of private sector information on credit card fraud, for these firms have developed hard data on patterns of victimization in order to try to cut down on their commercial losses. Criminal policy never flows automatically out of empirical data or even from intelligence analysis: there is always a political dimension to it. However, without knowing more about the dynamics of international criminal enterprise, it is hard for policy makers to forecast sensibly what the optimal practical European response to it should be, even if there were consensus about whether cannabis should be controlled or VAT rates harmonized. Policy-making inevitably is based on shifting empirical sands of information about how much crime there is and how it is being organized, but it might be helpful if we knew whether the foundations of our knowledge were dry and stable or were quicksand!

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*Experiences of Crime across the World*
The potential for the growth of organized crime in Central and Eastern Europe

Matti Joutsen

The recent fundamental changes in Central and Eastern Europe have changed many aspects of everyday life and increased the potential for crime and organized crime. This article looks at some of the recent trends in Central and Eastern Europe that have contributed to the growth of crime in general, and organized crime in particular.

The shift to a market economy and the rush towards adoption of a capitalist ethic have brought with them, for the first time in this area of the world, widespread unemployment and (officially recognized) rapid inflation. A recent survey showed that the average purchasing power of Russians is now less than half of what it was two years ago, in 1990 (IHT, 1992b, p. 1). Because of rising prices and inflation, the average Russian family must spend between 75 and 80 percent of its income on food alone (ibid., p. 7). The life savings of many have been wiped out because of inflation.

The changes have also affected social welfare, health and education. The Central and Eastern European countries have prided themselves on the standard of their cradle-to-grave system. All children were assured a basic education, and many were offered free higher education. Also the basic medical and dental services were free, and everyone was supposed to be protected by the safety net of the social services. Now, however, a deterioration in public health is clearly evident, particularly in the younger generation: according to the Ministry of Health of the Russian Federation, only one out of every seven children can be said to be in good health (NYT, p. 5).

The discrediting of the previous political system and the immense

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2 This glowing portrayal of the system was at odds with reality. Although health care was free, its standard was not very high, and even basic medicines were often lacking. Members of the nomenklatura, in turn, could often take advantage of special clinics, which provided higher standards of service, and had better supplies of medicine. The social services could not provide more than a modest level of support, and the safety net it had provided has now all but disappeared with rampaging inflation.
problems in day-to-day survival have also had their effect on crime. With the virtual collapse of formal and informal social control in Central and Eastern Europe, the rates of reported and, presumably, hidden crime have increased considerably. This has come as a shock to many, since these countries have long been vaunted as societies that have been successful in preventing and controlling crime.

The media, seeking to provide the public with Western-style reporting, has focused on the increase in crime. This marks a considerable change in coverage. Up to the mid-1980s, the mass media in most Central and Eastern European countries had dealt with crime only in passing, as an educational matter. The standard crime news item permitted to appear had been a report on individuals who had been found guilty of a crime and sentenced. Some of the reasons for the crime may have been mentioned: abuse of alcohol, bad company or other bad influences, unwillingness to work, and so on. Today, crime – and in particular the increase in crime – have become standard fare in the mass media. The news is no longer limited to reports of offenders brought to justice and given their deserved punishment. Now we also see reports about unsolved crimes that the criminal justice system seems unable to deal with.

The increase in reporting sends several subconscious messages to the public: crime has suddenly increased enormously; since many offenders are not apprehended and indeed may be making enormous profits, crime obviously does pay; and finally, the criminal justice system appears to be failing in its job. This is a lesson that has proven irresistible to many. While the majority of the population has joined the ‘New Poor’, a counterpoint is provided by the successful entrepreneurs who have taken advantage of the new market economy to buy and sell wherever there is an opportunity. Despite the deregulation, some price controls remain, for example in Russia on raw materials such as oil, wood and scrap metals. Those with the right contacts and capital can buy up huge stocks of these raw materials and sell them either at home or abroad at an enormous profit. Entrepreneurs, however, come in many shapes and sizes. The push of poverty, the pull of hitherto unheard-of riches, the enormous uncertainty over what is possible and what is not under the new precepts of capitalism, and the collapse of formal and informal social control have led to a considerable expansion of organized crime.

Organized crime before perestroika

Organized crime as such and its related phenomena, are not new to Central and Eastern Europe. According to largely anecdotal evidence,
economic crime and corruption were largely built into certain facets of the Soviet model. Drug-trafficking and organized crime appear to have been minimal, with the exception of the Central Asian republics. As for environmental crime, most of the considerable despoliation evident in for example Czechoslovakia, Poland and the Russian Federation occurred with the permission of the authorities; this now seems ‘criminal’ only in retrospect.

Before perestroika, official sources in Central and Eastern Europe either disputed the existence of organized crime in their countries or used the term to refer to a few offenders who formed ad hoc affiliations for the purpose of committing offences. Organized crime (à la Mafia) was assumed to exist only in the decadent West. It did, however, have a fertile soil in which to grow. What is now recognized as organized crime took root in corruption and the ‘shadow economy’. The official economy rarely operated effectively, and was notoriously poor in the area of consumer goods. In such an economy of scarcity, each consumer relied on a network of friends and relatives to secure necessities. In such an atmosphere, it was difficult to distinguish between gifts and bribes. A shop clerk would be bribed to set aside a few oranges from the next shipment, or a hospital clerk would be bribed to disregard the long waiting list and admit a patient requiring treatment. This petty corruption became endemic. When 4,500 respondents were polled nation-wide in the (former) USSR on what they considered the main reasons for the country’s ‘current difficulties’, 57 percent cited corruption and drunkenness (Smith, 1991, p. 90). Not even the criminal justice system itself was immune: for example, Newsweek reported estimates that 70 percent of the police in St. Petersburg were corrupt (Newsweek, 1992, p. 14).

This corruption was supplemented by the shadow economy, which sought to supply whatever the rigid and moralistic legal market could not produce and distribute in sufficient quantities and/or of adequate quality – which often seemed to be just about anything and everything. This led, among other things, to theft by employees, theft of state property, and currency violations. It also led, by definition, to profiteering and speculation; essentially, unauthorized free enterprise. Government sources estimate that the annual amount of money involved in the shadow economy in the (former) USSR in 1990 was about 150 billion roubles, and the material losses from the activity of known criminal groups is estimated to have exceeded 8 billion roubles (USSR, 1991, p. 1). The shadow economy consists of two sectors.

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3 Direct conversion of roubles into dollars is difficult, due to rapid inflation and the wide disparity between the various legal rates and the black market rate. The recent astronomical inflation of the rouble renders direct conversion into dollars
The black market was and is entirely illegal, and deals mainly with smuggled goods, foreign currency, pornography and drugs. The grey market provides goods and services in competition with the state-controlled market, but at free-market prices. The grey market often serves as a channel for goods embezzled from the state, and/or it provides services on 'company' time. For example, many state factories have siphoned off a proportion of their raw materials to be used in the 'illegal' production of high-quality goods, and have then shared the profits among the employees involved. The state was unable to stamp this out, primarily due to lack of resources and the unwillingness of the public to cooperate with the authorities on this issue. The state was also generally unwilling to intervene, since the shadow economy worked after a fashion, thus reducing public discontent. Finally, the state did not intervene in many cases because the responsible officials were raking off bribes. The shadow economy was lucrative for many, but the gradual onslaught of foreigners (businessmen and tourists) with their wallets full of hard currency raised the stakes. Crimes such as fraud, theft, embezzlement, assault and robbery against locals were augmented by currency violations and prostitution, with foreigners serving as willing participants. The new international connections brought in the arms trade, a thriving trade in contraband (in particular, icons and other valuable objets d'art), gambling and economic crimes.

These crimes continue to be committed by enterprising individuals acting on their own. However, they have also become a growth area for organized crime, which is entering the petty crime arena and using its organization and resources to produce greater profits. At a United Nations meeting of experts organized by the Ministry of the Interior of the (former) USSR in late 1991, the host country reported that it had between 3,500 and 4,000 stable, hierarchically organized criminal groups created for the systematic commission of profit-oriented crime, with the number of members ranging from a few dozen to several hundred (USSR, 1991, p. 1). These groups had divided the country geographically and, in part, according to specialization. They were usually named after the (nick)name of their leader, according to the territory they control (e.g. Solontsevo and Lyubertsy in Moscow), or according to the ethnic background of the members of the group (e.g., Chechen, Assyrian; see UN, 1991, p. 6; Ward, 1991, p. 9).

One very likely growth area is drug-trafficking. In Central and almost meaningless. One practical indication of the value of the rouble is that the average family monthly income in 1990 was about 150 roubles. (The average monthly income in the US at the time was about US $ 1,500. However, Western readers must take into consideration the huge differential in cost of living between Western countries and Central and Eastern European countries.)
Eastern Europe, the drugs most commonly used (apart from alcohol) are heroin and hashish. The primary source is the Central-Asian republics, although low-grade heroin is also made from home-grown poppies in other areas. Some indication of the size of the market is given by official statistics, according to which the (former) USSR had some 120,000 drug addicts in 1989, or 42 per 100,000 head of population; the true number is undoubtedly higher (Gilinskiy, 1992, pp. 76-77). Poland is estimated to have between 20,000 and 40,000 drug addicts, or 50-100 per 100,000 head of population (Mokalewicz and Swiatkiewicz, 1992, p. 94). Currently, home-grown heroin is the preferred drug in Poland and some of the Baltic republics; government sources estimate, for example, that this accounts for 90 percent of the drugs used in Lithuania (Maertens et al., 1992a, p. 4). This is very much a private enterprise, with no discernable links with organized crime. Following Dorn et al. (1992, p. xiii and passim), it could be said that the drug market in these countries is still in the early stages of development, where drugs are traded for an ideological motive or friendship rather than for profit. This is not the case with Central Asia, where the drug business is allegedly controlled by a 'narco-Mafia', with connections across the borders to drug-growing areas in the Near East (the 'golden crescent'). The scale of the production and wholesale distribution of heroin and hashish, and the recent aggressive expansion, can be seen in the size of seizures. Two recent cases involved attempts to deliver hashish via Latvia to the Netherlands. The first case (in 1989) involved 1.2 tons and the second (1990) 3 tons (Maertens et al., 1992b, p. 5).

The interest of organized crime is explained by the considerable potential profits to be gained from shipping drugs abroad. The average outlay of a heroin user in Lithuania, for example, is said to be US $1 (currently, 600 roubles) per day (Maertens et al., 1992a, p. 9); across the Baltic in the Nordic countries, the same amount of low-grade heroin could fetch US $50 or more. At the same time, selling drugs abroad provides an opportunity to obtain hard currency and highly prized Western goods, which can be traded in the shadow economy at a tidy profit. The interest in drugs is not entirely limited to export. At the end of February, 1993 an attempt to import one thousand kilogrammes of cocaine by ship from Colombia was

4 The price is higher in Estonia, where a greater proportion of drugs are imported: the daily expenditure is estimated to be US $8-12 for 'two tea-glasses of opium poppy powder'. The going rate for a 'tea-glass' of hashish was said to be US $10 (Maertens et al., 1992c, p. 4).

5 The United States has asserted that Bulgaria has been harbouring heroin laboratories, in addition to helping drug traffickers move narcotics and cash across its borders (Royce, passim).
uncovered by the customs in Viborg, near St. Petersburg. This amount of cocaine would scarcely find a ready market within the Russian Federation, and most of it was presumably intended for re-export to Western Europe.\(^6\)

Other growth areas for organized crime include theft. It is estimated that there has been a three to sixfold increase in art theft over the past two years (International Workshop, 1992). Officials in the Russian Federation claim that emigré communities in Austria, Germany, Israel and other countries are used by organized crime to establish contacts for international car theft, as well as for arms and drug-trafficking (USSR, 1991, p. 10).

One direct result of the dismantling of the Soviet army has been a burgeoning domestic and international illegal trade in firearms. Because of the sharply reduced size of the army, there is a great number of surplus weapons. Since large units are being shifted from Central Europe and the former constituent parts of the USSR back to the Russian Federation, and the allegiance of many units has been transferred to newly independent republics, the records kept on firearms and other supplies are in disarray. At the same time, the military personnel is suffering from a considerably reduced standard of living, low morale, and sheer boredom. The temptation to sell firearms to supplement the poor pay has proven irresistible to many; apparently anything from handguns, rifles and machine guns to tanks are on the market. It is therefore not surprising that Russian officials have noted a rapid increase in the use of firearms in the commission of offences, both by individual offenders (in, for example, burglaries and robberies) and in organized crime (in extortion and in settling rivalries between different groups). Internationally, the arms have gone for example to war-torn areas in former Yugoslavia, in the Caucasus, and in the Carpathians.\(^7\)

**Post-perestroïka growth**

According to one notable explanation for changes in the structure and level of crime, the routine activity approach, crime is affected by three factors: the number of suitable targets for crime, the number of likely and motivated offenders, and the absence of capable guardians

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\(^7\) During the summer of 1992, Finnish and Estonian customs officers confiscated a shipment of 15,000 Makharov army pistols *en route* to England. No evidence has yet been publicized on their ultimate destination or intended use, although informed guesses point to Bosnia-Herzegovina.
to prevent would-be offenders from committing crime (Cohen and Felson, passim). In all three respects, the potential for organized crime has grown in Central and Eastern Europe along with the changes brought about by perestroika.

Growth in the number of suitable targets for crime. The change from a state economy to a market economy has increased the amount of consumer goods available. Radios, televisions, video recorders, compact disk players, brand-name clothing, cosmetics and other goods are now being produced in greater numbers domestically.

Also the opening of the borders has greatly expanded the number of potential targets for organized crime. Residents returning from the West and tourists or businessmen coming from the West bring in a variety of goods both legally and illegally. Western tourists and businessmen, who are clearly identifiable as foreigners and carry foreign currency or expensive status items, often find themselves the victims of crime. They also provide a ready market for organized prostitution.

Growth in the number of likely and motivated offenders. A large section of the public has been willing or unwilling participants in what has been called the 'shadow economy'. The attempts to instill a socialist mentality never succeeded in erasing the capitalist urge for personal profit: the shadow market grew out of the iron laws of supply and demand. The borderline between the semi-legal grey market and the illegal black market is often impossible to draw, and many people received their indoctrination into organized crime in this way. With the rapid drop in the standard of living, the spread of unemployment and the rising rate of inflation, more and more people are turning to the black market and to crime as a means of supplementing their income. The reality (and perception) of increased crime has contributed to the readiness to commit crime; the prevailing attitude in Central and Eastern Europe is said to be one of naglost, brazen insolence (IHT, 1992a, p. 1).

The pool of likely and motivated offenders is also being expanded by the prison system. The prison population in those Central and Eastern European countries for which data are available is far higher than in any Western European country. Conditions in the prisons appear to be very poor by Western standards, and they can thus do little to rehabilitate the offenders. On the contrary, the time spent in prison can provide the prisoners with information on new crime techniques and suitable targets, as well as supply them with willing partners in crime. Prisons have proven to be one of the main recruiting pools for organized crime.

Finally, as a result of the relaxation of travel restrictions, offenders are far more mobile than before. Previously, international travel was
possible only under certain conditions, and even internal travel was subject to regulations and restrictions. For example, citizens of the USSR could generally travel only as diplomats or members of an official delegation. Today, a passport and the necessary visas can be readily obtained either legally or illegally.\(^8\) At the same time, border controls have become very relaxed. It has become almost impossible for the police of one country alone to investigate offences, as more and more frequently the traces end at the border.

**Absence of capable guardians.** The current resources and approach of the criminal justice systems in Central and Eastern Europe cannot provide an effective response to the increase in organized crime. There are shortages in personnel, facilities and equipment. Training and the level of knowledge among practitioners in many cases is woefully inadequate.

