

2. CORRUPTION AND ORGANISED CRIME: EVIDENCE FROM LITERATURE

2.1. The literature review process

The review process includes two types of literature: academic and grey literature (reports and policy studies).¹⁵ The literature that deals specifically with links between organised crime and corruption is very limited, however.

There are several explanations for the lack of specific studies on the links between organised crime and corruption: (1) very few governments study the problem (Germany, Italy, Netherlands, and the UK) and, if they do, often their reports are not public because the information is considered sensitive or self-discrediting; (2) much of the academic criminological research is based on police or judicial sources; (3) in some EU Member States there are no criminologists doing empirically based research on organised crime; in others, even if there are conducting such research, they often work for government-run criminological institutes, where the topic is largely taboo.

In addition to literature on EU member states, the team examined literature from the US, Russia and the Western Balkans. While the present chapter includes literature from the US, the reviews of literature on Russia and the Western Balkans are presented in Annexes 11 and 12. Literature on organised crime in Russia is abundant. However, only a fraction of the non-EU studies are empirically based, and most of them do not take a systematic look at the linkages between the organised crime and corruption. Most of these studies contain only general statements on how organised crime resorts to corruption and offer only descriptions of Western and Russian media coverage of notable cases.

The present chapter is structured as follows:

- General studies that examine how corruption and organised crime are linked legally and socially;
- Judicial corruption and OC;
- Police corruption and OC;
- Political corruption and OC;
- Private sector corruption and OC.

2.2. General studies

‘Corruption’ has long been considered one of the defining characteristics of ‘organised crime’. As comprehensive reviews of organised crime definitions illustrate, the great majority of them – but not all – include corruption as a defining element (Finckenauer 2005, p.65; Hagan 2006, p.129). Maltz (1994, p.27) suggests that only public sector corruption should be considered an element of organised crime. Finckenauer (2005, pp.76-77) provides various examples of different types of complex frauds (e.g. health insurance fraud) with a high degree of organisation that does not resort to corruption or violence. Nevertheless, for some academ-

¹⁵ The full methodology of the literature review is presented in Annex 1 to this report.

ics like Finckenauer, corruption is one of the key defining characteristics that sets apart 'organised crime' from crime marked solely by a complex organisation.

In the United States (Goldstock et al. 1990; Beare 1997) and Latin America, the corrupting influence of organised crime has received much attention. In Europe, with the exception of Italy (e.g. Della Porta and Vannucci 1999, Paoli 2003, Calderoni and Caneppele 2009) and Bulgaria (CSD 2008, Bezlov et al. 2007), little empirical research has been conducted in a similar vein. Various authors have decried the absence of such empirical studies in other European countries (European Commission 2008, Beare 1997). Europol's (2007, 2008, 2009) reports are amongst the few attempts to suggest an empirically grounded theoretical typology of organised crime's use of corruption. The Europol reports (2007, 2008) explain that the group structure, its international dimension and the type of crime the group practices affects its need and potential for the use of corruption and influence. They explain that 'EU-based' groups have greater and higher-level access to corruption than 'non-EU-based' or 'intermediary groups'.

The 2009 Europol report (p. 39) offered a new 'organised crime group' typology, in which a separate group type was suggested for groups that "interfere with law enforcement and judicial processes by means of corruptive influence". Europol (p.41) concludes that criminal groups that use corruption do so: (1) at the middle level of law enforcement to avoid detection or (2) at the low or middle level to hinder ongoing law enforcement or judicial processes. The Member States that have reported having groups with such influence include Ireland and the UK, but more crucial influence has been detected in Czech Republic, Latvia, Lithuania, Romania, Slovak Republic and, to a lesser extent, Hungary and Poland. Interestingly, Bulgaria, as the case study on that country shows, suffers from significant influence from groups that use corruption, but Sofia has explicitly reported that no such groups operate in the country (p.44)

Another strain of research provides statistical (Buscaglia and Van Dijk 2003) or purely economic and theoretical proof of the connection between 'corruption' and 'organised crime' (Kugler et al. 2005; Garoupa 2000). With both approaches, the literature has failed to provide an empirical explanation as to how the two phenomena interrelate. Attempts by some authors, like Holmes (2007), to explain the causes of the corruption-organised crime symbiosis in Eastern Europe have provided little insight. They muster scant empirical evidence and have limited or overly broad explanations of either corruption or organised crime (e.g. 'the communist legacy', 'the neo-liberal climate', 'the multiple simultaneous transition').

Buscaglia and van Dijk (2003) developed composite statistical indices of both corruption and organised crime. Their study demonstrates a strong correlation between the two phenomena and suggests five different ways that organised crime infiltrates the public sector: (1) sporadic, or low-level, bribery; (2) regular, meaning low-ranking officials on an OC payroll; (3) infiltration of managerial domains; (4) compromised heads of agencies; and (5) capture of state-policies.

Van Dijk (2007, 47) has built upon his work with Buscaglia to create a Composite Organised Crime Index, where he again makes a case for a strong connection between the two phenomena by measuring various indicators of corruption and organised crime. The index suggests a strong connection between the quality of the criminal justice system (i.e. the strength of the rule of law and the lack of corruption in the system) and the strength of organised crime.

The links between corruption and organised crime have also been explored through **population surveys**. Two recent Eurobarometer (2006 & 2008) surveys examined the public *perceptions* of the links between OC and corruption. These surveys revealed that more than half of EU citizens (54%) believed that 'most corruption is caused by organised crime'. The share of citizens that expressed this view remained unchanged between 2005 and 2007.

Crime victim surveys of businesses have provided some unexplored opportunities to analyse the link between corruption and organised crime. International periodic business crime Surveys, such as PricewaterhouseCoopers' Global Economic Crime survey (2007) and Ernst and Young's Global Fraud Survey (2008) report on companies becoming victims of corruption, including that initiated by organised crime. Two surveys, Kroll's annual Global Fraud Report (2008) and the Control Risks Group's (2006) provide evidence about the different industries that are most affected by corruption, particularly fraud. In addition, the Centre for Retail Research (2007) reports in its Global Retail Theft Barometer on organised crime's role in theft from retail chains in Europe, the US, and Asia.

