

**EXAMINING THE LINKS  
BETWEEN ORGANISED CRIME  
AND CORRUPTION**



CENTER FOR  
THE STUDY OF  
DEMOCRACY

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AND CORRUPTION**

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Country studies:

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**Spain:** Prof. Alejandra Cespedes

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**France:** the local researcher preferred to remain anonymous.

Interviews:

**Spain:** Silvia Cosano

**Hungary:** Dr. Kristof Gosztonyi

**Romania:** Roxana Bratu

**Germany & France:** Dr. Lilli di Puppò

**Austria:** Dimitar Dimitrov

**Belgium:** Dr. Jana Arsovska

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## LIST OF ABBREVIATIONS

<b>AEAT</b>	National Tax Administration Agency (Spain)
<b>ANC</b>	Accolta Naziunali Corsa (France)
<b>ATS</b>	Amphetamine-type Substances
<b>BEEPS</b>	Business Environment and Enterprise Performance Survey (World Bank)
<b>BIBOB Act</b>	Bevordering Integriteitsbeoordelingen door het Openbaar Bestuur – Ensuring Integrity of Decisions by the Public Administration (the Netherlands)
<b>BPI</b>	Bribe Payers Index
<b>CA</b>	Customs Agency (Bulgaria)
<b>CEE</b>	Central and Eastern Europe
<b>CGPJ</b>	General Council of the Judicial Power (Spain)
<b>CICO</b>	National Intelligence Centre against Organised Crime (Spain)
<b>CME</b>	Coordinated market economy countries (VOC)
<b>CMI</b>	Chr. Michelsen Institute
<b>CMS</b>	Corruption Monitoring System (CSD)
<b>CNDS</b>	Commission nationale de déontologie de la sécurité - National Commission on the Deontology of the Security Forces (France)
<b>CoE</b>	Council of Europe
<b>CPI</b>	Corruption Perceptions Index (Transparency International)
<b>CS</b>	Case study
<b>CSD</b>	Center for the Study of Democracy (Bulgaria)
<b>CSM</b>	Conseil supérieur de la magistrature – Superior Judicial Council (France)
<b>DANS</b>	State Agency for National Security (Bulgaria)
<b>EBRD</b>	European Bank for Reconstruction and Development
<b>EC</b>	European Commission
<b>EIU</b>	Economic Intelligence Unit
<b>EMCDDA</b>	European Monitoring Centre for Drugs and Drug Addiction
<b>EPAC</b>	European Partners Against Corruption
<b>EU</b>	European Union
<b>EU ICS</b>	EU Crime and Safety Survey
<b>FATF</b>	Financial Action Task Force
<b>EU 10E</b>	Czech Republic, Hungary, Poland, Slovakia, Slovenia, Latvia, Lithuania, Estonia, Bulgaria and Romania
<b>EU 17</b>	Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.
<b>FDI</b>	Foreign Direct Investment
<b>FIOD-ECD</b>	Fiscal Information and Investigation Service/Economic Investigation Service (the Netherlands)
<b>FYROM</b>	Former Yugoslav Republic of Macedonia
<b>GCR</b>	Global Competitiveness Report (World Economic Forum)
<b>GDP</b>	Gross Domestic Product
<b>GLNF</b>	Grand National Lodge of France
<b>GRECO</b>	Council of Europe's Groups of States against Corruption
<b>IBRD</b>	International Bank for Reconstruction and Development (World Bank)
<b>IGN</b>	Inspection de la gendarmerie nationale – Inspector of the National Gendarmerie (France)

<b>IGPN</b>	Inspection générale de la police – The General Inspectorate of Police (France)
<b>IGS</b>	Inspection générale des services, General Inspectorate of Services (France)
<b>IGSJ</b>	Inspection générale des services judiciaires – Inspector General of Judicial Services (France)
<b>IMF</b>	International Monetary Fund
<b>IU</b>	Izquierda Unida (Spain)
<b>KLDP</b>	Korps landelijke politiediensten – National Police Services Agency (the Netherlands)
<b>KMar</b>	Royal Netherlands Marechaussee
<b>MNC</b>	Multinational Corporation
<b>MoI</b>	Ministry of Interior
<b>Moj</b>	Ministry of Justice
<b>MOT Act</b>	Wet Melding Ongebruikelijke Transacties (Act on the Disclosure of Unusual Transactions) (the Netherlands)
<b>MP</b>	Member of Parliament
<b>MPA</b>	Mouvement pour l'autodétermination (France)
<b>MPO</b>	Greek Ministry of Public Order
<b>MRF</b>	Movement for Rights and Freedoms (Bulgaria)
<b>MS(s)</b>	EU Member State(s)
<b>MVR</b>	Bulgarian Ministry of Interior
<b>NECA</b>	New European Common Approach
<b>NFS</b>	Russia's National Sports Federation
<b>NGOs</b>	Non-Government Organizations
<b>NLA</b>	National Liberation Army (Albania)
<b>NRA</b>	National Revenue Agency (Bulgaria)
<b>NSSG</b>	National Statistical Service of Greece
<b>OC</b>	Organised Crime
<b>OCG</b>	Organised Crime Group
<b>OCCRP</b>	Organised Crime and Corruption Reporting Project
<b>OCTA</b>	Organised Crime Threat Assessment
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OLAF</b>	European Anti-Fraud Office
<b>OTE</b>	Greek Telecommunications Organisation
<b>PASOK</b>	Pan-Hellenic Socialist Movement (Greece)
<b>PCN</b>	Political Criminal Nexus (Italy)
<b>PP</b>	Partido Popular (Spain)
<b>PPS</b>	Purchasing Power Standards
<b>PSCs</b>	Private security companies
<b>PSOE</b>	Partido Socialista Obrero Español (Spain)
<b>PWC</b>	PricewaterhouseCoopers
<b>RPR</b>	Rassemblement pour la République – Rally for the Republic (France)
<b>SCPC</b>	Central Service for the Prevention of Corruption – Service Central pour la Prévention de la Corruption (France)
<b>SEMPO</b>	Port of Piraeus container terminal
<b>SI</b>	Semi-structured interview
<b>SIDA</b>	Swedish International Development Corporation Agency
<b>SJC</b>	Supreme Judicial Council (Bulgaria)
<b>SOCA</b>	Serious Organised Crime Agency (UK)
<b>SOM</b>	Self Organising Maps
<b>STIC</b>	Système de Traitement des Infractions Constatées – Police information database of France

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<b>TA</b>	Tax Administration
<b>TCSPs</b>	Trust and Company Service Providers
<b>TDs</b>	Territorial Directorates
<b>THB</b>	Trafficking in human beings
<b>TI</b>	Transparency International
<b>ToR</b>	Terms of Reference
<b>UDYCO</b>	Unidades De Drogas Y Crimen Organizado - Drugs and Organised Crime Unit (Spain)
<b>U-Matrix</b>	Unified Distance Matrix
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>USSR</b>	Union of Soviet Socialist Republics
<b>VAT</b>	Value Added Tax
<b>VOC</b>	Varieties of Capitalism Approach
<b>VOGrp</b>	Verklaring Omtrent Gedrag voor rechtspersonen - a statement on the integrity of a legal entity that can be shown to potential business partners (the Netherlands)
<b>WACN</b>	West-African Criminal Networks
<b>WB</b>	World Bank
<b>WCO</b>	World Customs Organisation

## REFERENCING GUIDE

Much of the data and related analysis come from interviews and field visits. No quotes are attributed to interviewees. Instead the reference includes only the Member States abbreviation, if the source is an interview, or the abbreviation 'CS' if one of the six case-studies is quoted. The case studies are appended to back of the report.

For example, a statement that is supported by evidence from an interviewee from France will be quoted as "(FR)". A statement that is supported by evidence from the case-study on France will be quoted as "(CS-FR)". All other citations follow standard academic practices. The table below includes the country abbreviations used. Several interviews with companies and EU representatives working across the EU are quoted as '(EU)'.

**TABLE 1. LIST OF MEMBER STATES ABBREVIATIONS**

AT		Austria	IT		Italy
BE		Belgium	LT		Lithuania
BG		Bulgaria	LU		Luxembourg
CY		Cyprus	LV		Latvia
CZ		Czech Republic	MT		Malta
DE		Germany	NL		Netherlands
DK		Denmark	PL		Poland
EE		Estonia	PT		Portugal
EL		Greece	RO		Romania
ES		Spain	SE		Sweden
FI		Finland	SI		Slovenia
FR		France	SK		Slovakia
HU		Hungary	UK		United Kingdom
IE		Ireland	EU		across-EU

Source: Miller

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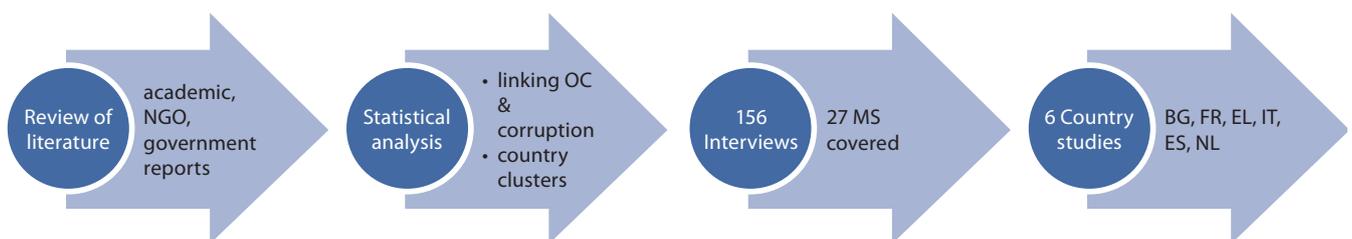
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## EXECUTIVE SUMMARY

The European Commission (EC) contracted the Center for the Study of Democracy (CSD)<sup>1</sup> to analyse the links between organised crime and corruption. The main objectives of the study were to identify:

- causes and factors that engender corruption by organised crime (*including white-collar criminals*)<sup>2</sup> within the public and private sectors,
- the scope and the impact of that corruption on society and institutions;
- organised crime's main corruption schemes, the areas or risks they create, and the related differences amongst European Union (EU) Member States (MS);
- best practices in prevention and countering corruption linked to organised crime;
- framework for a future assessment of trends in the link between organised crime and corruption, as well as corresponding counter measures.

To accomplish these objectives, the CSD used robust quantitative and qualitative methods. Following a comprehensive literature review (presented in Chapter 1 of this report) the team undertook a series of analyses of statistical and survey data indicators related to corruption and organised crime. The main evidence for the report comes from 156 semi-structured interviews conducted across all 27 Member States. The views consulted include those of anti-corruption bodies, law-enforcement, judiciary, private sector (lawyers, auditors, and fraud-investigators), academics and journalists. In-depth country studies, based on a larger number of face-to-face interviews and more comprehensive secondary sources were undertaken in six countries (Bulgaria, France, Greece, Italy, the Netherlands and Spain).



The above methodological approach, and in particular the reliance on qualitative measures and subjective (albeit expert) opinions, entail some limitations:

- the opinions of interviewees do not necessarily represent the general situation in a MS
- an interviewee's points made in one MS might be applicable to others. The interviews differed in quality and the types of interviewees were not the same in all contexts.

<sup>1</sup> The research was carried out through Project One, CSD's consulting arm between January and August 2009.

<sup>2</sup> Throughout the report the term 'organised crime' is inclusive of 'white collar criminals'.

Across the EU, there is **unequal understanding** about how organised crime uses corruption. Only a handful of governments have paid attention to the issue, and have analysed it in depth (UK). Some governments that declined to participate in the study, officially stating there was no organised crime (Cyprus) or corruption (Luxembourg) in their countries. Some countries also lack empirically grounded research on organised crime at all (Cyprus, Malta and Portugal). For most others, such research was at best patchy and incomplete.

For the above reasons the report avoids making assertions about the state of affairs in individual Member States. **The MS abbreviations indicate only the interviewee's country, not a conclusion that applies only to that MS.**

### **Key findings**

The statistical analysis showed a distinctive picture that characterised the intensity of corruption in different Member States. Based on a statistical analysis of 14 indicators (measuring corruption, organized crime, the effectiveness of government, macro-economic indicators and the grey economy), seven clusters of countries emerged. Starting from the cluster where the manifestation of corruption and organized crime was weakest, the clusters were: (1) Denmark, Finland and Sweden; (2) Austria, Belgium, Ireland, Germany, Luxembourg, the Netherlands, Slovenia, Spain and the UK; (3) France; (4) Estonia, Latvia, Lithuania, and Portugal; (5) Czech Republic, Cyprus, Greece, Hungary, Malta and Slovakia; (6) Italy; and (7) Bulgaria, Poland and Romania.<sup>3</sup>

The study also noted that historic and social and economic differences throughout the EU modulate the ways organised crime uses corruption:

- Historic factors: large, informal economies and criminal transformations of security services in Eastern Europe have arisen amid economic transitions and privatisation processes; violent independence movements in France (Corsica), Spain (Basque Country) and the UK (Northern Ireland);
- Social factors: differing sizes of illegal markets and income disparity throughout the EU; differing size and specificity of immigration; closed professional networks (e.g. judiciary) or elite networks;
- Cultural specifics: levels of informality of social relations, or the importance of family ties.

The above factors require far more extensive research, but it is important that policy makers and analysts account for them in devising EU-wide policies and interpreting quantitative data.

The report presents two different analytical views of organised crime's use of corruption:

- First, it examines how politicians/ government administration, police, customs, the judiciary, and private companies are targeted.

<sup>3</sup> The interview data was not representative enough to fully explain the differences amongst MS observed in the statistical analysis, and the clusters were not analysed in any depth in the report.

- Second, it depicts how corruption facilitates the operation of illegal markets (illegal cigarettes, drugs, prostitution, car-theft and extortion).

An in-depth analysis of illegal markets is not included in the Executive Summary, because it repackages data from other chapters. Still, the Executive Summary allows a thorough understanding of the systemic use of corruption.

The report concludes that prostitution and illegal drugs markets exert the most corruptive effect in the EU. It shows how some illegal markets, like the illegal cigarette trade, target primarily customs or local governments and law enforcement in border areas. In other illegal activities, such as motor vehicle theft and protection rackets, corruption is needed much less because of the nature of the criminal operations.

The prostitution market provides a good example of the wide-range of corruption tactics used by organised crime. The present research shows that members of police forces throughout the EU engage in corrupt exchanges with prostitution networks, even extorting bribes or even directly running brothels. Such criminal networks use corruption to obtain information on investigations, ensure continuity of operations, or even to develop monopolies in local markets. Immigration authorities, including embassy or border guards, have also been targeted to ensure legal entries or stays of prostitutes. In Member States with legalised prostitution (e.g. Germany and the Netherlands) criminal groups have corrupted some local administrative authorities in order to avoid brothel regulations. Finally, criminal networks also use prostitutes to lure law-enforcement officers, magistrates and politicians into inappropriate behaviour, later using evidence of the behaviour to blackmail the officials for protection or information.

### ***Targets of corruption***

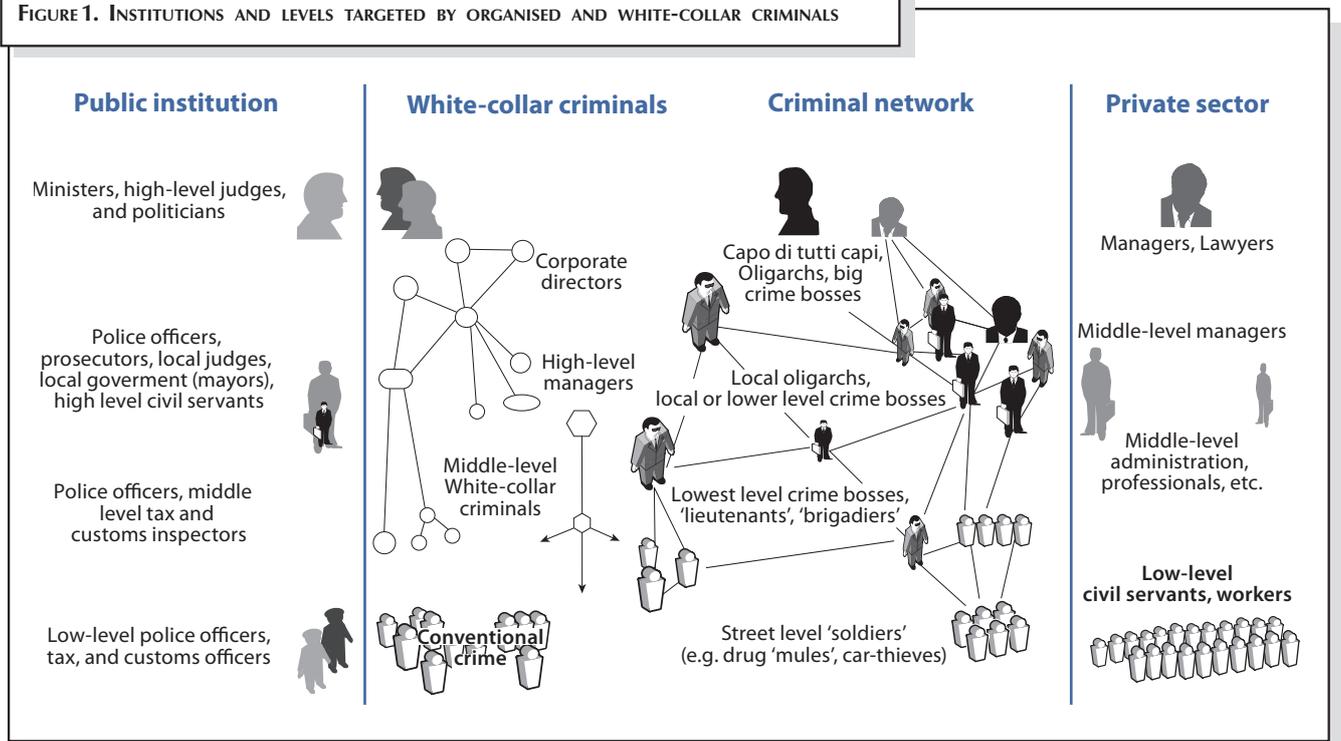
Due to the big differences among Member States' institutions, the criminal structures in the EU take advantage of corruption in a variety of ways. In some countries (IT, BG, RO), 'political patronage' creates a vertical system of corruption that functions from top to bottom in all public institutions: administrative apparatuses, the judiciary and law enforcement (i.e. police and customs). In other countries politicians, magistrates, and white-collar criminals form closed corruption networks that are not systematic in nature. White-collar crime at the middle level of government bureaucrats is common (at various degrees of intensity) to almost all Member States. In countries with low level of corruption, the cases are sporadic. The most wide-spread and systematic forms of corruption targeted by organised crime is associated with the low-ranking employees of police and public administration. Organised crime also targets tax administrations, financial regulators and any other regulatory body that might impact criminal activities,<sup>4</sup> but in a less systematic and significant way.

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<sup>4</sup> For instance, environment regulators that might detect environmental crime; or forestry agencies that might prevent illegal timber exports; arms-exports control bodies; gambling industry regulators; anti-money laundering bodies; museum and national heritage regulators that impact trafficking in antiquities;

In addition to public institution, criminal networks have a special interest in the private sector. By targeting company employees they have great opportunities to extract significant revenues, avoid anti-money-laundering regulations, or facilitate operations of in illegal markets. Oftentimes, the efforts of organised crime to influence private sector employees fall outside the priorities of law enforcement and judicial institutions.

FIGURE 1. INSTITUTIONS AND LEVELS TARGETED BY ORGANISED AND WHITE-COLLAR CRIMINALS



*Political corruption*

Political corruption is organised crime’s most powerful tool. Two different opinions could be discerned. In most of the EU-17<sup>5</sup> (except Greece and Italy) political corruption is primarily associated with ‘white collar crime’ (DM, FI, IE, SE, UK). In EU-10E countries (Greece and Italy), political-level corruption was occasionally linked to organised or white collar criminals (often referred to as ‘oligarchs’, ‘barons’, or ‘tycoons’). Organised-crime-related corruption amongst Members of Parliament (MPs) or high-level political appointees (heads of agencies, departments) were quoted by several MS (CS-BG, CS-EL, CS-IT, RO).

Local level administrative and political corruption was more commonly observed across the EU. Examples of mayors or city councillors convicted for associations with organised and white-collar criminals were found

<sup>5</sup> In the process of the research a number of important differences (historical and social) emerged that allowed to make some generalization about two groups of Member States. The first group, to which we refer as **EU-10E** (to avoid confusion with the standard reference used EU-10) includes: the Czech Republic, Hungary, Poland, Slovakia, Slovenia, Latvia, Lithuania, Estonia, Bulgaria and Romania. The second group **EU-17** includes Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Spain, Sweden and the United Kingdom. This is done to facilitate and simplify the referencing, and to avoid stereotypical labels such as ‘Western Europe’ and ‘Eastern Europe’.

throughout the EU (BG, CZ, DE, EL, ES, FR, HU, IT, NL, PO, RO). Local political corruption was especially observed in regions economically dependent on illegal markets (e.g. along EU's eastern land borders), the grey economy (tourist areas / booming real estate areas such as Costa del Sol in Spain) and areas with a strong presence of organised-crime-controlled businesses (Corsica, Greece, Southern Italy, and various small towns in EU-10E countries). In these regions, organised and white-collar criminals use their legitimate face to finance and support politicians or even directly participate in local politics.

The case studies on Bulgaria, France and Greece showed that anti-corruption activities and the public visibility of political corruption are especially strong when governments change.

#### *Police corruption*

Police have the most direct exposure and frequent contacts with organised crime and, as such, organised crime most often targets them. The main reasons why organised crime uses corruption are to obtain **information** on investigations, operations, or competitors, (FR, NL, UK) and protection for continued illegal activities. Occasionally, corrupt officers become directly engaged in criminal activities, running drug distribution rings or prostitution rings (CS-BG, CS-ES, CS-FR, UK).

Both institutional and external factors make the police vulnerable to corruption. In EU-10E countries, the low prestige level of police leads to organised crime's recruitment of officers with low educations and problematic behaviour. The closed nature of the police and their relative isolation from other institutions leads to a high level of loyalty between officers and protection of their colleagues. Nevertheless, in countries with less corruption, group loyalty has the opposite effect on police corruption: even though when police work is not considered prestigious or well remunerated, police officers report or put pressure on corrupt colleagues (DE, DK, FI, SE, NL, UK).

Political and judicial influences on police can facilitate corruption. In some MS, local government officials under the influence of criminal networks exercise pressure or even influence the appointment of high-level police officers (BG, FR, HU, IT, LV, RO). This type of influence can reach national levels, where large criminal entrepreneurs control appointments of staff in police forces and special services. Pressure from prosecutors and magistrates can obstruct police investigations of influential businessmen who are part of criminal networks.

Intermediaries, such as former police officers or special service agents, lawyers and informants can facilitate corrupt exchanges with criminal groups. Clientelist networks can also facilitate direct contacts between criminals and police officers. Such networks involving active or former police officers, investigators, magistrates, businessmen and politicians are typical for countries like Bulgaria, Cyprus, Greece, Portugal and other EU-10E MS.

### *Judicial corruption*

In the majority of Member States, organised crime targets the judiciary, particularly the courts, much less than the police or politicians. In some MS, there have been hardly any detected cases in recent memory (DK, FI, NL, UK). White-collar criminals exert more pressure on the judiciary, as they have easier access to social networks that facilitate corruption. The most frequent reasons to corrupt magistrates are to avoid pre-trial detention, to delay court action (CS-BG, CS-EL CZ, PO), or influence the trial outcomes. Judges, prosecutors and their administrative staff are also corrupted to leak information to criminals about ongoing investigations. Members of the judiciary are bribed to consult or advise criminal networks on avoiding detection and investigations (ES, NL). Finally, companies related to organised crime or white-collar criminals corrupt the judiciary (often via political influence) to rig public tenders (i.e. by disputing the result of tenders) (BG, IT, LT, PO, RO).

Political influence over the courts is a key factor of judicial corruption, especially in countries with high levels of political corruption. The relation of the Prosecutor General to the government and High Court Judges or Supreme Judicial bodies to the Parliament affect the independence of the judicial system. (CS-BG, CS-ES, CS-FR). The political dependence of prosecutors in countries where the Minister of Justice is also Prosecutor General was also highlighted (CS-BG, CS-FR, PL). Legislative loopholes that allow a high degree of judicial discretion also make the judiciary vulnerable to corruption (CS-BG, RO).

Criminal groups corrupt the judiciary by accessing magistrates via social, political, professional and family networks. Elite social networks allow criminals to enjoy direct contact with members of the judiciary. Professional networks also facilitate such contacts, where defence lawyers (often former prosecutors) intermediate between organised crime and the judiciary (BG, EL, PL).

### *Customs corruption*

Corruption of customs officers mainly helps organised crime avoid detection of smuggled goods, avoid investigations (where customs possess investigatory powers) or facilitate the commitment of customs fraud (reduce import duties). It is particularly associated with the smuggling of excisable goods: particularly cigarettes (AU, BG, CZ, EL, HU, IE, LT, LV, MT, RO), alcohol (BE, BG, CZ, IE, MT, RO) oil and oil products (BG, CZ, EL, IE, MT, PL). Customs officers consider corruption related to drugs as risky, and it is rare (CS-BG, CS-EL, ES, FR, NL, UK), while VAT fraud schemes are likelier to involve customs officers (BG, DE, EL).

The *detected* levels of customs corruption in EU-10E and Greece are markedly different from the rest of the EU. There are numerous explanations for this difference. Eastern land border crossings are under the most pressure, particularly from cigarette traffickers, but also from smugglers of counterfeit or other consumer goods from outside the EU. In small-town border areas, family ties and local politicians also create

favourable environments or pressures facilitating customs corruption. In such areas, local economies are often dependent on cross-border trafficking or shuttle trade.

In most of Western Europe, big sea ports or airports used for smuggling have such large volumes of cargo traffic that smugglers prefer to rely on the low chances of being caught than on corruption. Lower salaries of customs officers in EU-10E countries also contribute to customs corruption. The involvement of law enforcement in customs-like duties (e.g. Civil Guard in Spain, Financial Guard in Italy) reduces corruption opportunities for customs officers in these countries. Finally, many customs agencies do not have internal investigation departments, which negatively impacts the detection of corruption (BE, DK, NL).

Another significant factor that impacts customs corruption is political influence. High-level customs officers (or those at potentially 'bribe-lucrative' border crossings) are often politically appointed (CS-BG, CS-EL). Police corruption may also go hand-in-hand with customs corruption where police officers can racketeer or establish collaborations with customs officials to protect the illegal goods smuggling (CS-BG, CS-EL). The large size of the grey economies of EU-10E and Greece predicates customs corruption that facilitates consumer goods smuggling.

#### *Private sector corruption*

Data on organised crime's corruption of the private sector was generally not available, as most governments do not collect such data. Fraud surveys of companies (e.g. Kroll's Global Fraud Survey) do not cover organised crime. Private sector corruption has only recently been included in legislations of (not all) Member States, following the adoption of **Council Framework Decision 2003/568/JHA on combating corruption in the private sector**. 'Collusion' is often a more appropriate way of describing professionals' corrupt behaviour, including that of lawyers, accountants, doctors and real-estate surveyors who provide services to organised crime.

The report has provided a long list of corrupt practices related to:

- the production and procurement of illegal goods (e.g. cigarette factory managers diverting production to illegal markets);
- illegal goods trafficking (e.g. transportation industry staff – drivers, ship, port staff) (AU, BE, IR, PL, RO, SE);
- distribution of such goods (e.g. club bouncers allowing drug sales (ES, UK); car dealers selling stolen vehicles (BG, EL).