**Personnel.** The criminal justice professions in general have not been held in high esteem in many Central and Eastern European countries; for example, a judge does not have the same high status as in Western Europe. With the recent economic changes, the salary level of criminal justice professionals, always relatively low, has gone down even further, making it difficult to recruit and retain competent individuals.\(^9\)

Special personnel and resource problems exist in the Baltic countries (and, to a lesser degree, in the former constituent parts of Yugoslavia), where the newly independent countries must often build their criminal justice infrastructure from scratch. Much of the criminal justice personnel was Russian, and left soon after independence. The new countries have had to take over responsibility for policing, the courts and the prisons with minimal staff.\(^10\)

**Facilities and equipment.** There is a sharp contrast between the growing crime problem (both real and imagined) and the lack of facilities and equipment in Central and Eastern Europe. A recent international seminar elicited the pained reaction from one Eastern European participant that, to them, everything being said by Western European participants was pure fantasy having nothing to do with

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\(^8\) On the basis of a law adopted when the USSR still existed, all Russian citizens shall have the automatic right to enter and leave the Russian Federation as of January 1, 1993. This will inevitably bring strong pressure on all the neighbouring countries.

\(^9\) To take one example: the average monthly salary of a policeman in Moscow, when converted to hard currency at the blackmarket rate, is US $10.

\(^10\) At the beginning of this year, Latvia had only 150 customs officers, of whom only 50 had received any formal training in their field - a pitifully inadequate number to halt the burgeoning smuggling of drugs, firearms and other contraband (Maertens et al., 1992b, p. 10).
reality. It is difficult for participants from Central and Eastern Europe to understand how Western European criminal justice practitioners can debate the finer points of the development of crime prevention and control when, for those coming from the East, even the basic tools of the trade (police cars, telecommunications equipment, equipment for drug analysis, even law books) seem to be out of reach.

**Training and skills.** Responding to organized crime requires not only resources, but also tactical and theoretical skills. In some countries (in particular Hungary and Slovenia, and to a lesser degree the Czech Republic, Poland, Russia and Slovakia), the standard of the basic training has been good, and follow-up seminars, international contacts and general discussions keep practitioners up to date to some extent. However, elsewhere (in particular in Albania and Rumania), the poor status of criminal justice practitioners can be seen in the lack of resources devoted to training.

In addition to the formal agencies of criminal justice, the informal social control agencies in Central and Eastern European countries may today be less able to prevent or control organized crime. The dissolution of the Soviet model has removed the ideological base from many organized social control activities. The growing fear of crime may make members of the agencies less willing to intervene, for fear that they themselves may come to harm. The perception that crime has become prevalent (whether or not true) may also lead to a laissez faire attitude: why intervene, if everyone is doing it?

**Conclusions**

There is a clear potential for growth in organized crime in Central and Eastern Europe. The criminal justice system in most countries in the region is undergoing a crisis in morale, resources and direction, sapping its possibility to respond effectively. One of the fears in Western Europe is that organized crime will begin to cross the borders from the East. So far, this appears to have occurred only on a small scale, primarily in connection with organized theft, drug-trafficking and the illegal sale of firearms. The slow pace of this development may be due to the lack of suitable international contacts, and to the fact that sufficient profits appear to be available in the domestic market. Furthermore, operating in the West has drawbacks and dangers: it is more expensive, there may be competition from local organized crime, and the police may be more efficient.

The danger posed by organized crime in Central and Eastern Europe nonetheless remains, both to the countries themselves and to the West. This has already been recognized, as shown by the growing
network of bilateral and multilateral agreements, as well as by the strengthening of informal contacts among the police. Many Western European countries are providing technical assistance to Central and Eastern Europe in the form of training, consultation and the exchange of information. Sadly, organized crime control even in the West has lagged behind organized crime; both East and West have a long way to go.

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Organized crime, corruption add to the law enforcement problems
Cross-border crime in Belgium

Brice De Ruyver, Willy Bruggeman, Patrick Zanders

During the period April 1990 to April 1991 a research team from the University of Ghent (Dierkens et al., 1991), under the direction of the Minister of Justice, M. Wathelet, investigated cross-border crime in the region comprising southwestern Flanders, southern Henault and Northern France. The choice of this region was not accidental. For several years the Belgian section of the region and beyond, has been subjected to persistent forms of property crime, which have received wide media attention.

The intensity of these offences inspired the police and judicial services to systemize their approach thereto. The Attorney General of the Court of Appeal of Ghent established a 'Kappa' cell, consisting of public prosecutors and police officials from various departments. 'Kappa' is simply the collective noun given by the Attorney General of Ghent to the group of offences committed in the aforementioned region according to typical modi operandi (infra).

The region under scrutiny embodies further characteristics, which undoubtedly influence the cross-border crime phenomenon considerably. In the first instance, past decades have witnessed an increasing difference between the deteriorating social economy of Northern France and the growing prosperity of southwestern Flanders, not without reason called the 'Texas' of Flanders and Belgium.

The socio-economic deprivation in Northern France has resulted in a fertile source for various forms of social nuisances, including crime. The work and writings of the Dutch criminologist Bonger (1969) concerning the relationship between economic deprivation and crime was fully exemplified in this region. In the course of time the high rate of unemployment caused by the industrial recession, the emigration of the wealthy from Northern France, vast concentrations of third generation immigrants who do not, or only marginally, contribute to the economic production process, illegal refugees and

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outlaws in the faubourgs (suburbs) have led to distinctive problems regarding the keeping of public order, the combating of crime and the upholding of criminal law. This leads us to the second characteristic of this region.

In that part of the research area situated in Northern France – a country proclaiming the Rule of Law – criminal law is not upheld as one might expect. It is a fact that the French police consider a transfer to Northern France as a punishment, especially when having previously worked and lived in the more attractive sections of France. Many regard their stay as hopefully a temporary one. The working environment is also typically demotivating. With a severe shortage of resources they must react to crime rooted in a complexity of social deprivation, marginality and illegality. This is the world of confrontation with the 'have-nots', the outlaws of this society who have nothing to lose and are just like any other member of society, attracted to the world of consumption, possession and wealth.

The geographic proximity of the mentioned areas is the third characteristic of our research area. The study demonstrated the difficulty in defining a specific border. The geographical framework, namely the geographic proximity of two totally different lifestyles, in which the social attractiveness on one side of the border contrasts sharply with the deprivation on the other side, determines and promotes border crime and cross-border crime. It is clear that different factors can influence the meaning of the 'border' in different regions. Although the increase in crime in the border communities was already great before the period 1985 to 1989, it continued to rise from 1990 to 1992 (Dierkens et al., 1991). Meanwhile, for Belgium as a whole a stabilization of registered crime was recorded.

The research project focused on three topics. In the first instance an extended phenomenological study (including a crime and perpetrators analysis) was done. Secondly a population study was carried out which examined among other things, the attendant agitation, possible victim experiences, perception of crime, knowledge and involvement in preventative initiatives and opinions regarding the work and efficiency of the police services. This population study was supplemented by interviews with the mayors of four border communities and insurance organizations as well as a media study.

The second objective of the study concentrated on the evolution of political and legal cooperation in criminal cases. To that end the police and the magistrates from the research area were questioned. An examination of the 58 so-called 'Kappa' files permitted an evaluation of the practical functioning of the legal cooperation with France. Within the framework of the study of international police cooperation in criminal cases, specific attention was given to the exchange of
information and to two particular investigative techniques, namely cross-border observation and cross-border pursuit.

In this article we shall principally limit ourselves to the results of the phenomenological study and the effects of the phenomena on society.

**Police-registered crime**

**General**
In this study we have limited the crime analysis to police-registered crime (Van Tulder, 1985). The structured use of crime analysis has not existed in Belgium to date; a fact that scientific research will attempt to change this situation in the future (Bruggeman, 1992). In other words, a two-sided limitation must be taken into account in the interpretation of the results of the phenomenological analysis: the analysis refers only to crime which is registered and recorded by the police and the relationship between the registered crime and society is not examined (Van Dijk et al., 1990; Van Kerckvoorde, 1985).

It may be evident that crime is not only related to demographic factors but, for example, also to socio-economic factors. With respect to the latter we are convinced that these factors exercise a fundamental influence on the existence of cross-border crime in the studied region. However, in order to scientifically substantiate our beliefs, we have not been able to analyze this issue sufficiently. It is only with reference to the 'Kappa' perpetrator group that we had sufficient evidence to study the impact of the border factor.

The crime rate of four preselected border communities (Kortrijk, Menen, Moeskroen, Wervik) were compared to the national crime rate as well as to four socio-demographically compatible non-border communities (Aalst, Schoten, Torhout, Verviers) which were used as a control group.

A Belgian crime rate analysis indicates that theft accounts for 80 percent of crime. This is also the case in the studied region. In all border communities, including those situated in this region, the rule that they are particularly subject to ordinary theft and theft from cars is applicable. With respect to car theft and theft with violence and threat (tables 1 and 2) (Christiaensen, 1989), we noted, in comparison with the rest of the country, a greater amount of crime in the border communities and along the geographically determined French-Belgian road networks. By examining the crime map, one can clearly distinguish the French-Belgian border Kortrijk-Ghent and the French-Belgian border Roeselare-Bruges. The fast connecting roads enable the perpetrators to rapidly escape the police. Given the
**Table 1: Car theft in border and non-border communities**

<table>
<thead>
<tr>
<th></th>
<th>1989</th>
<th>1990</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N per 10,000 per sq km</td>
<td>N per 10,000 per sq km</td>
</tr>
<tr>
<td>Kortrijk*</td>
<td>95</td>
<td>12.45</td>
</tr>
<tr>
<td>Aalst</td>
<td>65</td>
<td>8.50</td>
</tr>
<tr>
<td>Menen*</td>
<td>64</td>
<td>19.49</td>
</tr>
<tr>
<td>Schoten</td>
<td>16</td>
<td>5.15</td>
</tr>
<tr>
<td>Wervik*</td>
<td>28</td>
<td>15.54</td>
</tr>
<tr>
<td>Torhout</td>
<td>4</td>
<td>2.23</td>
</tr>
<tr>
<td>Moeskroen*</td>
<td>218</td>
<td>40.74</td>
</tr>
<tr>
<td>Verviers</td>
<td>211</td>
<td>39.32</td>
</tr>
<tr>
<td>National</td>
<td>25,749</td>
<td>25.94</td>
</tr>
</tbody>
</table>

* Border communities

**Table 2: Theft with violence and threat in border and non-border communities**

<table>
<thead>
<tr>
<th></th>
<th>1989</th>
<th>1990</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N per 10,000 per sq km</td>
<td>N per 10,000 per sq km</td>
</tr>
<tr>
<td>Kortrijk*</td>
<td>17</td>
<td>2.23</td>
</tr>
<tr>
<td>Aalst</td>
<td>12</td>
<td>1.57</td>
</tr>
<tr>
<td>Menen*</td>
<td>7</td>
<td>2.13</td>
</tr>
<tr>
<td>Schoten</td>
<td>7</td>
<td>2.26</td>
</tr>
<tr>
<td>Wervik*</td>
<td>3</td>
<td>1.67</td>
</tr>
<tr>
<td>Torhout</td>
<td>0</td>
<td>0.00</td>
</tr>
<tr>
<td>Moeskroen*</td>
<td>68</td>
<td>12.71</td>
</tr>
<tr>
<td>Verviers</td>
<td>34</td>
<td>6.34</td>
</tr>
<tr>
<td>National</td>
<td>6,104</td>
<td>6.15</td>
</tr>
</tbody>
</table>

* Border communities

**Table 3: Theft with aggravating circumstances in border and non-border communities**

<table>
<thead>
<tr>
<th></th>
<th>1989</th>
<th>1990</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N per 10,000 per sq km</td>
<td>N per 10,000 per sq km</td>
</tr>
<tr>
<td>Kortrijk*</td>
<td>231</td>
<td>30.28</td>
</tr>
<tr>
<td>Aalst</td>
<td>452</td>
<td>54.81</td>
</tr>
<tr>
<td>Menen*</td>
<td>170</td>
<td>51.77</td>
</tr>
<tr>
<td>Schoten</td>
<td>104</td>
<td>33.50</td>
</tr>
<tr>
<td>Wervik*</td>
<td>44</td>
<td>24.43</td>
</tr>
<tr>
<td>Torhout</td>
<td>47</td>
<td>26.15</td>
</tr>
<tr>
<td>Moeskroen*</td>
<td>532</td>
<td>99.43</td>
</tr>
<tr>
<td>Verviers</td>
<td>271</td>
<td>50.50</td>
</tr>
<tr>
<td>National</td>
<td>63,580</td>
<td>64.05</td>
</tr>
</tbody>
</table>

* Border communities
geographical locality of major recreation areas along the main roads one can note a clear correlation between recreation and crime. A third kind of theft, namely that committed with aggravating circumstances (including housebreaking; table 3) has been increasing in recent years. The absence of the householders and the presence of valuable and easily transportable goods facilitate this type of crime. With regard to the general crime rate for this type of aggravated theft, the influence of the border is less apparent. In other non-border regions of Belgium, one notes substantially more cases of burglary than in our area of research. It is clear from the perpetrator analysis, more specifically from the pattern of perpetrator mobility, that the perpetrators who reside in France use the motorways (supra) to commit crimes deep in the heart of Belgium and escape via the same fast motorways back to France.

These crimes are also committed by drug users and drug dealers from Northern France on their supply routes to the Netherlands. A recent study into the relationship between drug use and crime indicates that many border communities in Belgium are confronted with drug-related crime (De Ruyver et al., 1993). This crime, particularly property offences including burglary, is also notable on the roads to Dutch drug distribution points such as Maastricht and Terneuzen.

Crime in some border communities
When compared to the control group, a detailed study of crime in the border communities of Kortrijk, Menen, Wervik and Moeskroen confirmed the aforementioned general trends. One can determine three broad categories of border and cross-border crime.

In the four communities of the research area the individual committing occasional crime is responsible for the concentration of particular forms of crime within a border zone of twenty kilometres. We refer here to crimes such as vandalism, assault and injury, ordinary theft, shoplifting, theft from and of cars, armed theft and theft with violence (supra). For nearly all these offences the border communities record a higher degree of crime.

Regarding shoplifting, for example, we determined that in Menen and Moeskroen the perpetrators were mainly very young French nationals of North African origin, residing in the Lille-Tourcoing-Roubaix region (table 4). Shoplifting in this region can be seen as an example of border crime, not so much with respect to its frequency but to the perpetrator group. The young age of the perpetrators and the fact that they reside in France render them virtually unpunishable. Another example of the border crime phenomenon is theft with violence and/or threat and/or armed. An analysis of perpetrators
committing this type of offence in the aforementioned border communities during 1989 indicated that the minority were Belgians: 23. French perpetrators were responsible for 19 incidents and 57 incidents were committed by other foreigners – mainly North Africans – living in the Lille area. The perpetrator(s) of 69 incidents remain unknown. The average age of the registered offenders in this group is 22 years, with the majority being 18-19 years of age.

In the framework of individual crime we can establish, geographically, two particular forms of crime and the recreation pattern of the offenders. The perpetrators of vandalism, intentional assault and injury, ordinary theft, theft of/or from cars, serious theft and drug use, commit their crimes in the vicinity of recreation centres or on roads leading to them.

Certain types of group crime overlap geographically with a section of recreation-linked crime. Such group crime is at least organized on a semi-professional basis. By this we mean that the preparation of the criminal act, the modi operandi and the extensive network of people dealing with the stolen goods, indicate that the Northern France perpetrator group go about their task in a well organized manner. The Attorney General of Ghent gave this offender group the name ‘Kappa’ and together with the Belgian police and the prosecutors of Courtrai established a ‘Kappa coordination cell’. The perpetrators of these types of group crime focus their criminal activities on shops with expensive, easily transportable goods and designer fashion, jewellery, electronic equipment and money.

Over the years the modi operandi of the ‘Kappa’ gangs have changed very little if at all. In Belgium and France, during raids, they make use of fast stolen cars changing them frequently as they make their escape. To enter Belgium, the perpetrators use the smaller border crossings which for years have not been manned, and after committing the crime they leave using the same types of border crossings. In Belgium the perpetrators make use of the extensive road network, including the E17, penetrating into the heart of Belgium into Antwerp and the Belgian-Netherlands border area for example.
For many of these youths, membership of a ‘Kappa’ gang is the highlight of a criminal career which often begins with the already mentioned individual recreation-linked crime. A specific analysis of the ‘Kappa’ gangs indicates that they operate in groups varying from two to ten members (on average four). The age of the members varies between 18 and 30 years (tables 5 and 6). A characteristic of the ‘Kappa’ perpetrator group is widespread drug abuse. The major part of the profits of criminal activities is used to purchase drugs.