Finally, the team reviewed all GRECO 2001 reports (First Round of Evaluations) that contain a section dedicated to the general causes of corruption in the evaluated countries. The majority of GRECO reports did not mention organised crime as a major source of corruption, or stated that it is not an issue of concern. The table below summarises the answers in the reports:

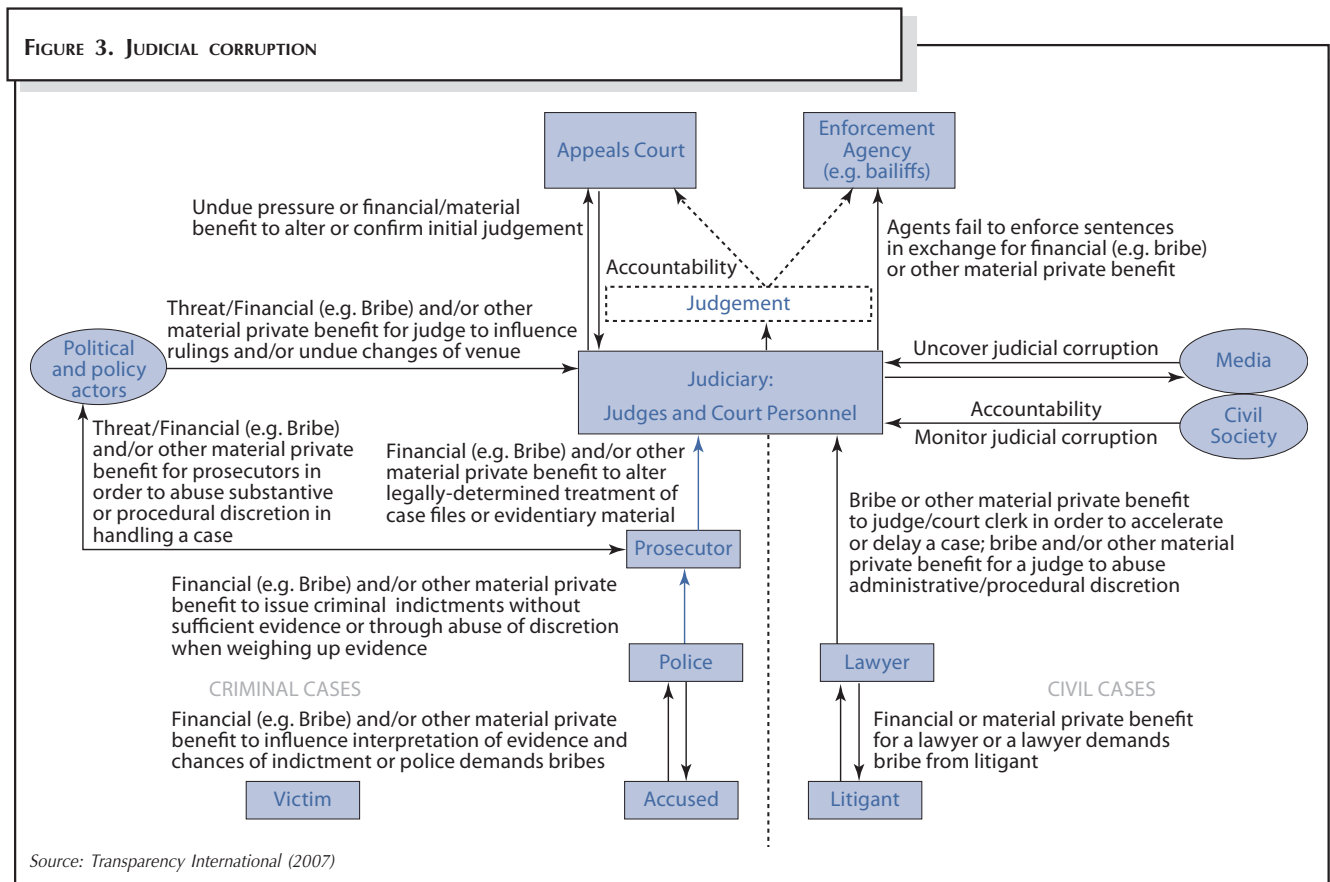
TABLE 2. MUTUAL EVALUATION REPORTS AND THE LINK BETWEEN ORGANISED CRIME AND CORRUPTION

<i>No link mentioned</i>	Belgium, Bulgaria, Czech Republic, Estonia, France, Germany, Poland, Slovakia, Slovenia
<i>No link and no corruption concerns</i>	Finland, Luxembourg, Netherlands, Sweden
<i>Link mentioned not to exist</i>	Cyprus, Ireland
<i>Link mentioned</i>	Spain – marginal influence on certain local elected representatives
<i>Link confirmed to exist</i>	Greece – corruption exists in cases related to illegal migration and prostitution Latvia – no empirical evidence, but the link is admitted to exist Romania – most serious cases of corruption are related to OC, government and judiciary

Source: GRECO (2001)

2.3. Judicial corruption and organised crime

Transparency International (2007, 2007a) and Eurobarometer (2006, 2008) surveys show that the perceived levels of judicial corruption in the EU are lower than the perception of political and private sector corruption. Much of what is written on judicial corruption and the factors that contribute to judicial independence (Rose-Ackerman 2009, p. 18-19) generally applies to organised and corporate crime abuse of the judiciary. Figure 3 below provides a conceptual framework of the criminal justice process, a good starting point to analyse corruption within the judiciary. The element that is missing, and which could be relevant to common law EU Member States, such as Ireland and the UK, is the role of the jury.



Most of the literature on judicial corruption in the EU focuses on judicial independence and political influences. The French magistrate Eva Joly (2007), known for her role in high-profile corruption trials, has argued that the shift towards prosecution-led investigations in France transfers responsibilities from the investigating magistrate to public prosecutors, creating conditions facilitating political pressure and diminishing judicial independence. She further argues that ongoing judicial reform would neutralize the positive factors that contribute to successful prosecutions like the Elf affair, a case involving € 450 million in embezzled funds.

Corrupt politicians protecting organised crime from prosecution is also a subject of debate in Italy. Della Porta and Vannucci (1999, pp.129-152) explain that in the 1980s and 1990s, elements of the judiciary protected the corrupt exchanges between the mafia and politicians and partici-

pated in the division of bribes. In these cases, politicians would corrupt judges by offering them a wide range of favours, including high fees for private arbitrations (out-of-court settlements) and supporting the careers of particular judges.

Unlike Italy, where politicians in many ways serve as intermediaries between organised crime and the judiciary, in Central and Eastern Europe the literature provides evidence of organised crime's direct influence over the judiciary. The issue of judicial corruption in this region is even more central.

In Poland, Plywaczewsky (2004) provides the example of a judge and several public prosecutors from the city of Torun, who were found to be frequent guests at a club owned and frequented by criminals. The judges were later found to act in favour of the club owners and the related criminals. Plywaczewsky (2004) argues that the methods of corrupting the judiciary include:

- Gaining influence by accessing retired prosecutors, police officers or judges, and, with the retirees' help, contacting working professionals and gaining influence among them;
- Lending small amounts of money, covering gambling debts or doing small favours; sometimes the prosecutors, police officers or judges would not even know initially that the person doing them the favours has links with organised crime;
- Judges or prosecutors would be tempted to brothels or parties where alcohol would be abused, only to find themselves blackmailed (with photographs or video recordings) into providing favours to organised crime;
- A criminal might even collect financial documents indicating a police officer, prosecutor or judge's dishonesty, and use the documents as a way to blackmail the officials;
- Influencing officials' families by making deals with relatives without the immediate knowledge of the prosecutor, police officer or judge;
- Signing contracts, through various funds, with selected persons for lucrative tasks; this method is often a first step to recruitment;

The Centre for the Study of Democracy (2009), analysing judicial corruption in Bulgaria, lists a number of factors that hinder the judiciary in tackling internal corruption and organised crime:

- **the absolute immunity** of judges, prosecutors, and investigators engenders the opposite of its intended effect when systemic corruption permeates the judiciary;
- **the role of internal investigation** bodies are crucial; before their creation, there were almost no investigations into judicial corruption;

CSD (2009) argues that judicial corruption has been a key factor in the relative impunity of organised crime in Bulgaria, where the number of prosecutions and convictions related to organised crime has remained low over the past five years.