Money laundering was identified as one of the key reasons to use corruption in the financial, gambling and real estate industries. In these cases, the most common issue is bribing employees so that suspicious activities won't be reported to regulatory authorities. The private security industry, where security firms are often instrumental in regulating the distribution of drugs in clubs, and the construction industry also cover up illicit cartels.

White-collar-crime-related corruption has a special characteristic in EU-10E countries (and also in Greece, Italy and Spain). In the 1990s, international corporations set up local offices, hiring local managers. In many cases, these local managers represented local criminal elites that facilitated the market entry of the multinationals. Still, at present they continue to use their clientelistic networks against the interest of the parent company, passively and actively using corruption.

### *Anti-corruption strategies and policies*

At the end of each section (on political, police, judicial, customs, and private sector corruption) a list of anti-corruption strategies is provided. The main issue with most anti-corruption tools or policies mentioned by the respondents was the lack of convincing data to demonstrate their impact. It was not clear whether they would work in different cultural and institutional contexts. Therefore, these anti-corruption measures were not listed in the recommendations section, which contains only a couple viewed as most significant.

### *Country case studies*

Countries were selected on the basis of quantitative analyses and initial data that emerged from the interviews. The aim was to include countries where statistical data gave little explanation for the links between organised crime and corruption. The full studies are included as annexes to the present report, but data from them is analysed throughout.

The case of **Italy** reveals that corruption and organised crime in the country are closely intertwined. When investigations into corrupt activities are launched, investigators usually discover some criminal organisation's involvement. By the same token, when organised crime is investigated, the involvement of corrupt politicians or entrepreneurs often comes to light. The relationship between corruption and organised crime in Italy, however, does not lend itself to conventional analyses suggesting the latter is the main cause of the former. In Italy, widespread corruption within the social, economic and political spheres attracts organised criminal groups, encouraging them to participate in corrupt exchanges and indirectly boosting other illicit activities.

Our research showed that corruption is largely a taboo issue in **France**. Neither government nor independent researchers have conducted comprehensive and empirically based analyses of the phenomenon in the recent past. In addition, the French government does not report publicly on organised crime, and academic research is very limited. The public information available nevertheless provides sufficient evidence that in certain geographic areas (Corsica, Southeastern France and large cities) or economic areas (public utility contracts, energy, real-estate or defence sectors) corruption is more often used. Lower level criminals often corrupt police officers (for information leaking or direct involvement in OC activities) and local authorities (regarding public contracts). At the higher level, judicial corruption and undue political influence over criminal justice processes occurs in relation to financial and corporate

crimes. Although single cases are observed in the media the scale of the corruption problem remains unclear due to the lack of comprehensive and systematically collected data. In Corsica, parliamentary reports indicate that the problem is commensurate with that in mafia-affected regions of Italy.

The **Netherlands** for many years has been considered one of the least corrupt countries in the world. Organised crime in the Netherlands can be described as 'transit-related,' involving illegal trade, trafficking and the smuggling of goods and services, taking advantage of the country's role as an important logistical hub. Low-level police corruption and information leakage related to drugs occasionally take place. Although national politicians and the judiciary are not considered corrupt, at the local government and administrative level, white-collar-crime-related corruption persists (in construction industry, in particular). As some officials admitted, however, monitoring is often not robust and detection of corruption low, due to the perceptions of low corruption (NL).

The case of **Spain** was of interest, as it involves a unique mix of historic, socio-economic and criminogenic factors, such as: strong pressures from drugs smugglers (cocaine and hashish); a big prostitution market; the largest recent increase in immigration in the EU; a terrorist problem with ETA, which is a police priority; a coastline that has attracted for years not only tourists but also criminals and money-launderers; and a culture where informal and family relations are of significant importance. The most serious issues identified concerned police corruption and local-level political and administrative corruption relating to real estate and construction. Political influence over the judiciary was also identified as playing a role in local-level corruption and, occasionally, is related to organised crime.

In **Bulgaria**, the borderline between the legal and the illegal economies is much less clear than most of the EU MS. Organised crime generating wealth from drugs, smuggling and prostitution has merged with corporations and groups that own privatised state-owned assets and has transformed its accumulated wealth into political and administrative power. This influence in the political and administrative structures allows companies to use corruption to win public tenders, avoid taxes, and systematically break laws to gain competitive advantages. Organised crime networks have infiltrated most public institutions, including the police, customs and prosecutors' offices. Organised crime highly influences the political elite and political parties at the local level, while some criminal structures have been able to influence MPs or national level politicians.

Although the official view of **Greek** institutions is that corruption is non-systematic and limited in frequency, criminals use it when dealing with the criminal justice process, customs, tax administration, the judiciary and local politicians. Investigations and trials in the past five years have revealed systematic and long-term corrupt relations permeating all these sectors, including political influence at all levels. Corruption pressures stem from both the important position of Greece as a transit point for

smuggled cigarettes, drugs and illegal migrants and human trafficking, and from the high levels of grey economic activity. Bureaucratic and political traditions based on nepotism and informal personal, family, or professional networks create an environment where criminals and their intermediaries easily tap into connections (in public and private sector institutions), allowing them to facilitate crimes or avoid justice.

### *Recommendations*

#### *Recommendations to the European Commission*

- **Developing an independent corruption monitoring mechanism:** Although presently monitoring of anti-corruption policies is carried out through the OECD or Council of Europe's GRECO evaluation reports, neither of these assesses the nature or scale of corruption. The issue of corruption is of paramount importance to the EU, and an independent monitoring mechanism should be considered. The monitoring model adopted by EU 'watchdog' agencies like the Fundamental Rights Agency (FRA), is an appropriate approach to corruption monitoring as well. An independent body should collect information that governments might consider negative and, as a result, might not be forthcoming in supplying. This approach will allow the EC to take subsequent steps in developing a comprehensive corruption monitoring mechanism by:
- **Developing a network of independent information sources** that regularly collects, analyses, and transmits qualitative and quantitative data on corruption and anti-corruption policies to the EU corruption monitoring agency.
- **Developing data collection tools:** Periodic corruption surveys by Eurobarometer could be made annual or bi-annual and expanded to survey also businesses about corruption experiences **and** perceptions of corruption.
- **Developing benchmarking indicators:** such benchmarks should be developed to regularly monitor progress in anti-corruption policies and their implementation. They could also draw on criteria or monitoring tools developed under the UN Convention against Corruption.
- **Collect information on powers, capacity and policies of institutional anti-corruption units** (e.g. police, customs, judiciary, local governments. This data will allow watchdogs to adequately evaluate official statistics and develop benchmarks.
- **Include alternative sources of information:** Qualitative data is key to analysing corruption related to white-collar and organised crime. Aggressive methodologies that include interviews with offenders, private sector representatives, former law-enforcement, judiciary, or financial regulator employees, should be exploited for meaningful information.
- In line with Article 83 of the Lisbon Treaty (developing 'minimum rules concerning the definition' of corruption in MS legislation) the EC should **develop detailed guidelines to encompass a broad range of criminal offenses under the definition of corruption in national Penal Codes.**
- **Harmonise statistics on institutional corruption:** Comparable data on corruption in the police, customs, or the judiciary is key to monitoring Member States' anti-corruption efforts.
- **Adding a set of corruption-related questions to the *EU Survey to***

*assess the level and impact of corruption crimes against business:*<sup>6</sup> This survey could potentially provide the most comprehensive understanding of corruption in the private sector.

- **Developing practical anti-corruption training programmes drawing on EU27 experiences:** The lack of sufficient empirical data and knowledge has meant that anti-corruption training has often remained at a theoretical level. Creating a database of corruption cases from across the EU would help develop adequate training materials.
- **Increase EU funding for empirically based research on corruption through instruments such as DG JLS grants or Framework Programme 7 research.** The report showed significant gaps in research in most MS. Additional empirical data would help law-enforcement better understand the phenomena, and stimulate anti-corruption policy changes.

### Recommendations to the Member States

- **Conduct impact evaluation of anti-corruption policies.** Member States' adopt a variety of anti-corruption measures, whose impact is hardly ever being professionally evaluated. Audits and impact evaluations on key anti-corruption policies and measures should be carried out.
- **Public institutions should share information with independent researchers.** In some countries (BG, IT, NL, UK), public (especially police) institutions have open to work with academics and independent researchers. In others, even though no research is done internally, (EL, ES, RO) this cooperation has been discouraged.
- **Improve cooperation and sharing organised crime-related corruption information:** anti-corruption bodies or anti-corruption departments within government bureaucracies (including within the police) have poor understanding (1) of organised crime (2) of the corrupting influence of organised crime and (3) the threat it poses.
- **Increasing internal institutional detection capacities:** at present, public institutions (police or judiciary) follow reactive, rather than proactive, approach to detecting corruption. It is an approach that relies on discovery by chance, rather than on scrutinising or using aggressive methods, such as provocation. The use of internal corruption investigative departments leads to increased corruption detection rates and has a strong corruption prevention effect.
- **Develop internal monitoring and analysis mechanisms:** Key institutions (especially police and judiciary) should increase their understanding and analyse internal **corruption related to organised crime**. Employee surveys or case analyses could help identify vulnerable departments, positions or regions where there are heightened risks of corruption.
- **Increase training and raise awareness amongst public servants and the private sector:** In many Member States, the issue of corruption is a taboo. Complacency gives organised criminals an opportunity to exploit the absence of anti-corruption systems. Law-enforcement and the judiciary should conduct mandatory corruption-awareness training programmes.

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<sup>6</sup> The development of such study was started with Tender No. JLS/D2/2008/01 "The development of an EU Survey to assess the level and impact of crimes against business – Stage 1: Requirements gathering".



# 1. INTRODUCTION

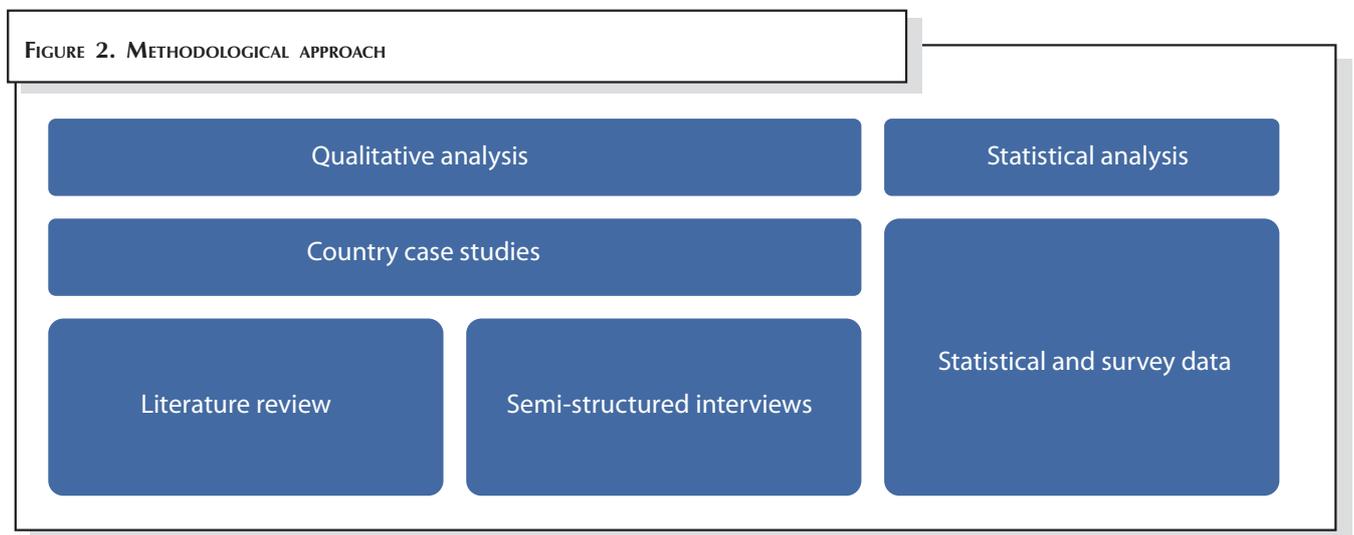
## 1.1. Purpose and scope of the study

The broad objective of the study is to identify and analyse the links between organised crime and corruption, using supporting empirical evidence on the extent of the linkage between the two phenomena in EU Member States, as well as qualitative analysis with respect to the causes and dynamics behind this relation. The **main objectives** of the study are to:

- Identify the causes and factors which bring about the use of corruption by organised crime within the public and private sectors, as well as the scope and the impact on society and institutions;
- Identify best practices in preventing and countering the collusion between public and private sector officials and organised criminals;
- Drawing on the understanding of the above objectives, identify a framework for a future assessment of trends in the links between corruption and organised crime, as well as for corresponding counter-measures.

## 1.2. Methodological approach

The methodological approach of this study includes a broad collection of secondary (literature and statistics) and primary data (interviews and field visits), followed by a rigorous quantitative (statistical) and qualitative (software aided) analyses. A more detailed methodology is presented in



The **data collection** for the study was based on four key elements:

- **Literature:** included academic works, government reports on corruption and organised crime; reports by research institutes, international organisations (GRECO, FATF), or private companies. The literature reviewed was in Dutch, Italian, Greek, Bulgarian, French, Spanish, Russian, Serbo-Croatian and English. Media sources in almost all Member State languages were also consulted.
- **Statistical and survey data** of the 105 indicators (from surveys, indexes and statistical data) were assembled and analysed, and 19 of

them were then used for further statistical analysis. (Annex 4). In addition, some MSs provided various types of statistical data.

- **Semi-structured interviews** with law-enforcement, judicial, government officials and private sector representatives, academics, and journalists were carried out in all 27 Member States over the phone or in person. These were expert interviews as the interviewees were asked to provide their expert *opinion* and assessment. In total, 156 interviews were conducted: 69 were face-to-face and 87 interviews were conducted over the telephone. The average length of the phone interviews was approximately one hour, and for the face-to-face interviews about two hours. The questionnaire used is presented in Annex 1.
- Six **country studies (case studies)** were carried out: namely, for the Netherlands, Greece, Italy, Bulgaria, France, and Spain. The countries were selected based on the quantitative and preliminary qualitative analysis. Each case study was based on approximately ten interviews, literature, and media review. The help of locally based academics and researchers was solicited for all studies.

The **data analysis** was based on triangulation of the collected data and combined quantitative and qualitative research:

- **Review of secondary literature:** the approach taken included a review of key academic journals and relevant academic literature, as well as a review of grey academic literature, such as national organised crime reports, or policy analyses published by non-governmental organisations.
- **Statistical analysis:** Based on the 19 selected indicators of corruption and organised crime, the main types of statistical analyses included: (1) a cluster analysis to determine groups of EU member states with similar characteristics related to corruption and organised crime; and (2) multiple regression analysis to determine the ways in which corruption, organised crime and a range of other socio-economic factors were related. The methodology and technical results of the cluster analysis is provided in *Annex 8*. The technical results from the multiple regression analysis will be provided in an annex. The conclusions of both analyses are included in the report.
- **Qualitative analysis** of interviews was aided by the NVivo software.<sup>7</sup> This analysis included coding, identifying, and distilling common themes in the interviews, and supporting them with evidence from the secondary literature and statistical analysis.

### 1.3. Data access and representativeness

The methodological approach outlined above, and in particular the reliance on qualitative measures and subjective opinions of a non-representative sample of interviewees is a significant drawback to the methodology about which the authors are well aware.

For this reason this report makes no claim that the particular opinion of an interviewee reflects the real state of affairs in given Member State, or

<sup>7</sup> A software package for qualitative research, NVivo provides a range of tools for handling data, ideas, information and theories built up from observations, interviews, document analysis, or literature reviews. NVivo supports coding and retrieval of coded material, searching and theorizing, combined with ability to annotate and edit documents. NVivo is designed for methods requiring more flexible development of rich data in dynamic documents, and more subtle ways of linking data to ideas and showing and reflecting on the results (Jupp 2006)

a particular institution. To strengthen this point, the authors have largely avoided making assertions about state of affairs in a Member State, unless interviewees from this Member State and supporting literature agreed on a conclusion.

This point is strengthened further by the fact that throughout the report, the interviews are quoted only by using the country abbreviations. The interviewees were strictly asked to provide their expert opinion and personal observations. Most interviewees stressed the point that their knowledge was solely based on personal experiences, as no systematic studies existed in their institutions or countries.

Nevertheless, the report can make the claims that:

- At the EU level, and in particular in the countries case-studies, there is a higher degree of validity of the results, despite, in most cases, the lack of in-depth empirical studies.
- The opinions provided have a high-degree of professionalism as in every Member State, the leading experts on the subject matter were interviewed.

Even more importantly, since the interviews were **semi-structured, and the questions were open**, a number of issues and topic were brought up by interviewees. The authors are fairly certain many of the same issues could have been observed across the EU, or in some of the other Member States, if a more extensive study were to be carried out. Therefore, one should not conclude that since a corrupt practice or anti-corruption measure is mentioned only by one interviewee, it does not exist elsewhere.

Moreover, it must be noted that the quality of interviews varied. The sensitivity of the issue, and fear or negative consequences prevented many interviewees from being fully forthright. To increase the level of trust, local experts on corruption and organised crime were hired for all case-studies, and on many occasions conducted interviews with individuals with whom bonds of trust already existed. In all countries 'official' and 'unofficial' accounts of the phenomenon were collected.

The collection of data was further complicated by the claim of representatives of some official institutions in Member States that no organised crime exists (CY, FR) or corruption (MT, DK) in their countries, or that organised crime does not use corruption.

#### 1.4. Report structure

The report is organised in five sections:

- The rest of the introduction establishes working definitions of corruption and organised crime in order to delineate the scope of research; the different measurements used to assess corruption and organised crime are discussed; the EU policy context within which the study is placed is described.
- The first chapter outlines evidence from academic and grey literature on the ability of organised crime to use corruption in four different fields: the judiciary, politicians, law-enforcement and the private sector.

- The second chapter of the report begins by outlining the historical, social, economic and demographic factors affecting corruption and organised crime in the EU. The hypothesis that organised crime contributes to higher levels of corruption is tested in the statistical analysis that follows. An attempt is made to cluster Member States in tentative groups determined by the levels of corruption and organised crime, established by statistical analysis.
- The third chapter of the report discusses the vulnerability of public bodies to corruption by organised crime. In particular, the susceptibility to corruption of the political and administrative bodies, the police, the customs and tax authorities and the judiciary are discussed. In each section anti-corruption measures are discussed.
- The fourth chapter analyses the main objectives for criminals to use corruption on the private sector: laundering criminal proceeds, facilitating crimes, or abusing companies. The role of the professional services industry, such as law-firms and accounting firms is discussed. Anti-corruption measures implemented by companies are discussed in brief.
- The fifth chapter provides a different take, as the focus of analysis shifts on to illegal markets. The corruption objectives, mechanisms and institutions targeted by organised crime to facilitate operations in five criminal markets are discussed: cigarette smuggling, prostitution and trafficking in human beings, drugs, extortion and racketeering, and vehicle theft.

Finally, based on the findings of the study, the concluding section addresses recommendations to national governments of MSs and the EU. The annexes provide in-depth studies on six countries, a review of literature on the Western Balkans and Russia, and more detailed explanations regarding the methodology used and the statistical analysis conducted.

### 1.5. Defining 'organised crime' and 'corruption'

One of the main challenges for the study is to set the working definitions of the terms '**corruption**', and '**organised crime**' and hence the forms and boundaries of their interaction. This is important in order to limit the scope of the research so that it does not extend across all uses of corruption, (e.g. by ordinary citizens), and escape narrow legalistic definitions that ignore more complex criminal connections.

Despite the existence of official definitions at the international level, defining 'organised crime' and 'corruption' within the framework of international studies is a difficult task as legal definitions and cultural perceptions vary across countries.

The starting point is to set the boundaries of the two concepts that fit within **the following logic model:**

- First, we define the range of criminal behaviours and social phenomena which fall under the concept of 'organised crime'. The delineation is important as we have collected quantitative and qualitative evidence about the use of corruption by organised crime only within the limits of this definition.

- Second, we elucidate the range of criminal behaviours commonly defined as ‘corruption’. Here the boundaries will be kept deliberately as broad as possible, in order to identify the full range of corrupting actions employed by organised crime.

### 1.5.1. Defining organised crime

There are numerous definitions of **organised crime**, which vary widely in their scope and much academic research is focused on the issue of definition (e.g. Fijnaut & Paoli 2004). Over the past decades, academics have conceptualised ‘organised crime’ in terms of groups, networks, as well as ‘enterprise crime’ (Levi 1998). The lack of clear and accepted criteria in defining the term has led to rigorous debates in the field. On the one hand, legal rigidities and strict “black and white” criteria have left little room for nuanced studies (Van Duyne & Van Dijk 2007). On the other hand, definitions, such as ‘serious crime’ developed by the UK Home Affairs Committee (1995) have narrowed the focus, leaving out a wide range of phenomena that from an analytical (social) point of view constitute ‘organised crime’. In some cases the lack of clear definition has led to the broadening of the scope of the concept by policy priorities and political agendas which have indiscriminately added many new criminal activities to its range.

Our working definition of “organised crime” combines the concepts of traditional **‘organised crime’** (e.g. drugs, illegal prostitution, trafficking of human beings, vehicle theft) and **‘white collar crime’** (e.g. financial, tax, VAT, real estate frauds, embezzlement). In either case, our unit of analysis is either the ‘illegal market’<sup>8</sup> (e.g. the drugs market) or the illegal activity<sup>9</sup> (e.g. VAT fraud). The focus therefore is on how corruption is used by participants (criminal groups or networks) in the respective illegal market or activity. Throughout the report, unless specifically distinguished, the term ‘organised crime’ is inclusive of white-collar / corporate illicit practices.

This is not a novel definition as some previous studies of organised crime imply this operational duality, which is only performed by the most successful groups (for a clarification of this analytical distinction, see the case study on Italy, or Ruggiero 2002). Indeed, not all criminal organisations manage to establish connections with white collar actors; in fact, most confine their activity to conventional illegal markets. This more focused approach on organised crime will not consider traditional criminal markets unrelated to official actors cooperation / abuse to be part of our research.

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<sup>8</sup> The notion of ‘illegal market’ refers to criminal activities related to the markets for illegal goods (drugs, cigarettes) or services (sex, private protection). The participants in these markets are often ‘disorganised’, including criminal enterprises, legitimate companies, or individuals providing various illegal services to criminal networks.

<sup>9</sup> The difference with ‘illegal market’ is that it refers to criminal activities for which there is no demand, i.e. these are not market based crimes: various types of financial or credit card frauds and thefts fall under this category.

### 1.5.2. Defining corruption

A similar logic is applied with regard to our **working definition of corruption**, which excludes administrative and corporate abuse outside the scope of organised criminal activities.

Definitions of corruption employed by established bodies such as the EBRD, the IMF and Transparency International, usually revolve around an understanding of corruption as the abuse of *public* power for *private* profit. According to Rose-Ackerman corruption occurs in the interface of the public and private sectors and involves the inefficient use of resources (1999). Slightly broader definitions of corruption have been offered by Colin Nye, who speaks of corruption as the abuse of public power not solely for private profit or wealth but also for “*status gains*” (Nye 1967), and Khan (1996) who defines corruption as the misuse of public power for motives such as *wealth, power, or status*.

Spencer et al. describe corruption as “many kinds of “irregular” influence, the objective of which is to allow the participants to make profits they are not entitled to, the method being the breaking of internal or external rules” (Spencer et al, 2006). The term “corruption” involves diverse processes which have different meanings within different societies and the concept of corruption does not mean the same thing across jurisdictions. Heidenheimer (1989), therefore, categorises corruption according to social acceptance, positing ‘shades’ of corruption from ‘white’ (socially acceptable) to ‘grey’ to ‘black’ corruption (socially unacceptable).

The complexity of understanding corruption across jurisdictions is in accepting that there are different expectations and traditions, different opportunities and options and different sanctions for violations. Spencer et al. (2006) differentiate between the following levels of corruption:

- systemic, when corruption is incorporated within the entire or particular aspect (e.g. border control) of the rule of law system (multiple institutions: judiciary, police, customs, tax, etc.);
- institutional, where the institution affected is tolerant of corrupt practices;
- individual, where the person is prepared to undertake illegal actions because their employment provides them with an opportunity to exploit their position for gain.

All these levels are relevant when the links between corruption and organised crime are discussed.

While some limit the term ‘corruption’ only to the public sector, private sector corruption will also be considered in this report. Private sector corruption is most often referred to as ‘fraud’. For the purposes of the present report, the focus will be on cases in which **outsiders (criminal groups or companies) corrupt someone within a private firm** in order to facilitate a crime, launder money, or abuse the targeted company in some way. Further aspects of private sector corruption and some of the possibly grey areas are further discussed in the chapter on private sector corruption.

One complex issue that spreads across both definitions ‘corruption’ and ‘organised crime’ is the question of how to treat the direct participation public officials in criminal activities: particularly in cases where they are not simply abusing their ‘public powers’, but engaging in a range of criminal activities, or managing a criminal enterprise. Examples could be:

- cases of police officers running their own prostitution rings or drug-distribution networks;
- politicians covertly controlling companies that engage in criminal behaviour;
- cases where criminals have managed to accumulate sufficient legitimate power than to directly participate in local politics (‘state capture’).

For the purpose of the present report, we have treated such cases as examples of ‘corruption’, even though public officials and organised crime are one and the same.

## 1.6. Measuring Corruption and Organised Crime

One important aspect of explaining the links between corruption and organised crime involves determining the extent to which the two are interrelated. Measuring how often and where organised crime uses corruption is important, and yet according to some researchers it is challenging, while to others it is even impossible. Despite the lack of universally accepted ways of measuring the two phenomena, there have been multiple attempts to quantify them, as well as a few attempts to even assess the relationship between them.

**Corruption** is measured in a multitude of ways, and many of them have been criticised and problematised (UNDP 2008). Without going into the details of the debate regarding the advantages and shortcomings of the various methods, it is important to mention that there are different aspects of corruption that could be measured, such as frequency of occurrence, types, costs and effects, contributing factors, or perceptions of corruption. The methods used in measuring corruption range from utilizing focus groups, case-studies, and field observations, to conducting surveys, desk reviews, and assessments of institutions, provisions and practices.

Perception-based surveys are probably the most widely used internationally. Prominent international surveys include the Transparency International Corruption Perception Index, the series of Special Eurobarometer surveys, such as the “Opinions on organised, cross-border crime and corruption” (Eurobarometer 2006) or the “The Attitudes of Europeans towards corruption” (Eurobarometer 2008), and the IBRD / World Bank indicators (Kaufman et al. 2008). Another increasingly used approach to measuring corruption is by quantifying experiences of corruption. The European International Crime Survey (EU ICS), TI’s Global Corruption Barometer and the Eurobarometer survey (2008) are three examples of surveys measuring the experiences of ordinary citizens with corruption.

Private sector corruption is measured via instruments such as TI’s Bribe Payers Index (BPI), or the EBRD / World Banks Business Environment and Enterprise Performance Survey (BEEPS). TI’s BPI ranks 30 leading

exporting countries according to the propensity of firms with headquarters within them to bribe when operating abroad. BEEPS assesses the ease of starting and conducting businesses and the barriers posed by labour issues, unofficial payments, corruption, crime, regulation, legal and judicial issues infrastructure. Surveys of companies, such as the PricewaterhouseCoopers Global Economic Crime Survey, the Kroll Global Fraud Survey, or Ernst and Young's Global Fraud Survey also measure the experiences of companies with corruption and crime.