Few relevant conclusions can be reached from this study with respect to the activities of organized crime in the study region. As such, the border factor plays no role in the activity radius of organized crime, which by definition operates on an international level. On the basis of the study factors, we submit that there is a clear difference between border crime and cross-border crime. In the former, the distance between the place where the crime is committed and the border clearly indicates a connection with the border itself. In the study region this distance is 20 kilometres. In cross-border crime the place where the crime is committed is not determined by the proximity of the border. This is particularly illustrated by the ‘Kappa’ crimes.

According to the phenomenological analysis it seems that one conclusion to be drawn is that the crime evident in this economically prosperous region does not affect the strong financial sectors, such as banks and businesses, but rather a particularly vulnerable middle class sector. We submit that this has been a deliberate choice by the leaders.
of the 'Kappa' gangs. Without doubt, bank robbery, attacks on businesses and bank customers, just like the kidnapping of industrialists, would lead to an intensifying of police and judicial efforts. By one means or another the 'Kappa' gangs have succeeded in establishing an equilibrium, which is advantageous for their criminal activities. The thefts virtually always take place in the same manner: either the doors are forced open with various objects or the shop-windows are smashed, often by being driven through with their cars. A specially targeted rapid execution is a characteristic of the criminal acts. Weapons are virtually never used, nor are persons threatened. Most frequently the criminal activities are committed at night or in the evening. The intensity of the raids (124 in 1989, 91 in 1990) has meant that several people have been victims of the 'Kappa' gangs on more than one occasion. There are certain shop owners who have received more than twenty visits from the 'Kappa' gangs despite complex anti-theft systems. It is easy to understand why the activities of this criminal group are reflected in the feelings of unease and insecurity in the community.

Time has enabled us to gain an insight into the 'Kappa' perpetrator group. One study of the registered offenders indicate that the perpetrator group reside in the banlieus of the Lille-Tourcoing-Roubaix region. They live in a socially deprived neighbourhood with a high degree of unemployment, social displacement, drug abuse and property crime. Social control in these neighbourhoods is nonexistent. Survival of the fittest reigns. To a certain extent the police presence is nonexistent. Those who have the means leave the neighbourhood, while socially displaced persons, illegal immigrants, criminals and other unwanted persons select these areas. In this manner the crime areas create concentrations of outlaws.

**Population survey**

The population survey carried out in the same research and control communities showed that the border itself plays a significant role in the perception of crime. It is generally expected that the opening of the borders, already largely realized, will result in an increase in border and cross-border crimes.

In the four border communities which were studied, compared with the four control communities, an increased chance of being a victim of car theft or other forms of theft is perceived (Van der Wurff, 1990). The feelings of anxiety and insecurity are stronger and there is a great need for information regarding the opening of the borders. This is closely connected to the fact that the border is an important
element in the subjective perception of crime. Above all an important difference has been established between Flanders and Wallonia. The studied communities in Wallonia showed a negative image, high feelings of insecurity and anxiety and more victimization (whether or not reported to the police) (Winkel, 1981 and 1985). In general, preventative measures and insurance with respect to car-related offences in these communities are more prevalent than in the Flemish research area. Opinions about the work of the police are negative everywhere and the dissatisfaction is particularly related to lack of police visibility (Winkel, 1986; Moore and Trojanowicz, 1988), which the respondents showed has a positive effect on the feeling of safety. Nevertheless, the victims are prepared to report their cases to the police (Cuyvers, 1988). The authorities, prevention campaigns and preventative measures appear to be largely unknown or unapplied. Above all, information campaigns do not reach the intended groups.

Relatively few people insure themselves against property offences. Oddly enough the amount of insurance in the border communities is less than in the control communities. The amount of registered crime apparently has no influence on the decision whether to insure oneself or not. There is no direct connection between the social perception and the feeling of anxiety and insurance against predetermined risks.

As expected, cross-border crime receives a large amount of media attention, due to its repetitive nature. However, there is an interdependence between the media coverage and the increased level of anxiety and unease of the population (Van de Veen and Zeilstra, 1987; Kuttschreuter, 1990; Vrij et al., 1990; Winkel, 1990). It seems that the public’s ‘knowledge’ of crime is essentially obtained from the newspapers. A further study which included the media, has indicated that improved relations between the journalists, the magistrates and the police services can (could) promote a more balanced, improved presentation and conceptualization by the newspapers.

The judicial and police approach

International cooperation in criminal cases in the study area, as well as in other areas, depends on cooperation between the police services. By means of formal and informal cooperation, the hiatus, created by a lack of proper regulation is filled. Above all the absence of a coherent legal regulation does not prevent the cross-border activities of the police. In their efforts to be effective it is occasionally necessary for the police to break the law (Swart, 1991). Despite this one cannot ignore the fact that necessary cross-border police activities are increasing. This has been the case for several years in the study area.
The autonomous activities of the police are strengthened by the want of legal regulation and lack of thorough judicial control of the investigation prior to prosecution.

In the light of the change from a reactive to a proactive force, the judicial control of the police has increased in importance (Fijnaut, 1990). The necessity of planning and coordination between international investigative agents prior to prosecution implies the presence of official international consultative bodies. As the latter have not yet been realized at the public prosecutor level (Jaarverslag openbaar ministerie, 1987), there is little discussion about systematic cross-border consultation and coordination. This compels the police to rely on their own initiative. From the questions posed to the magistrates/prosecutors it appears that they have minimal or no problems with the current occasional input and only a slight interest in direct involvement and control of international police cooperation in these criminal matters. The police officers who were questioned have also reconciled themselves to the current practice. In all probability the type of crime found in the area is familiar to everyone.

It must be clearly stated that the police officers who were questioned pleaded for a regulation which not only clearly defines their legal position, but above all outlines their authority in cross-border operations (Bruggeman, 1987; Agelink and Van Gestel, 1990). In the research questions the police presented the following list of priorities. Most important is cross-border pursuit, followed by the periodic exchange of judicial information, a common transmission network, a direct telephone link, cross-border observation and finally the exchange of contact persons.

In analyzing these replies one must take the specifics of the crime phenomena in the study area into account. The police advocate a clear determination of the conditions under which cross-border pursuit activities are acceptable (Paridaens et al., 1989). Moreover they expect a broadening of their operational capabilities on a basis of formal regulation (Sietsma, 1988). Apart from the needs and expectations of the police there are obviously other arguments in favour of proper regulation governing international pursuit, not least with respect to the protection of the legal position of the individual citizen (Orie, 1991 and 1992). The Schengen Agreement gave much attention to police cooperation. Not only was direct police cooperation given an institutionalized character, but the symbolism of disconnecting police from judicial cooperation was of great importance (Swart, 1989; Fijnaut, 1991). Within the scope of this article we limit ourselves to one aspect, namely the results of the study, which we performed in the legal districts of the study area with respect to the functioning of judicial interstate cooperation in criminal
Cross-border crime in Belgium

matters, in particular judicial assistance. In this regard we made use of in-depth interviews conducted with a random sample of magistrates/prosecutors and of the police chiefs. The statistics obtained from the in-depth interviews were supplemented with evaluations resulting from specific questions posed to the police. In conclusion we studied 58 files concerning cross-border crime phenomena. Out of these, 90 lettres Rogatory followed which requested 320 investigations to be carried out by French authorities.

We attempted to list the problems apparent in the functioning of judicial assistance in practice. The confrontation between theory and practice frequently reveals points of conflict which are not always taken into account in the drafting of agreements on interstate cooperation in criminal matters. We discussed the most important types of judicial assistance with, firstly, the lettres Rogatory. A lettre Rogatory deals with the gathering of evidence in a specific investigation (Thomas, 1980; Sjöcrona, 1990).

The decision to formalize a lettre Rogatory depends on several factors. Frequently the police insist on a lettre Rogatory. Based on their knowledge of the essential elements of the investigation, they take the initiative and insist that the magistrates/prosecutors formally lead the investigation. It is noticeable that certain magistrates/prosecutors easily revert to this judicial assistance, whilst others remain prudent. An insufficient knowledge of foreign criminal procedure as well as the finality of a lettre Rogatory play a significant role. These factors explain why, within the same area, certain magistrates/prosecutors frequently make use of lettres Rogatory and others seldom do.

The majority of the questioned magistrates/prosecutors preferred a flexible and direct legal aid procedure. In certain respects the Schengen Agreement accommodates these desiderata. Section 53 facilitates the immediate conclusion of the judicial assistance request between the specific judicial authorities. A similar regulation can contribute to shortening the duration of the lettres Rogatory. The docket demonstrated that there were often other area-bound problems which meant that the lettres Rogatory, in certain cases, were dragged out (De Ruyver, 1992). In 40 percent of the investigated lettres Rogatory assignments, one week to two months were required to complete the task. Only 57 percent of the lettres Rogatory were completed within two months. In the scientific study dealing with a geographically determined offence and perpetrator group and against the background of an increasing internationalization of specific crime phenomena, this conclusion indicates an immediate necessity for a thorough criminal law system.

Although the lettres Rogatory can take a long time, the quality of
the investigation is frequently a further problem. The docket investigation shed no light on this factor. The magistrates/prosecutors criticized the careless manner in which, according to them, these investigations were carried out. The presence of judicial authorities and police from the requesting state at the lettres Rogatory has certain advantages. From the docket they can establish the requirements of the investigation and can react accordingly, e.g. when a party does not tell the truth. The investigation into the functioning of these types of judicial assistance indicated that magistrates/prosecutors seldom make use of the opportunity to be present at a lettre Rogatory.

Nevertheless, almost all the questioned magistrates/prosecutors find it useful that an examining magistrate (investigating judge) must be present. When considered necessary for the investigation, the police officials dealing with the matter can be sent out. The participation of a country’s own police refers to their mere presence (Thomas, 1980). In practice the trial is conducted by the police of the investigating state. Personal observation indicated that even with house searches there is active conduct, which is however retrospectively confirmed by certain magistrates.

The lettre Rogatory as a modality of judicial assistance is not optimally utilized. This conclusion does not only apply to those persons who lead the investigation prior to prosecution and judicial assistance but also the other involved parties, in particular the defence and civil party indicating further legal actions (Thomas, 1992; Van Den Wyngaert, 1992). However, in the latter the practical and financial objections are obvious. The requested state still consider the cooperation of a lettre Rogatory as a favour to the judicial authorities of the requesting state. Above all, they stick to a principle of reciprocity: one deals with others as they deal with you.

Conclusion

In summary we can state that judicial assistance stands to lose further ground with respect to police cooperation. The Schengen Agreement authorized and legitimized the autonomy of the police which they themselves had already assumed in the legal assistance process. At national level the situation is worsened by the insufficient statutory regulation of the investigation prior to prosecution and by the absence of a well functioning judicial control thereof. Above all the research indicated that not all magistrates/prosecutors showed the same amount of interest in direct involvement in the international legal civil system, a disturbing conclusion in the light of the increasing
internationalization of crime phenomena (De Ruyver, 1992).

The manner in which the judicial assistance functions fails to deal with geographically determined and limited types of group crime, as in the study area. Crime organized in a businesslike manner and at the same time requiring greater expertise and cooperation with respect to the investigation prior to prosecution, remains a fortiori beyond concern.

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Ambiguities between criminal policy and scientific research

The case of fraud against the EC

Dick Ruimschotel¹

Government as a rational actor

It is a truism that a rational agent uses the information needed for the attainment of his goals; if the agent does not have the information, he seeks it. This quality of rationality is approximately true for individuals and organizations including governments (see e.g. Moser (1990) for a variety of discussions of rationality of individuals; Allison (1971) for a fine example where the rationality paradigm for governmental decision is contrasted with other explanatory paradigms). But even if this paradigm of the rational actor is descriptively not completely accurate of governments, one can still hold it to be normatively valid: governments should operate rationally. In fact it should be relatively easy for them. After all, governments have a more or less fixed set of goals, there is abundance of information or information gathering facilities, and governmental executives are professionals. Moreover, in most government there are administrative work procedures and personal desires to work effectively and efficiently, plus pressure from the public, press and parliament to do so. So, in analyzing governmental behaviour one can use the rational actor model as an explanatory or an evaluative framework. Consequently, one may expect governments, in pursuing criminal policies, to use information (or information gathering) fully in forming and evaluating their anti-crime strategies. This article deals with various reasons why this is not so in the area of fraud against the European Community. At the same time suggestions are given how positive change can be implemented.

There may be numerous reasons for an uneasy relation between policy-making and policy relevant information, some of them having to do with the policy and some with the information. I will shortly enumerate some important ones in a general fashion for criminal policies. Together with these five reasons I will list some variations of official excuses for not acting on full knowledge or seeking such

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knowledge.

— The content of the policies that the criminal policy is meant to support is not clear or has overriding political importance. Usually criminal policies in the economic sphere are meant to help secure support for governmental regulatory policies of economic activities. Main policies that are not clearly defined have a negative impact on law enforcement since it is not clear what is protected or why, e.g. highly differentiated import levies.² Similarly, if the main policies are very political in nature, e.g. certain subsidies programmes to companies to stimulate economic activity in a certain direction, the policy makers want the positive effects to be visible, not the possible abuses. This situation may be recognized by declarations of officials such as ‘the amount of fraud involved is only marginal compared to the advantages of the policies executed’. Though unclarity of the policy or its highly political nature are quite dissimilar, the bottom line is the same: policy makers do not want the main policies to be disturbed by criminal policies nor by information about the things that go wrong.

— Either the criminal policy or the responsibilities for that policy are unclear. If a policy has no clear objectives, information does not help much. Similarly if it is not clear who is responsible for those objectives, a criminal policy is not easily made operational or put into action. If the criminal policy or the policy responsibility is not clear, knowledge to improve the policies is neither used nor sought. Comments that may betray this somewhat unclear situation are the following: ‘we are still shaping our criminal policy’, ‘there are a number of committees at work and we want to wait for their reports’, ‘we are dependent on another department so we cannot act on our own’.

— The criminal policy is of a minimalist kind. When the criminal justice system is meant to do no more than react in a minimalist manner in those cases that come to light, the need for information or the use of it is minimal as well. Take for example a simple retributive system that simply hands down a sanction that is proportional to guilt or damage in the individual case. In such a context it is immaterial whether there are more criminal cases to be discovered, or whether alternative approaches may produce better effects. All that matters is a formally appropriate response. Apart from confirming or not whether this is the case, information has little to add to the shaping or evaluating of such a policy. Key comments that cut off further investigation are of the type ‘we have

² Examples from the non-economic sphere are enforcement of anti-drug policies or traffic speed limit control.
a clear criminal policy that we carry out adequately and we do not need more information'.

— Very little information is available. When little research has been done, there is little information to go on. This situation may arise because of any of the reasons listed above, when the policy context itself is not very conducive to research or the use of information. Alternative reasons are lack of a research culture in a country or a certain domain, and lack of research expertise. This situation may perpetuate itself; no relevant knowledge, so no need of relevant knowledge nor search for it. This condition of ‘scarce research’ would probably show up officially as ‘lack of financial resources’ for research, meaning that no priority is granted. Similarly, officials’ claims that relevant research in a certain problem cannot be done, may mean that they do not want it to be done, or that they cannot imagine how it would be feasible.

— Available information resources are quasi-informative. Often governments have at least rudimentary statistics that bear on the incidence of criminal phenomena that fall under the criminal policies. These statistics give policy makers the (false) feeling that they have a grasp of the phenomena, that they know what is going on in the crime area concerned, and that they have sufficient information for policy-making along simple schemes like ‘more crime, more allocation of money to policing’. Furthermore, it is only scientists who equate having no research with having no knowledge. Usually policy makers, administrators and law enforcers are full of ideas about the incidence and causes of crime, be it based on personal experience, rumours, newspaper articles or dogma. Typically policy makers in this situation will say that they have no need for further knowledge – ‘everybody knows how bad the situation is’, ‘clearly legislation is failing’, ‘law enforcement agencies are not up to their task’ – thereby making vague attributions of size, cause and guilt without informational underpinning.