Gutauskas (2004) explains that in Lithuania between 1999 and 2001, only 41% of investigated smuggling cases reached the trial phase. The key

explanation for this low percentage is corruption in the criminal justice system. In June 2003, two high-level city judges in Panevezys and Birzai and one in Lazdynai county court were suspended and accused of cigarette smuggling with an influential criminal group led by a retired police officer. The investigation revealed that six lower rank judges were also involved in collaborating with organised crime groups. Gutasukas points out that thirteen criminal cases are pending against judges accused of rejecting prosecutors' requests to arrest criminals and helping criminals avoid detainment or reducing pending sentences.

2.4. Political Corruption and organised crime

In Europe, beyond major studies on Italy (e.g. Della Porta and Vannucci 1999; Paoli 1999, 2003) and Bulgaria (CSD 2009, Bezlov et al. 2007), few empirically based academic or policy studies examine how traditional and non-traditional organised criminals corrupt politicians and civil servants. One notable collection of articles on the subject (Godson ed. 2003) examines criminal political connections around the world, including cases in Italy and the US. A recent issue of the Dutch Ministry of Justice's journal *Judicial Explorations* [WODC: Justitiële verkenningen, 35 / No. 3, 2009] was dedicated to exploring political corruption and organised crime in Europe and included cases on Italy (Paoli 2009; Fijnaut 2009), Belgium (Cools 2009), Bulgaria (Gounev & Bezlov 2009) and Russia (Siegel 2009).

A decade earlier, the National Strategy Information Center (NSIC) carried out a collaborative international research project that focused on the Political Criminal Nexus (PCN),¹⁶ which refers to the "concentration and fusion of official political and professional criminal power" (NSIC 1999, p.1). The key conclusions were that:

- Long-term existence of criminal groups requires some type of PCN;
- Some politicians might collaborate with criminal groups to embezzle public funds;
- Specific political conditions facilitate the formation and evolution of a PCN;
- One-party political systems (whether on a national, regional or city level) and states with strong bureaucracies but weak civil societies and no checks and balances are more prone to PCN;
- Weak states and countries in transition, particularly from authoritarian regimes, have weak law-enforcement or judicial institutions; the changing social structures blurs values and politicians cross the line of what is ethically acceptable;
- Cultural factors also play a role in facilitating PCN:
 - Patron-client systems, like in Mexico or Southern Italy, for example, tend to make politics more personal and non-rational;
 - A history and prevalence of secret societies (the Italian Mafia-Freemasonry connection in the 1970s and 1980s) help create conditions of covertness that facilitated PCNs;
 - A widespread public perception that corruption is "normal";
 - Public perception of criminals as cultural heroes or "men of honour";

¹⁶ The research the comparative analysis of Mexico, Russia, Nigeria, Hong Kong, Colombia, Italy, and the United States.

- Markets and economics bear on the PCN issue:
 - Need for large-scale money laundering of criminal proceeds breeds political corruption;
 - Concrete economic factors at the local level also play a role (e.g. EU development funds in Southern Italy);
- Role of contingent, accidental, or coincidental factors in the development of PCNs: (1) specific individuals and (2) specific political circumstances could contribute to the establishment of a nexus;
- Different types of criminal activity and diverse concentrations of criminal actors lead to different types of PCNs. Local smugglers and criminal organisations need to develop relationships with local law enforcement authorities, but they may have few relationships with state or national officials. In addition to profits, criminals often corrupt politicians to help them achieve social respect or eliminate rivals.

There are various articles and reports that focus on particular high-profile cases: on the Czech Republic (Nozina 2004), on Lithuania (Gutauskas 2004), on Baltic countries (Karrstrand 2007) and on Bulgaria (Gounev and Bezlov 2009). In the case of Bulgaria, for instance, Gounev and Bezlov (2009) discuss the role of former law-enforcement officers who turned to organised crime to use corruption as a tool. The involvement of former security and law-enforcement personnel in organised criminal in Southeast Europe is explored in depth also by CSD (2004).

Della Porta and Vannucci (1999) argue that Southern Italy provides a prime example of “continuous and systematic exchanges between organised crime, entrepreneurs, and members of the political class”. Della Porta and Vannucci described this relationship as an “iron triangle”, a sophisticated “cartel” in which each partner profited from votes, money, protection and public contracts.

Criminal organisations penetrate democratic mechanisms and their systems of representation. Votes are extorted with threats and violence or wheedled out of citizens in exchange for different kinds of incentives. Political parties rely heavily on external funding. This dependence inevitably makes them susceptible to corruption (Allum and Siebert 2003). Accordingly, it is common to secure a number of votes in exchange for favours, such as contracts for public works, promoting and scuttling legislation, patronage, etc. (ibid.) “All the ‘regional commission’ of the Mafia has to do is to instruct which party to vote for, and tens of thousands of votes will flood in for that party” (Procura della Repubblica di Palermo 1994 in Allum and Seibert 2003). Authors point out that Mafias have no strong ideological agenda and “they will sponsor any ideological political party which will favour their criminal activities and give them public contracts” (Allum, forthcoming).

Shelley (1995) argues that in countries where organised crime groups thrive, especially in societies undergoing transition to democracy, representatives of organised crime assume key positions in the incipient legislatures. This allowed the criminal groups to influence the new legal framework of the country and establish rules favourable to their interests.

Corrupt political authorities at the local level can be uniquely powerful instruments for organised crime, note Beare (1997). Allum (forthcoming) argues criminal gangs in Italy often exert considerable influence over local government municipal employees and their decisions. Such influence results in clientelism or favouritism, where municipal employees award public contracts to Mafia-linked companies or bend and ignore rules in order to ensure that criminal gangs win public contracts (ibid.). Examples of this phenomenon are provided from Southern Italy, where, between 1991 and June 2008, 177 local councils were dissolved due to mafia infiltration (Allum forthcoming De Stefano, 2008, p. 328). In 2006, only 9 out of the 92 councils in the region were judged 'clean', i.e. without requiring investigation, Prefect's control or monitoring. Therefore, 90% of councils required investigation (Allum forthcoming Marasca, 2006, p. 12).

In its most advanced form, organised crime is so thoroughly integrated into the economic, political, and social institutions of legitimate society that it may no longer be recognizable as a criminal enterprise. In the most extreme cases, infiltration of politics by organised crime may lead to mixing among a country's political and criminal elites to the point where OCG are able to wield political power. Van Dijk points out that in many parts of the world, grand corruption and organised crime are two sides of the same coin. The relationship between organised crime and politics can be seen as a 'system interaction': the interaction between a representative of a criminal sub-system, i.e. a Mafioso, and a politician from the political sub-system.

Godson (2006) also points out that "When political establishment knowingly and regularly does business with gang leaders, or when professional criminals are actually elected to power, as has happened in Sicily and Taiwan, the distinction (between the political establishment and the criminal underworld) is less straightforward. The lines between the two sets of players become less distinctive; and sometimes the political and the criminal merge". Catanzaro (1985) gives the example of interest groups combining political and mafia components, and Galeotti (2004) shows how organised criminal groupings are increasingly becoming political actors. He shows how in some countries/ regions/ cases, including in Europe, criminals and politicians are so close, it is difficult to distinguish their positions and roles. Rather than a nexus, there is fusion. The political and criminal agenda, in other words, are one and the same.