At the national level, most EU members have not developed specific country based corruption measuring mechanisms and rely on a wide number of international or EU (e.g. Eurobarometer special surveys on corruption) measurement initiatives. In Bulgaria, where corruption has been considered particularly problematic, between 1998 and 2009 an independent Corruption Monitoring System (CMS) was developed by a civil society organisation (the Center for the Study of Democracy), measuring the experiences of companies and citizens with corruption.

Another example is the analytical framework developed by the Swedish International Development Corporation Agency (SIDA), which focuses on understanding a country's political-economic structures and relations and their implications for development priorities. SIDA examines the causes of corruption through analyses of formal and informal power relations and shows how power is distributed in terms of race, gender, age, class, local vs. central, private vs. public. Pilot studies have been conducted in Kenya, Ethiopia, Mali and Burkina Faso (UNDP 2008, p.19).

Some attempts have been made to measure specific types of corruption. Academics have also tried to measure high-level corruption which is often associated with organised crime. Buscaglia and Van Dijk have created a composite index for measuring high-level corruption. This index is based on **perception** indicators which include distortions arising from interest groups, the insulation of policies from pressures by special interest groups, the likelihood of biased judicial rulings, and perceptions of the percentage of the value of public procurement-related contracts paid for bribes as well as of the prevalence of "state capture".

**Measuring organised crime** has been a deeply contested issue among criminologists. Even assessments that do not claim to offer exact measurement have been under attack. The European Union Organised Crime Threat Assessment (OCTA), prepared by Europol and launched in 2006, does not offer quantifiable measurements. Some Member State governments have also been refining and developing their own approaches to assessing the threat from organised crime. Van Duyne and Van Dijk (2007) have been outspoken critics of SOCA's UK threat assessment of serious organised crime. The Dutch National Threat Assessments for Serious and Organised Crime have attracted attention with their quality, but also criticism.

Since 2004, an FP6-funded research project by the Assessing Organised Crime Research Consortium has been developing a methodology for assessing organised crime utilising a new common European approach.

This consortium has highlighted many of the existing problems and difficulties in reconciling the diverging law-enforcement statistical data and has proposed a new European common approach (NECA). In NECA, the focus has shifted from criminal groups to criminal activities and individual offenders, on to the modus operandi of groups and new methods of primary data gathering.

The only serious survey-based attempt to measure organised crime has been suggested by Jan Van Dijk, who, as noted above, has built upon his work with Buscaglia to create a Composite Organised Crime Index (Van Dijk 2007). Nevertheless, this method has gained little traction as it provides a meta-level measurement and includes some indicators that are quite problematic.

## 1.7. Policy context

There are numerous international and Member State policies and initiatives aiming to curb both corruption and organised crime. None of them, however, has focused particular measures on the link between the two issues. They are largely treated as separate problems, although on some occasions their interrelatedness is recognized.

**The United Nations Convention against Transnational Organised Crime** (also known as the Palermo Convention), adopted by General Assembly resolution 55/25 in November 2000, specifically calls for the criminalization of corruption (Art.6) and for the adoption of measures to tackle corruption (Art.7).

The perceived link between corruption and organised crime prompted the UN General Assembly to adopt resolution 55/61 in December of 2000 recognizing that an effective international legal document against corruption, independent of the Convention against Transnational Organised Crime, was necessary. The UN Convention against Corruption adopted consequently declares that States Parties to the convention are “concerned also about the links between corruption and other forms of crime, in particular organised crime and economic crime, including money-laundering”.

**The Council of Europe** has also acknowledged the existence of links between corruption and organised crime. One of the 20 Guiding Principles for the fight against corruption, adopted in 1997 seeks “to ensure that in every aspect of the fight against corruption, the possible connections with organised crime and money laundering are taken into account”.<sup>10</sup>

The link between corruption and organised crime has received some, although not yet sufficient attention at **EU level**. In 2004, Europol recommended that “the vulnerability to corruption of the public and the private sector needs to be properly evaluated... [given that a] clear-cut picture on the use of corruption by OC groups does not exist” (Europol 2004, p.16). Following this recommendation, the issue received a short

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<sup>10</sup> Council of Europe: Resolution (97)24 on the 20 Guiding Principles for the fight against corruption 06.11.1997

analysis in Europol's 2007 OCTA report and the Commission in its recent EC (2008) Staff Working Paper explored this topic in more detail.

The lack of information and understanding of the issue is reflected in the fairly limited attention that it has received in EC policy documents and legislation. The Convention on the Fight against Corruption involving Officials of the European Communities or Officials of the Member States of the European Union,<sup>11</sup> and the *Convention on the protection of the European Communities financial interests*<sup>12</sup> make little mention of the link. The Council's 1998 Vienna Action Plan<sup>13</sup> and The Millennium Strategy on the Prevention and Control of Organised Crime,<sup>14</sup> although mentioning corruption, also do not devote particular attention to the link between corruption and organised crime.

In 2003, **Council Framework Decision 2003/568/JHA on combating corruption in the private sector was adopted**, mandating the criminalisation of corruption and establishing that legal, in addition to natural, persons could be held responsible for corruption offenses.

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<sup>11</sup> Official Journal C 195 25.06.1997

<sup>12</sup> Official Journal C 316, 27.11.1995

<sup>13</sup> Official Journal C 019, 23/01/1999 p.1-15

<sup>14</sup> Official Journal C 124 of 3.5.2000

## 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).<sup>15</sup> 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-

<sup>15</sup> 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:

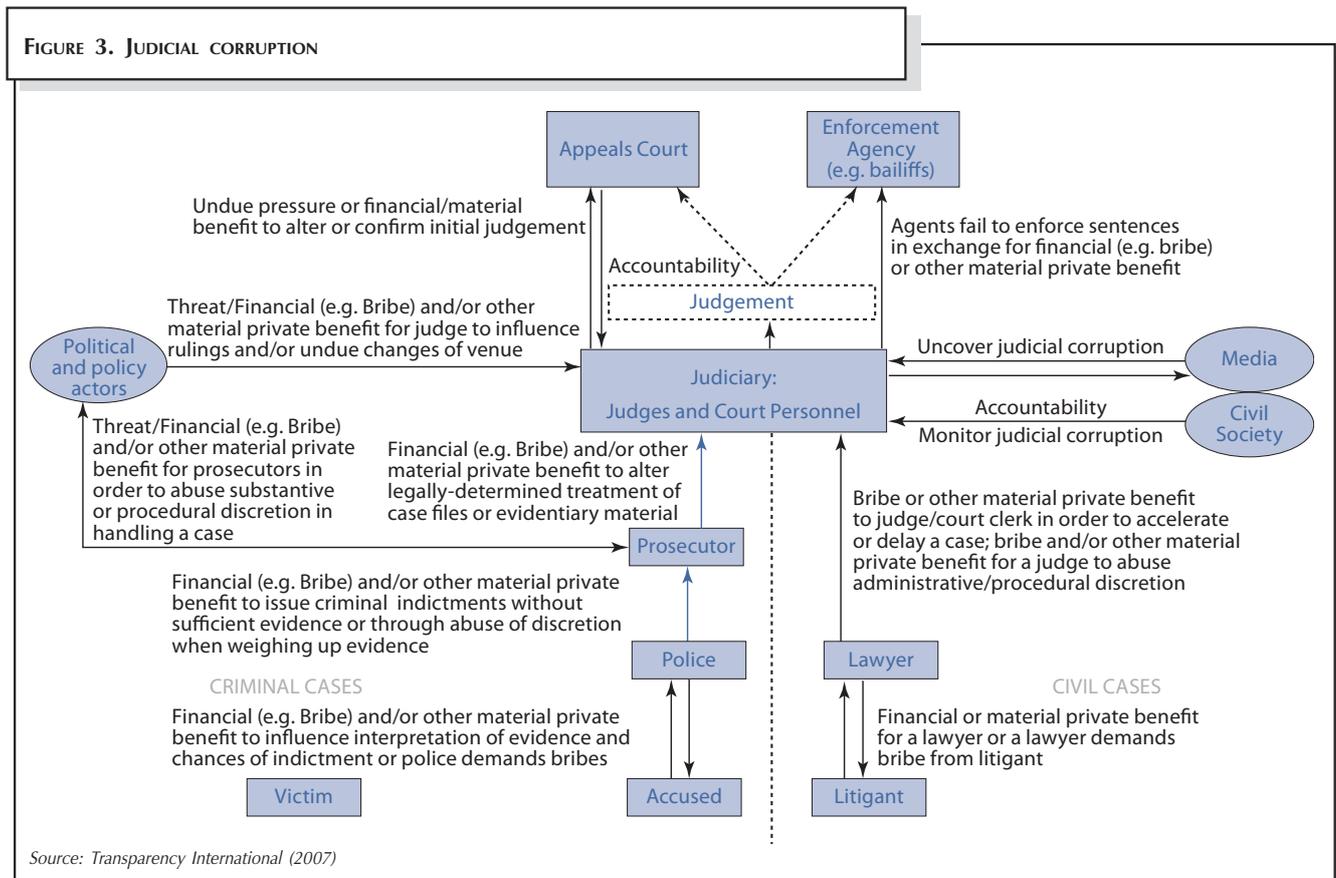
**TABLE 2. MUTUAL EVALUATION REPORTS AND THE LINK BETWEEN ORGANISED CRIME AND CORRUPTION**

<b><i>No link mentioned</i></b>	Belgium, Bulgaria, Czech Republic, Estonia, France, Germany, Poland, Slovakia, Slovenia
<b><i>No link and no corruption concerns</i></b>	Finland, Luxembourg, Netherlands, Sweden
<b><i>Link mentioned not to exist</i></b>	Cyprus, Ireland
<b><i>Link mentioned</i></b>	Spain – marginal influence on certain local elected representatives
<b><i>Link confirmed to exist</i></b>	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),<sup>16</sup> 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";

<sup>16</sup> 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 corruption<sup>17</sup> 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.<sup>18</sup> 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).

<sup>17</sup> 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.

<sup>18</sup> 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

<b>Actual/potential corruption</b>	<b>52% (n = 122)</b>
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.<sup>19</sup> 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

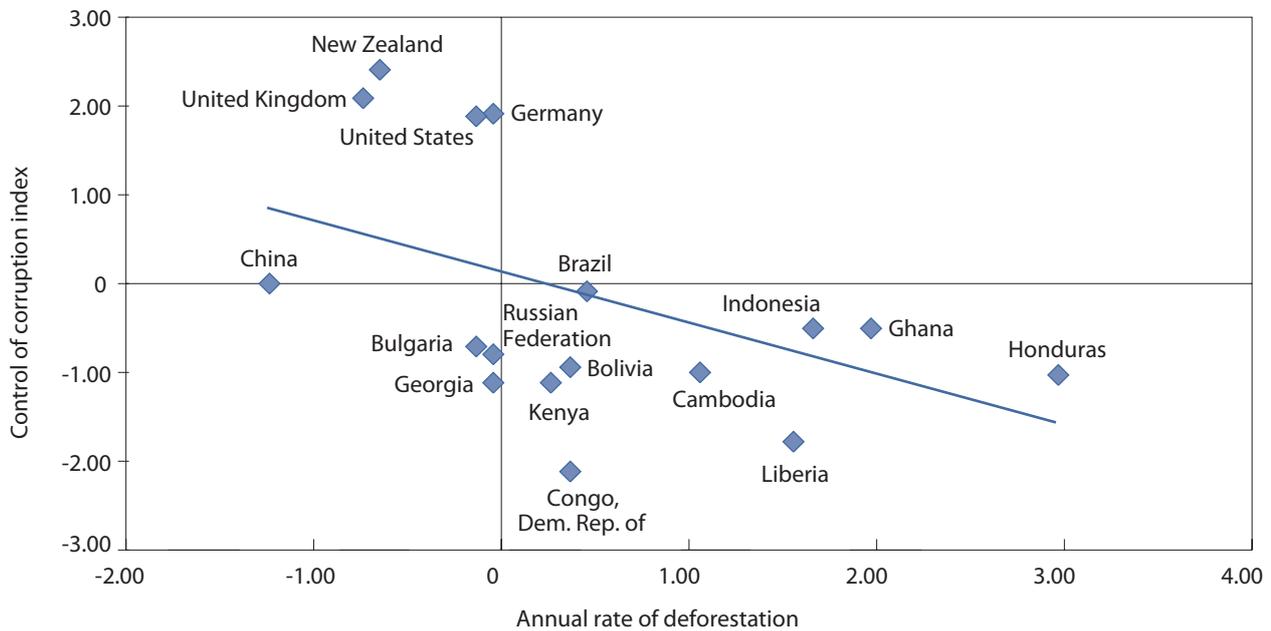
Various branches of the government administration are responsible for controlling economic activities, where organised crime might have a stake:

- 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).

<sup>19</sup> 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

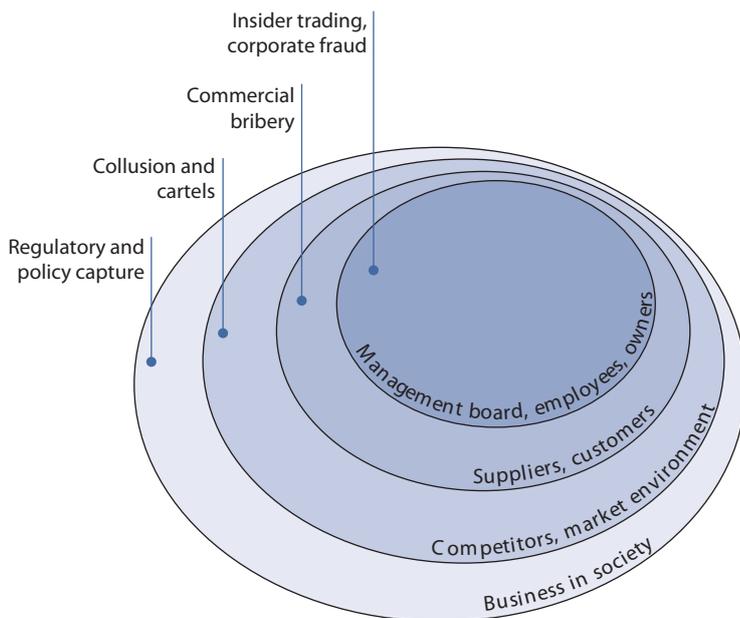


Source: Kishor and Damania (2007, p.91)<sup>20</sup>

### 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

<sup>20</sup> 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
<b>Corruption</b>	
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%

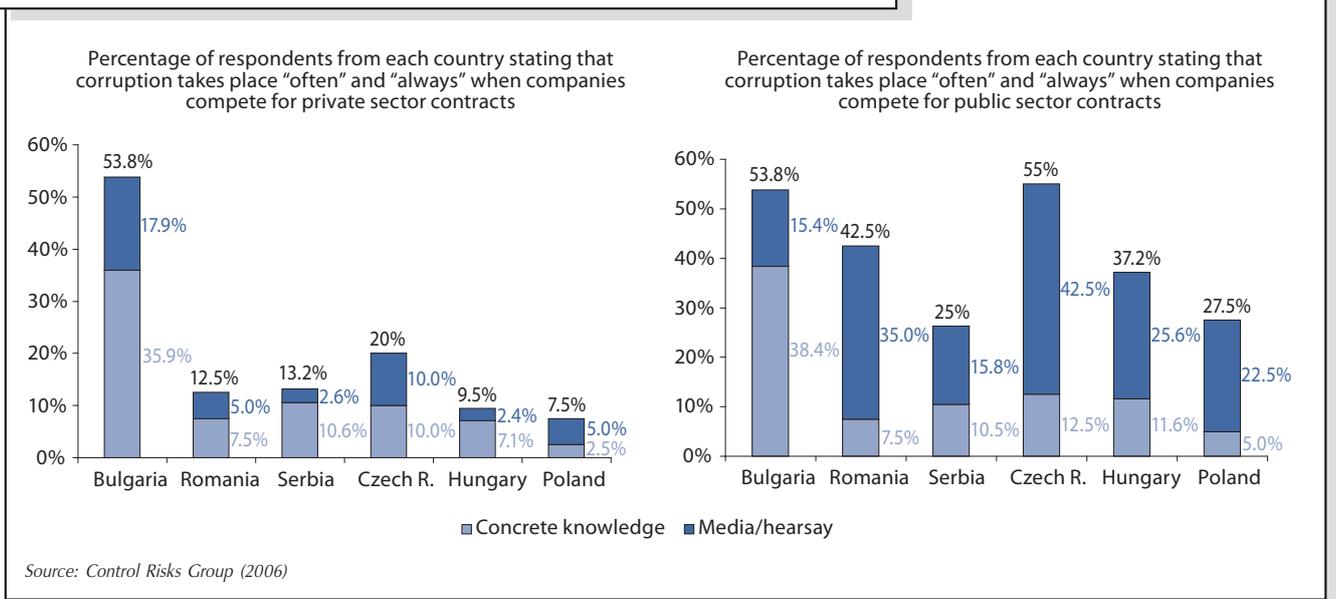
Source: Kroll Global Fraud Survey (2008)

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.

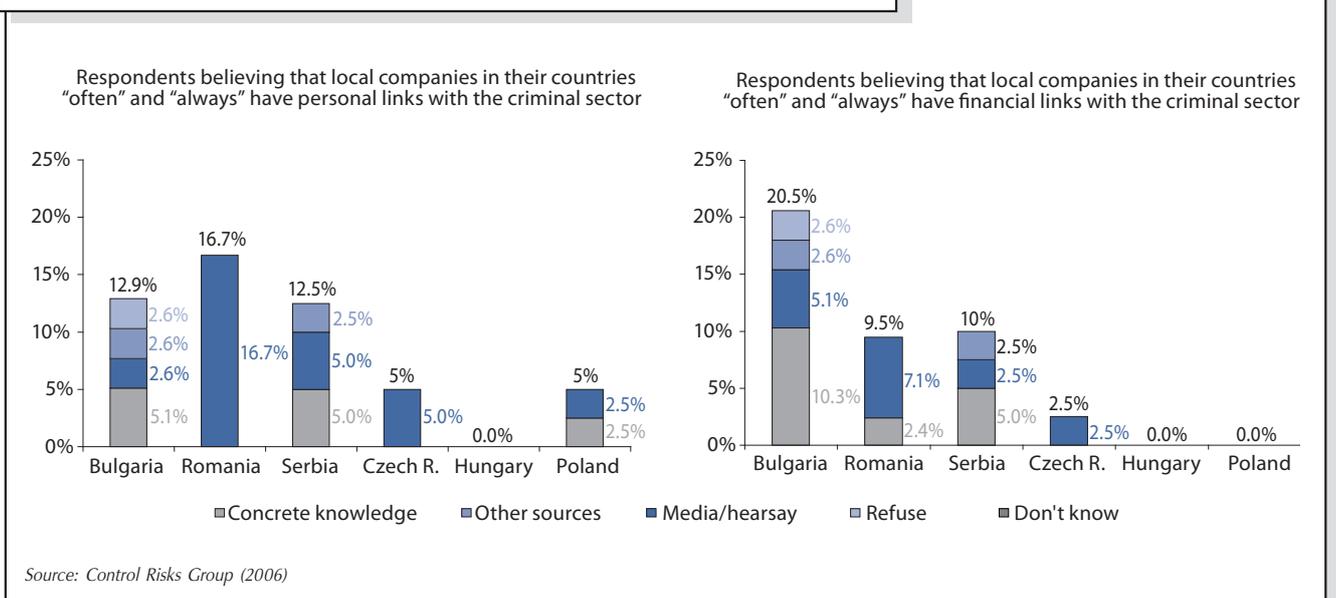
In another survey of 250 companies in Central and Eastern Europe, the corporate fraud investigation firm Control Risks Group revealed the characteristics of the largely corrupt environment within which companies operate.

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 data<sup>21</sup> 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.

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<sup>21</sup> 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.

### 3. MAPPING CORRUPTION AND ORGANISED CRIME IN THE EU

One of the study's objectives was to develop typologies of common ways organised crime and corruption relate to each other in different groups of EU Member States. An analysis of survey and statistical data on corruption and organised crime attempted to develop such typologies. **This statistical analysis** (presented below) **did not result in clearly circumscribed groups of countries, however**. The various statistical analyses resulted in identifying 7 and 11 groups of countries, with 5 countries forming a cluster of their own. The policy value of these results was limited, while the available statistical data on which they are based is questionable in many ways.

The second step in developing typologies involved an **analysis of qualitative information** from interviews and case studies. The case studies were selected so that they either represented one of the main clusters or had formed a single cluster (e.g. France, Spain, Italy). The collection of this information took into account the shortfalls of quantitative data analysis. The methodological and resource limitations meant that some compromises had to be made, and some countries were not included as a case study, although they were representative of a particular cluster. The results of the case studies and the interviews showed that assigning countries to a particular cluster would be speculative for the following reasons:

- In some countries, reliable public data on organised crime is only fragmental (e.g. studies on particular illegal markets AT, ES, IE, SK, SL) or totally absent (CY, LU, MT, PT). Other countries provide annual public reports on organised crime (DE, BE, IT, NL, UK), or at least independent criminological analyses that provide some insight.
- In some countries (CY, DK, IE, MT, PT), anti-corruption bodies or departments that were contacted were not able or willing to provide information on corruption or denied the existence of significant levels of corruption.
- In some cases, independent interviews and research (e.g. media sources and personal experiences) nevertheless pointed to the existence of corruption. At the same time, neither systematic studies either on corruption and organised crime had been conducted, nor were authorities able to provide reliable information.

Despite the above limitations, we present statistical evidence for two aspects relevant to the study in the sections below:

- Linking corruption and organised crime;
- Searching for **types of EU Member States** where corruption and organised crime relate in a specific way.

#### 3.1 Selecting indicators

The first step of the statistical analysis was to select and analyse appropriate data. The team collected, reviewed and tested 125 different indicators on corruption, crime, and social and economic data (see An-

nex 8 on Statistical Analysis). The most challenging task was to select appropriate corruption and organised crime indicators. The following criteria were used in their selection:

- The indicators is generally accepted and against it there are no significant methodological concerns – the institutions developing these indicators have clearly demonstrated their measuring mechanisms;
- If two similar indicators comply with the first criteria, but are developed through different methodologies and by different institutions, both indicators were tested to provide different points of view;
- Indicator was applied for a sufficiently long period of time;
- Indicator was based on empirical data (e.g. police and court statistics);
- Data independent from official institutions (e.g. national representative surveys of drugs use by various segments of the population).

The table below lists the main corruption and organised crime indicators used in the analysis. These are broadly of two types: general (measuring

TABLE 6. LIST OF TESTED INDICATORS ON CORRUPTION AND ORGANISED CRIME

Type of indicator	Name of indicator	Source	
<b>Corruption – general indicators:</b>	Control of Corruption Index (2007)	IBRD 2000 – 2007	
	Extra Payments Bribes (2006)	CATO/GCR 2000 – 2006	
	Corruption in National Institutions (2007)	Eurobarometer 2002 & 2005	
	Grey Economy – Estimate as percentage of GDP (2003)	Friedrich Schneider	
<b>Corruption – specific indicators:</b>	<b>Police corruption</b>	Police Corruption (Experience & Perceptions)	Eurobarometer 2005 & 2007
		Police Corruption experience & perception of asking bribes	Eurobarometer 2005 and 2007
		Police Corruption perceptions & experience of offering bribes	Eurobarometer 2005 and 2007
	<b>Customs corruption</b>	Irregular Payments in Import Export permits (2005)	GCR 2001-2006
	<b>Judicial corruption</b>	Irregular payments in judicial decisions (2006)	GCR 2002-2006
		Judicial independence	GCR 2001-2008
	<b>Admin. Corruption</b>	Irregular payments in Public Contracts (2006)	GCR 2001-2006
	<b>Political corruption</b>	Corruption in Local Institutions (2007)	Eurobarometer 2002 & 2005
		Corruption in National Institutions (2007)	Eurobarometer 2002 & 2005
		Favouritism in decisions of government officials (2008)	GCR 2001- 2008
<b>Organised crime: general indicator</b>	Organised crime (2008)	GCR 2001 – 2008	
<b>Organised crime: specific indicators:</b>	<b>Drugs</b>	Prevalence use amongst adults of Cannabis, Cocaine, Amphetamines, Ecstasy, Heroin	EMCDDA (national surveys)
	<b>Sex trafficking</b>	Trafficking of people – Convictions and investigations 2007	UNODC 2003 – 2007
	<b>Car theft</b>	Police recorded thefts per 100,000 population	Eurostat 1999 – 2006
	<b>Money laundering</b>	Pervasiveness of Money Laundering through banks (2005)	GCR 2002 – 2005
		Pervasiveness of Money Laundering through Non-bank Channels 2004	GCR 2002 – 2004

overall levels of corruption or OC) and specific (measuring corruption in specific institutions, or specific organised criminal activities);<sup>22</sup>

Tested indicators included corruption indicators for specific institutions (e.g. police, customs, judiciary, administrative and political institutions) and organised-crime indicators for various illegal markets and activities (e.g. drugs, sex trafficking, car theft and money laundering).

When selecting indicators for organised crime, the project team tried to identify indices from objectively registered crimes performed by organised criminal groups that were detailed in publicly available and consistent data. For instance, in the case of drug use in a given country, representative surveys of drug prevalence were used instead of police records.<sup>23</sup> In the case of motor vehicle theft, police statistics collected by Eurostat were considered appropriate, as a high share of victims report these crimes to comply with insurance requirements and avoid administrative sanctions.

### 3.2 Linking corruption and organised crime: statistical evidence

#### 3.2.1 Links at the general level

In an attempt to bridge such corruption and OC data gaps, the study added indicators measuring the political, economic and social development of the Member States. These indirect factors reflected the corruption risks: e.g. problems in the tax and customs administrations, local authorities, judicial system, etc. Broader economic and social indicators also might either facilitate or restrict organised crime and corruption. The main hypothesis that was tested was that **organised crime contributes to higher levels of corruption**.

In trying to answer the question ‘What other factors besides organised crime might influence the level of corruption in a Member State?’ the current analysis builds upon and expands academics’ previous analyses (Buscaglia and van Dijk 2003). In particular, the analysis builds upon previous academic work by:

- adding a number of factors: grey economy, effectiveness of institutions and a range of socio-economic factors;
- studying relations between a range criminal activities (e.g. drugs, car-theft, trafficking, money laundering) and range of corruption targets (e.g. police, customs, politicians).

The main premise of the hypothesis that the statistical analysis tested was that organised crime uses corruption as a tool to achieve its goals.<sup>24</sup>

<sup>22</sup> Two additional indicators were considered but dismissed: illegal migrants – data by Frontex on illegal migrant arrest at borders – the data was highly volatile; Murder data – no recent conviction statistics were available to determine the level of organised crime related murders.