This short list of reasons for ‘non-rational’ behaviour may sound critical, but on the surface the common framework is still one of the rational governmental actor, in which it is recognized that knowledge is relevant for policy-making. However, the forces that compete with ‘the rational organization’ are already shining through. Apart from sloppiness, stupidity and bad management, the names of these other games are ‘politics’, ‘power’ or ‘economic interests’. For example, governmental administrations (be they ministers, ministries or governmental field organizations) often attach high value to autonomy, status and power next to one’s dutiful, information-based, effective work. Rather than accepting a given context of goals and
distribution of powers, those in charge of making and executing policies may take great satisfaction in changing the context, or shifting power relations. Similarly valuing autonomy or basing one's self-respect on local pride may imply avoiding evaluative information rather than seeking it. In the following sections I will demonstrate how some of the potential mismatches between policy and information work out in the area of fraud against the European community.

Much has already been written on fraud against the EC (Delmas-Marty and Roche-Pire, 1982; Leigh, 1980; Harding, 1982; Tiedemann, 1988; Vervaele, 1989 and 1992; Sherlock and Harding, 1991) and whole conferences have been devoted to the problem (e.g. Asser Institute Colloquium, 1990; Commission Colloquium, 1989). Most of the existing literature is written from a political or legal point of view extended to include all law enforcement aspects (see e.g. Harding, 1982). This article instead aims at an analytical and normative analysis of the Commission's criminal policy. Special attention will be given to the role of knowledge about the extent of frauds, also referred to as the 'dark number' of crime, since official statistics do not reveal the real size of the phenomenon.

Fraud against the European Community

Fraud may occur in any of the domains where the Community receives or spends money. Most EC expenditure is made in the context of the Common Agricultural Policy (CAP) through the European Agricultural Guarantee and Guidance Fund (EAGGF), Guarantee Section. This fund aims to secure (efficient) agricultural production, stable prices and sufficient income for the European farmers. Among other things, subsidies are granted for the export of agricultural products enabling farmers and exporters to compete on the (cheaper) world market. Other forms of (co)subsidizing exist through the so-called Structural Funds, the agricultural EAGGF Guidance Section, the Regional Fund and the Social Fund. These funds aim at improving the economic, social and infrastructural conditions of industries and regions to bring them up to the European average. Income for the Community comes mainly from a percentage of national VAT income that is transferred to the Community plus the traditional own income, that is, customs duties and agricultural levies. Both income and expenditure amount to 50,000 million Ecu.

Ever since the introduction of the Common Agricultural Policy there have been complaints as to the existence and extent of fraud against the EC. It was an EC custom's official, Johannes, who ventured an estimate as to the real extent of fraud some twenty years
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ago (Johannes, 1971, quoted by Harding, 1982). The first Court of Auditors' report (1978) mentioned the question of fraud – and of the impossibility of revealing all fraud by audit examinations – and has addressed the issue ever since, albeit under the name of irregularity. In its 1987 report an entire chapter was devoted to the subject calling for reforms (Court of Auditors, 1988; see also Kok, 1989, p. 360). Similarly the European Parliament has expressed its concern over the years, culminating in a 1989 resolution on the prevention and combat of fraud in post-1992 Europe. This resolution mentions legislation as one of the several causes of EC fraud and urges that adequate monitoring powers be invested by the Council in the Commission 'to keep track of how Community revenue and expenditure are managed by the Member States' (European Parliament, 1989a and 1989b). One of the most forceful and authoritative statements made with regard to fraud against the EC came from the British House of Lords Select Committee on the European Communities, which referred to it as 'a public scandal' (House of Lords, 1989). Moreover, EC citizens' concern with fraud has been kept alive by the media with stories of series of large-scale frauds in wine, olive oil and fish, supplemented by the occasional meat or maize fraud (cf. Keller and Maier, 1987; Tutt, 1989).

Some political institutions, European officials and scientific commentators have ventured statements as to the overall extent of fraud and the most recurrent of these claims is that at least ten percent of the total EC budget is affected by fraudulent practices
3, whereas others refuse to quantify the overall problem.4 The official statistics for the period 1971-1991 for the largest area of EC expenditure, the EAGGF Section Guarantee that covers export subsidies, market intervention and the like, reveal a few hundred cases reported per year for all member states together, totalling around 150 million Ecu annually. Given the expenditure for FEOGA guarantee of 30,000 million Ecu, the percentage of fraud amounts to approximately half percent of the budget. But then most people agree that many frauds go undetected and that numerous frauds detected at the national level are not reported to the Commission.

As for the actual operation of the first potential cause for policy information incongruity, there is only circumstantial evidence.

3 See e.g. European Parliament (1989a). The British House of Lords reports mention similar figures under reference to scientific experts such as Tiedemann (1988) or Magnusson (1982). The figure of ten percent is also mentioned in Tiedemann (1980), Vervaele (1989) and Morselli and Taminiau (1990).
4 See e.g. Carey (of the European Court of Auditors) in the House of Lords report, 1989, pp. 8-9; and in De Doelder, 1990, p. 12; Mennens, from the UCLA, in De Doelder, 1990, p. 33.
Interest in a good organization of the fight against fraud came only after the rumours about widespread fraud within the Community persisted and threatened the credibility of the European institutions and their main policies. It appears that politicians and policy makers have for a long time preferred to minimize information about ineffectiveness and fraud (or have tried to neutralize it by describing it as minor costs and deficits) in order to avoid the political costs of losing the CAP as one of the cornerstones of the EC or having to enter endless rounds of renewed negotiations for a better, more effective or less fraudulent, system.

Responsibility for action against fraud

Legal responsibility
Who is responsible for the extent of fraud against the EC budget? That is, whose duty is it to act against fraud, and who has a legal obligation to know when and where it occurs? At face value the answer is ‘nobody’, since the term ‘fraud’ occurs nowhere in legal texts defining the competences and responsibilities of the various EC institutions. Yet, there are legally defined duties that imply a concern with fraud in terms of action. Article 5 of the Treaty of Rome (1957), by which the European Economic Community was created, states that ‘Member States shall take all appropriate measures whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty, or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community tasks’. This clearly indicates a duty on the part of the member states to see to it that the Council regulations laying down the policies of the Community are not being undermined by fraudulent actions. This implies that the Commission, as the guardian of the Treaty and the authority responsible for the execution of the budget, has the duty to see to it that the member states properly enforce Community legislation (Noel, 1991).

I will therefore concentrate on the role of the Commission, but it is interesting to observe how the overall responsibility is shared by other agencies. On the one hand, one tends to say that this division of labour increases the overall determination and intensity to combat fraud, on the other hand it looks as if the responsibility is diluted. The Court of Auditors of the European Communities has an obvious role given its mandate to examine all EC revenue and expenditure, in all member states and in third countries receiving Community funds, administratively and physically, for legality, regularity and sound financial management. The European Parliament, through its role in
the discharge procedure vis-à-vis the Commission for the annual implementation of the general budget, is able to comment on the way fraud at the expense of the Community budget, is dealt with. The Treaty of Rome did not include an autonomous right to create and apply sanctions for infringing upon Community regulations and the new Maastricht Treaty does not include one either. This means that, both under the interpreted old Treaty and the freshly codified new Treaty, the basic situation for the legal division of powers stands as follows: the Community, in the form of the Council of Ministers, decides the policies and the regulations that can be defrauded; the Parliament controls expenditure; the Commission prepares, implements and executes the policies to be enforced; and the member states, apart from further implementation of the policies, are responsible for the overall law enforcement, detection, prosecution and sanctioning of abuses. This situation, typical for many areas in EC policy, is sometimes labelled as a 'competence dilemma' for the Commission, but the expression 'competence-interest conflict' covers the situation better, both for the Commission and the member states. The Commission does not have the complete competence (of control and sanctions) over an area wherein its interests lie, and the member states have a competence (of control and sanctions) but, apart from fulfilling a duty, they do not have the real interests to exert this competence.

Policy responsibility
Responsibility is not only couched in legal terms or best conceived in a legal perspective, since legal responsibility is sometimes not sufficient or necessary to be effective. It is equally important to look at the way in which the parties concerned perceive their own and others' responsibilities. Because of their own definition of responsibility, some countries may (be willing to) go further in the fight against fraud than is legally prescribed, whilst others do not even come close to delivering what is legally required of them. The same applies to the institutional partners: the Parliament and the European Court of Auditors have always seen it as part of their task to keep an eye on the extent of fraud against the Community, being both in line with the responsibility that comes within their legal mandate and extending it a bit. The Court of Auditors conceives of its own task strategically ('systems audit'), so that it is as much part of their job to criticize opportunities for, or likely causes of, fraud as actual or suspected cases. Responsibilities are also fluid, being used in political arguments in setting financial and organizational priorities. Thus, the Commission has taken upon itself a greater responsibility than it previously did, partly under pressure from the
European Parliament. Thus, responsibility is also a psychological and political reality that does not necessarily correspond to the legal situation. The fact that trade or farmer unions officially represent their members' interests does not mean that they should not have an interest in reducing fraud among their members. We will refer to the organizational commitment that follows from political, psychological and moral responsibilities as 'policy responsibility'.

Legal and policy responsibilities interact; yesterday's moral responsibility may be tomorrow's legal responsibility. It is fair to say that in general formal organizations try to harmonize the triad 'legal responsibility', 'policy responsibility' and 'economic or power interests'. For example, the Commission has tried to compensate the drawbacks that stem from the fundamental competence-interest conflict. Basically it has strived for a large (and obtained some) increase of its direct and indirect control powers by having the Council accept regulations that include the right to carry out independent or cooperative controls in member states. It has also pushed for and obtained more explicit supervisory powers by imposing the duty on member states to report not only the cases of fraud in the area (usually called 'irregularities'), but also to provide other additional information. Thus, national law enforcement systems are put under pressure when we look at the most recent EC legislation that can be described alternatively as 'operationalizing' their law enforcement obligations or diminishing their overall responsibility. New EC regulations being formulated incorporate increasing powers for the Commission in the area of information gathering, autonomous controls in the member states, joint controls and thereby an increase of evaluation possibilities of member states' law enforcement activities.

5 Basically this notion is close to consonance or avoidance of dissonance models between various elements used at an individual level (cf. Festinger, 1957; Heider, 1958). Scientific literature operates, I think, mainly through appeal to the moral aspect of policy responsibility.

6 Thus, under Regulation 595/91 the member states will provide the Commission with detailed information on detected cases of irregularity under EAGGF guarantee, whereas even in the field of VAT, predominantly a member state's income and concern, Regulation 1553/89 (art. 12) requires member states to provide the Commission with yearly reports on the ways in which national agencies collect taxes. Moreover, member states have increasingly taken on operational duties to carry out controls, such as under Regulation 4045/89 for EAGGF guarantee. See especially Regulation 386/90, requiring that five percent of all goods presented for export control undergo physical inspection. Regulation 307/91 provides for reinforcement of monitoring expenditure chargeable to EAGGF Guarantee Section in a number of high risk areas, e.g. wine, fruit and vegetables, tobacco and cotton.
The European Court of Justice plays an active role in bringing legal competence, policy ambition and the Community's own interests (represented by the Commission) into line. Thus, in case 68/88 (Commission vs. Greece), it elaborated art. 5 into a member state duty to protect the financial interests of the EC in a manner that is equal to the care of national interests, proportionate, and effective. If this means that member states have the duty to exert some minimal diligence and severity, then it also affirms a right on the part of the Commission to monitor or evaluate whether the member states comply, and to bring the latter before the European Court of Justice, if the Commission observes or believes them to be negligent in doing so. In sum, many parties have a legal or policy duty to expose or prevent fraud, but the Commission and the member states share most of the responsibility and should therefore be expected to formulate a criminal policy. While no party seems to have an explicit duty to be informed on the subject, it is easy to argue that the duty exists by implication.

Responsibility for knowing: evaluation

If one concentrates on the evaluation task of the Commission vis-à-vis the member states it is apparent that the need for information is great if the Commission wants to do this with any degree of precision. (The situation that gave rise to the Court's 68/88 decision was easy to evaluate. Although many indications pointed to a large scale fraud, the Greek government did basically nothing: it did not investigate, bring some body or company to court, let alone apply sanctions.) More refined evaluation must be based on more explicit dimensions of evaluation. The court mentioned three: proportional, effective and dissuasive. The Court talks mainly of sanctions but surely it is both control and sanctions that have to be proportional and effective.\(^7\)

Proportionality of control would seem to mean proportionality to the extent of the problem, that is, the number of criminal cases in the domain. So at least one thing which should be known is the extent of the crime phenomena, which equals knowing the dark number. Similarly to assess the effectiveness of control plus sanctions means that one has to measure the overall prevalence of fraud or its decrease after a change of criminal policy. Again, this amounts to knowing the dark number, or at least, changes in the dark number. In conclusion, to exercise the evaluative task with respect to fraud against the EC,

\(^7\) I consider the dimension of 'dissuasiveness' as being part of 'effectiveness'. Elsewhere (Ruimschotel, 1993a) I have elaborated the notions of the Court of Justice into operational criteria for the evaluation of international or intranational law enforcement systems.
the Commission needs to have or gain information about the dark number of the EC fraud phenomenon.

The invisible role of dark numbers

Is the role of the dark number recognized in the Commission's criminal policy? Originally there was no EC policy for fraud control, since fraud or criminality combat is not a primary objective of the Community. However, in 1988 UCLAF (Unité de Coordination de la Lutte Anti-Fraude) was created in response to criticism of the European Parliament and the Court of Auditors. Since the adoption of its 45-item work programme in 1989 (approved by the Council and Parliament) it may be said that the Commission has a criminal policy. A departmental policy or work programme is typically the place where legal rights and obligations meet with political and material ambitions, and is as close as one could ever get to making policy responsibility operational – assuming there is no secret agenda (see Commission progress reports on the Fight against Fraud, 1987 to 1992). Where then in this programme and the progress reports are observations as to the extent of fraud? The answer is, both everywhere and nowhere. Every item and page contains something on fraud or the fight against fraud, but the issue of the precise magnitude itself is avoided. The 45 measures that make up the Commission's anti-fraud policy are grouped around three axes: prevention, cooperation and combat. Prevention, by simplifying legislation and by legally prescribing improved controls (items 1-11), is probably the most direct way for the Commission to reduce the overall amount of fraud – of course via adoption in the Council and execution by the member states. The furtherance of cooperation is necessary precisely because of the division of responsibility, discussed earlier, where almost all concrete law enforcement efforts are made at the level of the member state; improved cooperation partially means improved cooperation between member states but to a large extent it refers to improved cooperation between member states and Commission. Under combat or counteraction we find those measures that either increase the harmonization of sanctions or increase the supervisory powers of the Commission.

It is clear that to a large extent the Commission is not directly in touch with the phenomenon of fraud but only indirectly through the intermediary of member states. Even so, the issue of the extent of fraud could have been incorporated more easily had the axes used to draw up the work programme been slightly different, stimulating increased focus on the phenomenon. For example, the first anti-fraud
document (1987) discusses four stages: detection, investigation (effective reactions), follow-up and prevention. The need to introduce cooperation as an explicit primary objective of criminal policy only came later. Under this (1987) classification the issue of the extent of fraud would have come up naturally under the heading of 'detection'.

But dark number assessment would come in no matter how the official axes slice up the cake of criminal policy. As argued earlier it is difficult if not impossible to evaluate the success of detection, prevention or combat without assessment of the increase or decrease of actual fraud cases, that is, without having some idea of actual numbers, numbers that are currently still dark numbers. Similarly it is difficult to evaluate a proper intensity of controls if no estimate or measurement is given of the prevalence of the fraud phenomenon. Below I will indicate how a special type of dark number research, sample control research, may also contribute to the improvement of explanation of fraud, improved control through improved targeting and through these improved prevention.