Studies on Italy discuss the phenomenon of organised crime's direct participation in politics. Scholars have focused on the former mayor of Palermo, Vito Ciancimino, who served a sentence for mafia associations and was considered to have been a member of the Corleone Mafia while he was a mayor. Other studies estimate that Cosa Nostra openly supported between 40 and 75 percent of the Christian Democrat deputies in Italy and about 40 percent of all the deputies elected in Western Sicily between 1950 and 1992 (Paoli 2000). In 2007, 18 out of the 50 Regional councillors in Reggio Calabria (councillors belonging to both left and right wing parties) were under investigation for

Mafia associations and 'barter votes'. Another nine were investigated for other crimes. There are also examples where the clans compete on the political scene as well, with each clan sponsoring a different political party.

Italy supplies the most striking examples in the literature. Former Prime Minister Giulio Andreotti has been accused of protecting the interests of Cosa Nostra by intervening to fix the trials of some of its leaders. Notoriously, the Prime Minister transformed the Andreotti faction into a 'permanent agency providing services to Cosa Nostra', allowing it therefore to intervene in all areas of public life (Briquet 2003). In exchange, Andreotti had enjoyed the mafia's electoral support.

2.5. Police corruption¹⁷ and organised crime

The literature on police corruption is quite extensive, but none of it particularly focuses on organised crime. In essence much of the 'police corruption' issues analysed in the literature are related to organised crime, although usually concerning retail levels of illegal markets (e.g. drugs or prostitution).

In some EU Member States, government studies have been carried out by the Ministries of Interior or police forces, but some are not public.¹⁸ In the UK, a Home Office report (Miller, 2003) cited strong evidence that organised criminals target police staff. The analysis shows that longstanding relationships between the police and criminals are built in leisure environments, such as gyms, pubs and clubs. SOCA's Assessment of Police Corruption in England and Wales (Feb 2007) assessed the risks law enforcement faces from organised crime and corruption. This publication is not public. The Home Office's (2007) *Organised crime: revenues, economic and social costs, and criminal assets available for seizure* analyses in detail the different business models of various criminal markets in the UK (e.g. drugs, people smuggling, people trafficking). Corruption is not listed in any of the business models as a significant cost to criminal enterprises. The report notes that only anecdotal evidence is available on corruption and organised crime's involvement in people smuggling (Dubourg & Prichard ed. 2007, p.8).

Bundeskriminalamt reported that in 2001 there were only five investigations of police corruption cases related to organised crime. They constituted about 8% of all registered corruption-related crimes and were related to prostitution and drugs. Also, in 2001, only 23 out of 787 organised crime related investigations in Germany produced evidence of corruption, compared to 24 out of 854 in 2000 (von Lampe 2002).

¹⁷ In some countries 'police corruption' has a broader meaning of police misconduct (unethical or criminal behaviour). In this report the focus is on type of behaviour where an external party corrupts a police officer.

¹⁸ In the course of the interview process it became clear that UK (SOCA), Netherlands (Rijksrecherche), Bulgaria (Ministry of Interior) and Hungary (Hungarian Protective Service of Law Enforcement Agencies, Ministry of Justice and Law Enforcement) have done some sort of analysis of police corruption, but only SOCA's explicitly focused on the risks posed by organised crime.

2.5.1. Reasons to corrupt the police

Newburn, in his review of police corruption for the Home Office, lists the main reasons why criminals corrupt the police:

- *'Shakedown'*: Acceptance of a bribe for not following through on a criminal violation, i.e. not making an arrest, not filing a complaint or not impounding property;
- *Protection of illegal activities*: Police protection of illegal activities (prostitution, drugs, pornography) to ensure their continued operation;
- *'The fix'*: Undermining criminal investigations and proceedings;
- *Direct criminal activities*: A police officer commits a crime for personal gain "in clear violation of both departmental and criminal norms".

TABLE 3. UK: TYPES OF CORRUPT POLICE BEHAVIOUR IN 2000

Actual/potential corruption	52% (n = 122)
Disclosure of information	10%
Disclosure of information to criminals	15%
Disclosure of information for reward	8%
Inappropriate association with criminals	11%
Inappropriate association with prostitutes	1%
Obtaining sexual favours by exploitation	4%
Using position to obtain favour/payment	4%
Actual/potential criminality or misconduct	38%
Inappropriate use of intelligence systems	2%
Inappropriate use of Police National Computer	8%
Drug dealing	11%
Drug possession	2%
Other	25%

Source: Miller

In another Home Office review, Miller (2003) reveals that the majority of the 122 police corruption cases registered at six police forces in the UK were connected to disclosure of information or crimes related to drugs and prostitution (see Table 3).

In the Netherlands, Van de Bunt (2004) explains that police corruption linked to organised crime most often involves selling confidential information to criminals, protecting the drug trade or cooperating with criminals in the logistics of drug trafficking. Although Van de Bunt maintains that organised crime in the Netherlands can normally flourish without the need for police corruption – and, indeed, official data does not indicate that such corruption is a major problem – the author acknowledges that the scope of the problem remains unknown namely because there are no investigations or official reviews of this phenomenon.

2.5.2. Factors of police corruption

Scholars have developed a number of different conceptual frameworks (Punch 2000, Newburn 1999, or De Bunt 2004) to analyse police corruption. Traditionally, the two main categories were police corruption as an *individual phenomenon*, also called the 'rotten apple doctrine' or 'flawed officer perspective', and police corruption as a *systemic phenomenon*. In the US, for a long time the dominant approach was to view police corruption as an **individual phenomenon**. This approach changed when the Knapp Commission, after investigating widespread corruption in the NYPD in 1971, came to the conclusion that the 'rotten apple doctrine'

served as a 'scapegoat' that allowed commanders to draw attention away from underlying problems in their organizations.

Malinowski (2004, p.23) argues that there are distinctive aspects of law enforcement as a profession that make it particularly vulnerable to corruption. Newburn calls these 'constant factors' that shape the opportunities policemen have to pursue their own agendas. At the same time, factors that are not inherent to the profession that vary with time, place and culture – 'variable factors' as Newburn puts it – are nevertheless just as crucial to the opportunities and pressures that create police corruption. Newburn (1999, pp.18-21) gives an overview of causal factors to police corruption:

- **Discretion:** The necessity for discretion in police duties facilitates corruption;
- **Low public visibility:** Most of the public does not regularly witness or monitor police officers' daily activities;
- **Peer group secrecy:** 'Police culture' is characterised by a high degree of internal solidarity and secrecy;
- **Managerial secrecy:** Police managers have generally worked themselves up from the 'beat' and share many of the values held by those they manage;
- **Status problems:** Police officers are sometimes said to be poorly paid relative to their powers;
- **Contact with criminals:** Police officers inevitably come into contact with a wide variety of people who have an interest in corrupting the police.