<sup>23</sup> These studies are collected on a regular basis by the EMCDDA (prevalence data for Cannabis, Cocaine, Amphetamines, Ecstasy and Heroin)

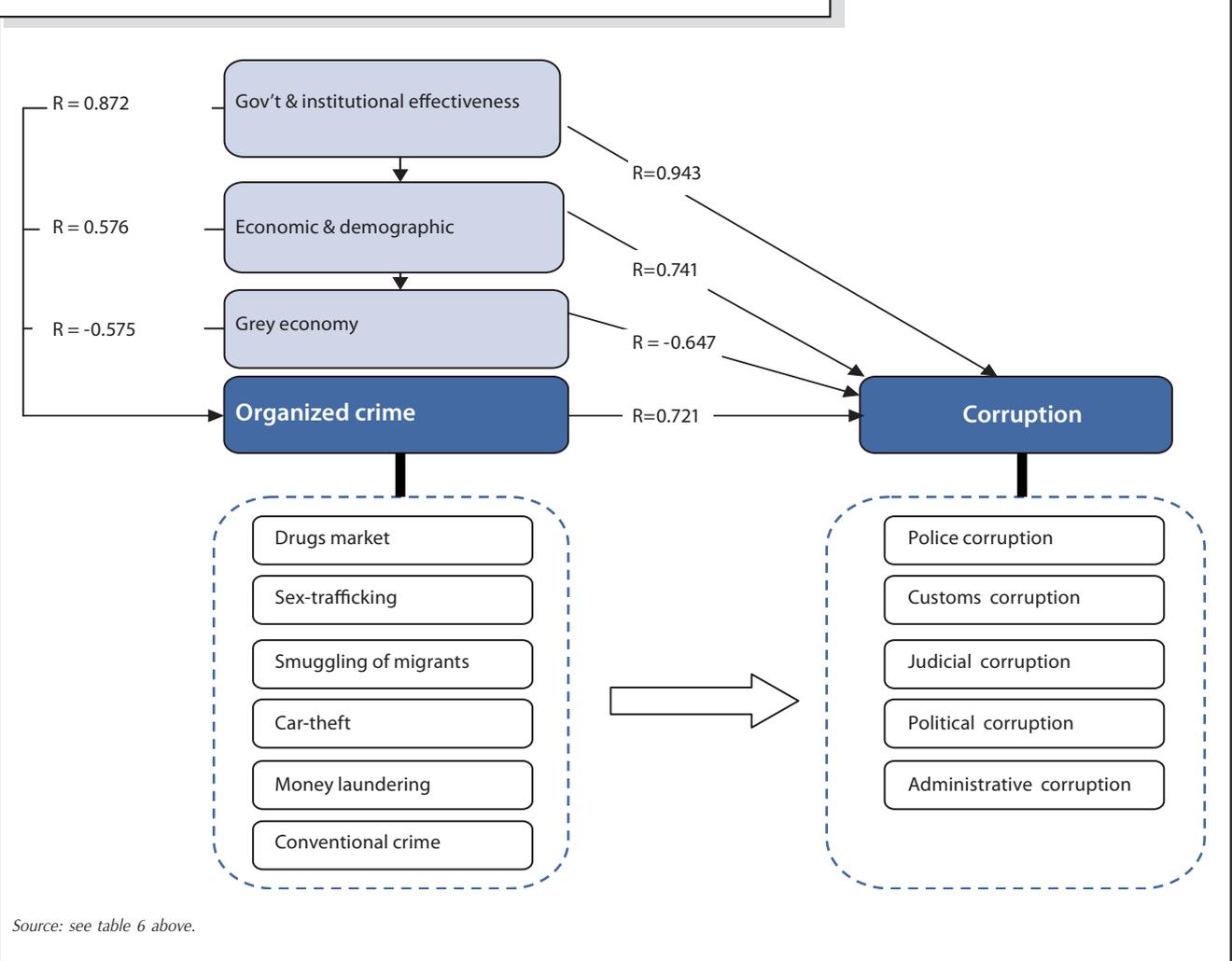
<sup>24</sup> The premise here is that in most of the Member States the reverse correlation is impossible due to the low levels of corruption. For instance, corruption income may be an objective, while initiating the contact, participating in and tolerating criminal activities is a means of securing this type of income by corrupt politicians, administrators, magistrates, police officers, etc. In cases of ‘state capture’ and mafia-type merging of state and organized crime, dependencies in both directions are possible. Furthermore, the high level of political, administrative, judicial and police corruption can serve as a good soil for growth of criminal activities.

The analysis below seeks to answer the following questions:

- Are available quantitative indicators able to measure the link between corruption and organised crime? If they do, then:
- What factors statistically have a significant influence on corruption levels?

This model included several other important factors that hypothetically might contribute to the levels of corruption: grey economy, government effectiveness and a set of economic and demographic independent variables. The first step was to test the general level indicators on corruption and OC (see Figure 8). The second step was to test how the specific criminal markets and institutional corruption related (see next sub-section). To test the impact of organised crime on corruption, a statistical model was created, using five indicators (see figure below).

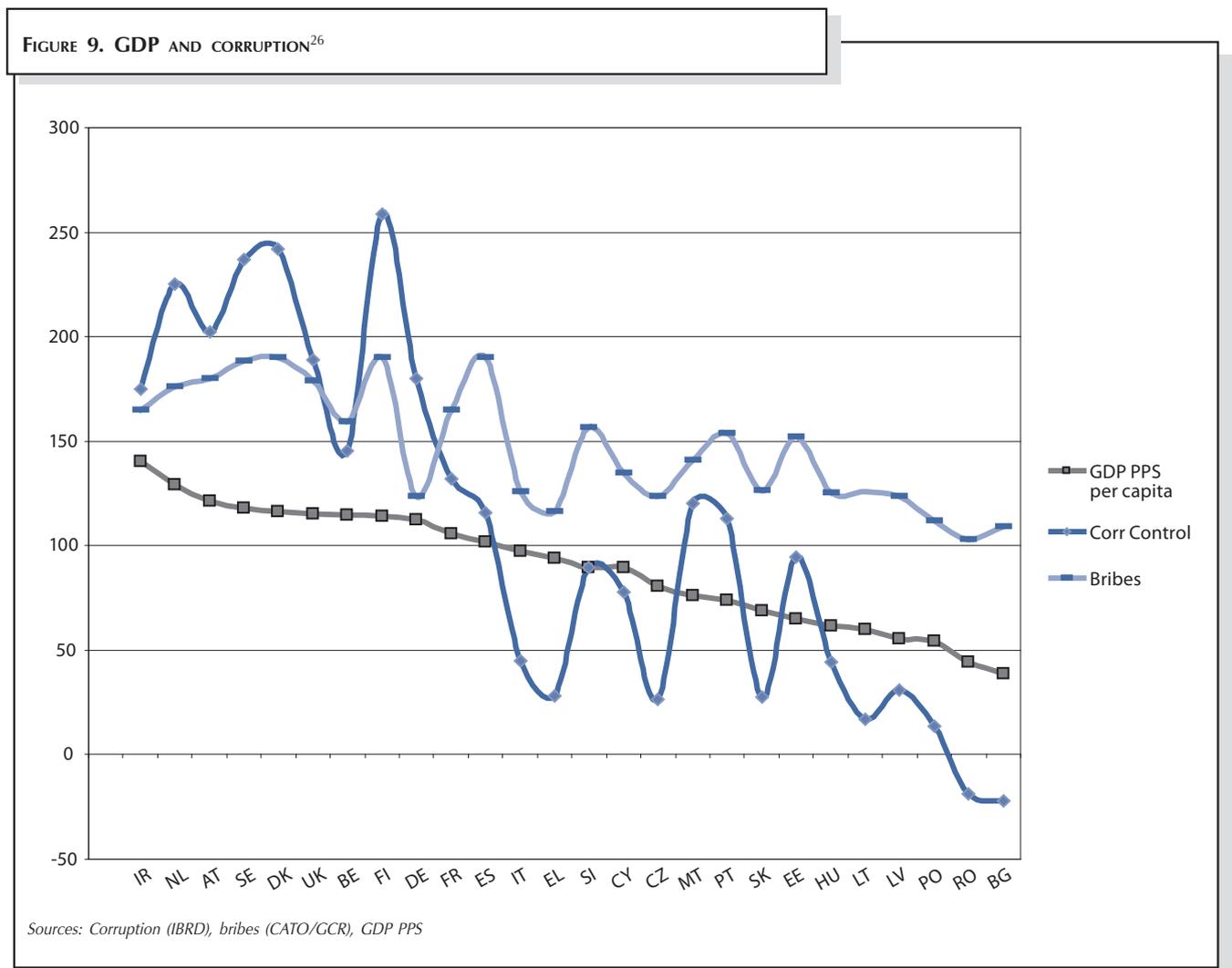
FIGURE 8. HYPOTHESIS TESTING MODEL: LINKS BETWEEN ORGANISED CRIME AND CORRUPTION



Source: see table 6 above.

The statistical analysis (see Appendix 9) confirmed the hypothesis that a statistically strong relation ( $R=0.721$ )<sup>25</sup> exists between organised crime and corruption. Further analysis revealed another noteworthy result. The effectiveness of government and institutions proved to have an even stronger ( $R=0.943$ ) impact on corruption than organised crime. The effectiveness of government institutions also had strong impact on organised crime levels ( $R=0.872$ ).

The model also demonstrated a statistically significant relationship between general economic indicators (GDP per capita in PPS), corruption ( $R=0.741$ ) and organised crime. Therefore, general economic conditions have about the same impact on corruption as organised crime (e.g. bribes). The figure below illustrates the differences that could be observed between EU-17 and the south of Europe (ES, IT, EL), and EU-10E.



<sup>25</sup> "R" is a multiple correlation coefficient that ranges between 0 and 1. The closer it is to 1, the stronger the relation between the two indicators.

<sup>26</sup> The three indicators in this figure were rescaled for the sake of comparability. The higher levels of GDP PPS and better control of corruption are related to lower levels of bribery.

The hypotheses here were that (1) the lower a country's GDP, the higher the levels of corruption; i.e. high per-capita income/GDP could reduce public servants vulnerability to corruption. (2) High incomes, on the other hand, could create markets for certain services or goods provided by organised crime (e.g. cocaine use, sex industry, night/entertainment industry, immigration). Thus, economic resources may be concentrated in the hands of OC, generating huge financial capital for corruption in the political, judicial and corporate spheres.

The observed fluctuations between GDP PPS on the one hand, and the Control of Corruption Index and Extra payments/bribes, on the other, require additional analysis. Within the framework of this study, the most obvious explanation is the impact of institutions. The effectiveness of government and institutions has the strongest impact on corruption ( $R=0.943$ ) among all reviewed indicators.

The possible explanation for these strong relations is that if the police and the judiciary are weak (i.e. are understaffed, not motivated, not well equipped, slow), their effectiveness in tackling both organised crime and corruption is diminished. Governments' inability to tackle organised crime and corruption allows criminals to use corruption to prevent the government from strengthening the police and judiciary, thus undermining their effectiveness further. That is why the relationship between effectiveness and corruption, and effectiveness and OC, are interchangeable.

Another tested hypothesis was that the grey economy could influence levels of corruption and organised crime. Schneider (2006) and Schneider and Dreher (2005) argue that the grey economy influences corruption in two ways:

- **Tax corruption:** companies could hide revenues by corrupting tax inspectors;
- **Administrative corruption:** Companies in the grey economy could corrupt various administrations (e.g. industry control institutions, including labour control) to avoid regulations or the use of illegal workers.

The analysis of EU-wide data demonstrated a statistically significant correlation between the grey economy and Corruption ( $R = -0.647$ ),<sup>27</sup> although the interpretation of that significance remains a matter of speculation. A similarly significant relation exists between organised crime and the grey economy ( $R = -0.575$ ), indicating that the expansion of grey economies is related to increases in organised crime. There are various explanations for this relation. One hypothesis is that large grey economy sectors (e.g. unregulated retailers) provide more opportunities for organised crime (e.g. distribution of illegal cigarettes or alcohol). It could be further argued that the connection could be reversed, that a deep presence of organised crime in certain industries, such as construction, night-time economy or tourism, leads to higher levels of informality. That is, such companies arguably are more likely to hide revenues or pay informally to reduce labour costs.

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<sup>27</sup> The negative coefficient is due to the scale used for the corruption indicator, Control of Corruption Index. The higher the control of corruption, the lower the grey economy.

### 3.2.2 Linking criminal markets and institutional corruption: statistical evidence

The second level analysis aimed to test whether certain illegal markets have greater influence on corruption than others. The interpretation of qualitative data and additional tests revealed that the available statistical indicators were inadequate and could not be used to analyse links between particular criminal markets and institutional corruption.

The formulated hypothesis was that various types of illegal markets entailed different types of corruption and different OC targets in law-enforcement or public institutions. In particular, interviews indicated that the drugs and prostitution markets were most often related to police corruption. The following hypotheses were tested:

- **Drugs market:** the smuggling and distribution of drugs could affect police (drugs distribution), customs (smuggling), the judiciary and local politics.
- **Prostitution/Trafficking in human beings:** police and judiciary are the main corruption targets, although brothel owners might also target local municipal authorities. Data on prosecuted human traffickers or identified victims were used as proxies to measure the commercial sex market.
- **Car-theft:** while in some countries this type of crime exploits police corruption (e.g. to register stolen cars, to use police registers to find potential victims or to use police protection to steal cars or obtain information on ongoing investigations), in others the judiciary is the main corruption target. Customs corruption could also be an issue in smuggling of stolen cars through borders.

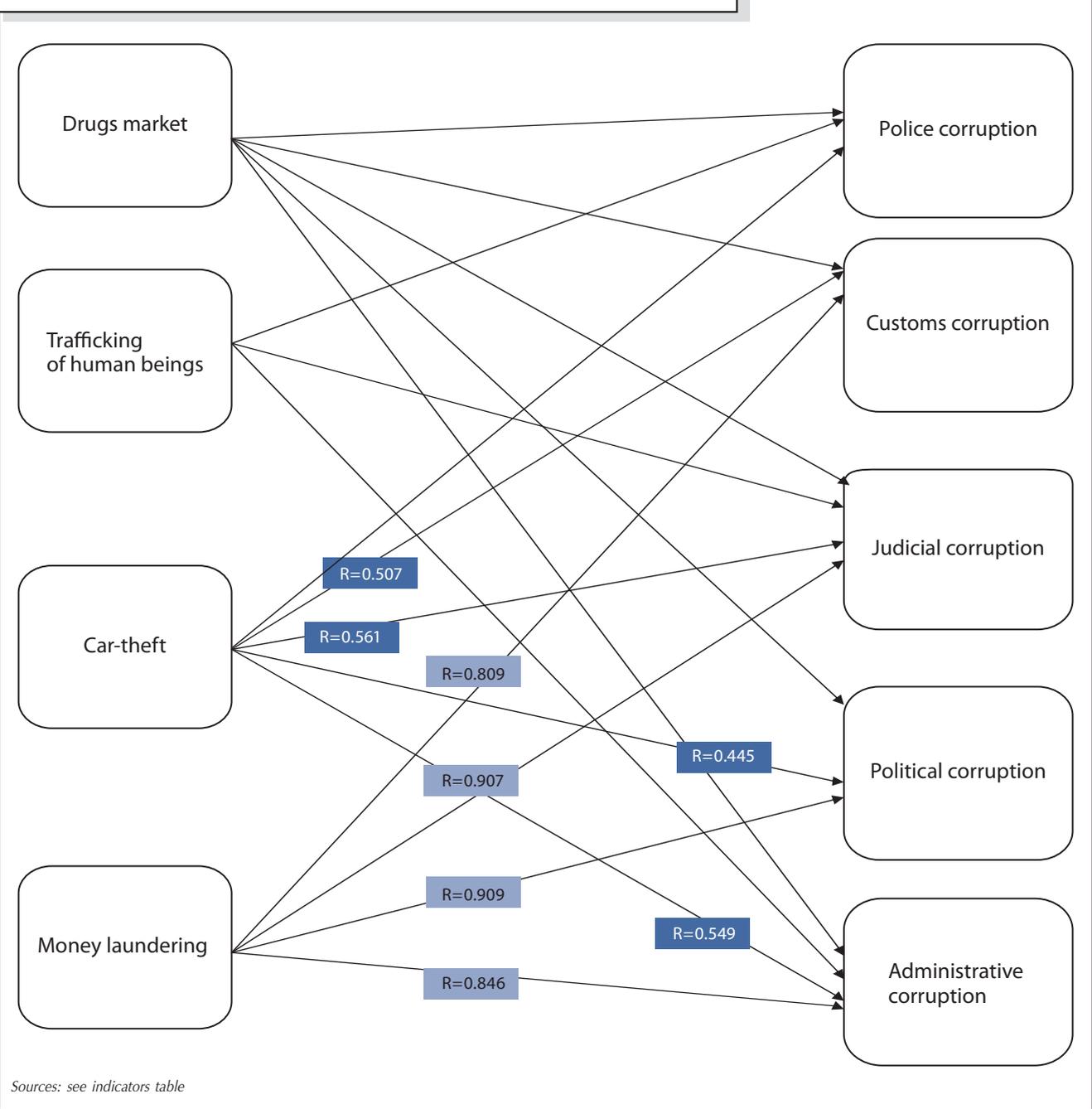
Statistical analysis showed that no particular connection existed between the size of some criminal markets and the level of corruption within the targeted institutions (see Figure 10 below). This finding alludes to possible flaws with the data as it sharply contrasts with evidence from interviews.

The analysis showed that Money Laundering (through non-bank channels) had the best defined relationship with four out of five types of institutions (i.e. customs, judicial, political and administrative corruption). Money laundering is crucial for the functioning of any type of white collar or organised crime activity. In this sense, it could serve as a proxy (indirect measurement) to organised crime in general. The analysis showed that the relationship between money laundering and most types of institutional corruption was very strong.

### 3.3 Clustering Member States – quantitative approach

Once the link between corruption and organised crime was established, as demonstrated in the preceding sections of this chapter, the team undertook another analysis. The main goal was to examine whether there are certain characteristics of the relationship between corruption and organised crime that might **group together** certain Member States (i.e. establish typologies).

FIGURE 10. HYPOTHESIS TESTING MODEL – ORGANISED CRIME: SPECIFIC INDICATORS



Two different statistical clustering methods were tested. The full results are presented in Annex 8 of the report. To group the EU Member States, the selected clustering method used 14 indicators (see Table 7).

Table 7 provides a quantitative picture of the characteristics of each cluster. For instance, if one takes “Control of Corruption” on average the countries included in Cluster 1 (Denmark, Finland, and Sweden) exercise better control over corruption than the countries in Cluster 2 (Ireland, UK, etc.) Statistical analysis has grouped the countries that cluster around similar values for all 14 indicators.

TABLE 7. AVERAGE VALUES OF INDICATORS USED BY CLUSTER (CALLED 'CLUSTER CENTROIDS')<sup>28</sup>

		Cluster 1	Cluster 2	Cluster 3	Cluster 4	Cluster 5	Cluster 6	Cluster 7
1	Control of Corruption Index _2007 (Range: -2.5 to 2.5 = high)	2.46	1.72	1.32	0.64	0.54	0.45	-0.09
2	Extra payments/ bribes _2006 (Range: 0-10 = high)	9.47	8.361	8.24	6.918	6.397	6.29	5.397
3	Organised crime_2008 (Range: 1 = OC imposes significant costs on businesses, 7 = OC does not impose costs)	6.6	6.056	5.9	6.15	5.983	3.6	4.433
4	Corporate Ethics Index _2004 (Range: 0 to 1 = high)	0.825	0.662	0.597	0.43	0.376	0.409	0.229
5	Rule of Law Index _2007 (Range: -2.5 to 2.5 = high)	1.905	1.587	1.317	0.75	0.836	0.426	-0.013
6	Drug Trafficking_2006 Registered crime 100 000 inhabitants	60.941	91.711	9.137	42.74	47.258	54.634	19.83
7	Theft of a motor vehicle _2006 Number of thefts per 100 000 inhabitants	439.48	183.84	383.6	129.7	139.85	473.81	31.43
8	Cocaine prevalence use in adult population (Range: 0-100% -EMCDDA)	0.567	1.289	0.6	0.35	0.35	2.1	0.2
9	Size of Government Index _2006 (Range: 0 to 10 = high)	6.42	5.17	4.11	6.35	6.31	5.99	5.28
10	Government Effectiveness Index _2007 (Range: -2.5 to 2.5 = high)	2.079	1.561	1.304	0.85	0.934	0.329	0.131
11	Overall Economic Freedom Score _2009 (Range: 0 to 100 = high)	74.867	73.356	63.3	69.475	67.217	61.4	62.7
12	GDP per capita in PPS_2008 (Unit: PPS)	116.13	131.69	105.7	63.525	78.5	97.6	45.7
13	Share of Envelope Wages _2007 (Range: 0 to 1 = high)	0.07	0.172	0.54	0.42	0.194	0.629	0.555
14	GINI_2007 (income equality measurement) (Range: 0-100%)	24.33	28.33	28	36.75	28.33	33	31

Source: see Annex

We draw attention to some indicators that distinguish country clusters below. We do not compare each indicator, as this can be done by looking at the table above.

**Cluster 1 (Denmark, Finland, Sweden)** combines the countries with the best scores in practically all indicators: low levels of organised crime (6.6) and corruption (2.459), with strong and effective institutions (2.079).

**Cluster 2 (Austrian, Belgium, Germany, Ireland, Luxembourg, Slovenia, Spain, UK)** is the largest by population and GDP. Together with

<sup>28</sup> See Appendix 9 for a full list of indicators and their source.

Cluster 1, these countries enjoy the best control of corruption (1.721), the lowest level of organised crime (6.0), the highest scores for rule of law and the highest GDP per capita. Still, there are some differences in scores between the two clusters. The Scandinavian countries have a clear advantage in terms of control of corruption, rule of law and effective government, while organised crime is about the same in the two clusters, and GDP is higher in Cluster 2 countries. Spain is probably the odd member of this cluster, and it verges on forming its own cluster.

**Cluster 3 (France)** France is unique by some key indicators and therefore could not be included in any of the other clusters. It is similar to cluster 2 by its large population and GDP. But in terms of its control of corruption and the frequency of bribes and the effective rule of law, France scores worse than clusters 1 and 2 (1.32, 8.24, 1.304).

**Cluster 4 (Estonia, Latvia, Lithuania, Portugal)** has one of the lowest levels of organised crime (6.15), but its scores on corruption and rule of law place it somewhere in the middle, with better indicators than Italy, Greece and the newer MSs and considerably worse only than the countries in Clusters 1. This cluster is also characterised by one of the lowest GDP per capita (63.525). Only Cluster 7 (Bulgaria, Poland and Romania have lower GDPs per capita).

**Cluster 5 (Czech Republic, Cyprus, Greece, Hungary, Malta, Slovakia)** is characterised by a relatively low control of corruption and frequent use of bribes (0.541, 6.397). At the same time, these countries do not have serious problems with organised crime (the level of OC is similar to Cluster 2 and even lower than France).

**Cluster 6 (Italy)**, similar to France, Italy's key indicators have significantly different values that justify placing it in a cluster of its own. Italy has the highest level of organised crime (3.6) among the MSs, combined with one of the lowest scores for control of corruption and rule of law (0.449, 0.426). It also has the highest level of undeclared income.

**Cluster 7 (Bulgaria, Poland, Romania)** consists of countries where corruption control is lowest (-0.091) and organised crime is similar to Italy (4.43). These countries have the worst scores for the rule of law, effectiveness of government and corporate ethics. They also have the lowest GDP per capita among the MS.

The problem with this statistical approach is that the indicators **do not provide an explanation as to why** these countries are grouped together. Therefore, this clustering remains a descriptive tool that could support qualitative analyses.

### 3.4 Qualitative data mapping organised crime and corruption in EU

The clusters presented in the previous section are underpinned by different historic, cultural and socio-economic factors that have affected organised crime, as well as the peculiarities of national institutions in each of the countries. At the same time, many of the indices used reflect expert assessments and, to a very low degree, empirical data. As a result of this approach, various relationships were observed where the statistical approach could not be applied unambiguously. Interviews and case studies conducted as part of this project also identified these factors, which are described below. This analysis thus aims to enhance the interpretation of the quantitative methods.

#### 3.4.1 Historical factors

Several clusters of EU countries could be hypothesized to have their roots in history as well as geography: Southern Europe (Italy, Southern France, Southern Spain), Eastern Europe (the Balkans, the Baltic region and Poland) and the Netherlands and UK.

The southwest hub, characterized by the oldest traditions in organised criminal activities, is centred around Southern Italy. It affects the whole of Italy and is connected to Corsica, Southern France and Spain, although its influence spreads to places in Germany or the Netherlands. The prehistory of this cluster's hub dates to the establishment of the Italian state. The specific agreement between the political elite of the country and the mafia families in Southern Italy was a prerequisite for the creation of a unique structure of total and systematic corruption in most of Southern Italian institutions. The influence of the Sicilian mafia and 'Ndrangheta, as well as other crime formations in the South of Italy, affects systematically other regions of the country and reaches as far as its central institutions, though their effect is not so intense there. The spreading Italian organised crime to neighbouring countries is a topic avoided in the EU, unlike in the USA. Heroin laboratories uncovered at the end of the 1960s in the so-called "French connection" removed for a short period the veil that covered heroin trafficking into Southern France (CS-FR). Only special services are likely to possess information about the fate of what remained of the organisations involved in heroin trafficking, how they adapted to changing circumstances, how the Italian mafia made its way into Southern Spain and the problems that continue in Corsica (CS-FR).

Following acts of violence against magistrates at the beginning of the 1990s and the introduction of new Italian policies aimed at crushing organised crime, there was a tangible reduction in the range of activities and the forms of influence exerted by big traditional crime groups (CS-IT). Despite the heavy damage that crime organisations suffered (e.g. over 100 city councils were dissolved in the past decade for links with organised crime), there is a tendency at present by traditional criminal structures to apply 'softer methods' that involve less violence, cronyism, the use of immigrant crime organizations, etc.

At the same time, the old methods still persist. There is clear evidence of extortion and racketeering in efforts to influence local authorities and

public tenders. Pressure by the Italian state, on the one hand, and the expansion of the common market, on the other, in addition to the lifting of Italy's national borders under the EU's Schengen Agreement, led to Italian OC exerting control over new forms of criminal activity, like cigarette smuggling, and new collaborations with other criminal structures from the Balkan countries, China, Latin America and Russia. The Italian-Spanish criminal networks established during the period of the 'French connection' got their golden chance for money laundering with the explosion of the real estate market in Spain. Taking of advantage of the Spanish state's preoccupation with terrorism, organised crime invested in construction and tourism. Simultaneously, organised crime groups based in Corsica, Southern France and Spain have maintained their presence, despite the expansion of immigrant involvement in organised crime and despite the emergence of flourishing new criminal markets in cocaine, prostitution, and money laundering via real estate.

Four key factors from the recent history of EU-10E countries should be taken into account:

- The informal networks of former communist elites, particularly of law-enforcement agents;
- The significance of privatisation process and the opening of borders in the origins of organised crime;
- The impact of criminal structures from the former Soviet Union at the beginning of the 1990s, and the ongoing instability in the Caucuses, Moldova and Ukraine;
- The wars in former Yugoslavia and the Yugoslav embargo in particular for Western Balkan countries, but also for countries neighbouring Serbia; and the ongoing instability in Bosnia and Kosovo.

Communist special services (State Security – BG, Securitate – RO, or Stasi-DE) and interior ministry officials have assumed a number of forms of symbiosis with organised crime. The number of law-enforcement officers and police informants in Eastern Europe before 1990 was at an entirely different scale than in Western Europe. With the dissolution of secret police services, many of them turned to various criminal activities (e.g. protection rackets, cross-border smuggling, and embezzlement in the massive privatisation process). These criminal networks from the 1990s eventually lost their power but were transformed into networks of companies that presently manage to influence both the formal economy and various grey areas of the criminal economy, in either case actively resorting to corruption. During the past two decades, the communist-era law-enforcement origins of these individuals provide them with law-enforcement connections that allow them to avoid prosecution. Probably the most influence is felt in Bulgaria, Poland, Romania and Slovakia (CS-BG, PL, RO). Networks of former East German *nomenklatura*, Ministry of Interior employees and criminal organizations can be also found in Germany (DE).