Ambiguous information

The Commission may be excused for not seeking information if it already has the information (and for some reason does not want to use it) or if the information clearly cannot be obtained. In this paragraph I will show that they do not have it and in the next I will show that it can be obtained. From inspection of the available literature it appears that the most relevant information comes from two sources: extrapolations to the area of EC fraud made by Tiedemann and original research by Magnusson in the area of import-export frauds, frauds that are not too dissimilar to at least two EC domains (customs fraud and export restitution fraud).

The most direct scientific evidence available on dark numbers in the Community is summed up in Tiedemann’s verbal testimony to the House of Lords. He mentions quite a number of sources (research, methods and persons) from which it should be concluded that the problem of fraud in the EC reaches at least several percent. However, although the arguments, advanced here and elsewhere (e.g. Tiedemann, 1985, p. 714; Tiedemann, 1988, pp. 106-109), lead to the conclusion that there is a serious and probably substantial problem, they refer in greater part to indicators for the prevalence of fraud that are rather indirect and therefore inconclusive. For example, inferences from registered crime only reveal that the amount of unregistered crime may be higher. The argument that most criminologists agree that there is considerable fraud does not count as evidence, unless this
collective authority argument is backed by more direct evidence.

The systematic research referred to by Tiedemann, that was performed by Delmas-Marty (Delmas-Marty, 1980; Delmas-Marty and Roche-Pire, 1982) deals with registered crime, although in using questionnaires to measure attitudes to EC regulation and the like, she illuminates the potential causes both of registered and unregistered crime. Thus, although one may describe this approach as a method to assess dark numbers based on the causes, the major value probably lies in establishing hypotheses for researching fraud and for indications where improvements in the policy, regulation, and control can lead to the prevention of fraud. The technique of interviews with insiders, dealing with first-hand experiences of criminal actors, accomplices and eye witnesses, is highly illuminating, but as far as dark numbers is concerned, the method is basically explorative, giving rise to expectations of finding the crimes that are said to exist on a more universal or representative scale. At best, the scientific status is that of restricted local indirect evidence, and their best use is mainly to allow us to make hypotheses about how, where, and by whom fraud is being committed.

Another method that is used to convey light on the dark numbers of EC fraud is based on the incidence of other economic crimes, and can be said to consist of an extrapolation or generalization from adjoining fields of economic crime. Useful as these estimates from adjoining fields may be, one must always determine whether the figures are really telling. Whether one is comfortable or uneasy about extrapolation, there is no rational procedure to determine the similarities of different fields a priori, that is, without further empirical evidence (see Ruimschotel, 1989, pp. 126-128). The fact that EC fraud can be categorized as 'economic crime' does not guarantee sufficient similarity, particularly not of the simple descriptive kind.

For the most direct evidence we probably need to rely on the method also mentioned by Tiedemann: a posteriori control checks. A closer examination of the claims made by Tiedemann (1984) and the available literature indicate that there has been little serious sample research to date. The Magnusson (1982) study on irregularities with import and export is one, and some empirical evidence comes from fraud with beef slaughter premiums in Germany. This last case concerned fraud with respect to a premium in Nordrhein-Westfalen in the mid-1960s context of 'Brucellose-Tilgung', that is the destruction of cattle because of tuberculosis. Apparently in more than 800 out of a total of 35,000 cases it was found that 'earmarks' or 'earmark papers' of the cattle had been falsified, that is 2-3 percent (see Tiedemann, 1974a, pp. 180 ff). Another case mentioned by Tiedemann
(1988, p. 107), also involving cattle, is supposed to have occurred in Nordrhein-Westfalen. The fraud involved slaughter premiums in connection with tuberculosis (Frankfurter Algemeine Zeitung, 1978). The newspaper in question reports that in the year 1975-1976 more than 1,000 out of a sample of 10,000 were found to be fraudulent, that is, over ten percent. However, one cannot accept such figures as scientific evidence for rational overall estimates, firstly because the source is a newspaper (an admittedly reliable newspaper, but still), and, secondly and more importantly, because these are only two control investigations among hundreds of controls carried out in Europe. Among the existing reported and unreported cases the rate of fraudulent activity will range enormously and it does not count as good scientific practice to select one or two and declare these as conveying information for the whole (set of) domains.8

The Swedish research on import-export fraud (Magnusson, 1982) definitely qualifies as an impressive scientific research effort. Unfortunately it does not bring us much further. The research was based on a control action of Swedish Customs. The investigation concerning imports is based on a random choice of trucks boats and lorries in Stockholm, Göteborg and Westerhose (Vasteras). Concerning export, a random choice of shippings on boats in Göteborg has been investigated. Only certain customs departments in the cities mentioned were investigated. The research and the control effort lasted a week. During that period a random choice of shippings on boats (for import) and trucks, boats and lorries (exports) was thoroughly investigated using physical and administrative controls. Estimates for the whole of Sweden were calculated for a year, both in terms of value and proportion of fraud in relation to the total number of transactions. The percentage estimates of cases where some kind of irregularity was involved (40 categories were distinguished!), differed from place to place with the lowest estimated percentage of 25 and the highest 50. Given the relatively small number of controls carried out, these estimates could well be wrong, with true percentages varying from 8 to 82. The value of the irregularities ranged from circa 1-10 percent of declared value. Consequently the estimate for financial loss in terms of unpaid taxation, the crucial percentage, should be in that range of 1-10 percent as well, quite a far cry from the 50 percent (overall cases) or 30 percent (seriously criminal cases)

8 It would be scientifically useful to analyze the results of all extended controls exercised over the years by officials in a variety of domains, be they routine or extraordinary controls. However, the results of such controls are not generally available. Newspapers are not informed about most of these controls, and when they are, they are inclined to select the biggest fraud cases or the most dramatic outcomes.
Table 1: Estimates of the share in percentage of movements involving irregularities and the value of these irregularities as percentages of declared value*

<table>
<thead>
<tr>
<th>Location</th>
<th>Customs irregularities</th>
<th>Value irregularities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>point estimate</td>
<td>interval estimate</td>
</tr>
<tr>
<td>Vastberga</td>
<td>25</td>
<td>8-42</td>
</tr>
<tr>
<td>Norrastation</td>
<td>35</td>
<td>17-55</td>
</tr>
<tr>
<td>Solnaterminal</td>
<td>50</td>
<td>18-82</td>
</tr>
<tr>
<td>Vasteras harbour</td>
<td>33</td>
<td>0-66</td>
</tr>
<tr>
<td>Skandia harbours</td>
<td></td>
<td></td>
</tr>
<tr>
<td>import</td>
<td>33</td>
<td>14-52</td>
</tr>
<tr>
<td>export</td>
<td>48</td>
<td>21-75</td>
</tr>
</tbody>
</table>

* The upper percentages in the third column are, as in the table above, 25 percent of the figures in column 4, mirroring the taxation rate of 25 percent; the percentage 0.4 for import in the Skandia harbours reflects a lower rate of about 10 percent.

** Cited thus in the original text.


reported before the House of Lords, as being a good indication of the scale of the phenomenon. The main statistics that summarize the research are shown in table 1.

This study indicates the likelihood of a great deal of illegal activity taking place in international transit, but I am afraid that the margins indicated by the research findings for the true value of dark numbers are so wide, that it is tantamount to saying that the exact percentages remain obscure.

In short, our review of the research and literature on fraud and economic crime to find the most likely value of dark numbers in EC fraud has yielded some indirect evidence, but only a few directly relevant research studies. Due to methodological limitations, they have only little evidential value. But even if one had obtained a good, precise overall estimate, it would only have served the general function of establishing the phenomenon as a sizeable one, thereby contributing to making EC fraud a political issue. More refined information needs as for explanation of fraud cases, effective control and prevention, and evaluation of criminal policies would not be served.

The promise of information

I believe a method exists that delivers reasonably precise and reliable dark number estimates and that at the same time yields useful information precisely for the functions of explanation, control and
evaluation: control sample research of all EC transactions that take place. The two kinds of sample fraud research discussed above (the German slaughter premium studies and the Swedish import-export study) point in that direction, but the method can be refined and incorporated into the evaluation of normal control practices (see also Levi, 1985, pp. 62-64, who also recommends samples, or 'sample surveys', that is, in-depth audits of samples). The procedure is simple: in the course of fraud control in a certain area a number of investigations are usually carried out incorporating quite a number of cases. Unfortunately, the outcomes of these controls have only limited information value for the overall extent of fraud, due to a lack of information regarding the selection of control objects. The 'sampling method' used normally is not at random ('a select'), but selective, targeted in order to increase the chances of picking out those persons and transactions where, upon closer scrutiny, some form of fraud is involved. So, if custom officials know or believe that big ships or ships coming from Panama are carriers of smuggled freight more often than other ships, the customs will tend to target these ships more often than others. In many domains some kind of targeting is part of the current practice albeit under different names such as 'risk analysis', 'criminal profiles' or 'clues' for the occurrence of crime. One should expect similar selective practices when reading reports of fraud investigations based on a sample of cases, for example a number of warehouses inspected by the Commission.

In the Community context, targeting is sometimes prescribed. Regulation 4045/89 explicitly directs member states to 'ensure that the selection of undertakings for scrutiny gives the best possible assurance of the effectiveness of the measures for preventing and detecting irregularities under the system of financing by the Guarantee Section of the EAGGF. Inter alia the selection shall take account of the financial importance of the undertakings in that system and other risk factors' (art. 2.1). The regulation describes how the control of large receipts or payments should occur more often than for smaller receipts, with the former ones being controlled in at least 50 percent of the cases. This is targeting for output maximization, that is, minimization of sums wrongly paid by the Commission or wrongly

9 For example, a fish quota fraud study listed a number of control samples taken over the year by law enforcement agencies, but could not base any hard conclusion on it exactly for this reason (Vervaele et al., 1990, p. 78). In fact, using control outcomes as a method to estimate the percentage of fraud for the totality of cases, suffers from the same defect as using the official penal registrations as an index for all cases, the black numbers: it is a sample of all cases, where it should be suspected that strong selective mechanisms are operative.
not received. Whereas these controls are basically 'a posteriori' controls on payments through scrutiny of commercial documents, a sizeable portion of five percent of all goods presented for export refunds is to be the object of physical examination (Regulation 386/90).

To evaluate targeting we can compare the yield (and costs) of the strategy followed either with the yield (and costs) of an alternative strategy, or with a procedure of non-selection, also referred to as aselect sampling. The latter is a much used and recommended procedure in scientific research, because (if executed correctly) the outcomes have a high probability of representing those of the whole population or domain (that is, all elements, be they persons or business activities, researched and not researched); the probability being higher the larger the sample. The (almost surprising) conclusion of this analysis is, that aselect sampling from time to time would not only give a good method of evaluating one's current targeting, but it is also a proper – if not the best – way to indicate the overall extent of a certain practice (say fraud, or smuggling). I can therefore give the best estimates of the so called 'dark numbers' of criminal or other activities. Moreover, aselect allocation of controls has the further advantage of deterrence and prevention. Any transaction, innocent as it may appear, has a chance to be subjected to control.

As far as I know, this kind of targeting evaluation combined with dark number estimate is not practised systematically.10 However, given the required number of controls for member states, they should be relatively easy to reorganize giving them the double goal of 'output maximization' and 'information optimization'. The current analysis also suggests that research into dark numbers does not have to come from external scientific parties, but can become part of rationalized control practices.

One reason not to engage in such research is that knowledge revealing the true extent of fraud would be useless, since the capacity of the various national agencies to control, investigate, prosecute or pass sentence is limited in terms of personnel, time, financial and other resources. This argument is valid, albeit to a limited extent. After all, dark number analysis could yield information about whether there are good reasons to change the overall capacity, or to reallocate the various subcapacities within the total capacity, and such allocation corresponding to the extent of the problem is required from member

10 Regulation 4045/89 for EAGGF guarantee does mention evaluation (art. 9.4) but this evaluation refers to the progress made and will be based mainly on member states' detailed reports on the application of the Regulation (such as difficulties encountered and measures taken to overcome these).
Ambiguities between criminal policy and research

states under the proportionality criterion. Since such assessment would probably provide insight into methods of fraud, opportunities to commit fraud and other causally relevant factors, one should also expect improvements of law enforcement policies and tactics, even with a given capacity. So the criterion of effectiveness would be both served and would be made measurable in one important sense of general impact.

Not by a rational criminal policy alone

Rational criminal policy-making

In sum, dark number research has a natural place in most tasks that usually fall under criminal policy-making. Let me sum up the reasons why the Commission, and the member states, sooner or later will have to concentrate on dark number research.

— Delineation of task/assessing the control needs. If one wants to know the extent of the problem of fraud, its diversity, its increase or decrease, one can only partially depend on the known cases. Yet the Commission, in concentrating on the analysis of known cases of EC fraud, collected in the IRENE database, does exactly that. Dark number assessment is crucial to know the real dimensions of the problem, and the selective mechanisms of detection and registration. Dark number research is also crucial to estimate the need for control efforts required under the proportionality criterion.

— Explanation of fraud cases. Similarly, if one wants to discover or test causes of fraud, it would be unwise to use only known cases such as in the IRENE database other than in an explorative fashion, without knowing to what extent the known cases are representative for all the fraud cases, known or not. If one would use a select control (research) next to targeted control in order to make dark number estimates, one would have a more valid set of cases to be used for causal inferences.\[11\]

— More effective combat and prevention. Increasing sophistication with respect to the first two points (where fraud occurs and why) will lead to corresponding sophistication in prevention and combat.

— Evaluation of the effectiveness of combat and prevention. It is

11 The advantage of a select/sample control (research) over the usual method of dark number estimation through victim surveys is that one obtains at the same time information about actor, act and context. The disadvantage is the labour intensity of carrying out such controls. It is clear that as a generally recommended method control sample research can only be used where controls are part and parcel of normal implementation and enforcement practices, as is the case in most taxation fields, but also areas as protection of health and safety
almost impossible to measure or monitor the effect of measurements taken in the context of combat or prevention with respect to regulation, implementation, control, detection or sanctioning without occasional measurement of dark numbers. As argued above, such assessment would constitute an assessment of one of the prime criteria to judge the effectiveness of national law enforcement efforts, as required by the EC Treaty and the interpretation of the European Court of Justice.

Most of the general reasons mentioned in the introductory paragraph for suboptimal rational use of information for criminal policy purposes apply in the case of fraud against the EC: political nature of main policies, unclear responsibility for criminal policy, lack of scientific research, quasi-fulfilment of the information needs. These factors all impede a full realization of the rational criminal policy-making. General recommendations to increase rationality would follow these lines: clear separation of law enforcement policies from primary policies, allocation of well defined responsibilities and formulating incentives to take those responsibilities seriously, formulation of clear and precise goals for criminal policy-making, and demonstration of the insufficiency of standard information sources.

Politics, pride, power and economic interests
To conclude, I will quote a few factors having to do with power, politics and economic interests, that limit the rational actor paradigm in the case of EC fraud. The lack of political will which characterizes the (lack of) efforts by national politicians and policy makers to combat EC fraud in general makes the topic of research into the prevalence of EC fraud especially undesirable. After all, for the member states, exposure of the overall amount of fraud may imply a duty to further reduce it, so more money to be spent on law enforcement of Community regulation while national interests may be deemed to have higher priority (cf. also Harding, 1982; Scarlett, 1992). In financial terms, the only effect for a member state in exposing more fraud is that less Community money will be channelled to economic actors within that country and an increased risk may result in the need to reimburse EC funds. National pride may be at stake; what if dark number assessment threatens to reveal huge national differences, either in the overall occurrence of presumed fraud or in the operational quality of national anti-fraud systems, for example along the lines of the North-South divide? Would not this
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alone be sufficient to render such knowledge too politically sensitive? Many member states will be reluctant either to seek such knowledge or let for such knowledge become public?¹³

For the Community in general, and the Commission in particular, it makes sense to stick to other priorities, as is evident from an analysis of the Commission's criminal policy work programme. Given the current power division and the problem of the competence-interests dilemma that arise from it, it would be more practical and at the same time more politically sensible for the Commission to postpone dark number assessment. First there should be more progress on better cooperation between member states and the Commission, more consensus about the precise division of responsibilities, more insight into reported cases (cf. the IRENE database) and more understanding of national fraud combatting systems. Why seek to know more about dark number cases if those that come to light at the national level are incompletely reported to the Commission? Why add more cases to a list, if the money that is fraudulently lost, cannot easily be recouped? Why increase the possibilities for more precise and optimal evaluation if even crude evaluation shows performances lacking?