Other authors also emphasise the **age of the corrupt officer** as a factor. Data on France and Japan indicates that older officials tend to be more corrupt (Maguer 2004, pp.295-296; Yokoyama 2004, p.341). In Japan, older officers could be of lesser quality, since they were recruited at the time when Japan experienced high growth rates, Yokoyama explains. More qualified individuals could have been drawn to higher-paying jobs, leaving the less talented to join the police. Yokoyama (2004, p.341) also posits that older officers who turned to corruption might have been disillusioned about their career progress. Suffering from low morale, they might not have received the promotions they sought, but they still wield sufficient power to abuse their positions.

Newburn (1999, pp.22-23) also lists a number of 'variable factors' that influence police corruption. These include community structures, the organisation of the police force (i.e. hierarchical structures, decentralisation and stronger connection to local politics) and the level of anti-corruption activities (e.g. existence of internal investigation departments).

The role of the law enforcement hierarchy in explaining police corruption is a matter of debate. Edelbacher and Peruci (2004, p.364) mention that a strong hierarchy could potentially be dangerous when there is lack of effective external control, because 'strong hierarchical command structures mean that the group leadership can maintain its authority and lead the group to corruption.' This is supported by Yokoyama (2004, pp. 326-330, 342), who sees police corruption in Japan to be mainly 'struc-

tural.' Japanese police officers are well-disciplined conformists who rarely turn to corruption by themselves. When they do commit corrupt acts, they do so to comply with a police subculture that is deviant and highly bound by a 'code of secrecy'.

Edelbacher and Peruci (2004, p.365) mention that decentralized police structures could also be vulnerable to corruption if they lack effective internal or external corruption controls. Palmiotti (2005, p.283-299) and Malinowski (2004, p.21-46) argue that police corruption scandals have plagued major cities in the US because of their highly decentralized police structures. Hunter attributes corruption problems in decentralized police systems in the US to the domination of local autonomous governments that control local police departments. In France, the hierarchical police system, Hunter argues, is vulnerable to influence by the national government.

Edelbacher and Peruci (2004, pp.365-366) also discuss rank and assignments as factors influencing police corruption. Maguer (2004, pp. 283-305), in his research on French police corruption, indicates that the higher the rank of the official and the greater the discretion, the higher the risk of corruption. French internal investigations support his findings. In France, high-ranking officers and officers in specialized units were more often implicated in officially documented cases of corruption than their colleagues 'on the beat'. In Britain, on the other hand, Punch (2004, p. 320), and Miller (2000) suggest that most officers facing criminal or disciplinary procedures are from the lower ranks, but there are also some senior officers, including the very top echelon, who have been implicated in corruption cases. In Eastern Europe, Gounev and Bezlov (2009) shows how corruption has spread through the highest level of police services, including the Ministry of the Interior.

Van de Bunt (2004) applies the concept of 'workplace crime' to depict how police corruption takes on different forms according to the rank and assignment of the particular officer, as reflected by his or her group and 'grid', or place on the institutional ladder. Based on analysis of the team and institutional cultures of police officers, de Bunt describes four different types of corrupt behaviour. Two of these types are related to individual 'deviance', while two are related to 'group deviance'. This analytical framework will be used later in the analysis of police corruption in further chapters of this report.

Yokoyama (2004, pp.309-351) explains that after the Second World War, the Japanese police decided to establish relationships with the Boryokudan, an organised crime group better known as the 'Yakuza', to maintain order in the black markets. This was also supported by the ruling right-wing politicians, who needed the group as an extra strong-arm against the left wing's supporters. However, when political tensions ceased and public opinion turned against the violence of the Boryokudan, the police had to sever its links with the group. Although the police had some success in distancing themselves from the Yakuza, some officers maintained relations with organised criminals, often under the guise of using them as informants. Mostly, these ongoing connections involve relationships with

lower-level Boryokudan members, but in 2002 the media revealed cases in which an assistant police inspector sold confidential information to a Boryokudan chief.

The policing of illegal drug trade is one of the key drivers of police corruption (Amir & Einstein eds. 2004). Newburn (2004, pp.26-27) summarized the characteristics of the drug market that make it especially vulnerable to corruption:

- it is usually 'secretive, duplicitous and quasi-legal' (Manning and Redlinger 1979);
- the use of informants is widespread;
- it is extremely difficult to regulate;
- the 'war on drugs' rhetoric often increases pressure on officers for results;
- securing sufficient evidence to convict is often difficult (the temptation to engage in process corruption is great);
- officers may be required to buy (controlled purchases) or, occasionally, use drugs in the course of their work (as part of undercover operations);
- very large sums of money may be available to the corrupt officer.

2.6. Corruption in the military and organise crime

Organised crime's corruption of the military is not an uncommon phenomenon. As a Saferworld report shows (Davis et al. 2001), in Eastern Europe and the former Soviet Union in the 1990s, arms smuggling and military equipment theft took place with the support of corrupt military personnel. In the US, the FBI (2009) has raised concerns that an increasing number of gang members in the military stationed domestically and internationally not only pose a greater threat to law enforcement due to their training, but also because they use their positions in the military to become involved in drugs and arms smuggling. This alarming trend should be seen in view of the fact that gangs in the US have already moved from retail drug or arms distribution to wholesale cocaine and marijuana distribution.

2.7. Corruption in prisons and organise crime

Another target of organised crime is the prison administration. Although no systematic interviews were conducted across member states on this issue, several interviewees (EL, BG) brought up the topic. A review of media sources revealed also that the issue is increasingly important due to the rapid development of communication technologies. Generally, the purpose of corrupting prison guards is to allow unsupervised communication with the outside world. There are three key reasons for this:

- a continued operation of criminal activities;
- influencing trials (through threatening or coordinating the elimination of evidence or witnesses);
- planning escapes;
- importing drugs.

Although the extent to which corruption is widespread in prisons across the EU is unclear, the frequent occurrence in some member states of prison corruption and the legislative loopholes that allow such corrup-

tion to flourish indicate that the issue deserves attention. A recent case in Bulgaria (Mediapool 2009a), involving a high-level drug distributor, Dimitar Zheliazkov, demonstrates the broad range of corrupt practices in prison that could allow a continuity of criminal operations:

- **Abuse of 'right of family visits':** In some member states prisoners could be awarded for good behaviour a 2-3 day 'right of family visit'. The case showed how the Bourgas prison administration abused its powers, allowing Zheliazkov this right from the onset of his prison term. He left prison so frequently, he was practically able to continue his criminal operations;
- **Uncontrolled visits:** Prison officials also allowed Zheliazkov's criminal associates to meet with him, again allowing continuity of criminal operations;
- **Low-security prisons:** When the above mechanisms became publicly known, Zheliazkov was transferred to a low-security prison near the capital, Sofia. While in some countries a court could make such changes – interviewees in Greece said judges are often corrupted for this purpose – in Bulgaria an apparent loophole allows a non-judicial change in the terms of the penalty (Mediapool 2009a).

Two common corrupt practices within prisons have been identified to exist across the EU: the smuggling of mobile phones and of drugs. Smuggling routes for both drugs and mobile phones often intertwine.