Former MoI or special services officers use the specific law-enforcement culture of loyalty to form networks that allow former officers access to police information, often resulting in competitive advantage in business projects or bids for public contracts. Many former officers turned to

being lawyers and became intermediaries between organised crime, law enforcement and the judiciary. The networks consist of current Mol/law-enforcement officers, prosecutors, or judges, as well as their families that often enter similar professions.

The historic legacy of privatisation of state assets: in the early 1990s, between 70% and 100% of property in EU-10E countries was state-owned. Instead of guarding the legality of this process, law enforcement and the judiciary often profited from it. As a result, today's economic elites are often part of the above described networks. The abuses of privatisation processes, much like public tenders today, attracted organised crime and provided it with opportunities to accumulate economic power and legitimacy. In a period when access to capital was limited and foreign investors wary, criminal profits were invested in privatisation.

The opening of borders in former communist countries allowed former security officers with connections to border police and customs to quickly assume key roles in controlling cross-border smuggling of consumer and excise-tax goods. Again, access to corruption networks was instrumental in assuming this role.

The Netherlands – UK logistical nexus – despite low corruption levels in Dutch institutions, the Netherlands has maintained a tradition of being a preferred centre for the redistribution of cocaine, heroin and marijuana to Central Europe, Germany, the Scandinavian countries and the UK (CS-NL, UK). It is the main producer of ecstasy pills and serves as a hub for providing precursors for the production of synthetic drugs in the EU. It also has a dominant position when it comes to the trafficking in women for sexual exploitation. The country's policy is to reduce the pressure exerted by organized crime on its institutions (where low levels of corruption have been maintained) through a number of legal regulations, such as legalizing prostitution and the use of marijuana. As a consequence, law enforcement agencies, as well as customs and tax administrations, follow a reactive and liberal approach (i.e. if there is no accident, no investigation follows). Secondly, a "grey zone" is created between the delivery of "risky goods" and retail sales. These conditions are extremely attractive to transnational crime organisations, as they create a system of "connected vessels," whereby violence and corruption are used extensively in the periphery of Europe and developing countries, yet the Netherlands and Western European countries (which could be accessed via the Netherlands) remain in the "grey area".

The Basque Country (Spain), Northern Ireland (UK), and Corsica (France) are the three regions where **terrorism and independence movements** are a continuing problem. The long history of terrorist activity has created networks of loyalties between terrorists, parts of law enforcement and local politicians. With the signing of peace accords in Northern Ireland, many former terrorists turned to organised crime, controlling the drugs trade or providing protection rackets of prostitution networks, occasionally drawing on historic loyalties from law enforcement to avoid prosecution (CS-ES, UK). The case study on France also shows in detail how the various independence groups have used (and continue to use)

criminal activities to fund their operations. It also shows how under the guise of independist movements certain groups facilitate their criminal operations.

### 3.4.2 Economic factors

- The significant differences in economic development and national institutions in the EU, especially since the latest enlargement in 2007, is one of the most important factors affecting clustering. The most affluent country in the EU is anywhere from three to five times richer than the poorest Member State, depending on whether nominal GDP per capita or GDP PPP<sup>29</sup> per capita figures are used. The differences are even more striking if regional disparities within and between countries are taken into account, as well. That is, if one were to compare the richest EU regions in some EU-17 countries to the poorest regions in Northwest Bulgaria, Northeast Romania, South-east Poland, etc. Such disparities create conditions, where low-paid public officials in poorer countries are much more likely to engage in corrupt behaviour. The disparities, on the other hand may influence the size of illegal markets. EU-17 illegal markets for drugs, illegal cigarettes, or prostitution are much larger than those in EU-10E countries.
- Other socio-economic factors, such as the absolute size of a country's economy and its demographics, also influence the structure of organised crime markets. In this manner, large economies such as those of France, Germany and the UK generate high levels of overall consumption and demand for illegal goods or services. On the other hand, criminal organisations find countries with high per capita incomes, yet smaller overall population levels, (such as Denmark, Finland, Ireland or Luxembourg) as less profitable than big markets. On the other hand in smaller countries, resources are highly concentrated in small public administrations, and few public officials there fall under more corruption pressure. Thus, despite the fact that the overall size of a country's economy drives levels of demand for illegal goods and acts as a significant factor in attracting organised criminals, highly affluent locations, such as big cities, act as magnets for the concentration of OC activities. For this reason, interviews indicated that organised criminal activity and corrupt practices were highly concentrated in cities like Amsterdam, Barcelona and London (CS-NL, CS-ES, UK).
- A more pronounced presence of multinational corporations (MNCs) in large EU economies also results in regular scandals and suspicions regarding white collar crime and private sector corruption. This rarely discussed topic relates to political parties that are dependent on corporations for their financing. All too often, arguments favouring MNC investments, because those are supposedly 'in the national interest', hide the reality of clientelistic relationships between transnational big business and national political elite.

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<sup>29</sup> Calculated on Purchasing Power Parity.

- Differing taxation levels (of VAT or excise taxes) also lead to differing outcomes in organised crime markets. Thus, in countries such as Germany and the UK, higher excise taxes on cigarettes boost the market share of contraband cigarettes as well as corruption risks stemming from criminal networks engaged in the production or smuggling of the latter.
- Economic structures and the relative share of certain business sectors in overall MS economies also condition gray economic activities. Thus, tourism, construction, and transportation are characterised by high levels of grey or illegal economic activity, which naturally attracts criminal entrepreneurs who tend to utilize corrupt practices. In this manner, higher levels of gray economic activity are associated with higher corruption.

Specific socio-economic developments may affect the dynamics of certain organised crime markets. For instance, growth in night-time industries may lead to correspondingly higher levels of drug use (e.g. marijuana, cocaine, synthetic drugs, etc) as well as an expansion of markets for sex services.

### 3.4.3 Social and demographic factors

The social and cultural factors are probably most difficult to capture and study, especially through quantitative methods. Although the case studies make some references to the role of family, ethnic, or social structures and norms, these issues do not lend themselves to the methods and short time-frames of the present study. Yet, these factors should never be discounted or overlooked.

- Family-and-friends social networks in South and Eastern Europe may become the basis of criminals' influence over police, local authorities, magistrates (interviews and CS-BG, CS-EL, CS-IT, PT, RO).
- Worsening *demographic situations* are another significant socio-economic factor. *Migration flows* play a crucial role not only in EU-17, which is targeted by inflows *immigrants*, but also in EU-10E, which is often temporary point for immigrants who wish to relocate to the West.
- In EU-17 MS, immigrant communities have formed a sort of 'parallel universe', or a 'safety zone' for criminal organisations. In countries like Belgium, France, Greece, Italy, the Netherlands, Spain and the UK, organised crime networks that are mainly ethnic-based have emerged. Some of these are transnational in character and have operations in Africa, Asia, the Balkans, Latin America and the former Soviet Union. They organise their trans-border activities basing their 'headquarters' in highly corrupt countries. At the same time, since the cost of bribing public officials in low-corruption countries is high, and the risks involved are prohibitive, only 'expendable' lower-level foot-soldiers would typically operate.

- An interesting development has been observed in certain Northern European countries (FI, SE, DK) that traditionally have been characterised by low levels of organised criminal activity. There, immigrant communities have formed crime markets, while at the same time the social acceptance of corrupt practices in these (largely isolated) communities has led to increased corruption pressures on public officials in the recipient countries. (FI, BG)
- In various EU countries, local organised crime has started playing the role of intermediary between immigrant criminal groups and public institutions (IT, UK). In countries that have traditions of separatist movements, former terrorist organizations have assumed a similar role (ES, UK).

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## 4. ORGANISED CRIME, CORRUPTION AND PUBLIC BODIES

The present chapter aims to present an overview of how criminals use corruption as a tool to influence politicians and a country's government administration, police, judiciary and customs. Each section presents the typical objectives, corruption schemes, and intermediaries used. Related anti-corruption measures and policies that Member States have adopted to counter such influences are also outlined.

### 4.1 Data issues

One of the possible ways to analyse corruption in public bodies is by examining and comparing their internal or national statistical information on public sector corruption. In official letters, the research team requested for with such information to be provided and a number of Member State institutions responded to the request. Generally, the review of the data has indicated that it would be rather speculative to draw any conclusions based on such statistical data. The following issues with the data should be noted:

#### 4.1.1 Judicial statistics

Comparing judicial statistics across the EU offers little value, as Penal Codes across the EU differ considerably. As previous studies have noted, some Member States have special anti-corruption laws (EC 2007a, p.427) and in the majority the legal definition of corruption is missing (ibid.). In addition, national corruption prosecution statistics shed little light either on the extent of corruption in a country, or on its nature: generally they do not provide details about the particular public institution to which the conviction is related. These factors make it impossible to estimate whether the problem lies in the administration, or the government, customs, police, or other institutions. Neither do prosecution statistics indicate which cases are in some way related to organised or white-collar crime.

The only value that such statistics might have is in assessing the trends in *general* (not-organised crime specific) law-enforcement and judicial anti-corruption activity within a given country over a specific period of time.

#### 4.1.2 Institutional statistics

A subset of corruption investigations are considered an 'internal matter' (sanctioned through internal administrative measures) and therefore are not reflected in the general corruption prosecution statistics. For instance, in the Netherlands smaller corruption matters are dealt with at the local level, are not reported at the national level (NL). Institutional statistics suffer several deficiencies in terms of comparability. These are listed below:

- **Defining corruption:** the most challenging issue in comparisons of institutional statistics is that the range of offenses that are included under the umbrella of 'corruption' differs across countries. The sections in this chapter highlight some of these differences. As a result, unless a breakdown of the offense categories is included in the statistics, it is difficult to compare corruption data.
- What do statistics measure? The major problem with using any institutional and official statistics to measure corruption is that they also reflect the efficiency of institutions in uncovering corruption. Such data would not be able to capture trends because increases in corruption cases reported by one institution could mean more effective corruption detection rather than an actual increase in the instance of corrupt transactions.
- Internal investigations departments: Some institutions, like police forces, generally have such departments. Even there though, these are very recent. In Bulgaria a proper internal affairs department was only started in 2007 (BG). In Denmark there is none (DK). It is unclear what means and powers such departments have to allow adequate comparison. Other institutions (e.g. customs) often do not have internal investigations (e.g. BE). As a result the levels of detection of corruption within them, or the ability to provide information on the latter, could be limited.
- **Inability to distinguish organised crime as a cause of corruption** in statistical data provided – in the sections of this chapter that follow, various such occasions are mentioned. For instance, even if a straightforward bribery case is included in the statistics, it would generally not be noted whether the case relates to a petty thief bribing the officer, or to an organised criminal boss.
- **Different composition of internal security forces:** in some countries (HU, UK) data for customs corruption might be mingled with police (HU) or border guards corruption data (HU, UK). Similarly, in countries with large gendarmeries with police functions e.g. Italy, Spain, France) 'police corruption' data needs include 'gendarmerie corruption' data to compare it to 'police corruption' data from other MS. Moreover, other problems might arise: in Spain, for instance, the Guardia Civil combines police with border-protection and customs functions. It is therefore subject to different types of corruption pressures from criminals. For this reason, comparing Spanish police with Czech police data, for instance, would not be adequate.

Although statistical information was requested of the Member States, its comparability is at best problematic, and at worst highly misleading, for all of the reasons listed above. Similar concerns have already been noted in the *Study on corruption in the public sector* (EC 2007a, p.420). The data that was supplied as a result of the researchers' request is provided in an annex. Some additional data (at least general corruption related data) is available publicly, but it was not in languages covered by the research team.

### 4.1.3 Corruption surveys

The best alternatives to official statistics for measuring corruption are the various surveys that are being conducted across the EU. While there are various corruption related surveys and indexes, only a few of them capture corruption in particular public institutions. The table below summarises some of the most widely available data from sources such as Transparency International's Global Corruption Barometer (GCB), the World Economic Forum's (WEF) Executive Opinion Survey published annually in the Global Competitiveness Report (GCR), and the recent Eurobarometer surveys. While TI's CPI and Eurobarometer surveys target the general population, the WEF survey is an expert one: it surveys on average ninety-one executives per country.

TABLE 8. CORRUPTION SURVEYS AND CORRUPTION IN PUBLIC INSTITUTIONS

Public institution	Survey (number of EU MSs included)
<b>Police corruption</b>	<ul style="list-style-type: none"> <li>• Eurobarometer 2005 &amp; 2007 survey – perceptions &amp; experience.</li> <li>• Reliability of police services (GCR survey 2002 – 2008) (question could equally well refer to effectiveness).</li> <li>• Transparency Int'l Global Corruption Barometer – TI-GCB. Contains experience and perception for 17 EU countries from 2004 – 2007, and two experience related questions for 2006 and 2007 (20 countries).</li> </ul>
<b>Customs corruption</b>	<ul style="list-style-type: none"> <li>• Eurobarometer 2005 &amp; 2007 survey – perceptions &amp; experience.</li> <li>• Corruption Perceptions (TI, 2004-2007), 20 countries.</li> <li>• Irregular payments in import/export permits (GCR survey 2001-2006) – expert opinions.</li> </ul>
<b>Tax authorities</b>	<ul style="list-style-type: none"> <li>• Irregular payments in tax collections (GCR survey 2001-2006) – expert opinions.</li> <li>• TI-GCB (same as police).</li> <li>• TI, 2004-2007, 20 countries – survey opinions.</li> </ul>
<b>Judiciary corruption</b>	<ul style="list-style-type: none"> <li>• Eurobarometer 2005 &amp; 2007 survey – perceptions &amp; experience.</li> <li>• Irregular payments judicial decisions (GCR survey 2002-2006) – expert opinions.</li> <li>• Judicial independence (GCR survey 2001 – 2008).</li> <li>• TI-GCB (same as police &amp; customs).</li> </ul>
<b>Political corruption</b>	<ul style="list-style-type: none"> <li>• <b>National institutions:</b> Eurobarometer 2005 &amp; 2007 survey – perceptions &amp; experience.</li> <li>• <b>Favouritism in decisions of government:</b> GCR survey 2001-2008 – expert opinions.</li> <li>• <b>Diversion of public funds:</b> GCR survey 2002-2008 – expert opinions.</li> <li>• <b>Political parties corruption:</b> TI, 2004-2007, 20 countries – survey opinions.</li> <li>• <b>Parliament Corruption:</b> TI, 2004-2007, 20 countries – survey opinions.</li> <li>• <b>Local politicians:</b> Eurobarometer 2002 &amp; 2005 survey – public perceptions &amp; experience.</li> <li>• <b>Regional politicians:</b> Eurobarometer 2002 &amp; 2005 survey – public perceptions &amp; experience.</li> </ul>

Although the above surveys may be of use in estimating corruption levels or trends, they generally are **not** adequate tools to capture corruption related to organised crime for the following reasons:

- TI GCB or Eurobarometer surveys measure perceptions and experiences of ordinary citizens. Organised-crime related corruption does not affect average person's experiences of corruption, and only to a very limited extent affects their perception. In countries where

institutions (police or customs) do not publish or announce publicly organised crime related corruption cases, the public perceptions are not adequate measure.

- Expert opinion surveys, such as the GCR, are a more adequate tool particularly in gathering opinions on white-collar crime, but generally are inadequate in assessing corruption related to other types of organised crime (e.g. drugs, prostitution, or car-theft).

While surveys have the advantage of measuring unreported and uncovered corruption, their use in terms of estimating organised crime related corruption is limited. Therefore, the analysis below draws primarily on qualitative data from in-depth interviews conducted for the purposes of the present report. Each of the four sections on political, police, customs, and judicial corruption presents:

- The main forms of corrupt behaviour;
- The main factors influencing corruption;
- The key anti-corruption policies adopted across the EU.

## 4.2 Political corruption and organised crime

The present section makes an attempt to conceptualise the types of relations that exist between organised criminals and politicians. Two key aspects of this relation – the ability of politicians to influence law-enforcement and the judiciary – are presented instead in the sections on police, customs, and judicial corruption, and are not examined in this part of the report.

The scope and the level of complexity of corruption schemes targeting politicians, as well as the damage inflicted on the state or society, are usually far greater than when targeting other public institutions. Political corruption is the most effective and powerful tool that criminals could use, as it also enables them to influence the bureaucracy, law-enforcement, and the judiciary.

Interviewees from all Member States discussed the existence of political corruption in their country. Their views correlated with public perceptions that political and administrative corruption usually is perceived as most common and most problematic (Eurobarometer 2008). In some countries (MT, DM, SE, IE) they felt that political corruption was not a particular problem, or that it was solely a white-collar crime phenomena (MT, EL). This position should be accepted with a certain degree of caution, as across the EU there is very little systematic research on the topic. In the countries where in-depth studies were carried out, with the exception of Bulgaria and Italy (e.g. CSD 2007, Paoli 1999, Della Porta and Vannucci, 1999), no comprehensive and empirically based research on OC-induced political corruption has been undertaken in the past decade. In most Member States, a similar knowledge gap exists.

Politicians much more rarely associate with low-level criminals involved in activities related to illegal markets, such as drugs or prostitution, than, for example, police or customs officers. The higher the sophistication and complexity of the crimes and their seeming ‘cleanliness’, the higher the likelihood of association between criminals and politicians is. The

range of corrupt relations starts from association with businessmen involved in excise tax fraud (smuggling of cigarettes, alcohol and oil), gambling and money laundering, and extends to connections with respected corporations involved in multi-million euro fraud schemes, rigged public procurement contracts, illegal party financing, etc.

The prevalent patterns of political/criminal links is determined both by the nature of organised crime and by the nature of political culture and the political system in a Member State.

If and when criminals manage to extend their criminal activities from illegal (e.g. drugs) into any legal markets, and acquire a respected public face, their ability to corrupt politicians increases. The "legitimate" face of a criminal provides him/her with the legitimacy to meet openly with public officials, to donate to their political campaigns, or use his/her economic clout to support political parties. Whenever one observes direct links of politicians and criminals involved in illegal markets, the latter also have acquired significant legitimate economic power, which allows them to also use corruption to commit more sophisticated 'white-collar' crimes.

Generally, such direct links in EU-17 are observed only at the local level (DE, FR, ES, IT), while in some countries where 'white-collar' criminals have no involvement in illegal markets, there is no evidence of connection of politicians (UK, FI, SE, DM, IE). On the other hand, in EU-10E, where many criminals started their careers during the chaotic period of privatisation fraud and cross-border smuggling of consumer or excisable goods in the 1990s, they managed to transform themselves into significant economic actors (locally or nationally) in a position to influence politics directly. In Italy and Southern France, local criminal elites have a long history of collusion with local politics, while being involved in extortion, drugs smuggling, waste management fraud, and bank robberies. Yet in recent decades their involvement in 'white-collar' crimes, such as EU funds fraud, public contract rigging, and real-estate fraud has allowed them to transform their relationship to politicians into a more socially acceptable form.

Furthermore, there is a well pronounced tendency in EU-10E for political instability and frequent change of governments. Unlike EU-17, the countries of the former Soviet bloc experienced a series of restructurings of their political parties and the electorates that support them. Due to the lack of a well-functioning system of financing of political parties, both old parties from the beginning of the transition and newly emerged parties have resorted to funds provided by "gray sector" and criminal businesses (CS-BG). Large and legitimate companies have no incentive to offer financial support unless they expect some special privileges in return. Our interviewees pointed out that much more motivated to make donations to political parties are companies from the gray zone, as they would be able later on to ask for some form of protection or assistance. The consequence is that 'suspicious contacts' are periodically elevated to political scandals, leading to a new cycle of disturbances and a new wave of searching for political financing (BG, HU, PL, RO).

In countries where the banking systems were under a special regime (or where such a regime existed before but has now been cancelled) like Austria, Cyprus and Luxembourg, the state policy allows entrepreneurs who have been linked to white-collar crime, or even outright criminal businessmen, to use the financial system and invest in these countries. Usually, politicians turn out to be the middlemen assisting foreign gray entrepreneurs (AU, PL, RO, BG).

#### 4.2.1 Modes of association

Most interviewees in EU-17 described cases of political corruption as random and haphazard. In reality, however, while corruption networks could be ‘activated’ whenever they are needed (e.g. there is a public contract tender, or police starts an investigation), bonds of trust are developed over much longer periods of time. For white-collar criminals, this usually involves a long-term investment. They would make donations to support someone’s campaign, or do favours without the expectation for an immediate or short-term return, but for benefits in or over a number of years. This is particularly true for white-collar criminals, whose public image is usually untarnished. They might demonstrate ‘socially responsible’ behaviour and establish a positive image in the local community, and make their relationship with politicians seem perfectly legitimate. The common types of corrupt relations could be discerned from the interviews: sporadic and symbiotic.

##### 4.2.1.1 Sporadic relations

Sporadic relationships could be used by businessmen or criminals so that they can operate undetected, or to win a public tender. Corrupt exchanges based on such relations take place via intermediaries, who provide the ‘trust’ needed for a corrupt deal.

- At the **local level**, businessmen might take advantage of public procurement contracts; local criminal figures might ‘activate’ a corrupt network to get political protection from prosecution (NL, CS-FR, CS-BG, RO, CS-EL);
- At the **national level** – white-collar criminal might use political connections to obtain protection from investigation/access to contracts. Such ad-hoc relations at the national level are less frequently to be observed with professional criminals, especially in big countries (CS-BG, CS-EL, PL).

##### 4.2.1.2 Symbiotic relations

Symbiotic relations are long-term relations that can be observed when protection is provided to cover up continuous criminal activities, or when white-collar criminals ‘live off’ fraudulent public tenders.

- At the **national level** (central government), this almost exclusively refers to white-collar criminals. There are probably some notable differences and exceptions. In recent history there have been periods in

EU-10E or Italy when white-collar criminals with clear links to illegal markets (smuggling, extortion, etc) have had control over ruling elites to a significant degree (CS-IT, CS-BG). At present this does not seem to be the case in any of the Member States.

- In some EU-10E MS (CS-BG, SI, RO), interviewees referred to **the ‘oligarchs’**,<sup>30</sup> or white-collar criminals, who have had significant involvement in the past with illegal markets, or have accumulated their wealth through rigged privatisation deals or rigged public contract tenders during the 1990s. These individuals that form part of the business elite, exercise powerful influence over the political elite. Their business (usually includes public infrastructure construction or other public services).
- Unlike EU-10E, where the business and criminal elites were formed in the past twenty years, in EU-17, business traditions and networks go back decades. Influential families and corporations (**the ‘oligarchs’ of the West**) exist everywhere. Their power to corrupt or influence is not weaker than that of business elites in EU-10E. As the case studies demonstrate, public awareness of corruption in most EU-17 countries grew significantly only during the past few decades or as late as the 1990s (CS-IT, CS-EL, CS-BG, CS-FR).
- **At the local level**, symbiotic relations seem to be much more common in many countries of the EU. They are particularly common in border regions (with cross-border smuggling), tourist regions, or other areas where the local mafia has a stronghold. Similarly, criminals often invest their illegitimate proceeds in legitimate businesses that have disproportionate influence on local economies. Through their ability to manipulate and control a large part of the local electoral force, they practically control local politics. Concrete examples of such symbiotic relationships in specific towns were given from across the EU (towns in Corsica, Costa-del-Sol, Southern Italy, various towns across the external EU land borders with the former Soviet Union).

*“Studies estimate that in Italy, between 40 and 75 percent of the Christian Democrat deputies and about 40 percent of all the deputies elected in Western Sicily between 1950 and 1992 were openly supported by Cosa Nostra (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 association” (CS-IT)*

In such relationships, parallel power structures are developed. Local municipal services and contracts are strictly distributed to companies related to the local business and criminal elite that supports the mayor or the ruling party. The democratic principles of governance in the city (as much as this might sound like a cliché) are subverted. Local media, if it exists at all, is dependent on the local (criminal) businesses for advertising. Local politicians depend heavily on the votes that the (criminal) businessman controls. What is often observed in such towns is a situation of ‘state capture’ – where a certain political clique (from all parties) manages to hold on to power for a long time.

One manifestation of this symbiotic local relationship at the national level is the corruption of parliamentarians (depending on the electoral system, local support may be of key importance). In addition to serving as important intermediaries for them, legislators could initiate or support legislative changes in the interest of criminals (legalising their practices, leaving loopholes to be explored, or changing penal legislation to help

<sup>30</sup> In various countries different terms were used: ‘oligarchs’ in Bulgaria, ‘barons’ in Romania, ‘tycoons’ in Slovenia, all referring to the more commonly accepted term ‘oligarch’ used in Russia.

them avoid justice). Some examples of such practices are provided later on in the report.

#### 4.2.1.3 *Direct participation*

When individuals with criminal past or presently involved in criminal activities enter into politics, then one can speak of corruption of the political process. Direct participation of criminals in politics is uncommon, and is rarely their preferred method of exerting influence. On the one hand, direct electoral participation inevitably would put them in the limelight. On the other hand, though, it could provide them with **legitimacy, ability to influence the criminal justice process and the redistribution of economic resources.**

At the **national level**, there are three more common examples:

- **Members of Parliament:** as the case-study of Italy shows (see box), such cases have been observed on a significant scale. In other countries (RO), businessmen under investigation have become members of parliament or have run for to be members of parliament, ensuring at least temporary immunity from investigation (BG).
- **Executive branch:** as the case-studies show, although this is rare (the case of Silvio Berlusconi is probably the only example at present) a businessman under investigation could manage to seize political power and steer a change in legislation ensuring some level of protection from effective investigation.
- **Local level:** direct participation in city councils or as town mayors is common. Depending on the set-up, such positions could give access to public tenders, or influence over local police. Such municipalities often could be described as ‘privately’ run, or at least in private interests rather than in the public one. The case studies on France (Corsica), Italy, and Bulgaria list a number of examples of such relations.

#### 4.2.2 *Modes of corruption*

There are a number of ways to establish the above dependencies:

- **Direct – bribes and favours/‘pantouflage’** are probably the most obvious ways. At the highest level, direct bribes were mostly dismissed, especially by EU-17 respondents. Exchanges of favours or trading in influence were deemed as much more common. The practice of ‘pantouflage’ in France is common, whereby after their term expires, officials responsible for public tenders would receive a job at a company for which a contract has been secured. Culturally the exchange of favours could differ: ‘arranging’ jobs/promotions for relatives is probably more common for southern/EU-10E MS.
- **Elite networks.** They exist throughout the EU. They may be built on different principles: family ties (mostly in southern Europe), classmates, club members, etc. Various forms of mediated corruption take place through these networks. Entrepreneurs can win a public tender, or legislation favouring their business may be passed, just because they belong to the right social network. The ‘favour’ may be returned after a long time. Favours may be balanced: i.e. obvious preferences to a

single company, or respectively a single politician, are avoided. The most precious capital in this type of social networks is trust. In smaller countries, networks tend to have a smaller number of members and fewer power centres. Interviews revealed that in the former socialist countries agreements between businessmen and politicians are more direct, and their confidence in each other is significantly lower.