Phrased in rationality jargon, for member states the rationality of own goals (autonomy, economic interests) prevail, for the time being, over the rationality of means for the overall Community system; for the Commission the rationality of survival would make it reluctant to press too hard for a full rationality of means. This ambivalent state of affairs is stabilized by the rationality of cooperation, the need for member states and the Community or the Commission to stay together despite differences either at the means or ends level.

So it appears that for the Commission the time is not yet ripe for an explicit, full-blown criminal policy. At the same time the Commission, like national governments, will remain to a large extent involved in games of power, economics and politics with respect to main policies as well as criminal policies. Therefore, even if the impact of these dimensions may diminish in the next few years, one should not ever expect it to be a fully rational agent in criminal policy matters.

¹³ Lack of political will is not restricted to the European level. There is a general slackness of national governments in documenting the seriousness of economic crime. For similar national domains as income tax evasion or frauds involving national subsidies, little knowledge is obtained or sought. Of course there are some notable exceptions like research in the Netherlands investigating frauds that occurred in violation of the Law on Investments (Wet Investerings Regeling, WIR).
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The actual drug problem in the Czech Republic

The 'iron curtain' resulted in the restriction of the flow of both information and individuals between 'iron curtain' countries. The Czech state-monopolized management of the economy resulted in currency inconvertibility and the drug problem therefore assumed its own particular features: abuse of volatile solvents and medications, and the domestic production of drugs.

Not until the late sixties and early seventies were problems of drug addiction acknowledged. Initially the sniffing of volatile solvents spread among teenagers while the adult population showed a preference for various medications. Nevertheless, eventually very dangerous 'hard drugs' produced domestically, eventually manifested themselves.

Drug abuse
Political and economic changes since 1989 have brought about notable changes in the drug situation. The demand for drugs has reached epidemic proportions, and significant qualitative and quantitative changes have taken place in the black market.

According to health statistics (Report of the International Narcotics Control Board, 1992), there are approximately 6,500 drug addicts in the Czech Republic, 46 percent of whom are estimated to be under 25 years of age (4 percent under 18 years). However, a large drug-using population is probable. It is currently estimated that 30 percent of addicts prefer volatile substances and the remaining 70 percent use opiates, sedative medications, psychostimulants, cannabis, hallucinogens and other combinations. Drugs are mainly administered orally and as a result no significant problems with drug related HIV infection have yet been registered.

The escalation of experimentation amongst teenagers is particularly alarming: 4 percent of the population aged 15 years in 1986 had already experimented with drugs compared to 30 percent in 1993. Most young people who have experimented with drugs have tried marijuana (sometimes cultivated at home), volatile substances or various medications, but have used them only sporadically, mainly in their own homes, clubs, discos etcetera.

Statistical data gathered in prisons has shown that among drug addicts convicted for various crimes, about 57 percent are in the 21-30 age group and 13 percent are under 20 years of age.
Drug-trafficking and drug criminality

The drug distribution network is an important target for police and judicial anti-drug measures. The territory of the Czech Republic is still at the crossroads of the Balkan route which leads from the 'golden triangle' and 'golden crescent' countries to major parts of Western Europe. The significance of this route is indicated by the fact that the INCB estimates that about 70-80 percent of heroin destined for Europe is transported along it (Report of the International Narcotics Control Board, 1992). Since November 1989 several new smuggling routes for drugs including cocaine and cannabis have been established through the Czech republic from Eastern countries. In 1991 about 105 kg of cocaine and 10 kg of heroin were seized, while in 1992 about 124 kg of heroin were seized. There is evidence that dealing by non-users is becoming professionalized.

The activities of foreign organized crime groups and their links with the Czech republic are expanding rapidly. This problem together with the numerous loopholes in the present Czech legislation, represent many difficulties for police in the prosecution of drug traffickers. Criminals must be brought to justice but the judiciary does not provide the necessary framework for prosecution. The Czech government is aware that measures must be adopted expediently to prevent the current drug problems growing to unmanageable proportions.

Prevention, treatment, rehabilitation

In the areas of therapy and prevention, not only the current situation must be monitored, but also qualifies estimates of future trends and a prognosis of the needs related thereto must be made in order to update the therapeutic and prevention projects. As a preventative measure, conditions must be established that promote positive attitudes. Preventative and educational activities are planned primarily as:

- long-term programmes aimed at creating a suitable approach to drug abuse and related problems;
- medium-term preventative educational programmes for children and adolescents;
- regional and local alternative programmes making provision for leisure activities;
- professional training programmes for experts, teachers and social workers.

Counselling programmes are also available for individuals who have lapsed and rehabilitated addicts, and in addition there are programmes for the social reintegration of cured drug addicts. Educative and preventative measures aimed at one specific target group will be based on the realistic experiences of young people and must include key persons in their lives, such as parents, doctors, teachers, work councils and people involved in the mass media.

At the regional level several new socio-medical facilities, both privately and government-sponsored, provide services for drug addicts: the Centre for Rehabilitation and Prevention (day therapy and community-based work), the Centre for Children (out-patient care), hostels and shelters.

Conclusions

Public education and prevention are the most effective methods of reducing the
demand for illicit drugs and combating drug abuse. Epidemiological research is therefore significant in monitoring the incidence of the problem, for analyzing the drug scene and for predicting the principal trends of prevention, therapy and rehabilitation. Additional prevention facilities for young people and families must be developed and expanded and existing bodies must cooperate more fully and establish stronger links with specialized services. Cooperation between therapeutic and counselling facilities and criminal authorities must be improved, whilst recognizing their divergent tasks.

Efforts against criminal organizations and small dealers alike must be increased. Laws must be improved to facilitate prosecution of drug criminals and to minimize drug abuse, drug-trafficking and money-laundering. In the past, the manufacture, export, import, domestic trade and distribution of chemicals and pharmaceuticals were monopolized by the state administration. The last three years has seen the development of entrepreneurial activity and numerous organizational changes have taken place. Therefore, new legislation and an independent licensing system must be established in order to prevent the diversion of legitimate production into illicit channels. Another important task is the creation of legislation for the mandatory licensing of drug-testing laboratories.

Strengthened international cooperation is of primary importance not only in the fight against drugs, particularly against drug-related crime, but in developing preventative crime, treatment and social reintegation programmes. The basis for international cooperation is the present confirmation of our being a party to the UN Conventions (1961, 1971, 1988 and the Amending protocol 1972), as well as enjoying close cooperation with Interpol and the European customs centre for the coordination and exchange of intelligence. In March 1993 the Anti-drug commission was established in the Czech Republic. This body will not only guarantee the coordination of management, control, prevention, treatment and statistical reports, but will also undertake tasks which arise for the Czech Republic from international obligations. Furthermore, this body will cooperate with UN drug organizations such as CND, UNDCP, INCB, WHO and European institutions, such as the Pompidou group.

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Another European journal on the crime problem

In May of this year a new European journal on the crime problem was launched by the international Dutch Publishing House Kluwer Law and Taxation. The journal is called the *European Journal of Crime, Criminal Law and Criminal Justice* (CCC). It will be published four times a year, consisting of approximately one hundred pages and costing US $ 143 (DFL 250) a year. The journal’s editors are C. Fijnaut (University of Leuven), G. Kaiser (Max Planck Institute) and H.-J. Albrecht (University of Konstanz).

Because of the ‘Europeanization of crime, criminal law and criminal justice’ the editors were of the opinion that ‘the time has come to provide a European forum for discussion in the areas of criminal policies, law and research as well as a source for general information and current events’. This aim coincides precisely with the rationale behind this journal, the *European Journal on Criminal Policy and Research* (CPR). In order to prevent confusion it seems reasonable to inform the reader about the background of these initiatives and the differences in appearance, editorial policy and contents.

Both journals have been in preparation for some time. Already some years ago there were several contacts between the initiators of the two journals to see if cooperation was possible. Although the aims were comparable, there was a vast difference between the two drafts of the intended journals. More important however, the CCC editors preferred not to be associated with the RDC because of its relation to the Dutch Ministry of Justice.

The RDC has a long and outstanding tradition in policy oriented criminal research and information dissemination. While the Centre addresses judicial problems and issues, it is also independent in its scientific orientation. Therefore, the differences between the journals will depend not on their political but on their editorial character.

In this respect there are two conspicuous differences. The CPR has the word ‘research’ in its title. This means that there will be an emphasis on empirical studies, whereas the CCC will place greater emphasis on criminal law and procedure. More important is the difference in editorial policy. CCC presents itself as an academic journal and relies upon spontaneous copy supply. The CPR has an invitational editorial policy due to the central topic approach of the journal.

The contents of the first issue of the CCC include articles on the influence of the European Convention of Human Rights on English criminal law and procedure (L.H. Leigh), special methods of investigation for combating organized crime (W. Gropp) and the Schengen treaties and European police cooperation (C. Fijnaut). The Reports section contains articles on developments of criminal law in Europe (an overview by B. Huber) and on the Council of Europe in the field of crime problems (some selected legal instruments and events by W. Rau). At the end the journal gives ‘a selected bibliography’ with references to monographs in criminology in Europe.

At this time it appears that the
European criminological market can absorb both journals due to their differences in contents, perspective and price. It is expected that the journals will complement one another. In the meantime, the editors are congratulated on this additional European forum on the crime problem.

Hans Boutellier
Managing editor CPR

International Conference on cross-border crime

The theme of the International Conference which will be held in Malta on November 4, 5 and 6, 1993 is Cross-border Crime and International Cooperation in a Euro-Mediterranean Perspective. The Conference is organized by the Foundation for International Studies in collaboration with the University of Malta and the United Nations Interregional Crime and Justice Research Institute (UNICRI) under the auspices of the Ministry of Justice of the Government of Malta.

Two main topics, Cross-border Crime and International Cooperation, will be apportioned to five full sessions during which key-note papers and other papers will be presented and discussed. There will also be a social programme.

Key-note speakers for each of the five sessions include: Professor Ugo Leone (Executive Director, UNICRI), Professor Julian Schutte (Consultant, Ministry of Justice, the Netherlands), Judge Giustto Sciacchitano (Consultant, Minitero degli Esteri, Roma), Dr. Michael Defeo (Consultant, Ministry of Justice, USA), Professor Nancy Grosselfinger (Professor of Criminology, Gallaudet University, Washington DC).

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The Centre for the study of Public Order (CSPO) is a research and post-graduate teaching institute based at the University of Leicester in England. It was established in 1987 under an initiative by John Benyon, then a lecturer in the Department of Politics, in order to coordinate expertise and initiate research and post-graduate teaching into public order, crime, security and policing issues. Since its establishment, the CSPO has built up an international reputation for its research and publications.

The research and teaching undertaken at the CSPO reflect a broad definition of what public order issues involve. Public order studies are taken to include questions of how order is sustained in different contexts, for example in societies, organizations and at the level of the family unit, as well as consideration of how and in what circumstances order is policed, and questions of how order can be threatened and destroyed. The CSPO is interested in the nature, causes and consequences of disorder (such as riots, violent protest and terrorism), in mechanisms of social control; and in the roles of political and social institutions in affecting public order. The CSPO is also interested in the study of crime, victimization and crime prevention issues, in security management issues and the role of information technology. Importantly, the Centre seeks to promote an enlightened approach to the study of crime and public order issues, and puts the pursuit of social justice as a primary goal.

The research and teaching activities of the CSPO therefore include the study of riots and other public disorder events; the study of crime and its prevention and detection; examinations of policing policies, methods of policing, modes of organization, regulation with police forces, and cooperative policing structures; explorations of race relations, racial attacks and inner-city issues; understandings of crime in different settings, victimization and crime prevention; the evaluation and examination of security management issues. Conceptually, the Centre regards assessments of the political and

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social context as an integral part of any study of public order, crime, security management and policing issues.

The CSPO is truly multi-disciplinary in its research, and the composition of the staff reflects this. Twenty-two staff are currently employed full-time. These include eight lecturing and seven research staff, whose backgrounds cover the major areas of the social sciences, and disciplines represented amongst the staff include criminology, politics, sociology, social policy, penology, law and geography.

Research

The CSPO is the foremost British institution for the study of public order, crime, security and policing issues, and this reputation rests upon the Centre’s wide-ranging research programme. Funding for research derives from a variety of sources, including the national social science research council, central and local government, the European Community, and the private sector, including major retail companies. The diversity of types of research, funding sources, size of projects and research methodologies used has been crucial to consolidating the Centre’s research success. The following list of selected research projects gives some indication of the range of research conducted at the CSPO.

The Centre initiated research into police, crime and justice in Europe in 1989. A research team of six is currently working on this project. The research has three central objectives. Firstly, investigating the organization of the police forces in the EG and the wider Europe, and examining the structures which exist to promote police cooperation within Europe, such as the Schengen Agreement, the Trevi forum, the future EDU/Europol, Interpol, bilateral agreements and informal networks. A second research task involves collating information and research on crime patterns in Europe. A third aspect is an examination of the consequences of increased police cooperation for civil liberties and human rights. The research team places great emphasis on the dissemination of research results and information and is doing this primarily through publication.

A number of reports and discussion papers are scheduled for publication in 1993 and 1994. A comprehensive bibliography of publications in this field is being compiled. In addition, a number of conferences on European policing issues will be hosted by the CSPO over the next two years, including three one-day conferences in the autumn of 1993. The research team have built up a large number of contacts working in the field throughout Europe, and an important outcome of this has been the team’s ability to establish a network
of practitioners that can be used as a resource by interested third parties.

Closely related to the concerns of the research into policing, crime and justice issues in Europe are issues concerning border controls and the position and treatment of refugees and asylum seekers. Over the past year the CSPO has conducted research into these areas focusing particularly on Western, Central and Eastern Europe and a number of presentations and published articles have followed. Further, the Centre is now part of the EG COST programme (Eastern-Western Europe) network on migration research. The Centre has especially good links with researchers in Hungary, these being initially developed through an EG TEMPUS proposal for the training of police trainers in human rights which the Centre is coordinating in association with Italian and Hungarian policing agencies and human rights academics. Established research relationships are currently being utilized in mounting a three-year comparative study of the problems and effects of the criminalization of refugees and asylum seekers in the control process.

Race relations in Britain has always been integral to the work of the Centre. Presently, a major project examining the experience of African Caribbean people in Leicestershire is underway. The project is the result of an initiative by members of Leicester’s African Caribbean community, and is unique in this respect. The research is funded by the British Department of the Environment City Action Team, Leicester City Council and Leicestershire County Council. The research has concentrated on identifying gaps in the provision of services to African Caribbean people in Leicestershire, and the formulation of recommendations for the improvement of service provision. The services chosen for study include health, employment and training, housing and social services. A representative 10 percent sample of respondents from the community were interviewed through a questionnaire survey, and interviews were conducted by staff drawn from within the African Caribbean community in Leicestershire. The research aims and objectives were established from the outset through coordinated action and consultation with representatives from that community, and the team have a primary responsibility to report back to, and be accountable to, those representatives. A number of publications are forthcoming.

Since its establishment the Centre’s research into riots and public disorder has been a central feature. This has involved investigations not only into the causes and consequences of rioting, but also questions about how order is maintained and public tranquillity secured. In 1990 the Centre received a grant of £35,000 from the Joseph Rowntree Charitable Trust for a study of social justice and
public order issues in inner city areas. Staff at the Centre have published widely on this topic and the findings of this research have been presented at a number of conferences, including the International Police Conference in London in October 1992.

The Centre has obtained funding from a number of private sector companies to undertake research into crime in the workplace. This work has focused particularly on the retail sector and has included studies of violence to staff, store design and shoplifting, the use of closed circuit television (CCTV) in crime prevention and detection, and staff dishonesty. A major national clothes retailing chain has recently commissioned the CSPO to undertake a nationwide study of the problem of violence and abuse experienced by staff working in the retail sector. Research is also being conducted into crime within the leisure industry, and as part of this a recent study has been undertaken, looking at crime in hotels. The results obtained so far suggest that this research is both academically challenging and practically useful to the industry.