2.7.1. Mobile phones in prisons

Smuggling mobile phones has been one of the most common reasons for corrupting prison guards. Although fixed line telephones normally provide inmates with an opportunity to speak to the outside world, mobile phones cannot be monitored. Phone smuggling is also a lucrative and relatively low-risk activity for prison guards. In the UK, the Independent Monitoring Board (IMB) concluded that in one of Britain's largest prisons, the Wandsworth Prison, there was an "apparently limitless" supply of phones that inmates used to order drugs, continue running criminal activities and plot escapes. London's Metropolitan Police estimates that 1 in 10 prison guards in the UK are corrupt. SOCA has concluded that as many as 30 high-profile prisoners continue to run their criminal enterprises while in prison (Edwards 2008).

In Bulgaria, in an open letter sent to the media, guards from Sofia's Central Prison complained that the corrupt practices involving mobile phones are so widespread that "most prisoners had mobile phones, some even more than one". The director of the Sofia prison tolerated the corrupt schemes, according to the complaint. The director allegedly would organise raids to collect the smuggled phones and then sell them to retail firms for kickbacks (Mediapool 2009).

Beiser (2009) explains that in the United States, smuggling of mobile phones is also considered a threat: in 2008, officials reportedly confiscated 947 phones in Maryland, some 2,000 handsets and accessories

in South Carolina, and 2,800 mobiles in California. A smuggled phone could bring profits of as much as \$2,000 to a corrupt guard. Guards in California who have been prosecuted earned up to \$100,000 per year. In some cases, the smuggling has been organised, with dozens of phone smuggled at a time. The use of mobile phones has allowed coordinated action among criminal group members. US investigators have intercepted conference calls that have involved gang members located in three different prisons and gang members outside of prisons.

2.7.2. The prison as a market place

A study by the European Monitoring Center for Drugs and Drug Addiction (2005) reported that over 50% of prisoners in 15 member states use drugs.¹⁹ Prisons are enormous markets for drugs that strongly attract organised crime. In a 2005 Home Office study, 48% of respondents, including both prisoners and guards, identified corrupt prison guards as one of the main routes for bringing drugs into six local prisons (Penfold et al. 2005).

2.8. Administrative corruption and organised crime

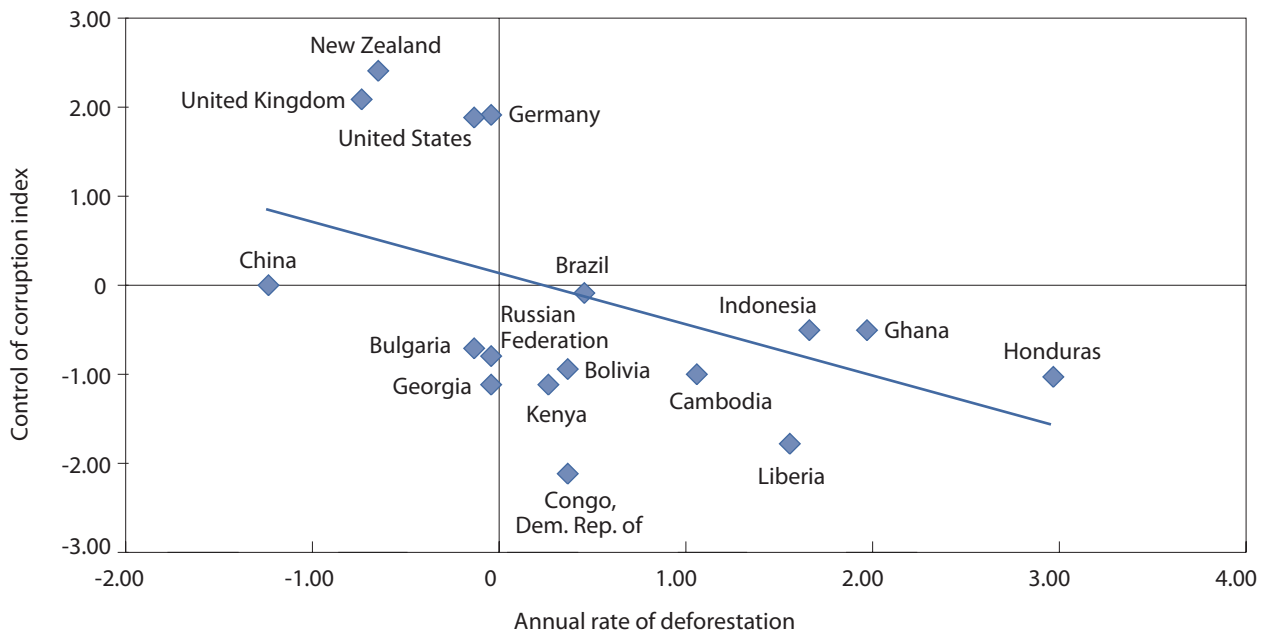
Various branches of the government administration are responsible for controlling economic activities, where organised crime might have a stake:

- Corrupt government officials issuing arms export permits to arms smugglers (Davis et al. 2001);
- Museum staff being involved in stolen antiquities trade (Bezlov et al. 2007, p. 182-183);
- EU subsidies.

One example of such administrative corruption is related to the issue of deforestation and illegal logging. Kishor and Damania (2007, p.97) explain that illegal logging is \$10 billion a year business, that involves 'commercial operators with presumed links with organized crime'. The authors argue that in the United States, the introduction of effective prevention policies of illegal logging has been obstructed by the timber industry, which has the third largest political campaign contributions (following the pharmaceutical and tobacco industries). In addition of political or police protection, corruption in various other public officials along the supply chain aid illegal logging. These include: bribing of forest service officials (for transfers to remote estates with high timber resources), of forest guards (to access illegal timber supplies), or of bureaucrats (to issue fraudulent logging permits). Other studies and authors have suggested that illegal logging is growing area of concern in the EU, especially in Central and Eastern Europe (Contreras-Hermosilla et al. 2007, Bouriaud 2003).

¹⁹ Belgium (25-42%), England / Wales (55-80%), Finland (46%), Italy (19.3%), Spain (77.2%), Sweden (60.7). *Ibid.* p.24

FIGURE 4. DEFORESTATION, CORRUPTION AND ORGANISED CRIME

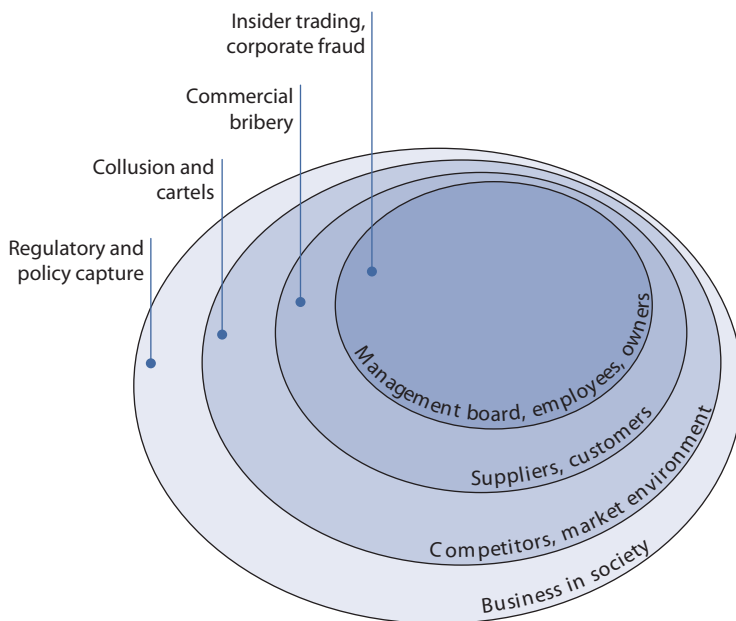


Source: Kishor and Damania (2007, p.91)²⁰

2.9. Private sector corruption

When considering corruption related to the private sector, two aspects should be kept in mind: (1) companies as victims of corruption, and (2) companies as perpetrators. Transparency International (2009) conceptualises how these two aspects interrelate. In cases of ‘regulatory and policy capture’, ‘collusion and cartels’ of companies often use corruption to profit from public funds or distort markets to their advantage. Similarly, in commercial bribery, one company could bribe representatives of another company and profit by supplying goods or services at higher-than-usual price. Finally, corrupt employees of a company could defraud the company to their advantage.