- **The political investor:** is probably the most common – long term support (financial or other) for political parties, and if needed through illegal political donations are most common (CS-IT, CS-BG).
- **The vote provider:** in areas where organised crime or white-collar criminals have influence over a significant number of voters, or could influence voters as employers, this type of ‘corrupt exchange’ is used (CS-BG, CS-IT, CS-FR).
- **“Insistent lobbyism”** (“eindringlicher Lobbyismus”) is another common form it takes. PR companies support the interests of certain politicians. These companies are paid by certain industries (DE).
- **Threatening/blackmailing** politicians has also been observed, particularly at the local level. (IT) Some cases were reported, where local politicians are offered a prostitute or a large bribe. Following this the criminals collect evidence of the misbehaviour of the politician, and use it for blackmail him/her (IT, DE). A similar tactic is used for other public officials.

#### 4.2.3 Factors for political corruption

The factors that influence political corruption, and should be accounted for in any analysis of its scale and causes, are complex and not sufficiently researched across the EU. In individual countries there could be specific local circumstances that are conducive to corrupt practices, but generally the interviews and the case studies have outlined the following:

- **Cultural factors/public perceptions:** public perception that corruption (or at least certain forms) is “normal” plays a major role, especially on the local level. The re-election of leaders (e.g. Silvio Berlusconi) who are under investigation is probably the most notable example, although at the local level similar cases have been observed elsewhere as well (EL).
- **Patron-client systems:** in these, an exchange system of favours and patronage is considered common and acceptable. The lack of distance between politicians and businessmen is normal. Political parties are expected to have ‘circles’ of companies that fund their political campaigns, and receive reciprocal favours once the politicians are elected (CS-BG).
- **A history and prevalence of secret societies:** one factor that facilitates corruption that some interviewees mentioned, as well as shown in the case studies, is the existence of ‘secret’ societies, like Masonic lodges. These societies provide an opportunity for politicians to meet in private with businessmen or criminal entrepreneurs (CS-FR, MT). In some countries, elite private clubs with restricted memberships play a similar role (UK).
- **Class differentiation:** the formation of elites in EU-17 is a process that has gone on for hundreds of years, starting from elite schools,

universities, and neighbourhoods. These elites create networks of political, economic, and judicial that facilitate above all white-collar.<sup>31</sup> In EU-10E, a similar informal network is formed by members of former communist elite (or their children). These include not only functionaries/civil servants, but also members of law-enforcement and security services. Cases of political corruption networks were provided in several countries (DE, RO, BG).

- **Public perceptions:** OC figures may be perceived as cultural heroes or “men of honour” (local level). Criminals (particularly white-collar ones) may manage to build a public image that manipulates public opinion (control over media facilitates this) (IT).
- **High-level corruption:** as corruption spreads from the elite downwards to other social groups, impunity seems to increase its multiplying effect. This process causes increasing familiarisation with and tolerance for unorthodox practices, even among those who benefit very little from their own corrupt practices (PT).
- **Local vs. national level:** local politicians and administrators, as explained above, are more vulnerable. These actors are geographically closer to organised criminal groups; they operate in the same social environment and therefore are subject to the pressures that such groups exert. At the local level, however, corrupt exchanges ‘offered’ by organised criminals to politicians are accompanied by an implicit degree of intimidation which determines the outcome of the proposal made (PT).
- **Political cycles and corruption:** one feature that is revealed when analysing corruption-related scandals in Member States for which case studies were carried out is that in recent decades many governments have won elections run on anti-corruption platforms. In France (1995), Greece (2004), and Bulgaria (2009) changes of government were accompanied by a number of revelations of past corrupt practices, followed by law-suits initiated by the newly elected governments exposing their predecessors’ offences. There were a few effects of this campaign-like approach:
  - on the one hand, public perceptions that ‘corruption is increasing’ are easily reinforced when there are law-suits or media publicity exposing corrupt deals;
  - corruption schemes are abandoned as public attention focuses on them;<sup>32</sup>
  - corruption networks and schemes readjust to the new realities, and changes in the environment rarely disrupt them. Businesses usually hedge their bets and corrupt all major parties (PT). As providing outright support is usually possible only with respect to one party, the hedging process takes place by maintaining relations via intermediaries or other businesses.

<sup>31</sup> Hartmann (2007) analyses the exclusive characteristics of elite schools and universities in France, Germany, UK, USA and Japan. The important conclusion he makes is that people enrolled in these education institutions tend to be members of the upper class (50-75%) and later tend to predominate in the business and the government elites in the respective countries. As a result educational backgrounds become an important factor for the formation of social networks that could be used for informal agreements and practices.

<sup>32</sup> Recent examples from Bulgaria aptly illustrate this point: following a public outcry regarding land swaps (in which, typically, sea-side government properties were exchanged for unattractive land plots inside the country) in the summer of 2009, a law was passed to ban and discontinue the practice. Similarly, after public attention focused on trafficking and corruption via land-border duty-free shops, in 2008 a law was passed closing down all land-border duty free.

- **Linking administrative and political corruption:** in EU-10E, there is a fusion of bureaucratic and political corruption. For many interviewees administrative corruption is simply an aspect or outgrowth of political corruption. The politicization of the public administration could be considered as an indicator of political corruption. In most EU-10E countries, and in Greece, the government bureaucracy is politically dependent. With changes in the ruling political party, the higher echelons of the administration (e.g. heads of directorates, key agencies, or even police departments) are regularly replaced with more loyal individuals (CZ, BG, EL). Administrative corruption exists also as a separate phenomenon, as the section on customs corruption well illustrates.
- **The main focus on administrative corruption that was brought up by interviewees, related to the construction sector** (CZ, SE, NL, UK, IT, MT, EE, AU, PT), especially particularly in relation to public infrastructure projects (SI, LT, CZ, IT, EL). Other types of administrative corruption, related to certain criminal markets (the sex industry, or smuggling of consumer goods) are further discussed in the chapter on illegal markets and corruption.

#### 4.2.4 Anti-corruption measures

Political anti-corruption measures are broader than specific institutional ones (such as in the police), because they must include all political parties, local and national government, or legislative branches. The following measures were particularly quoted as relevant to white-collar and organised-crime related corruption:

- **Local council dissolution:** this is a rather extreme measure to fight local level political corruption, but has proven the only effective tool to reverse 'state capture' at the local level where democratic principles and the fairness of electoral process have been subverted. In Italy, over the past ten years, about one hundred city councils have been disbanded on suspicion of being infiltrated by the mafia (IT).
- **Commission against 'pantouflage':** in France one of the solutions that have been promoted to counter the 'pantouflage' phenomenon was the establishment of a special commission that vets former public officials looking to enter the private sector.
- **Laws on the regulation of political parties and political party financing.** These laws function differently across the EU. EC (2007, pp. 479-496) research has shown that only two MS do not have public (co)-financing of political parties. Yet, there is a great variety of financing mechanisms amongst MSs, and the differences in the impact is not well understood.
- **Specialised bodies for political corruption investigations:** some Member States (PO, RO, BG, and IT) have established specialized bodies aimed at investigating political corruption. The most challenging task in establishing them has been to ensure independence from political pressures. It would be premature to judge these bodies' effectiveness, as they have been established in the past few years.<sup>33</sup>

<sup>33</sup> As corruption investigation trials in other Member States (FR, IT) demonstrate, complex corruption investigation cases against high level politicians could take over ten years.

- **Reporting on the assets of public officials:** this is probably one measure common to all MS. However, it is largely inefficient as off-shore havens and various legal tricks make it irrelevant.
- **Laws on civil servants:** these prevent dismissals of bureaucrats for political purposes.

### 4.3 Police corruption

After the Knapp Commission investigation revealed mass corruption in the NYPD in 1971, the widespread notion amongst experts that police corruption is a phenomenon affecting only individuals was seriously shaken. It was gradually replaced by the idea that certain unique organisational characteristics and the culture of the police and other law-enforcement institutions make them particularly vulnerable to corruption (Malinowski 2004). The topic of corruption in police forces is rarely discussed in most EU Member States.

TABLE 9. POLICE CORRUPTION<sup>34</sup>

Type	Grid	Group	Description	MS observed
Donkeys	Strong	Weak	work characterised by both isolations and subordination: individual deviance of lower level officer	All EU
Hawks (rotten apples)	Weak	Weak	a lot of freedom, distance from organisation, individual deviance (example: higher rank officers or officers working on highly confidential material)	FR, ES, UK, IT, SL, SE, NL, AU, BE, EI, DE
Wolves	Strong	Strong	strong group identity creates a subculture that facilitates organised deviance; group protection against external controls	FR, ES, IT, RO, CZ, BG, PT
Vultures	Weak	Strong	freedom to aggressively seek exploitable situations, using the cover offered by the group	BG, EL, RO, CZ, LT, LA, CY, PO

Source: Eurobarometer (2008)

The review of official reports on corruption and interviews with representatives of public institutions of EU Member States indicates that police corruption is considered an incidental phenomenon. Even in

<sup>34</sup> In (OUR COUNTRY), do you think that the giving and taking of bribes, and the abuse of positions of power for personal gain, are widespread among people working in the police service; Corruption Experience Police 2007: Corruption Perceptions in the Police: Over the last 12 months, has anyone in (OUR COUNTRY) asked you, or expected you, to pay a bribe for his or her services? – Yes, from people working in the police service.

EU-10 countries, where the share of citizens with personal experiences of police corruption is high (see Table 9), the official institutional stance is that corrupt transactions involving law-enforcement personnel are only sporadic. (RO, SK, LI) Some interviewees indicated that there was even a deliberate PR policy in place to avoid publicly linking the police with corruption (UK, RO). It is believed that such public debates might undermine citizens' trust in the police, which in turn would lead to further negative effects, such as low crime-reporting rates (UK, FR, AU).

The research undertaken has demonstrated that the understanding of 'police corruption' took on very different meanings across Member States. In certain countries even the term 'corruption' is avoided and replaced by expressions like 'lack of integrity' (CS-NL), or is understood in a very narrow legalistic sense that excludes a number of phenomena of a corrupt nature (CS-FR). For instance, engaging directly in criminal activity, such as drug distribution, is considered simply a criminal act in France (CS-FR). In the UK, however, engaging in criminal activity is also classified as an instance of corrupt behaviour, and is included in data on corruption. (UK). These differences could have direct implications not only on interpreting institutional statistics, but also on designing common EU approaches. Table 3 (in Chapter 2), provided a comprehensive list, compiled by the UK Home Office research that shows the list of illegal activities that fall within scope of 'police corruption'.

*"...sometimes I wonder whether the perception of 'lack of corruption' is not elusive and that we are not looking hard enough to find evidence. ...it has been recognised that knowledge about corruption and organised has been limited, and for this reason, in the 2009-2012 strategy it has been decided that a special focus will be applied..." (NL)*

Throughout the interviewing process serious discrepancies in opinions on the extent and nature of police corruption emerged between official (internal affairs departments) and alternative sources (journalists, researchers, former police officers, prosecutors, or lawyers). In many respects, the countries' scores for personal experience with police corruption (Table 9) coincide with the opinions expressed by alternative sources on the general level of police corruption (see Table 10).<sup>35</sup>

Some internal affairs departments of law enforcement institutions that estimate corruption in their ranks as 'insignificant' and 'of sporadic nature', expressed doubts with respect to their own detection methods. They admitted that knowledge about corruption and organised crime has been limited, and they intended to focus more in depth on the issue (NL, AU).

Applying Van de Bunt's (2004) concept of 'workplace crime' to the available set of data, Member States are grouped into the four categories (see Table 11). This grouping defines the intensity of corruption. In countries with low levels of corruption but with large criminal markets and strong criminal networks, cases of police corruption of the "Wolves" or "Hawks" types are revealed from time to time. While the former type is subject to evaluation in terms of improvement or worsening of corruption practices, the latter type presents serious challenges.

<sup>35</sup> In cases where the official responses regarding the influence of organised crime on the police diverged from the opinions of alternative sources, the ranking listed in the table is that provided by alternative sources.

**TABLE 10. IS POLICE/INVESTIGATION CORRUPTION BY ORGANISED CRIME IN YOUR COUNTRY CONSIDERED A PROBLEM?**

Yes	No	Somewhat
Bulgaria	Austria	Estonia
Cyprus	Belgium	Hungary
Czech Republic	Denmark	
Greece	Finland	
Italy	France	
Latvia	Germany	
Lithuania	Ireland	
Poland	Luxembourg	
Portugal	Malta	
Romania	Netherlands	
Slovakia	Slovenia	
	Spain	
	Sweden	
	UK	

Source: Interviews; (n=52)

**TABLE 11. TYPES OF POLICE/INVESTIGATION CORRUPTION IN THE EU MEMBER STATES.<sup>36</sup>**

<b>Donkeys:</b>	work characterised by both isolations and subordination: <b>'grabbers'</b> , individual deviance	Occurs in all 27 Member States
<b>Hawks:</b>	a lot of freedom, distance from organisation, there's no indication that the institution is corrupted; <b>'rotten apples'</b> : individual deviance (example: higher rank officers or officers working on highly confidential material)	France, Spain, UK, Italy, Slovenia, Sweden, Netherlands, Austria, Belgium, Ireland, Germany, Sweden
<b>Wolves:</b>	strong group identity creates a 'subculture [that] facilitates legitimate teamwork as well as organised deviance' because, <b>thanks to the group</b> , they have protection against external controls	France, Spain, Italy, Romania, Czech republic, Bulgaria, Portugal,
<b>Vultures:</b>	<b>great freedom</b> to aggressively seek exploitable situations, <b>using the cover offered by the group</b>	Bulgaria, Greece, Romania, Czech republic, Latvia, Slovakia, Lithuania, Cyprus, Poland

<sup>36</sup> This table is based on the classification proposed by Van de Bunt (2004).

As officers, “Hawks” have excellent knowledge of the system and the clear understanding that any wrongdoing would lead to severe consequences, and therefore they are extremely cautious – even paranoid<sup>37</sup>. In countries with ineffective institutions and a lack of internal controls over the police and investigators, the “Vultures” model is the norm.

#### 4.3.1 Corruption and the Internal Affairs units

*Before 1990 the institutional position towards corruption was passive – corruption was investigated, only when there was a signal – no proactive policies existed (UK).*

*Corruption in the police is a minor problem in France. In 2008 we had only 10 registered cases. There is no collusion between corruption and organised crime. In France, there are no structures, no groups of criminals (FR).*

*In Germany we have lower rates of corruption; we have more extreme exceptional cases. In such cases the policeman is usually the „denunciator” (the one saying that someone has tried to corrupt him) (DE)*

There is a variety of approaches and structures dealing with corruption in the police. At one end of the spectrum is the proactive approach adopted in the UK (very similar to the US approach). In most of the EU countries, however, the predominant approach is a reactive one, where signals are investigated and administrative control exercised (FR, ES, NL, DE). In some countries there are no specialised units dealing with corruption among law-enforcement officers, as the latter is believed to be insignificant and not requiring special counteractive efforts (Denmark, Ireland). In some countries of Eastern and Southern Europe specialised internal affairs units register a great number of cases, resulting in officers’ dismissals. However, anonymous insiders and alternative sources claim that only ‘safe’ low-level cases are investigated. For instance, corruption in the traffic police is highlighted (BG, RO, EL, and CY), while cases involving organised crime activities, such as prostitution, smuggling of excisable goods or economic crimes, are avoided.

In Spain and France, alternative sources and official data on court prosecution of law-enforcement officers cast doubt on the official position that there is no systematic corruption in these countries. Respectively, it is questionable whether cases such the ones in Coslada (a Madrid suburb), and in Ronda, where a number of police officers were arrested (CS-ES), or the case of the Deputy Head of the Drug Squad of the Strasbourg police (CS-FR), are all merely sporadic incidents. Such large scale scandals are indicative of systemic problems rather than ‘rotten apples’. Large police corruption networks need a favourable environment to be sustained. They are not to be found in the Scandinavian countries, for instance, or even in countries with large criminal markets like England and the Netherlands.

*Guardia di Finanza (GdF): usually starts with an administrative financial investigation, but also has the powers of the ‘judicial police’ and turns this into criminal investigation. GdF is under the Ministry of the Economy, and naturally, the Ministry maintains close relationships with the local political elite. The GdF generals are considered part of the local establishment and the local elite. It is normal for them to be friends with the local business elite. For instance, the GdF general in Torino, would be normal to be present at all events of the Fiat, to be invited for breakfast with the heads of 5-6 of the big local families. Yet, starting an investigation against one of them the following day, would be considered part of the usual course of work. (IT)*

At the same time, these cases demonstrate that the internal affairs units in Spain have superior capacity than similar units in the new Member States (BG, RO, LV, LT, SK). A major issue in the new Member States is the lack of resources to investigate complex high level corruption cases. Corrupt high ranking officers are intimately familiar with the surveillance and tapping capacities of the system, with the evidence collection process, etc. They know from experience with criminal networks that minor details may be fatal for them being caught, and are very cautious in their actions (CS-BG).

<sup>37</sup> According to an alternative source, corrupt officers operating in this type of environment have more advanced knowledge of investigations, agents and technologies than the experts in internal affairs units. Such officers operate without revealing their identity to criminal networks. In order to further reduce risks, they operate within limited time periods.

### 4.3.2 Effectiveness of public institutions

Police effectiveness is strongly influenced by the overall effectiveness of other public institutions working closely with the police, including the prosecution and courts, and indirectly the tax administration, customs, etc. In both small (DM, SE, FI) and large countries (UK and DE), strong and effective public institutions prevent corruption among police officers and investigators. On the other hand, weak and ineffective institutions have similarly uniform effects, regardless of the size of illicit in the respective country. Thus, law enforcement institutions in such countries dealing with small (LV, LT, SK) or large criminal markets (IT, BG, RO) are equally affected by corruption practices.

Structural weaknesses in the institutions working directly with police, e.g. the prosecution (PO, BG) or the courts (IT, RO, EL) invariably lead to systematic corruption favouring the criminal networks. Effective specialized units for internal affairs can eradicate mass and systematic corruption in the police (UK). Similar effects have been observed in the eastern part of Germany after unification in 1990.

### 4.3.3 Policies for decreasing of corruption pressure over police

Some countries adopt policies that reduce the corruption risks related to organised crime. A typical example is the legalisation of prostitution in the Netherlands and Germany, and the legalisation of cannabis in the Netherlands. Accordingly, the police avoids actions against organised crime on the street level.

In the Netherlands, for instance, street level cocaine dealers are generally not prosecuted. In other countries, where street dealers are targeted by police, their place is quickly taken by other recruits, and the police and prosecutors remain under potential corruption pressure (NL). In countries, like the Netherlands, the police targets mid-level drug distributors, therefore reducing the risks of corruption for patrol officers. Similar is the situation with drugs and the night clubs. Licenses to operate are very expensive and owners do not risk with drug sales inside their establishments (NL). Unlike other countries, the UK police is not involved in providing permits in licensing or in regulating private security firms. Therefore, there is no corruption pressure on law-enforcement related to private security firms involved in drugs distribution in night clubs.

### 4.3.4 Status of officers in police and investigating institutions

The social status of police and investigating officers varies significantly in the 27 Member States. The vulnerability of officers to corruption varies accordingly. For instance, in Denmark, Finland and Sweden, working for the police is considered a prestigious public sector job. The opposite is true in countries like Greece, Portugal and EU-10E (with the exception of Slovenia).

- *The low compensation* of police officers is most frequently cited as the reason for high levels of corruption in the new Member States like Bulgaria, Romania, Slovakia, Lithuania and Malta, and also in some old member states like Greece and even Italy. According to interviews in Guardia di Finanza (GdF), lower level police officers in Italy get 1200-1500 EUR per month (compared to a mid-level 1700 EUR compensation in Slovenia, where the average salary is only 900 EUR). Inadequate compensation of police officers serving in local police departments is indicated as a problem even in countries with low levels of police corruption like the UK.
- *Low education* and poor training is frequently identified as a major status issue in EU-10E countries and Greece.

#### 4.3.5 Institutional factors explaining corruption

- *Lack of meritocracy.* A key factor in EU-10E (and EL, IT), is that the competence, efforts and effectiveness of police officers is of no importance in the evaluation of their work. Instead, superficial quantitative criteria are used to evaluate their performance. The number and nature of cases, and the results of their actions, do not determine the opportunities of police officers for career advancement, higher income or professional rewards. Frequently, it is impossible to determine whether a certain investigation has failed due to incompetence or as a result of corruption (EL, RO, HU, BG). The career advancement of officers is not dependent on their qualifications and experience but on the strength of the clientelistic networks supporting them, and on their loyalty to senior management. Under this system, systematic performance failures and even contacts with organised crime do not result in dismissal. In fact such officers often rely on the support of their supervisors (BG, EL, IT).
- *Low standards for the recruitment of officers:* In countries with high level of police corruption, entry in the law-enforcement forces is often a chaotic process. Although there are requirements and a process for the hiring of officers, in practice the criteria are often ignored. Due to the low social status of the profession, job seekers with good education and high motivation avoid it. As a result, often candidates with inadequate education and problematic behaviour get hired. Some corruption cases reveal that such officers come into police force with pre-existing close relations with members of criminal structures (BG, RO, EL).
- *Police subculture of isolation from other social and professional groups in countries with high levels of corruption:* Entering the police force is often part of family or neighbourhood traditions. As a consequence, loyalty to the group is very high. In less affected police departments, the practice is 'to look the other way', while in departments where the 'vultures' model prevails, non-participation in corruption practices and illegal income is considered risky behaviour by the 'vultures'. A non-participating officer either has to adapt to mass practices or quit. Rumours and false accusation reports are common in this subculture. The police subculture in countries with low corruption levels (UK, DE, NL, DM, FI, SE) has the opposite effect: corrupt officers face

peer pressures to quit. Interviewees indicated that police culture in England evolved from the practice of protecting corrupt officers to reporting them. At the same time, although police culture in Northern and Western Europe does not support corrupt behaviour, it resists certain institutional measures like whistle blowing (NL) or intensive integrity testing. In some of the old Member States, the police culture is reinforced by the fact that police officers come from specific social class. For instance in the UK they often originate from the same social strata or areas where many organised crime figures originate (UK, NL). In Italy, within the police force (e.g. Guardia di Finanza) itself the culture often differs, as usually only higher level officers have access to white-collar criminals, as they share much more their social background.

#### 4.3.6 Outside pressures on law-enforcement institutions

- *Economic pressures.* In the EU-10E the police and special services are charged with the investigation of almost every kind of economic crime, from smuggling to fraud involving EU funds. As a result, law-enforcement officers are subjected to strong pressures from their superiors as well as from magistrates, local businessmen and politicians. Organised crime has developed its 'infrastructure' (channels for the distribution of oil products, illegal cigarettes, alcohol and smuggled consumer goods from Asia). Police forces working on such cases often become part of organised crime and are directly involved in regulating illegal markets and criminal activities. (BG, RO, PO, SK). At the same time, investigating officers do not distinguish the activity of organised criminal groups from 'white collar' crimes (PO, BG, LT).
- Similar pressure related to the specifics of national economies is observed in some old Member States. Organised crime exercised pressure on the units investigating economic crimes in Italy (i.e. on Guardia di Finanza) and Greece (namely, on the Coast Guard). In many of the old MSs with low levels of police corruption, the police does not have specialised units for economic crimes. Officers avoid 'looking in the direction of corporations', as this is considered a high risk for any public servant. The police assumes that investigating this type of crime is the responsibility of tax or financial oversight authorities. Similar logic is applied to the smuggling of excisable goods. Investigating such crimes is considered the prerogative of the customs, not the police (DE).
- *Risk areas.* In almost every EU country certain areas of high pressure on the police/investigative services have been outlined. Typical risk area relates to immigration channels (EL, CY, AU, ES), and the small towns and villages close to national borders (BG, PO, SK, RO). In some Member States, certain *regions and cities* have traditionally (see Table 12) been associated with high levels of corruption and systematic links to organised crime. In some cases, corruption income and support for organised crime have become the norm. The following table lists certain towns and regions across the EU where the corruption pressures over law enforcement are particularly strong and

TABLE 12. REGIONS AND TOWNS WITH HIGHER VULNERABILITY TO CORRUPTION

County	Regions of higher vulnerability to corruption
Bulgaria	Towns along the Turkish and Greek borders, Sofia and the town of Dupnitsa
Czech Republic	Prague and towns along the German and Austrian borders
France	Corsica
Greece	The island of Crete
Hungary	Budapest and towns along the Ukrainian border
Italy	Calabria and Sicily, and also parts of Campania
Latvia	Regions close to the Russian and Belorussian borders
Lithuania	The region close to the Belorussian border
Poland	Towns along the Ukrainian and Belarus border
Romania	Regions along the Moldovan/Ukrainian borders; the cities of Brasov and Cluj
Slovakia	Towns along the Ukrainian border
Spain	The region of Costa del Sol

Source: Interviews

of a systemic nature: This phenomenon is also observed in countries with low levels of corruption. For instance, in the Netherlands it is acknowledged that in Amsterdam corruption is much more frequent than in other parts of the country. Similar is the situation in Germany, where corruption is much more common in the eastern part of the country.

- *High risk crimes.* Representatives of internal control departments claimed that drug distribution and prostitution were the two categories of crimes in connection to which police corruption was most frequently revealed (NL, BE, DE, ES, SL, UK). The vulnerability of police to this type of crimes was shared among countries with high levels of police corruption (EL, PO, SK, RO, BG), and countries where police corruption is considered an extremely rare phenomenon (SI, DE, UK). While with drugs a certain degree of restraint is still in effect due to the harsh consequences of abuse, the vulnerability of police is much higher in dealing with the market for sex services (DE, ES, FR, HU, EL).
- *Special structures* – In some EU countries special structures have been formed to combat ‘severe and organised crime’. These structures are vested with extraordinary powers, such as surveillance, wire tapping, access to bank accounts and tax data for suspected persons and companies. In some countries there is no separation between the structures dealing with organised crime and those involved in counter-intelligence and anti-terrorism activities. At the same time, there is a complicated level of security, as these operations have to remain secret (ES, BG, AU, RO, UK, IT). Organised crime is particularly interested in penetrating this type of special structures. In some cases high-ranking officials have leaked information to organised crime and have blocked ongoing investigations. Some officials have

*Corruption risk factors (UK):*

**Access to criminals:** Usually it is the lower rank officers that have direct exposure to criminals and could become exposed to corruption pressures. Lower rank officers also have fairly broad powers in the investigation process, which also makes them vulnerable. The lack of legitimacy of organised crime figures prevents them from having access to higher level officers.

**Gyms** represent another risk factor that needs to be considered. Younger police officer culture in recent years has led many of them to frequent gyms on a regular basis where they have had more frequent contacts with criminals.

**Informants:** Officers who work with informants are also considered to be at high risk. The access to criminals in a non-public environment coupled with exchanges of fairly large sums of money are key risk factors.

**Pressure from family and friends:** 'When the brother of your wife or your cousin happens to be a drug-dealer' you might be pressured to protect him in some ways'.

**Loyalty** within the group or to former colleagues: even if not directly profiting from corruption, loyalties within small teams put pressure on others. (UK)

even taken sides in fights between criminal competitors by initiating police actions targeted at a certain group of the underground world rather than at its competitors.