A major study of armed robbers and robbery commenced in 1992 with funding from the British Bankers' Association and the Building Societies' Association. The study looks at the motivation to offend, patterns of offences, target selection and the subculture of violence. Interviews with over 300 convicted robbers have been conducted. This is the first study of its kind and throws some interesting light on aspects of organized and violent crime.

The CSPO was commissioned by the Leicester Safer Cities project in September 1992 to undertake a study of crime prevention strategies and people's views and perceptions of crime in two areas of Leicester. This study is one of a number of projects being undertaken under the Safer Cities initiative, which receives its funding from the British Home Office. The Leicester study involves an assessment of crime victimization on two housing estates with the aim of formulating initiatives to reduce burglary in the area. A large-scale questionnaire survey has already been conducted on the estates, and a smaller number of in-depth interviews carried out with specific groups of respondents. The research design and methodology are being designed to be applicable to other UK cities.

The CSPO has been a pioneer in the study of maritime crime which hitherto has received little attention. Fraud, armed robbery (piracy), hijacking and kidnapping are just some of the types of crime which occur at sea, yet their effects are rarely commented upon. Research is being conducted into these issues, which are becoming the focus of increasing international attention.

Other research projects currently being conducted at the Centre include an examination of developments in public order policing for
the Royal Canadian Mounted Police College; a study of the policing function of Health and Safety Inspectors; and the formulation of an action plan for crime prevention in the central city area of Nottingham, England.

**Teaching and Training**

A second major aspect of the Centre's activities is post-graduate teaching and training. Around 130 post-graduate students were registered for the academic year 1992/1993 for studies leading to the award of Masters degrees in Public Order, Criminology, and Security Management and Information Technology. Diplomas are also offered in these subjects.

The MA degree in Public Order explores political and social change, urban problems, race relations and the changing context of modern policing. Collective violence including civil unrest is explored at theoretical and practical levels, and both its significance, and actions taken to prevent it, are also examined. The MA degree in Criminology offers a wide-ranging, inter-disciplinary perspective on the extent, type and explanations of crime. The criminal justice system is studied, including police work, the courts, sentencing, imprisonment and other forms of punishment and rehabilitation. The MSc in Security Management and Information Technology is a unique course which covers crime at work, management principles and capabilities, and research and technology in security management. During the course, students spend twelve weeks on placement with a security department or a security company. This gives students an insight into, and practical experience of security management issues.

Associated with the establishment of MA courses has been the development of the Centre's role in the provision of training in information technology, security management and public order issues. The Centre undertakes post-graduate vocational training in these areas for students financed in the main by the European Social Fund. The intention of this course it to equip recent graduates from areas with high unemployment within the EG with skills in information technology and research methods. Students study a range of topics and are expected to reach reasonable levels of proficiency in areas including the use of spreadsheets, word processing, desk-top publishing and databases.

Training for police officers, security managers and those working in the criminal justice system is also provided by the Centre. The UK's University Funding Council awarded the Centre a vocational
course development grant to establish a programme of continuing education for 1992/1993, and a number of conferences are being organized as part of this initiative. The Centre also runs specialist courses for students funded by the British Council where training is arranged for small groups on specialist areas within the Centre’s overall field of expertise.

Conferences

Since its establishment, members of staff at the Centre have been active in organizing national and international conferences. One-day conferences on specific issues are organized regularly, partly in order to provide training for professionals in specific areas where a demand has been recognized, and partly to promote debate and discussion between individuals and groups who under other circumstances would not usually get the chance to meet. Topics covered include tackling racial attacks, crime at work, police cooperation in Europe, crowd and venue management, maritime crime and football hooliganism.

The CSPO has recognized the importance of conferences as occasions for the dissemination of research and the establishment of contacts and working relationships with other researchers in the field. The Centre’s staff therefore place great emphasis on presenting papers at major conferences such as the British Criminology Association’s annual meeting, the Political Studies Association conferences, and the European Consortium for Political Research’s annual meetings and workshops.

Publications

The dissemination of research results and engagement in academic debates at a conceptual level are critical features of academic work. Members of staff publish regularly in their own fields of expertise, and recent publications include works on left realism in criminology, examinations of changes in legislation and police practice as a consequence of public disorder in Britain in the 1980s, and an assessment of criminal investigation performance.

The Centre is currently establishing its own discussion paper series for the publication of research monographs. Recent publications in this series include a paper on issues in European Police Cooperation, and an initial report into holiday crime. The aim of this series is to publish research findings swiftly, disseminate them to a wide audience, and promote debate and discussion on these research topics.
Contacts and other resources

The Centre, because of the research interests of its staff, has a very wide network of research contacts in fields relevant to members' research interests, and these constitute an important and valuable 'resource'. Alongside these informal networks that have been built up, the Centre has taken a number of initiatives to promote links with other organizations where mutual research and training interests exist. Visiting academics from overseas universities provide an important opportunity for researchers at the Centre to develop contacts and share expertise with colleagues from abroad. Over the past two years, the Centre has welcomed visiting fellows from Australia, China, Japan, India, Ghana, Hungary, Jamaica and the USA. Each year the Centre runs a programme of lectures by visiting and guest speakers, in addition to the regular staff seminar series.

At a more prosaic level, the CSPO is fully provided as a teaching and research institution, and facilities include a well-equipped computer laboratory and seminar rooms, study rooms for students, and its own library. The CSPO also houses an important archive of press cuttings dating back over the past 30 years, documenting the history of race relations in Britain. The CSPO has full use of the University of Leicester's library and computing resources when required.

Future plans

The Centre has expanded greatly in the six years since its establishment. It is the foremost British institution of its kind, and has built up a national and international reputation for its research and teaching in public order issues, criminology, race and ethnic relations, urban problems and policing and public security policy. Through the publications series, conferences and the general research activities, the CSPO aims to consolidate its position and develop future research areas, including a greater emphasis on collaborative European and international research.
Abstracts

This section gives a selection of abstracts of reports or 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.

The selected articles are all oriented towards the European crime problem. Articles that generate comparative knowledge are seen as of special interest. Most of the articles are published in other journals in the English language. It is hoped for that the section will cover all interesting and relevant developments and results in criminal policy and research in Europe.

More information can be delivered by the RDC-Europe Documentation Network. This network was initiated in 1992 and coordinated by the RDC documentation office. This office has begun developing a European documentation network on the problems concerning international crime. The purpose is to coordinate the flow of information on this topic within Europe and make it accessible for European researchers, policy makers and other interested people. In addition to the main topic of international crime other issues concerning criminal policy and research will be covered.

Single copies of the articles mentioned in this section can – when used for individual study or education – be delivered by the RDC documentation service at your request. A service charge is requested.

RDC-Europe Documentation Service
E.C. van den Heuvel, P.O. Box 20301
2500 EH The Hague, The Netherlands
Tel: (31 70) 3707612;
fax: (31 70) 3707902

Activities of the United Nations
Interregional Crime and Justice Research Institute and the Regional Institutes for
Crime Prevention and Criminal Justice
Progress Report of the Secretary-General

This report brings to the attention of the Commission on Crime Prevention and Criminal Justice the progress achieved in the activities carried out by the United Nations Interregional Crime and Justice Research Institute, the four regional institutes for the prevention of crime and the treatment of offenders and the three other associated institutes cooperating closely with the Secretariat in the field of crime prevention and criminal justice. The role, capacity and potential of this crime prevention and criminal justice programme network in complementing the work of the Secretariat and in assisting the Commission in promoting the goals and objectives of the crime prevention and criminal justice programme are also highlighted.

Bohlander, M.
Legal advice in criminal proceedings in the Federal Republic of Germany

Revised version of a lecture given at the Exeter University Centre for Legal and Interdisciplinary Development Seminar at Exeter University, Exeter, England, February 22, 1990. This article presents an overview of German criminal procedure, signals some differences between, and shortcomings of, the one-tier inquisitorial German and the two-tier adversarial British system and considers the possibility of adapting principles from
each jurisdiction to the other in the hope of benefiting the further development of criminal legal aid in both countries. The author concludes that certain components of the British system of legal aid, especially the duty solicitor scheme, could be beneficially introduced in modified form into German criminal procedure. Conversely, some points of German law, such as less rigid adherence to the autonomy principle (the right of a defendant to decline legal representation), could benefit the British system.

Bovenkerk, F.
Crime and the multi-ethnic society: a view from Europe

As a result of waves of migration after World War II, European societies today are characterized by social differentiation, multi-ethnicity and cultural pluriformity. Rather than asking which groups are more criminal than other groups, researchers should be interested in finding out which new crime trends are due to the fact that these countries have become multi-ethnic societies. Throughout the article the author suggests some directions for further empirical research on crime and ethnicity in multi-ethnic societies. Insight into ethnic minority crime could be enhanced by abandoning the current fixation on high levels of certain offences; comparison of total crime profiles would provide a better picture of the situation. The crime profile reflects the social position of the ethnic groups in question, underrepresentation in the total offender population indicating a lack of integration into society. Prejudice and discrimination against members of ethnic groups is on the rise. Although discrimination is a criminal offence in most countries, very few offenders have so far been prosecuted or convicted. Some acts subject to reproach according to cultural custom are not regarded as violations of state law. The reverse situation, cultural customs that violate the norms of state law, however, is more common. Sometimes interference by the state through criminal law undermines traditional social control systems in ethnic minority communities. The probable exploitation by international organized crime of social marginalization and disadvantage is likely to pose a greater threat in the long run than the street crime which currently causes so much concern in Europe.

Briggs, S.J.
Does the police service provide value for money?

The 1991 Queen's Police Gold Medal Winning Essay. At the level of budget management the police service in England and Wales provides value for money. At the level of service structure, resourcing and equipment it provides value for money insofar as spending decisions are carefully thought through and shrewdly implemented. A sense of unease begins to develop when a consideration of what the community actually gets for its money is measured against what the public situation needs if the police service is to avoid the pathway which leads to paramilitary status. To ensure that police priorities and methods are congruent with community values and expectations, adoption of a broadly based consultative process designed to establish consensus must be established. Such a strategy would embrace a broad spectrum of community interests ensuring improved articulation of the consumer's viewpoint. The police service cannot ignore the social context in which it operates. To continue to do so will lead to increasing isolation from public support and sympathy. Society is beginning to appreciate the importance of quality, choice, standards and value in the public sector and will not be easily persuaded that such matters are not legitimate expectations of the police service. It is not unreasonable to require the police service to demonstrate that public funds have been economically used and well deployed. Neither is it unreasonable to seek ways of measuring the quality and effectiveness of the police
service as long as the dangers and the difficulties of that process are acknowledged and the indicators to be employed are fashioned by consultation and negotiation and are not imposed.

Brown, I., R. Hullin
Contested bail applications: the treatment of ethnic minority and white offenders
*The Criminal Law Review*, February, 1993, pp. 107-113
Contested bail applications coming before Leeds (England) magistrates were examined for a period of six months during 1989, during which time 496 defendants made 591 applications for bail which were opposed. The remand decisions made in respect of defendants from the two largest ethnic groups, white (n=416) and Afro-Caribbean (n=55), were examined in order to detect any different treatment. Similar proportions of white and Afro-Caribbean defendants were remanded in custody, 56% and 55% respectively, and more detailed breakdown by offence type also failed to reveal any significant difference in magistrates' treatment of the two groups.

Council of Europe; European Committee on crime problems
Extraterritorial criminal jurisdiction
The report, prepared by the Select Committee of Experts on Extraterritorial Jurisdiction set up by the Council of Europe European Committee on Crime Problems, is also available in French under the title Competence extraterritoriale en matière pénale. It contains information regarding the various rules and principles of extraterritorial criminal jurisdiction in the member states; examines the relationship between public international law and the law of criminal jurisdiction; and analyzes mechanisms to control conflicts of jurisdiction.

Diacatou, A., G. Mamalakis et al.
Alcohol, tobacco, and father's aggressive behavior in relation to socioeconomic variables in Cretan low versus medium income families
*The International Journal of the Addictions*, vol. 28, no. 4, 1993, pp. 293-304
The present study identifies socioeconomic factors associated with heavy parental drinking and smoking, and with paternal aggression toward members of the family in 87 low-income families (those receiving financial aid from the Social Welfare Department) and 92 medium-income families (receiving no financial aid) in Greece. Income per se was not found to be significant. The father's alcohol consumption correlated positively with his smoking and aggressive behaviour (reported verbal and physical assaults), while the mother's alcohol consumption correlated positively with her smoking and number of marriages, and negatively with the

Den Boer, M., N. Walker
European policing after 1992
*Journal of Common Market Studies*, vol. 31, no. 1, 1993, pp. 3-28
This article focuses on the recent emergence of new forms of police cooperation in Western Europe in general, and the European Community (EC) in particular. The authors begin by mapping out the network of existing cooperation structures and placing these in the context of the broader institutional framework of the EC. Thereafter, a more dynamic perspective is developed. They examine critically the various rationales which have been proffered for recent initiatives, and attempt to provide a more rounded explanation for institutional growth in the area. The authors also scrutinize the prospects for future developments. In particular, they ask whether the intimate historical links between policing and the nation-state and the novel political character of the EC will impede the development of robust supranational policing institutions. Finally, in the light of an enhanced understanding of the nature and limits of police cooperation in the EC, the authors examine and evaluate the bases on which new policing institutions might claim legitimacy.
family’s overcrowding index (number of family members to number of rooms ratio). The father’s smoking correlated positively with his alcohol consumption, and the mother’s smoking with her alcohol consumption and tenancy. The father’s aggressiveness was found to be positively related to his alcohol consumption and negatively to his work and level of education.

Ensor, T., C. Godfrey
Modelling the interactions between alcohol, crime and the criminal justice system
*Addiction*, vol. 88, no. 4, 1993, pp. 477-487

In this article, the role that economic models may play in furthering the understanding of the potential links between alcohol and crime are explored. A complete model is presented which allows for complex interactions between alcohol, crime and the criminal justice system. Results from testing this model with time series data (1960-1978) for England and Wales for different types of crime are discussed in detail. Data defined by standard regions and for the years 1980 to 1988 were also compiled and a summary of the results discussed. The argument that alcohol consumption may be one of the determinants of a wide range of crimes receives some support and it is also found that alcohol consumption may affect the probability of detection for some types of crime.

Farrington, D.P., J.N. Burrows
Did shoplifting really decrease?
*The British Journal of Criminology*, vol. 33, no. 1, 1993, pp. 57-69

Home Office *Criminal Statistics* show a substantial decrease (of more than one-third) in the number of recorded shoplifters between 1985 and 1989. The largest decrease was for juveniles. In trying to explain why this decrease had occurred, a survey of shop theft was carried out with sixteen retail chains, totalling 7,873 retail outlets, which accounted for a quarter of total retail sales in Great Britain in 1990. The number of shoplifters apprehended by these retailers remained tolerably constant between 1985 and 1989, and their probability of reporting shoplifters to the police also remained constant. The number of apprehended shoplifters tended to increase with the number of store detectives employed by each retail chain, but the retailers reported that their use of store detectives had not changed since 1985. It is concluded from this research that the true number of shoplifters probably remained tolerably constant between 1985 and 1989, and that the number of recorded shoplifters decreased because an increasing fraction of shoplifters reported to the police were dealt with informally, and hence did not appear in the official statistics of shoplifting offenders.