FIGURE 5. CORRUPTION IN THE PRIVATE SECTOR



Source: Transparency International (2009)

The Finnish National Bureau of Investigation’s report *A Snapshot of Corruption 2008* (FNBI 2008, quoted in Transparency International 2009, p.321) concludes (based on data from 2002-2007 police records) that OCGs in Finland rely on legal firms

²⁰ The authors used corruption data from World Bank Indicators, and deforestation data from the Food and agricultural organisation.

for their activities, providing a platform for the growth of corruption. The report suggests that organised crime groups transfer assets and activities to legal businesses, especially in the construction industry.

In a study that focuses on organised crime and legitimate businesses in the US, Albanese (1995) argues that organised crime uses private sector corruption usually for the purpose of siphoning and ‘milking’ a company for as long as possible, while trying not to bankrupt it. In the US, where ‘savings and loans crisis’ lead to the bankruptcy of multiple banks, corrupt arrangements between bank employees and outside fraudsters were instrumental.

Jacobs and Peters (2003) argue that the main way to infiltrate companies in the US has been through corrupt labour union employees. The term ‘labour racketeering’ refers to ‘corruption committed by or in alliance with, or under the auspices of organised crime groups’. In New York, the NY State Organised Crime Task Force (1990) reported on the infiltration of the construction industry in the city via mafia control of the construction industry unions. The list of corrupt activities (pp. 131-43) and schemes reported by the task force is long. It involves the corruption of company employees, owners, and union employees and representatives.

An analysis by Edelhertz and Overcast (1990) of a non-random sample of 167 organised crime cases in the US that involved 49 different business activities provides useful insights into the rationale of private sector corruption (see Table 4). The cases included: 69 cases of establishing a

front company to cover other illegal activities (e.g. sell drugs out of a pizza restaurant); 40 cases of engaging in illegal activities (e.g. drug transport); or 44 cases of scams to defraud other companies, or 12 cases to launder money. When public corruption was involved, criminal groups attempted to gain access to a source of legitimate profit (i.e. launder money).

In Europe, although no particular surveys of private sector corruption related to organised crime have been done, a number of **fraud surveys** provide insight into the scale of the problem and the industries affected the most by it. The Kroll Global Fraud Survey (2008) of 890 senior executives worldwide points to a few indicators of industries being affected by OC (see Table 5):

- The industries that report the **highest levels of corruption** include:

TABLE 4. US: ABUSE OF LEGITIMATE BUSINESS TO ADVANCE CRIMINAL PURPOSES

Scams	Cases (n = 167)
Front for Illegal Activities	69
Source of Illicit Profits	44
Provide Opportunities for Illegal Activity	40
Launder Money	12
Sell Stolen Property	4
Corruption	
Source of Legitimate Profit	84
Protect Person from Criminal Activity	27
Generate Money for Illegal Activity	7
Provide Jobs	5
Influence Public Officials	3

Source: Edelhertz and Overcast (1990)

construction (27.8% of companies), consumer goods (26.3%), natural resources (26.0%), and manufacturing (23.5%).

- The industries reporting **highest level of money laundering** include financial industry (12.3%), 'travel, leisure and transportation' (7.0%), and construction (5.6%).
- The **construction industry** reports the highest levels of corruption (27.8%), money laundering (5.6%), and financial mismanagement (30.6%), all of which combined could be indicative of some level of OC penetration.
- Retail, wholesale, and distribution / consumer goods industries suffer the highest level of theft of physical asset or stock, in line with reports of organised retail theft groups (see below).

TABLE 5. SHARE OF COMPANIES REPORTING CAUSES OF 'FREQUENT LOSS'

Areas of frequent loss 2008	Financial services	Professional services	Manufacturing	Healthcare, pharmaceuticals & biotechnology	Technology, media & telecoms	Natural resources	Travel, leisure & transportation	Retail, wholesale & distribution	Consumer goods	Construction
Corruption and bribery	15.8%	15.3%	23.5%	20.3%	13.9%	26.0%	19.3%	21.7%	26.3%	27.8%
Theft of physical assets or stock	27.2%	22.9%	52.9%	40.5%	32.7%	39.0%	38.6%	66.7%	45.6%	31.9%
Money laundering	12.3%	2.8%	0.0%	0.0%	2.0%	5.2%	7.0%	1.7%	1.8%	5.6%
Financial mismanagement	28.9%	15.3%	16.5%	25.7%	17.8%	26.0%	26.3%	25.0%	12.3%	30.6%
Regulatory or compliance breach	35.1%	16.0%	27.1%	36.5%	19.8%	19.5%	29.8%	21.7%	26.3%	26.4%
Internal financial fraud or theft	23.7%	9.0%	14.1%	24.3%	8.9%	24.7%	24.6%	30.0%	22.8%	16.7%
Information theft, loss or attack	23.7%	29.2%	22.4%	25.7%	32.7%	28.6%	29.8%	25.0%	31.6%	15.3%
Vendor, supplier or procurement fraud	7.9%	15.3%	24.7%	24.3%	13.9%	18.2%	17.5%	18.3%	33.3%	19.4%
IP theft, piracy, or counterfeiting	8.8%	12.5%	17.6%	21.6%	21.8%	16.9%	12.3%	13.3%	29.8%	11.1%
Management conflict of interest	24.6%	27.8%	14.1%	28.4%	20.8%	39.0%	29.8%	16.7%	28.1%	29.2%