- **Political influence** over the police at the local level is observed in most EU-10E countries, Greece, Cyprus, Italy, and France (Corsica). In parts of Italy (Calabria, Sicily, and Campania) the traditional organised criminal groups might exercise influence over the police and investigative services by influencing elections of mayors, city councils and the local administration (see box further down). A similar model of influence at the local level is observed in Bulgaria and Romania, where the Galev brothers in Bulgarian town of Doupnitsa, the 'brothers from Braila', and the 'Moldovan brothers' from Brasov – control local politics. In Bulgaria, criminal entrepreneurs 'invest' in the local authorities to gain access to public tenders, construction of infrastructure and EU funds. They finance mayors and city council members, who in return lobby for the appointment of high-ranking police officers who are friendly to local oligarchs and criminal bosses. A similar model is observed in Hungary, Slovakia and Latvia. Such influences could even reach the national level, where large criminal entrepreneurs could control appointments in the police and special services.
- **Judicial influence:** with their ability to control the whole prosecution process, magistrates and in particular prosecutors could exercise influence over the police and investigators. Police officers are thus aware that certain influential businessmen, who are part of the criminal networks protected by members of the judiciary, cannot be touched and avoid any actions against them (IT, EL, BG, PO, DE-E).

#### 4.3.7 Intermediaries

The operation of intermediaries is dependent on the level of corruption in police and the investigative units in each country. In EU-10E, Greece, as well as Corsica, intermediaries work fairly openly. Some of them may even become public figures and hold political positions. Criminal bosses, when confronted by the police, do not hesitate to demonstrate their access to intermediaries (BG, RO, EL, IT). In EU-17, with its developed procedures and structures for the control of police behaviour, intermediaries operate in more subtle ways, taking special measure to remain unidentified (UK, FR, DE).

- **Clientelist networks** exist in countries with high levels of police corruption (IT, EL, PO, CY, BG, RO, PO, HU) and are not typical for the countries with lower levels. These clientelistic networks reach beyond institutional boundaries and hierarchical levels. A network may unite tens or even hundreds of participants, including active or former police officers, investigators, magistrates, businessmen and politicians. Access to clientelistic network by criminal organizations gives them opportunities to influence the overall process, instead of dealing with a couple of intermediaries. For instance, a network could secure a safe channel for the import of illegal goods, or prevent a potential investigation as well as block an ongoing one. The benefits for the

participants in the network are that they get a stable flow of criminal clients (instead of a one-time payment), without the risk of being associated with a single criminal group. If one section of the network fails, other participants take over its functions. These networks providing criminal services are sometimes called 'negative capital' in societies with low social capital like the Balkans, Sicily, Corsica and certain regions of EU-10E countries.

- *Former police officers or special services employees* are the most widespread type of intermediaries. Retired officers generally preserve their relationships with active workmates. Corrupt active officers, on the other hand, might see relations with former colleagues in the private sector as an opportunity for a good additional income when they retire. This model is observed even in countries with low levels of corruption (UK, SE, NL).
- *Private detective agencies and private investigators (PI)*: These are usually experts from economic intelligence companies (UK, FR). These individuals often have connections with the police, or with companies that the police uses to track suspects (e.g. phone companies). When large and well-known firms decide to use corruption, there are several levels of subcontractors between them and the person, most often a PI who would use illegal means to obtain information, e.g. phone records (UK, DE) or investigation information from former colleagues (FR).
- *Attorneys* have a significant competitive advantage over all other intermediaries – they can provide services through the whole institutional chain, starting with police and going all the way to prosecutors and even judges (BG, PO). Furthermore, in some of the old Member States, attorneys are middlemen for organised criminal structures consisting of immigrants (ES, UK, AU, DE). Unlike local criminal groups that have some kind of direct access to law-enforcement officers, immigrants typically lack any access and have to rely on intermediaries.
- *Criminal informants*: investigations of cases of police corruption have shown that police and informants often take advantage of each other. Even in countries with developed regulations governing collaboration with informers, police officers return favours to their informers, like leaking information about ongoing investigations, putting pressure on competitors, etc. (UK, NL, FR). In countries where the police is underfinanced (Bulgaria), informers often receive favours in lieu of payment.
- *Family – relatives*: These are the most widespread intermediaries in Southern and EU-10E countries, but are also used in countries where friends and relatives are not a primary resource (UK, NL, DE). These intermediaries are particularly useful in small towns.
- *Girl-friends and prostitutes*: – This type of intermediaries are sometimes used to discredit police officers or investigators. A prostitute is sent to an officer working on a certain case, and then the officer is black-mailed with pictures or video recordings (FR, UK).

The complexity of police corruption is difficult to be fully captured, and local and institutional specificities often impede such efforts. The case of Italy, based on several anonymous interviewees with former or present

police officers exemplifies these complexities. It also shows how absence of active corruption (in terms of exchange of bribes and personal profit) is substituted by a complex system of communal and institutional relations that have a similar effect.

### ***Police corruption in Italy***

*In Italy, many smaller towns have significant economic power concentrated in big companies, which often have international operations. The economic significance of the companies in these regions or towns transforms company directors into local economic power players, who have significant relations with local politicians, judiciary, or police.*

*Police in Italy are generally strongly influenced by politicians. Professional advancement is not based on merit, but is largely dependent on informal relations. Officers who put special efforts into their work do so out of their own motivation. In addition, there are four general levels within the police, and each has strong cultural bonds, and movements between them are difficult. Lower level constables can progress little in their careers, and are unlikely to ever become high-level officers. 'Investigators' (marcialli) are at the next level, and they may, with lots of effort, reach the higher officer level. The high officer level is largely a 'higher caste' which is accessible only to individuals with connections. The hierarchical structure of the police and the lack of merit-based promotions lead to the toleration of and lack of scrutiny into higher level corruption. If one gets a call from a superior, orders are usually followed, even if there is suspicion of political influence. In addition, there is a very strong sense of group loyalty and cohesiveness particularly within the higher ranks of the police.*

*In addition, appointments particularly in 'carabinieri' and 'Guardia di Finanza' are usually for 2-3 years at a given location. While the application of this approach has been largely intended as an anti-corruption measure, it has proved to work conveniently in the opposite direction. The shifting of officers has become a control tool for stopping or influencing corruption investigations. When high level commanders are corrupt, their strategy of influencing a city or regional level commander is usually to move them to a different location.*

*In a well known case, the entire management of Guardia di Finanza in Milan was relocated when the Left was in power, as it did not agree with the way "certain investigations" were being conducted. This caused a public outcry and was reported in the press. The same thing, though, goes on at a lower level in small towns without even being noticed.*

*Such system malfunctions favour organised crime, particularly in certain regions of Italy with high levels of mafia infiltration. In such regions the low quality of law-enforcement discourages officers from other parts of Italy from taking a position there. Officers usually lack the motivation to engage in any type of investigations in such regions, because they would soon face corruption and obstruction by informal relations of local permanent staff. "You can't even trust your own secretary". (1) Calabria; (2) Sicily; and (3) parts of Campania were ranked as the most corrupt. Nevertheless, corruption by OC exists in Northern Italy as well. Parma, for instance, is heavily infiltrated by the Camorra – its economy and politics alike. Prosecutors often avoid working with the police for lack of trust, and instead use internal sources.*

*The 'Ndrangheta is particularly effective in maintaining its grip, as there are practically no 'whistle-blowers' that have dared to come forward. The attitude of many officers in regions such as Calabria is often summarised by the expression "The mafia is too strong, why fight it?" Only a small-group of self-motivated officers work for this cause, and they are the only ones achieving any results.*

*Another group of officers, those who come from regions with strong Mafia presence, usually return to police stations close to home and their families. At home their main goal is to maintain the status quo, without threatening the lives of their family, or their own careers. When prosecutors start an investigation, they usually like to work with young, newly arrived captains that are less likely to be corrupt. This is observed quite often, especially in Southern Italy. All of the above though, has resulted in major staffing problems in Southern Italy and other problematic regions, where as a result officers are unmotivated. (IT)*

#### 4.3.8 Mid and long-term risks

The economic crisis of 2008-2009 is seen as a risk factor for police officers and investigators. In some countries in EU-10E where successful and very sincere interviews were carried out, it became evident that criminal networks are targeting police officers whose households are heavily indebted (BG, SK, RO). Unlike countries with experience and traditions in dealing with corruption, where preventive measures are taken in the current critical situation (UK, NL), EU-10E countries recognize the risks but have not take any practical steps to mitigate it.

Interviewees pointed out that the “new minorities” are not adequately represented in police forces. To avoid “grey areas” and the isolation of these ethnic groups, efforts are being made to hire minority representatives as police officers and investigators. The police officers from immigrant minorities, though, present a certain risk, as they may bring their family dependencies, in the cases where organised crime networks are developed on an ethnic basis (UK, AU).

The risk related to immigrant communities reflects new features of organised crime in the EU: namely, increased mobility and the establishment of trans-border networks. Following the end of border and customs controls within the EU and the expansion of the Union in Eastern Europe, where law enforcement and judicial institutions have limited capacity, new opportunities were presented to criminal networks. A new type of criminal organization emerged, where criminal activities (drug distribution, prostitution, and car theft) are carried out in the rich Western Member States by low-ranking members, while criminal bosses live and manage their organizations from the new Member States (BG, RO). Oftentimes, criminal bosses also own large legal economic groups and enjoy political protection. As a result, even police forces with adequate capacity prefer to treat criminal cases of such powerful local as not related to organised crime. Thus they avoid extensive investigations, the spending of resources, and also political complications. Accordingly, large criminal networks plan and organise their activities to make them appear as if they were performed by small and disparate groups unrelated to each other.

Dealing with this new type of criminal structures requires serious international cooperation. However cooperation is hampered by the lack of developed mechanisms at the inter-state level. Interviewees mentioned that requests for police cooperation sent from EU-17 to New Member states often end up serving as ‘tips’ to the respective criminal network that it is being investigated. Consequently, police forces in Eastern and Southern Europe, known for their low reliability, are not trusted by their Western counterparts; therefore, information is not shared. Part of the problem is that requests for cross-border police assistance do not have specified deadlines (unlike requests within a given country), so it is not always clear whether delays (or the lack of response) are influenced by criminal structures or not.

#### 4.3.9 Anti-corruption measures in the police

Below is a list of anti-corruption measures mentioned by interviewees, that have been implemented in Member States.

- Introduction of clear criteria for career advancement based on effectiveness and merit (applies to countries where this approach is not adequately developed, i.e. most of the new Member States, and also Greece and Italy).
- Independence of the Internal Affairs Units from the administrative management of police structures (in some EU-10E countries these specialised units continue to be dependent on the senior police management).
- Transition from a passive to proactive strategy: currently, in most countries investigations are initiated only when tips are received. The experience of the UK and USA has demonstrated that Internal Affairs Units should proactively search for information about suspicious behaviour on the part of police/investigation officers.
- Application of provocation methods against law-enforcement officers, e.g. using drugs and marked bank notes in police stations as a lure.
- Use of undercover officers to secretly test others if they are suspected of corruption or unethical behaviour.
- Allowing Internal Affairs Units to use special intelligence methods: electronic surveillance, intelligence, or informants. The use of electronic surveillance in countries with high levels of police corruption has often proved ineffective, as information is leaked to the officers under investigation.
- Use of intensive integrity tests, including the introduction of random integrity testing or lie-detectors. The frequency of testing, the departments and the number of officers tested should vary with the level of risk in the respective police structures, estimated on the basis of a set of criteria.
- Risk management: monitoring and identifying officers at risk, as well as inspections of line-managers and ensuring proper supervision.
- Introduction of 'whistle-blower' programs, whereby officers offering information on their corrupt colleagues are offered guaranteed anonymity and witness protection.
- Facilitation of financial audits by Internal Affairs Units. They should have access to the financial records of officers suspected of taking bribes, selling drugs, or making money illegally.
- Creation of a vetting system in which the lifestyles and backgrounds of officers are examined.
- Introduction of rotation systems for employees, and mandates in particular for high-ranking officers (e.g. not more than five years in a given position). In regions with higher risk rotation could include lower level officers as well. The same applies to departments exposed to higher risks. Rotation systems should be supported with the necessary resources (for instance, in countries with lower living standards, even high-ranking officers find it difficult to find quality housing when relocating). The rotation system should be designed to prevent officers from serving in their own home area.

- Proactive information management: ensuring that officers do not have access to information that they do not need, and maintaining records of who is accessing what information. Introduction of secret alarm systems to detect officers who try to gain illegal access to confidential information stored on computers.
- Debt-management: welfare departments in police forces should have relations with debt managers, and police officers who experience financial difficulties should have access to their services. In some cases, where debts are extremely high, a system of financial support may be introduced to help officers who are at high risk of corruption.
- Policies promoting gender balance within the police workforce. The experience of UK has proved that the influx of women into the police force reduces corruption, as women tend to be less likely to engage in risky behaviour involving corruption.
- Introduction of drug testing at various levels, for instance drug testing of officers who enter the force. Random testing of officers at risk.
- Evaluation of the effectiveness of ongoing anti-corruption programs in police. Some measures, such as phone lines for corruption tips and education seminars rarely undergo evaluation for their effectiveness.

#### 4.4 Customs corruption

Corruption within customs administrations across the EU is marked by stark differences between *perceived* customs corruption levels in EU-10E and Greece on the one hand, and in the rest of the EU MS. The opinions provided by interviewed representatives of customs administrations or independent analysts in EU-17 (DE, FR, UK, BE, IT, NL, IR, ES, FL, SE), as well as public opinion surveys, support this view. While in EU-15 25% of the adult population considers corruption amongst customs officers to be widespread, in NMS-12, 46% do so. In countries like Bulgaria, Greece, Romania, Cyprus, and Latvia, almost 60% or more of respondents consider the customs services to be corrupt (Eurobarometer 2007, p.11). Interviewees for the present study presented a similar picture, as customs corruption along EU's eastern external land borders was considered particularly high (see Table 13).

The statistical data from Member States supports these perceptions. In France since 1990, there have been on average only 2 registered cases of customs corruption per year. In Slovenia, the last two years there have been only 3 corruption cases related to OC. In Italy, there have been 50 corruption cases between 2006 and 2008 but none of them has been related to organised crime. In the UK, in 2008 around 130 corruption cases were registered (related to the theft of seized goods or the passing on of information to outsiders), yet none were related to organised crime. In the past 5 years there has been only one case in the UK that was related to a corrupt officer involved in small-scale drug-trafficking. In Belgium, between 2003 and 2008, there were only 3 disciplinary actions taken against customs officers, related to the trafficking of illicit goods. In Spain, annually there are on average less than 5 registered corruption cases in the tax or customs administrations. In

**TABLE 13. IS CUSTOMS CORRUPTION BY ORGANISED CRIME IN YOUR COUNTRY CONSIDERED A PROBLEM?**

Yes	No	Somewhat
Greece	Denmark	Hungary
Romania	Malta	Czech Republic
Estonia	France	
Latvia	Spain	
Slovakia	Finland	
Bulgaria	UK	
Lithuania	Italy	
Poland	Slovenia	
	Sweden	
	Netherlands	
	Austria	
	Belgium	
	Ireland	
	Cyprus	
	Luxembourg	
	Germany	

Source: Interviews; (n=42)

An officer at a major London airport was involved in covering up the smuggling of cocaine from the Caribbean. The officer would be provided with descriptions of the mules transporting the drugs, and would simulate a detailed check when the mules went through customs inspection. In this way the officer would ensure safe passage for the mules. The officer was eventually caught when he started showing up for work on his days off as some mules passed outside his work schedule (UK).

In 2009, corruption was uncovered in the customs administration in Riga – the head of the anti-smuggling department was arrested. The case involved fraudulent documents on goods of supposedly EU-origin which were then fictitiously exported and VAT was claimed (there were, in fact, no actual goods). The intermediaries involved were ex-customs officials. (LV)

Cyprus in 2008, there were 2 registered OC related corruption cases (both on cigarette smuggling), involving 3 customs officers. In some Member States, like Finland and Luxembourg, there have been no registered cases at all.<sup>38</sup> Consequently, most of the interviewees either had no knowledge at all about how organised crime uses corruption in customs, or were familiar only with a few registered cases, usually considered exceptional. The majority of cases quoted were related to single officers. At the same time, only in Greece in 2006, 49 customs officers were tried and imprisoned for corruption (CS-EL), while in Bulgaria on average between 20 and 30 customs officers are fired on corruption charges annually (Assenov 2008). In either case, the number of detected corrupt customs officers is higher than the total for EU-17.

This lack of information and empirical knowledge about customs related corruption in EU-17 and the contrast

with EU-10E and Greece calls for some analysis to explain these differences before presenting further analysis on the issues of customs corruption.

#### 4.4.1 Explaining the lack of corruption

The explanations provided by interviewees for the lack of registered cases of customs corruption in EU-17 ranged from objective factors, to geographic or institutional circumstances:

- **No need:** EU-17 has few land border-crossings, and the non-EU cargo enters these countries through sea-ports, airports, or river ports (AU) where customs inspections are concentrated. Due to the large volume of container traffic passing through the large sea ports in EU-17 (e.g. in the Netherlands and Belgium), the statistical chances of passing through undetected are so high that OC considers corruption as an unnecessary expense. Some interviewees referred back to the early 1990s, when land-borders crossings between countries in Western Europe existed, recalling customs corruption to have been commonplace at the time (FR).

<sup>38</sup> All of the data quoted was provided either in the course of the interviews by customs officials, or was sent in written communication.

- **Geography:** long coastlines (France, Italy, Spain) make the use of speed boats<sup>39</sup> one of the preferred methods of smuggling of drugs or cigarettes, again reducing corruption pressures as chances of being caught are fairly low. The main corruption pressure related to excise tax goods falls on EU's eastern borders, although the smuggled products are destined for EU-17.
- **Institutional setup:** Corruption pressures by organised crime on customs are limited as other institutions are involved in border protection. For instance, in Spain the Guardia Civil holds most of the customs related functions that many other countries have (SP). In Italy significant customs functions are taken over by the Guardia di Finanza, while port and coastal security is provided by Capitaneria di Porto-Guarda Costiera. In terms of drugs trafficking interception, navy forces of Member States (UK, FR) patrol along with Spanish customs ships.

There are important differences in powers between customs and tax administrations, in particular as regards responsibilities related to the collection and administration of VAT and excise taxes. The specific arrangement to share these responsibilities between these administrations could determine whether corruption pressures are stronger in one or the other.

- **Private sector corruption:** corruption pressures on customs are further reduced as security and shared responsibilities with private companies managing security in airports and seaports, making private companies the immediate targets of corruption (further discussion on this issue is provided in the section on private sector corruption) (DE, NL).
- **Higher salaries and civil servant status** make customs officers in EU-17 less vulnerable (IE, FR, UK) than their colleagues in EU-10E countries.<sup>40</sup>
- **Taboo issue/denial:** Some interviewees explained that customs corruption is an institutional taboo (BE, DE, FR). The presumption is that it is not there, it is exceptional, and it does not constitute a significant threat. The Belgian Customs for instance, started a corruption awareness educational campaign only in December 2008.<sup>41</sup> In addition, customs administrations across the EU, and particularly in EU-17 (FR, DE, BE), do not have 'internal investigation' departments. Corruption is detected usually by the police and only in the course of other investigations. That fact further explains the reduced potential to detect corruption cases.

Some interviewees expressed concern that the exposure of Western European companies to corruption along EU's new external borders has

<sup>39</sup> Used to transport drugs from passing ships or yachts onto numerous speedboats that unload the cargo along the coast.

<sup>40</sup> Some differences exist also in Eastern Europe as well, as salaries in Greece and the Czech Republic are significantly higher than those in Bulgaria and Romania.

<sup>41</sup> The case of Cyprus is another example of suspected denial of the problem. For all Member States public perceptions on customs corruption levels coincide (Eurobarometer, p. 11) with expert or official positions expressed in interviews conducted as part of the present project. In Cyprus, where customs officials stated that hardly any corruption existed, perceived levels of customs corruption amongst the general population were among the highest in the EU (61%).

increased their readiness to try to use corruption on domestic customs offices as well. An internal survey conducted amongst Swedish customs officers showed that 14% of customs officers have been offered bribes in the past (SE).

Customs Corruption, on the other hand, is actively used by criminals and companies in EU-10E and Greece. The process is **two-directional**: not only do criminals try to pay bribes but also customs officers (respectively politicians or the police) often act as racketeers targeting individuals, companies, or criminal networks committing customs violations. The rest of this section provides some of most common objectives and schemes of customs corruption, as well as an analysis of the driving forces behind the phenomenon.

#### 4.4.2 Corruption objectives

*In 2008, the Corruption Prevention and Combating Bureau of Latvia (KNAB) investigated and uncovered an organised crime group operating at the Russian border. The group involved customs and border police officers; the mayor of a small nearby town was also involved, and even suspected of being the head of the group. The group was engaged in outright (no customs documents or other traces were left) smuggling of tobacco and alcohol from Russia and was using some illegal warehousing inland. Most members of the group were arrested. (LV)*

*In the late 1990s there were several cases of 'noble cause' corruption. In one of these cases, a heroin trafficker from Pakistan had established a relationship with three officers (Brand Field – West Midlands case). He was involved in selling big quantities of heroin to customers in the UK. After completing the sale he would pass information to the customs officers, who would then conduct the raid and seize the goods. In that way, he was doing a 'double hit'. On the one hand he was pocketing profits from the drug sales as well as from the awards (running in the tens of thousands of pounds) given by customs for passing information. This happened at least on 13 occasions. (UK)*

The most frequent instance of (usually petty) corruption in customs involves legitimate companies trying to facilitate the faster crossing of borders (EL, CZ, FR, AU, SK) or the speedier release of goods due for customs inspection. While the elimination of border crossings and modern border management have significantly reduced the need for such corruption across the EU, external land border crossings are still vulnerable to such pressures. If for legitimate companies, customs corruption is about better and faster service, for criminals it is a risk-reduction and crime facilitation tool. The most common objectives are:

- **Avoiding detection** when smuggling goods. The mechanisms here range from paying frontline officers to bribing shift managers who ensure the complicity of officers on duty, or allow cargo to pass while shifts change. Corrupt officers with knowledge about the movement of mobile units (or members of mobile units themselves) could also help smugglers avoid detection. Obtaining information about risk profiles used by customs is another technique used to avoid attention;
- **Avoiding investigations:** in countries where customs have investigative or intelligence powers (SE, RO, SK, SP, CZ, BG) corrupt officials within these departments could provide warnings on ongoing investigations. A bribe could also stop or prevent the start of an investigation;
- **Facilitating fraud:** there are a number of ways in which corrupt customs officers could facilitate customs fraud: from entering a code for the imported goods reserved for a slightly different commodity (and carrying lower import taxes), to not verifying the country of origin for goods (and the related import taxes), or registering a different quantity/weight/or value of goods than the one actually imported (BG, EL, LV);
- **Facilitating smuggling into third countries:** providing customs documents that could facilitate the smuggling of goods into another country.

### 4.4.3 Criminal activities and customs corruption

Not all trans-border criminal schemes require corrupt customs officers. VAT fraud schemes (RO, BG, RO, MT, SK, ES, SI, SU, LV) typically do not rely on corrupt customs officers although there have been cases when they have been facilitated by corrupt customs officials (BG, EL, DE). In VAT fraud schemes, tax officers are more often targeted. Similarly, corruption is relatively rare when it involves the collusion of customs officers and border police in concealing the trafficking of goods controlled mainly by the border police, such as stolen goods (e.g. vehicles)<sup>42</sup> or trafficking in human beings<sup>43</sup> (LV, BG, EL).

*A corrupt customs officer at the port of Antwerp issued false documentation in collusion with British alcohol smugglers. The fraud scheme certified that goods had been exported to Belgium, when in fact they had never left Britain and were sold illegally in the UK. (BE)*

*In July of 2008, Munich's Public Prosecutor brought up charges against four customs officers at the Munich Customs and five employees of a customs agency were arrested. The prosecution claimed that since 1998, the officers had certified fictitious exports in order to facilitate VAT fraud and consumer goods smuggling schemes. In exchange, the officers received payments in cash or in kind in the order of at least € 30,000 per year. The Customs agents 'facilitated' the work of at least fifty trucking companies (Ulrich 2008).*

Corruption related to **drugs smuggling** exists (FR, ES, CS-EL, NL, UK, CS-BG, LT), but even in EU-10E it is on a far smaller scale than with excise tax or consumer goods. Customs officers consider facilitating drugs smuggling a high-risk crime and generally avoid it. Some interviewees were of the opinion that when 'everyone, including the police', is aware that large international ports like Antwerp are gateways for drugs smuggling, the lack of recorded corruption cases cannot be explained by the fact that criminals rely solely on low statistical chances of being caught. Instead, they suggested, authorities are not looking hard enough to detect corruption (BE).

**Smuggling of excise tax goods:** Customs corruption related to the smuggling of excise tax goods is probably most widespread across the EU: particularly as relates to cigarettes (EL, BG, AU, CZ, RO, MT, IE, HU, LV, LT), alcohol (BE, CZ, BG, RO, MT, IE) oil and oil products (EL, BG, MT, IE, PL, CZ). Part of the reason is that this is an area where customs exercise the strictest controls, as revenues from excise taxes are key to evaluating the performance of customs agencies.

The smuggling of excise-tax products involves a range of actors: from shuttle traders to small companies, to larger, even international companies. The corruption in this type of activity ranges from bootleggers paying small bribes to inspection officers, to arrangements with head of customs post or regional customs directorate (either direct from trading companies involved in the smuggling schemes), to corrupting officers responsible for customs warehouses, to political-level pressure over institutions. The majority of investigations of big cases of smuggling of cigarettes in the EU have revealed some indications of corruption in customs, although few have presented hard evidence. In the words of one interviewee "one would probably risk smuggling one container without paying a bribe, but no one would risk with two or three containers" (EU).

<sup>42</sup> *Customs corruption related to the smuggling of stolen vehicles is largely a thing of the recent past. Until the enlargement of the EU smuggling channels for stolen vehicles involved customs corruption, as the importation of vehicles (stolen or not) from EU-17 (the usual source for stolen cars) into Eastern Europe (the usual destination) required the payment of significant import duties. As with any other goods, extensive customs corruption networks in Eastern Europe facilitated the avoidance of such duties.*

<sup>43</sup> *A case in Satu-Mare (on the Romania – Ukraine border) involved the illegal transportation of people across the border. In this case both customs officers and policemen colluded into not inspecting the documents of people crossing the border (RO).*

The smuggling of alcohol or oil products could involve shuttle smugglers driving small quantities across borders (BG, PO, SE, FI, UK) on a regular basis. The more serious damage to state revenues usually involves companies, including such that have otherwise legitimate operations. The legitimate face of such businesses allows them to easily use political or judicial protection, or to have direct access to high-level customs officials (CS-EL, CS-BG, PL). As the Bulgarian case study indicates, one of the largest oil-refineries in the Balkans, owned and operated by Russian company Lukoil, has successfully used political protection in several consecutive governments to resist the installation of measuring devices that control the loading and unloading of oil tankers. An inspection initiated by the Russian side in 2006 indicated that reportedly ‘a significant’ part of the oil refined at the refinery was smuggled without being registered at the customs. In 2008 similar protection for well known alcohol producers in Bulgaria led to the resignation and prosecution of the deputy head of the anti-organised crime law-enforcement agency (CS-BG).

**Smuggling of consumer goods:** The smuggling of consumer goods (including counterfeit clothing or consumer appliances), particularly ones from China or the Middle East (EL, BG, FR, RO, IT, ES) is a major business of organised criminals, with significant impact on the state revenues. The key factor for this type of smuggling activity is usually immigrant populations respectively from China or the Middle East. Import companies owned by such individuals have contacts in their countries of origin that allow them to develop an import business (ranging from clothing or consume appliances to electronics) (FR, RO, EL, BG). Shuttle traders and small-medium enterprises are usually involved. In EU-10E and Greece, corruption is actively used to avoid import duties (see below).