Fergus, B.
World-wide plastic card fraud
*Intersec*, vol. 2, no. 9, 1993, pp. 311-314

An overview of the distribution of plastic card fraud and fraud patterns world-wide by region and an outline of developments in card fraud reduction. Although the nature of the fraud problem varies from region to region, card counterfeiting is undoubtedly the greatest problem. Other problems which the banking industry needs to address are card interception (cards never received) and fraudulent use. The author looks briefly at the main technologies currently available to deal with each of these major card fraud problems and at what their evaluation entails. In evaluating user authentication techniques, banks are strongly urged to consider the three things a consumer wants from any cardholder verification method: convenience (the technique employed must be fast and not intrusive), reliability (the genuine cardholder must not be rejected by the system) and assurance (the cardholder can be confident that the technology will prevent fraud).
Jung, H.
Criminal justice – a European perspective
*The Criminal Law Review*, April, 1993, pp. 237-245

A revised and slightly extended version of a paper presented at the National Probation Conference at Harrogate on February 26, 1992. An increasingly integrated and pluralistic Europe requires a set of meta-standards and the readiness to enter into an international dialogue aimed at gradually enlarging the common ground of criminal policy. A brief overview indicates some of many and controversial perspectives and positions in the criminal policy debate. The article devotes special attention to: (1) the scope, mechanisms and obstacles to harmonization in the field of criminal justice; (2) the difficult agreement on a yardstick for assessment and comparison of the various systems of criminal justice; and (3) the tendency for human rights issues to play an increasingly important role in criminal justice.

Keijser-Ringnalda, F.
European integration with regard to the confiscation of the proceeds of crime
*European Law Review*, vol. 17, no. 6, 1992, pp. 499-515

This article formed part of the documentation compiled for the Tenth International Symposium on Economic Crime, Cambridge, July 1992. So far, legal harmonization in Europe with regard to the confiscation of the assets of crime is still in a preliminary stage. However, some treaties have been formulated and the signatory parties urged to alter their laws on this matter. The author examines the meaning of ‘harmonization’, ‘integration’ and ‘European’, and the most important international agreements related to confiscation of the proceeds of crime: the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances (1990); Report of the Financial Action Task Force on Money Laundering (1990, G-7-European Community task force); Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990, Council of Europe); the Schengen Agreement and Convention (1985, 1990); Directive concerning the prevention of the use of the financial system to launder suspect funds (1991, EC). In conclusion, the author raises some issues for discussion: a country desiring to participate in the process of internationalization must be prepared to sacrifice part of its national sovereignty; a country ratifying an international agreement sometimes has no say in who the other contracting parties will be; the existence of a framework for international cooperation does not automatically mean that countries will be willing or able to live up to the obligations.

Leroy, B.
The European community of twelve and the drug demand: excerpt of comparative study of legislations and judicial practice
*Drug and Alcohol Dependence*, vol. 29, no. 3, 1992, pp. 269-281

A comparative overview of drug control legislation in the twelve member states of the EC. There are wide areas of agreement and striking divergences. Most countries refuse to treat drug use as a criminal offence, while a minority believe in maintaining a legally enforced ban, at the same time limiting, either through the legal provisions themselves or judicial practice in applying them, the scope of the repressive measures established in this regard. There is a general requirement for moderate, flexible and appropriate provisions which encourage positive remedies and enable judges to give due weight to voluntary moves on the part of addicts to overcome their addiction and which also help protect drug users, particularly minors, from exposure to all forms of drug supply.

Loveday, B.
Right agendas: law and order in England and Wales

Successive Conservative Governments in England and Wales from 1979 on through today have sustained a clear
commitment to strong law and order policies and pursuance of a crime control model of criminal justice. The crime control model stresses strong state intervention and public spending on the police and the criminal justice system. There has been a relentless upward spiral of recorded crime and growth of public disorder in spite of unparalleled increases in public spending on the public services most closely associated with social control through the 1980s and into the 1990s. The Government continues to place responsibility specifically on the individual, the family or the school, ignoring economic disadvantage and environmental deprivation as risk factors. The growing number of unemployed and never employed who can be found in the inner city and outer city estates provide the core of the new underclass. The official Government line has been to deny any relationship between crime and unemployment in spite of recent evidence suggesting that, when linked with economic disadvantage experienced by the young, unemployment may well be a strong motive for criminal activity. Traditionally seen as a central component of any crime control strategy, the police service has proved quite unable to influence the crime rate in any significant way. When over half of all recorded crime consists of opportunistic property offences, then attempts to fight crime by increasing police resources are unlikely to succeed. If the social problem which the huge increase in property offences represents is not susceptible to crime control strategies, neither is low police productivity the explanation of falling clear-up rates. The Home Office has recognized that crime prevention programmes are more likely to impact on crime levels than reliance on the police service, however the Government has been more inclined to involve police or to establish new agencies than to expand the role of local authorities in crime prevention, even though local authorities still appear to offer the best means by which to implement effective crime prevention programmes.

MacKenna, S.
The environment, crime and the police
*The Police Journal*, vol. 66, no. 1, 1993, pp. 95-103
While the police in the United States and in some EC countries are actively involved in the investigation and prosecution of environmental crime, the enforcement of environmental laws in the United Kingdom is not deemed part of the police mandate and is left to the various regulatory authorities. There is no indication that public opinion toward the regulatory approach is likely to change, certainly not in the medium term. Recent developments such as the 1990 Environmental Protection Act have demonstrated a move toward a more coordinated, possibly regionalized approach to environmental protection. However, with 'traditional' criminal activity escalating at an alarming rate, the involvement of the police service, which is already stretched in terms of resources, is unlikely unless environmental concern leads to a major shift in the attitudes of society and the policy of the government.

Nash, M.
Dangerousness revisited
Contained within the 1991 Criminal Justice Act (England and Wales) is the possibility of a form of protective sentence. A brief visit to the dangerousness debate of the 1970s and 1980s serves to demonstrate the difficulty of just exactly who should merit a protective or reviewable sentence. Definitions of dangerousness are imprecise, they cannot be applied with scientific precision, not least because they make assumptions concerning the future, of which no-one can be sure. Indeed even the evidence on which to base the prediction is debated and it is most unlikely that sufficient attention is given to detail, particularly at the pre-sentence stage. Offence-based classification systems can serve as a starting point but are themselves limited as much by what they omit as what they include. The
seriousness of the crime will remain one of the central criteria for sentencing, particularly for crimes of violence and sexual offences. However, there is a real risk that 'dangerousness' and 'seriousness' will become blurred, with the overall effect that all offences falling within this category will be penalized more heavily. The risk of limited information bases on which courts can form an opinion that a defendant poses a 'risk of serious harm' to the public may be increased by the 1991 Act.

Nergard, T.B.
Solving conflicts outside the court system: experiences with the Conflict Resolution Boards in Norway
The British Journal of Criminology, vol. 33, no. 1, 1993, pp. 81-94
Since 1991 each county in Norway is required to appoint a Conflict Resolution Board. Through Conflict Resolution Boards, the young offender is given the opportunity to settle directly with the victim. The parties to the conflict meet for mediation along with a neutral third person. The conflicts most often mediated are misdemeanours, however the Board can also mediate other types of conflicts. If the accused abides by the mediation agreement set by the Board, all charges are dropped and do not become part of a criminal record. An evaluation of conflict resolution outside the formal court system was performed in 1990, drawing on statistics obtained from the Boards in existence in 1988 and 1989 and on interviews with those responsible for the Boards in the various countries. The author summarizes the results of this assessment and gives her views on the current status of the Boards. The evaluation addressed the number and type of cases referred to the Boards, the length of time required to complete mediation, programme client profile, type of victim-offender arrangement made through mediation, mediation procedure and recidivism. The primary problem identified by the study was the low number of cases referred for mediation. The police indicate that few cases meet the criteria for conflict resolution and the expected direct referral by the public has failed to materialize. In view of the low number of cases handled by the Boards the programme has not, in practice, become a real alternative to formal processing through the criminal justice system. Also, the scheme has increased rather than decreased the workload of the police and has not reduced the time between the offence and the response to it. The author compares the Norwegian programme with similar programmes in place in England and the Netherlands and considers possible ways to improve the scheme.

Passas, N., D. Nelken
The thin line between legitimate and criminal enterprises: subsidy frauds in the European Community
A fraudulent scheme in Italy affecting the financial interests of the EC highlights fraud patterns and control weaknesses found throughout the EC. The scheme involved production of false and forged documents, the wholesaling of them, the final use of these documents for defrauding the authorities with the possible connivance of some officials. The fraud was unveiled not by the agencies normally dealing with such frauds, but by accident, through a drug raid. Both legitimate and illegitimate businesses were involved. Drawing on this case, on their wider research on EC fraud and on information obtained from officials interviewed for this study in five EC countries, the authors examine structural impediments to the control of such frauds, draw parallels with other research on organizational crime and suggest that the distinction between organized crime and white collar crime be abandoned in favour of a partnership model of crime. Legal changes and strict controls alone cannot substantially reduce the huge potential for EC frauds. Anti-fraud policies must also address the underlying structural factors: combating EC frauds is not always a priority of
national authorities; intrastate and interstate disagreement about territorial competence; collusion of officials and gross inefficiency; authorities’ desire to avoid trade disruptions; authorities’ desire to increase the volume of farm exports, one of the most fraud-prone areas; the benefits frauds may bring to local communities.

Phillips, D.
Frontiers and firearms: the drafting of a European Directive
_C.J. Europe_, vol. 3, no. 1, 1993, pp. 7-14

In 1987 the European Commission sent to the Council of Europe a proposal for a Directive on the control of the acquisition and possession of weapons. The true motivation for the proposed Directive, the author argues, was concern not about the incidence of violent crime and terrorism but about how to achieve an open EC market smoothly with some member states determined to keep their frontiers controlled and ready to use a public safety argument to support their position. There is no evidence that the draftsmen of the proposed Directive ever sought to establish whether firearms controls, applied internally or at frontiers, have had any effect upon the incidence of violent crime. The proposed Directive was meant to offer reassurance that the relaxing of frontier controls would bring no diminution of public security. It was an unsatisfactory piece of draftsmanship. An overview is given of the drafting process. The author reviews some of the inadequacies of the draft as it stood at the time it was first placed before the European Parliament for an opinion (First Reading) in July 1990, considers some aspects of the debate in the European Parliament, the modification and adoption of the modified text at the Second Reading, and its adoption in 1990 without significant amendment of the modified text – which had many but not all the absurdities removed. This article is based upon the work of the National Pistol Association’s (England) European Working Group and presents the English perspective on the form of the proposed Directive in particular.

Schneider, H.J.
Crime and its control in Japan and in the Federal Republic of Germany

Recent crime figures show that Germany holds a middle position between the USA and Japan. With the exception of organized crime, which has a centuries-long tradition in Japan, the numbers of all other types of crime are markedly lower in Japan than in Western industrialized societies. The reasons for the relatively low crime rate in Japan can be found in the different societal structures: in Japan a high group consciousness and feeling of mutual obligation prevails and manifests itself in the population’s strong support of the criminal justice system. These findings correspond with research that found that community sense and voluntary informal social control are the keys to a low crime figure. Community (Gemeinschaft) and society (Gesellschaft) must be brought closer together to reach this goal. The community is marked by intimate, emotional human bonds, while society is characterized by loose, rational, utilitarian relationships between its members.

Skretting, A.
Attitude of the Norwegian population to drug policy and drug-offences
_Addiction_, vol. 88, no. 1, 1993, pp. 125-131

The results are presented of the 1989 nationwide survey (Norway; mailed questionnaire) of persons ranging in age from 18 to 69 years carried out to ascertain public attitudes toward the country’s current drug policy. Respondents were asked to: report whether they or friends or acquaintances use(d) cannabis, amphetamines, heroin and cocaine and whether they would consider trying an illegal drug if there were no danger of being arrested; rank the seriousness of possession of 50 g of hashish, purse-snatching from an elderly
woman and burglary/theft; evaluate the penalties for drug offences. The responses indicate a high degree of public support for the nation's current very restrictive drug policy. Attitudes changed little from 1968 when a similar study (using personal interviews) was carried out. Even a majority of the respondents who reported having used cannabis themselves said that all use should be prohibited. Possession of hashish was regarded as nearly as serious as purse-snatching and much more serious than burglary/theft. Even though the penalties for drug offences have been raised several times since the end of the 1960s, a majority of respondents still said that the punishment prescribed by law for involvement with drugs is too mild.

Spencer, I.
Criminal justice expenditure: a global perspective
The Howard Journal of Criminal Justice, vol. 32, no. 1, 1993, pp. 1-11
The United Nations Third Survey of Crime and Criminal Justice (1987) contains data on global criminal justice expenditure. The data show that between 1982 and 1986 there was a trend toward increased expenditure on criminal justice. At the same time crime rates increased. This paper examines criminal justice expenditure in different parts of the system (police, prosecutions, courts, prisons), in an attempt to discover whether there are patterns in global criminal justice expenditure. The author concludes that criminal justice expenditure is unplanned and uncoordinated, more concerned with political and ideological objectives than with feasible criminal justice outcomes.

Tilley, N.
Crime prevention and the Safer Cities Story
The Howard Journal of Criminal Justice, vol. 32, no. 1, 1993, pp. 40-57
The aims, administrative structures, funding, evaluation requirements and immediate origins of the Safer Cities Program (England) are described. The overall programme is administered by the Home Office Crime Prevention Unit, however each individual project is locally driven. A detailed explanation of each of the major elements of the programme is given, focusing in particular on the complex interrelationships between politics, Home Office sponsored criminology and policy formulation. There follows an analysis of the context and logic of the programme as it has emerged and may develop in the future. A series of summary statements describing the antecedents of concerns with crime prevention as a policy issue and of Safer Cities as a particular expression of this reveal the essentially contingent character of the initiative.

Tournier, P.
Statistics on prison populations in Member States of the Council of Europe (1990 surveys)
Prison Information Bulletin, no. 16, 1992, pp. 24-26
Results of the February and September 1990 prison population surveys in member states of the Council of Europe. The following statistics are presented: total prison population; detention rate per 100,000 inhabitants; percentage of unconvicted prisoners; pre-trial detention rates per 100,000 prisoners; percentage of women prisoners; percentage of minor and young adult prisoners; percentage of foreign prisoners. Two thirds of the states reported a rise in the number of prisoners between September 1989 and 1990. Committal flow statistics are also provided for 1989: number of imprisonments; rate of imprisonments per 100,000 inhabitants; percentage of unconvicted prisoners at entry; indicator of the average duration of imprisonment.

Van Duyne, P.C.
Organized crime and business crime-enterprises in the Netherlands
Based on an analysis of the files on 21 business crime enterprises (planned criminal abuse of a seemingly legitimate business front) in the Netherlands, the
author describes the functioning of criminal enterprises and offers a tentative typology of business crime enterprises. The criminal enterprises studied were involved in investment fraud, illegal labour contracting, VAT and EC fraud, illegal industrial waste trafficking and money-laundering. The more crime enterprises operate successfully on a legitimate market, the more reason there is to question the role of the upperworld, especially the authorities.

Wever, L.
Drug policy changes in Europe and the USA: alternatives to international warfare

The supply reduction drug policy strategy has failed worldwide. There is growing support on the international political level for a policy of normalization and harm reduction characterized by: treatment for drug users that is not primarily directed at ending their drug use but at harm reduction, the possibility of choosing different types of treatment that are suited to the needs of the clients, a low profile for the criminal justice system with regard to drug possession, the availability of needle-distribution facilities, and the existence of prevention activities in a framework of general health promotion. In Europe there is much more political room for the development of peaceful policies than in the United States, which seems to stand rather isolated with its tough measures against drug users. However, in spite of the political rhetoric in support of demand reduction/normalization, implementation of such policies in Europe varies widely across countries. The author compares the level of normalization in Belgium, Denmark, France, Netherlands, Spain, the United Kingdom and the United States and provides an overview of government expenditure in these countries on demand reduction programmes per addict and in relation to the gross national product and general government expenditure.

Zeilstra, J.
Action speaks louder than words: an overview of harm reduction in Rotterdam

A description of Rotterdam’s integrated harm reduction approach to drug problems. The municipality and care providers work in close harmony to tackle drug-related problems which threaten health and create a nuisance to the community. Three major organizations, the Boumanhuis, Odyssee and Bulldog, run prevention, care, cure and resocialization programmes which deal with aspects of drug abuse that threaten health. In cooperation with the local authority they also try to implement effective measures to cope with other social problems connected with the use of drugs. A common denominator in this work is a service that is accessible to drug users and supplies them with maintenance doses of methadone. All three organizations operate one or more methadone programmes and each of them specializes in a number of areas in consultation with the local authority.