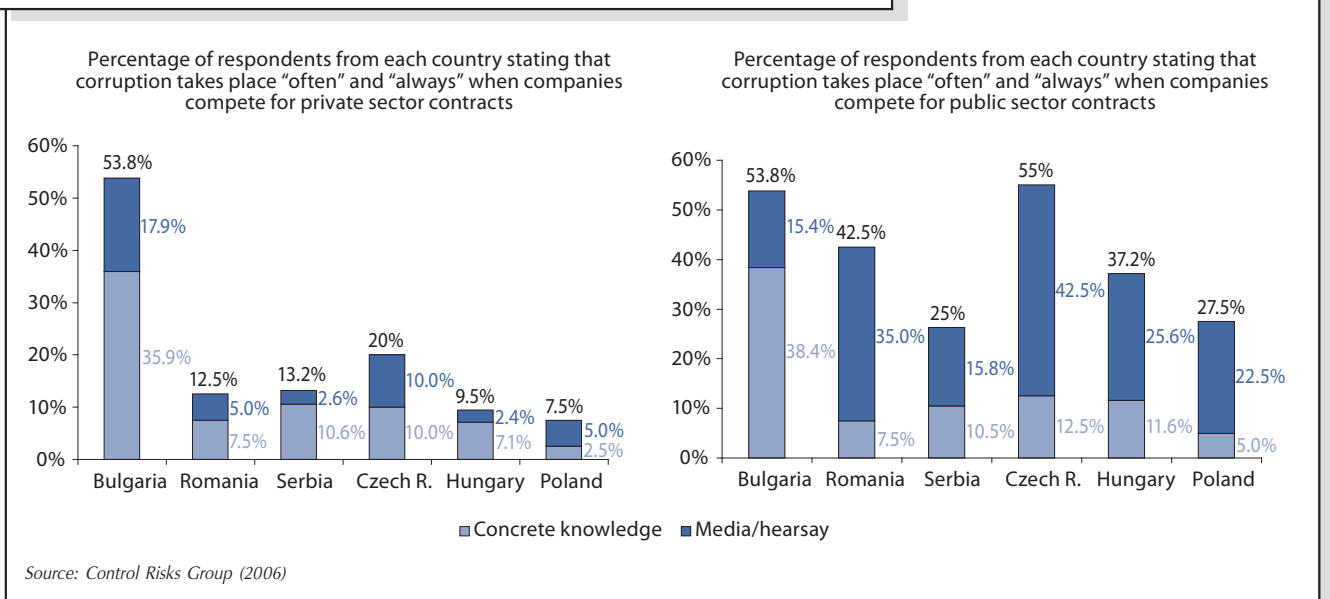
Source: Kroll Global Fraud Survey (2008)

Annual business crime victims' surveys of retail associations support some of the above interpretations. Based on the information from 489 European retailers from 25 countries in Western and Central Europe (operating 43,276 stores with a combined sales turnover of € 371 billion), The Global Retail Theft Barometer reported that losses from theft rose to 1.26% of turnover (from 1.24% in 2006) in 2007, costing retailers a total of € 29 billion. Their major source of theft was customers (including **organised retail gangs**), who were responsible for € 14 billion worth of

losses, while corrupt employees cost € 8 billion. Another source of loss (€ 2 billion) was suppliers.

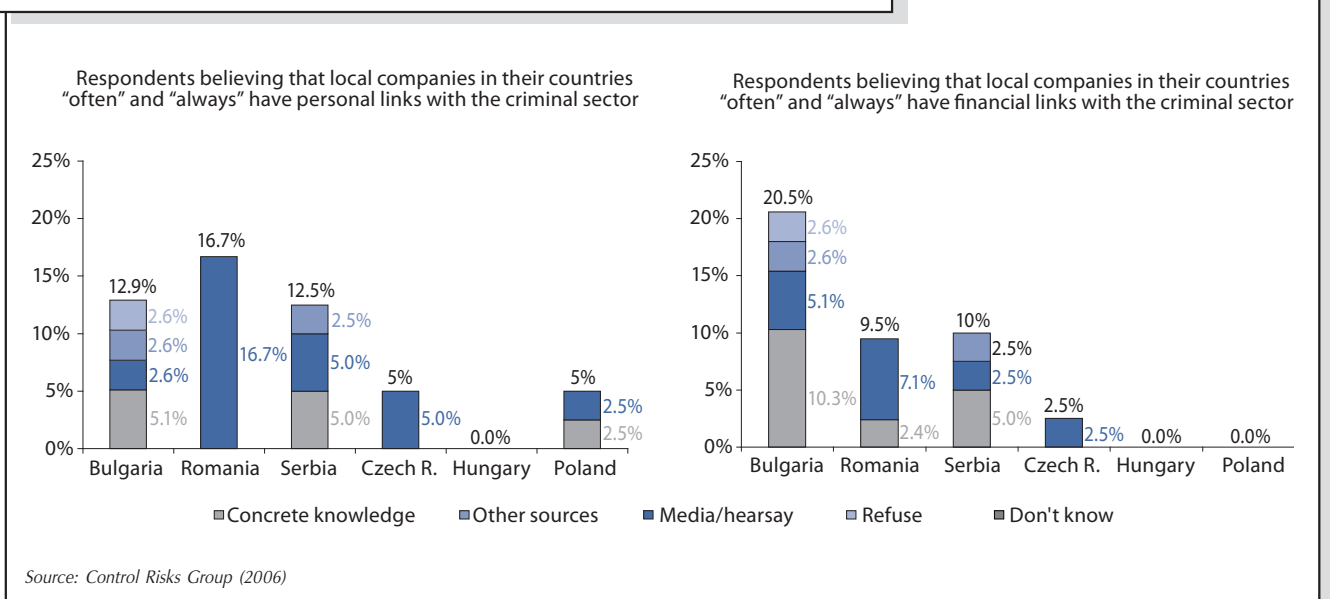
In another survey of 250 companies in Central and Eastern Europe, the corporate fraud investigation firm Control Risks Group revealed the characteristics of the largely corrupt environment within which companies operate.

FIGURE 6. CORRUPTION IN THE PRIVATE SECTOR



More importantly, the survey indicates that organised crime has penetration the legal economy of Member States in many different ways.

FIGURE 7. PRIVATE SECTOR AND LINKS TO ORGANISED CRIME



The presented data indicates that a corrupt business environment is not necessarily conducive to a strong OC presence in the legitimate business sphere. For instance, in Hungary, corrupt business practices in the public and private sectors are higher than in Romania. But the presence of organised crime is absent in Hungary, while it is present in Romania. On the other hand, the data indicates that companies with criminal links do not seem more likely to use corruption than legitimate companies, as a strong presence of companies with criminal links does not result in significantly higher levels of corruption.

A study by Calderoni and Canappele (2009) examined statistical and qualitative evidence of mafia penetration in Southern Italy. Through the construction of a composite crime index from available data²¹ for 1991 – 2007 and 2002 – 2005, the study found that organised crime in the public procurement processes was more concentrated in Calabria and Sicily than in other areas of Southern Italy. The analysis showed that Calabria had the highest incidence rate of crimes associated with the procurement. The study's explanation focuses on the specifics of Calabrese organised crime and the role of Freemasonry. Another author (Andali 2009) explains that the family-based model of territorial control provides 'Ndrangheta with a strong local foundation. In addition, Freemasonry has enabled Calabrese crime families to create links with business entities, politicians and individuals in the administrative and judicial apparatus. In this way, according to the Parliamentary Antimafia Commission (2008), the 'Ndrangheta has achieved almost total control of Calabria's economic, political, and social spheres.

²¹ Indicators used included mafia murders, confiscated mafia assets, registered mafia conspiracy crimes, number of city councils dissolved – a measure against city councils penetrated by mafia – registered procurement offenses. The procurement offences were composed of six crimes: fraud with the purpose of obtaining public benefits; embezzlement to the detriment of State; undue realisation of profits to the detriment of State, disturbance of public tenders (through violence or threats); breach of contract for public supplies, illegal trafficking of waste, including toxic or radioactive.