TABLE 14. TAX AND CUSTOMS CORRUPTION SUMMARY CARD

Tax and customs corruption card				
VAT Fraud	Drug smuggling	Smuggling of excise taxed goods	Smuggling of consumer goods	EU aid/privatisation fraud
Fictitious re-claim of VAT	Avoid detection/prosecution	Avoid registry (excise tax)	Avoid import duties	Inflate value of goods
All	External borders	External eastern EU borders/major ports	All	All
Low	Low	High	High	Medium/Low?

- **Aid/privatisation fraud:** the customs are also instrumental in certifying the value of goods, particularly of imported industrial machinery. In one type of scheme, companies that import industrial means of production could inflate the value of the goods they purchase with EU aid money (e.g. they might purchase old instead of new equipment, or even certify that equipment has been imported, when that has not taken place at all). Another corruption scheme has facilitated fraud related to the privatisation processes in EU-10E. Usually, when privatising state owned enterprises, the buyers would make commit-

ments to invest certain amounts in the development of the privatised company. Corrupt customs officer then become complicit in inflating the values of imported machinery that is used to fulfil these commitments (BG, LV).

#### 4.4.4 Explaining corruption in customs

##### *Corruption in the military*

*Corruption cases involving the military relate to the border-guarding functions that militaries have in many Member States. The incentives of organised criminals to corrupt the military have increased in recent years, as Member States have sent military forces to Afghanistan, or Member States' navies patrol, as part of multinational forces, international waters for the purpose of preventing drugs smuggling. Cases across the EU have indicated that the main reason for corrupting the army was to facilitate cross-border smuggling activities.*

*Armed forces have a special exempt status in moving across international borders or territorial waters. They are not subject (at all or to the same level) to border and customs control procedures. There are also special areas, such as military/naval bases, that enjoy exclusive control by the military. In some Member States (BG and EL), in the recent past there have been instances when these powers have been abused, primarily in order to facilitate the smuggling of cigarettes.*

*A case quoted by an interviewee in Greece, described a cigarette smuggling operation which involved members of the police, the coast guards and a prestigious body of the Greek Army, the Underwater Demolition Team (UDT). The UDT and the coast guard, and in cooperation with corrupt police officers, were involved in transporting contraband cigarettes from open waters to the shore.*

*In Spain, some cases involving military personnel in the Spanish enclaves of Ceuta and Melilla located on the Northern coast of Africa have also been related to the smuggling of drugs. (ES)*

**Historical factors:** a couple of historical factors have had marked influence on the development of a culture of corruption that continues to mar customs agencies along the external Eastern border of the European Union: the embargo on the Former Yugoslavia and cross-border shuttle trade smuggling during the 1990s;

- **The economic sanctions on the countries of former Yugoslavia** created immense corruption pressures and an environment where everyone from the individual living in border areas, to politicians and security services, profited from organised smuggling. Customs agencies of countries along the borders of former Yugoslavia played along and without exceptions were involved in embargo busting activities (either for their own profit or under pressure from security services and politicians).
- **Shuttle trade:** the shuttle trade of consumer goods reached several million<sup>44</sup> small traders who crossed borders on a regular basis to import goods in the mid to late 1990s.

**The shuttle trading phenomenon today is largely limited to excise tax goods (cigarettes, alcohol and oil) or agricultural products (PL, RO, CS-BG, SK, CS-EL).** Shuttle traders do not engage only in petty corruption of inspection officers. At some border posts, part of the petty bribes are accumulated and passed along the chain of command, reaching even the very top of the customs administration (CS-BG). In addition, organised corruption mechanisms exist: groups of shuttle traders come together and use intermediaries to arrange corrupt exchanges with customs officers.<sup>45</sup> Organised crime becomes an intermediary between customs officers and shuttle traders, as criminals collect protection rackets from the shuttle traders and bribe the customs officer to ensure the smuggling channel. Protection rackets by organised crime go beyond shuttle traders and could be a means of controlling any company willing to become involved in smuggling.

Such schemes, as the Bulgaria case study shows, are still thriving. In fact, the previous Head and Deputy Heads of National Customs Agency in Bulgaria (2008-2009) also headed the agency in the Yugoslav embargo period. Following their replacement in mid-2009, the new government exposed massive smuggling schemes that took place until the middle of 2009 (BG). Many customs officers, particularly those in senior positions, in present-day customs administrations in EU-10E (and EL) developed their professional careers during these periods of mass customs fraud.

<sup>44</sup> The estimate only for Bulgaria stood at 300,000 shuttle traders in the late 1990s.

<sup>45</sup> In practice this occurs as follows: a group of shuttle traders travels by mini-bus every week across the border (e.g. with Turkey). The intermediary travels with them, and s/he has the connections and pays the bribes on their behalf to Turkish and Bulgarian customs officers. (CS-BG)

*In December 2008, 14 customs officers and one police officer were arrested on the Slovak – Ukrainian border in relation to trafficking of cigarettes, alcohol, and textiles. While some of the customs officers arrested were prosecuted for having taken bribes, others were prosecuted for being inactive. The officers were aware that numerous private citizens were crossing the border daily bringing more than quantities allowed for personal use. This arrest followed a 2005 operation during which 17 border-guards were arrested at the eastern border on similar charges (Cernak.sk 2008).*

*“You can bring whatever you like through the borders and have it cleared if you give them a little something. Do you know how many times I went to Istanbul and got back with a lot of merchandise, clothes? I didn’t even have to clear them. I tell them “here, have this to have a coffee’ and they would let me go. As long as you didn’t have drugs or weapons, no problem.” (EL)*

*In 2006, the attempt of the Secretary of Finance’s of Greece to move to different positions the heads of certain customs offices, where alleged corruption existed, provoked a political reaction from opposition party (who had appointed them while in power). The scandal revealed that these customs officers concerned were children of leading politicians, and were in practice political appointees. (CS-EL)*

- **The Grey economy:** in the 1990s the sudden liberalisation of CEE economies created a huge demand for consumer goods, which was filled by the large informal economy, where ‘legal’ and ‘illegal’ production and trade were often closely intertwined. This grey economic sector provided the demand and the distribution channels needed for smuggled goods.<sup>46</sup>
- **Border communities:** In analysing customs corruption along land border-crossing points, the cultural and socio-economic situation of the communities in border areas explains much of the ongoing corruption. Customs officers and border guards along the external land borders of the EU are often recruited from local towns (EE, PO, BG, RO, HU, SK). Typically, these are small towns, with very limited economic opportunities. Involvement in small scale smuggling is considered a viable source of income to local populations, and is tolerated by customs officers who usually need ‘their share’ of this trade. In countries where ethnic communities (e.g. Russians) are spread out across the EU border corruption networks exist on both sides (LV). In such small communities corruption does not need to take the form of bribes. Informal relations (‘everyone knows everyone’) mean that the exchange of favours, or trading in kind, could serve as substitutes to monetary bribes.

These local communities are just as vital to the small-scale smuggling, as they are to bigger smuggling schemes involving organised crime. They often provide the infrastructure (warehouses) or the manpower (shuttle traders delivering goods to particular wholesalers) needed for excise tax goods to reach final consumers. Local government and administration, or law-enforcement tolerate local companies that are involved in such activities as they are considered important to the local economy (BG, RO, LT).

**Political pressure:** another feature of customs corruption in EU-10E and Greece relates to political pressure. The corruption income from trans-border smuggling has been seen as an important source of funding for political parties (at local or national level), or for the personal benefit of corrupt politicians. Political pressures in smuggling operations carried out by larger companies usually involves a much broader range of corrupt economic relations between big business and politicians (discussed in more detail in the section on political corruption). The Head of Customs administration and key positions within customs such as heads of intelligence departments, inland control, or heads of key border posts along the revenue earning ‘eastern borders’ (or in the case of Greece, ‘northern borders’), and heads of certain regional posts, are often considered political appointments. Political corruption also transforms these in such positions into appointees of powerful local or national companies that have an interest in facilitating criminal activity in a particular region. The dependence of border region

<sup>46</sup> *If for instance clothing (counterfeit or not) from China is smuggled inside the country, hundreds of small stores or market stalls operating in cash were willing to distribute these goods. Furthermore, organised crime often racketeered these grey economic areas as well. (BG, RO)*

economies on trafficking often leads to the involvement of border town mayors in trafficking or protecting smuggling channels by using their connections with higher level customs, police, or judicial authorities (CS-BG, LT, PO). Political influence can also be indirect, as police might be stopped from investigating intermediaries, such as customs brokers (BG).

**Police pressure:** corruption within border police or police anti-trafficking units can also be transformed into pressure on customs officials. One such model involves police racketeering of customs officers: i.e. once the police discover that customs are protecting a smuggling channel, they demand a share of the bribes (BG). The second model is based on police-customs 'cooperation': some of the cases demonstrate how customs and border guard officials jointly participate in smuggling schemes (LV, LT, BG, EL). The third possible way is for anti-trafficking units to use their powers to create their own smuggling channels. One tactic used in Bulgaria has been to carry out excessive checks on vehicles or merchants who do not want to pay a bribe or who use a different intermediary (i.e. they might be paying the bribes to someone else who does not share their bribes with the police). In this way merchants are forced to either pay bribes to the officers in question or to switch to a different smuggling channel (BG).

#### 4.4.5 Intermediaries

Petty corruption in customs is usually the result of direct interaction between smugglers and customs officers (FR, SL, EL, SE, CS-BG, and LV). Certain specific positions, such as post-delivery or pre-shipment control, where customs officers visit the premises of companies, provide conditions for direct contacts between officers and company representatives away from the public eye. Some interviewees identified these as increasing vulnerability to corruption (BG, LV).

In EU-17, where corruption is not as wide-spread, organised criminals would even undertake some targeting and profiling. They would gather intelligence about the sea port customs personnel, for instance. They might try to find out if an officer gambles a lot or is in debt. Then someone would approach him in person directly (IR).

In these tactics of locating the 'rotten apples', OC figures might use blackmail. The first time a corrupt officer may agree to cooperate because he is paid a substantial sum of money. The second time if a smaller bribe is offered and he refuses, he may be threatened that previous corrupt deals would be exposed. The corrupt officer could then become an intermediary himself as he convinces co-workers to cooperate (SI).

**Internal brokerage networks:** probably the most powerful intermediaries are customs officers. The direct access to businesses and informal contacts with customs officers has transformed certain customs officers into 'corruption brokers'. They 'arrange' deals and facilitate

the corrupt deals needed by organised crime figures or companies (CS-BG).

**Former customs officers (or former police officers)** usually establish customs brokerage firms that assist companies with customs formalities. These brokerage firms are very loosely regulated in the EU, and customs brokers do not need a license and are not materially responsible. With easy access to former colleagues and little accountability, former customs officers assist in arranging corrupt exchanges (BG, LV).

**Transport and shipping companies** (all levels within these companies from drivers, to accountants and managers) have relations and direct contact with customs officers (EL, AU, MT, SK).

**Businessmen:** Practically any international trade company has some exposure to customs. Such businesses, even if not using corruption directly themselves, could serve as intermediaries for other companies or criminals willing to use corruption (ES).

**Family – relatives:** As in all other cases of corruption, family, friends, and relatives could all serve as intermediaries (UK, NL). In border regions and small communities, family-based networks are the prevalent type used.

**Lawyers:** Lawyers could be instrumental in manipulating the criminal justice process (more on the lawyers' role is provided in the sections on judicial and police corruption.)

#### 4.4.6 Anti-corruption tactics

**The range of anti-corruption measures and the capacity to detect corruption varies widely across the EU. Some interviewees** stated they there were no specific anti-corruption measures adopted in their countries (FI, DN) or were not familiar with any effective ones (EL). The list of anti-corruption tactics below is meant to present the breadth of possible approaches, rather than to map which customs service uses exactly what type of tactic. None of the interviewees were familiar with any impact assessment of the particular tactics used, although most had an opinion about their effectiveness.

- **Rotations: there are three approaches:**
  - **Officer rotations:** customs officers do not stay in the same position for more than two to three years in a row; this aims to prevent the development of similarly long-lasting corrupt relations whereby the same officers are in contact with the same individuals (e.g. from transport companies) who regularly cross the same border check point (MT).
  - **Shift rotations:** this approach, which targets inspection officers (at large customs offices), allows one's post to be shifted daily (SI, SW, MT).
  - **Randomized-computer generated check schedules:** a software programme determines who should inspect which truck (UK).

- **Team based activities** (“four eyes principle”) – work is organised, so that procedures require two or more officers to be involved. This inherently increases the cost of corruption and makes the schemes much more difficult (UK, BE, LV).
- **Random checks:**
  - **mobile units** are considered to be the most effective tool to perform random checks (SI, BG, FR). An additional measure is that mobile groups themselves do not know in advance what they would be checking and their travel routes are randomly generated and not predictably scheduled.
  - random checks and inspections could be carried out (IR, SK) by international investigation departments.
- **Whistle-blowing programmes** could be instrumental in encouraging the reporting of corruption (UK, SE). These could be supported by phone hotline and anonymous email reporting systems. They could also be used by ordinary citizens.
- **Trainings/awareness raising programmes:** the training materials provided by some Member States indicated a rather theoretical approach: one explanation is the lack of significant experience with corruption in EU-17 (CZ, BE, AU, LV). For instance, the corruption awareness materials provided by the Belgian customs did not contain any actual cases of corruption that have taken place at the Belgium customs, and the trainings were provided by outside academics. Another method of raising awareness could be a proactive media involvement for public exposure of detected corruption cases. Officers could see this as a deterrent to becoming corrupt.
- **Internal control departments** range widely in their powers and capacity. No systematic questions were asked to clearly understand the differences in approaches and tactics taken by such departments. In countries with significant corruption these departments are also politicised and seen as way to ‘regulate’ rather than tackle corruption (BG). Whether these departments are proactive or reactive makes a big difference (LT).

Successful corruption investigations require significant capacity. For instance, almost all seizures of illegal cigarettes are made via electronic surveillance wiretapping. Consequently, uncovering corruption involved within cigarette smuggling requires even more additional resources. Many countries, especially those that do not have a tradition of strong organised crime influence (e.g. Denmark or Finland), rarely have spare capacities to mount such additional investigations. Therefore, on many occasions, although corruption may be suspected there is a lack of capacity to detect it.

Some ‘internal investigation’ departments might have significant monitoring powers. In Spain, the Department for Corruption Investigations carries out covert investigations. It has detailed information about the bank accounts of public servants and their spouses, other personal income

that they may have, and relevant financial operations in which they could be involved. It follows carefully any significant change in personal wealth and payments from companies or others (ES).

- **IT access and data protection rules:** with the increased level of sophistication and the introduction of IT systems in the work of customs, the management of these systems has become of key importance to anti-corruption work. In addition to traceability of who accesses the system and differentiation in access levels, some customs offices have introduced further IT anti-corruption measures that analyse and detect risk behaviour in data access (for instance an officer frequently accessing data not related to his/her immediate work).
- **Financial incentives:**
  - **High salaries** – Some interviewees made a point that relatively high salaries serve as a guarantee against corruption (IE, UK). In the UK, for instance, the average salary of a customs investigator is 50,000 pounds per year. Frontline officers have lower but still above average salaries (UK).
  - **Rewards:** there are different pay schemes that could reward officers' work (BG, FR). Some interviewees (particularly in Member States where salaries were seen as high) considered rewards controversial as they saw no reason to stimulate what should be just regular work (UK).
- **High penalties:** including imposing lengthy prison sentences and making customs officers aware of the possible consequences of corrupt behaviour are amongst the anti-corruption tactics used (UK, AU).

Some of the additional tactics discussed included the compulsory disclosure of the assets of customs officers (SK, RO), the use of integrity tests (CZ), or the institution of work processes and procedures that are designed to prevent corruption.

## 4.5 Judicial corruption

This section discusses corruption related to the courts, prosecution, and investigative magistrates. Although the prosecution in some Member States is more integrated with the police than with the judiciary, the corruption characteristics identified were much closer to the ones identified within the judiciary than within police forces.

Overall, the interviews and the data from the case studies indicated that in the majority of Member States the judiciary, particularly the courts, is much less targeted by organised crime than the police or politicians. There are a number of objective circumstances and factors that contribute to this. The Eurobarometer (2008, p.9) public perceptions survey present a similar picture, as the judiciary is rated as least corrupt, in comparison to police, customs, politicians, or bureaucrats. The general perception of interviewees and research from case studies is that white-collar criminals (EL, BE, PO, SL, SW, CZ) more often resort to corruption of the judiciary, as they have power and sophistication (BE) to use

*'Quite often my clients start criminal proceedings for fraud against another company that has not delivered a service but using fake invoices has colluded with someone inside their firm; We send the complaint to the prosecutor's office but the prosecutor decides not to open a case – to me it is usually a clear indication that he has been corrupt' (PL)*

*'A Dutch prosecutor, who frequently travelled to Turkey in relation to an investigation, established contacts with a Turkish criminal group operating in the Netherlands and dealing in drugs. For a large sum of money he provided the criminal group with advice on how to avoid prosecution in the Netherlands' (NL)*

*In a police corruption case in France, a corrupt court clerk played a key role. The clerk, an intimate friend of the corrupt Deputy Head of Strasbourg's drugs squad, used her access to investigation information to monitor on his behalf whether there were any investigations against the members of his drug-dealing network. For years the officer stole seized drugs, and sold them through a network of dealers who were also police informants (CS-FR)*

*Since 2002, a number of trials connected to the bribery case of judge Patrick Vella (Court of Appeals, convicted) and Chief Justice Noel Arrigo (still on trial) have captured Malta's public attention. The judges accepted a € 23,000 bribe to reduce the sentence of Mario Camilleri, a well-known drug-trafficker and local businessman, from 16 to 12 years. The trafficker's son approached two intermediaries (both convicted) who passed on the offer and paid the bribes. One of them, businessman and football club owner Mr. Grech Sant was a Masonic lodge member along with Chief Justice Noel Arrigo (MT)*

higher-level corruption. They often have common social background and status with legal professionals who facilitate corrupt exchanges with the judiciary.

Evidence suggests that the following levels are most often involved in corruption in degrees that vary among Member States:

- Judges (all levels up to Supreme Courts);
- Prosecutors (all levels up to Attorney General);
- Courts and prosecution administration;
- Jurors;
- Bailiffs.

The overall objectives of corrupting the judiciary observed across the EU are quite similar (SL, EL, BE, RO, FR, SP, IT). Criminals mainly target the different levels and stages of the criminal justice process:<sup>47</sup>

- **Avoid pre-trial detention:** judges could be bribed into refusing detention and allowing the suspect to remain free on bail.
- **Prevent or discontinue investigations:** there are two main possibilities:
  - Judges might not authorize electronic surveillance to subvert an investigation;
  - Prosecutors might ignore a police or victim report, or interpret police evidence in a light favourable to the defendant (CZ). Investigations into corrupt prosecutors in different Member States (BG, CZ, PO) have found them to have held onto dozens of cases without taking the required steps.
- **Prevent a trial** from starting, or if it has started, try to delay or stop it: e.g. judges could dismiss a case for lack of evidence.
- **Receive lower sentence** (e.g. probation instead of prison term); shorter prison term; or, change the prison terms from high-security to a lower security prisons.
- **Obtain an acquittal:** Judges could be bribed into ignoring evidence from the prosecution, or interpreting it in way that leads to an acquittal.
- **Avoid the implementation of a sentence:** Bailiffs can be corrupted too because they often come into direct contact with the defendants (particularly in cases of confiscation).
- **Leaking information:** in addition to a straightforward abuse of power, judges and prosecutors, or their administrative staff are privy to information regarding ongoing investigations:
  - Corrupt court or prosecution staff with access to files on ongoing investigations could provide information to suspects or defendants (CS-FR, CS-BG). In particular, the need to authorize electronic surveillance provides (some) courts with up-to-date data on ongoing investigations.
  - Judges or prosecutors could also serve as 'advisors' to criminal groups. In the cases quoted they were not directly involved with the prosecution or trial of criminal groups. Nevertheless, being familiar with the operations of police or prosecutorial staff, they

<sup>47</sup> They could be aiming to do this for themselves, or for their accomplices or subordinates in order to prevent that the investigation reaches them.

#### Court trials and healthcare corruption

Interviews (BG, RO, PL, EL) revealed that corruption of healthcare personnel is a serious problem in many EU-10E. The corruption of doctors is seen as an auxiliary tactic, in cases when corruption of magistrates is not possible or not successful. There are two main objectives of such corruption:

- **Delay of trials:** bribing or pressuring doctors to provide evidence or falsify examination results that medical conditions for defendants or certain key witnesses do not allow them to present themselves in court. In Bulgaria, for instance, the trials of almost all high-level organised criminal or politicians have been bogged down for years, due to the 'inability' of defendants to stand trial 'for health reasons'. (RO, EL, PO)
- **Avoidance of pre-trial detention:** using similar corruption tactics, defendants can also avoid pre-trial detention. (RO, BG)
- **Acquittal:** the possibility to avoid a prison sentence if a psychiatric condition is proven to exist, has provided a strong incentive for criminals to corrupt medical personnel in psychiatric wards to obtain the needed medical certificates. (BG)

could provide advice as to how to avoid being detected by the police, or to undermine an ongoing investigation. In either case, large sums of money were paid, showing the value that some criminals see in this type of service (SP/NL).

- **Rigging the public contracts bidding process:** In addition to subverting the criminal justice process, in many countries organised crime or criminal companies have been involved in abuses of public funds. Administrative courts that oversee the handling of public tenders could become corruption targets. In some countries (BG, RO, BE, PL) the lack of clear rules as to the role of administrative courts has led courts not only to decide on the legality of administrative procedures of public tenders, but also to interpret whether a contract is 'in the public benefit'. Without the need for an underlying financial or other expert analysis, judges in some Member States (BG) have abused their powers, clearly as a result of being influenced either directly by one of the parties involved or by corrupt politicians.

In countries where corrupting judges and prosecutors is difficult if not possible, criminals seek alternatives. Cases of corruption within the court or prosecution **administrations** have been observed across the EU (FR, BE, EL), and were mentioned even in countries (UK) where corruption in the judiciary is generally not considered a problem. Compared to judges or prosecutors, administrative staff members are less highly paid and less scrutinised. For instance, in the UK Crown Prosecution Service (CPS) caseworkers provide administrative support to crown prosecutors. They are fairly low-paid (15-25,000 pounds per year) and could provide criminals with information on the prosecution's case, evidence, etc. They liaise with the police on behalf of the prosecutor, so they might have up-to-date information on ongoing investigations (UK).

In *common law* jurisdictions (UK and Ireland), the 'weak link' that criminals try to exploit is the **jury**. Jurors are most often quite disinterested with respect to trials, and have very little at stake. In the UK, although there have been suspicions, there have been no successfully prosecuted cases in which corruption on the part of jurors has been proven. The possibility of being able to corrupt jurors, in the opinion of one of the respondents, discourages criminals from considering corrupting judges (UK).

#### 4.5.1 Corruption networks and their operation

Social scientists have often described the judiciary as a social class in its own, a 'caste' with a special status: based on the requirement for special education, using a special language and rituals often going back centuries. Lower level organised crime figures typically have no direct access to informal networks within the judiciary. As a result, corruption is fairly difficult and it requires intermediaries or specific circumstances that allow them to carry out a corrupt exchange. Higher level and white-collar criminals might have more direct access, though.

There are various corruption-facilitating informal networks in which a magistrate might participate. These informal networks might intertwine.

The most common networks used by criminals to corrupt members of the judiciary are described below:

- **Direct access networks:**

- **Small communities:** whether it concerns a town or a small island (e.g. Cyprus, Malta, or Corsica) local elites establish networks, where representatives of the judiciary, businesses, law-enforcement, and politicians know each other. Insofar as white-collar criminals or traditional organised criminals are able to accumulate sufficient economic power to become part of these local elites, they inevitably gain access to local members of the judiciary.
- **Social networks:** formed around Masonic lodges (CS-FR, CS-IT, MT) or local political networks (CS-ES), members of the judiciary could have the opportunity to come in direct contact with crime figures, in secretive settings away from public view. In countries where religion plays a significant role, even a church could serve as a network (EL, NL).
- **Personal and family networks:** personal and family networks play a certain role in all Member States. In countries where extended families or nepotism are more common place, these networks feature much more prominently in corruption scandals (CS-EL, PL, BG). Schools (particularly elite ones) also provide an immediate network, especially in cases involving white-collar criminals. Spouses, particularly working as lawyers (or within other branches of the judiciary), could serve as intermediaries in accepting bribes (CS-FR) or in taking advantage of the network of corrupt judges to which the other spouse is a member (CS-BG).

All other networks described below involve some type of intermediary (politicians, lawyers, law-enforcement officers).

- **Political networks:** although judiciaries in the EU are generally politically independent, in reality specific circumstances in some Member States undermine this independence. Such circumstances could relate to whether judges can move between a judicial and political career, or whether judicial oversight bodies are partially elected by parliaments, or the prosecution is responsible to the Minister of Justice. Depending on which of these apply in particular cases, situations could arise whereby judges establish and often become dependent on their relationships with politicians. These networks could then be activated when a corrupt politician needs to influence or simply to act as an intermediary between a prosecutor or a judge, and criminals. In some Member States, there is a clear ideological divide between judges that are considered to be close to the right or left of centre parties (ES, IT).
- **Professional networks:** lawyers across the EU are considered to be the most direct intermediaries in judicial corruption (CS-EL, CS-BG, CS-FR, SL). This is understandable as they usually have the same educational and social background, and in many cases the same professional background (e.g. they may have been former prosecutors or judges). Litigation departments of top law firms in many countries try to attract people with such backgrounds. In

*A public prosecutor of a small town was approached by a well known local businessman who had heavily borrowed from other businesses and filed for bankruptcy. The prosecutor arranged via a local lawyer that only the debtors that were close or bribed the prosecutor got paid, while the others did not. The head of the bankrupt company was also allowed to leave the country. (PL)*

*The local Masonic lodge in Nice had become a covert social network allowing politicians, businessmen, and criminals to access and use the 'services' of a leading investigative judge who was also a member of the lodge. In 2004, the judge was dismissed, while two other investigative judges from the same court were found to be engaged in activities. (CS-FR)*

*Bulgaria is a small country where almost all members of the judiciary have gone to the same law-school. Between 1992 and 2006, two consecutive Prosecutors General had close relations with leading crime figures. They gradually built an informal network of 'trusted prosecutors' who would obey orders from above to stop or delay, or start investigations that served the interests of, related crime figures. This corrupt prosecutor network then intertwined into a wider judicial network of corruption that was (and is) regulated by corrupt members of the Supreme Judicial Council, and includes judges and investigators. (CS-BG)*

*Since 2004, corruption trials against judges, lawyers, and other intermediaries have taken place in Greece. Lawyers were key intermediaries of the 'para-judicial networks' used to obtain favourable treatment to criminals. Convicted judge Kalousis' explanation of why 7 lawyers deposited money in his account illustrates the corruption networks used: "Mr. A is my family lawyer for over 20 years, Mr. B is my university fellow from 30 years ago, Mr. C is my friend with whom we play chess, Mr. D and Mr. E are my compatriots [from Eratini], our wives are also friends. As for Mr. F, he is my relative by marriage". (CS-EL)*

*In 1992, the Italian Magistrate Giovanni Falcone was murdered with a bomb. Although in the past few years there had not been any assassinations or beatings of judges, the threat is still credible, as the memory of murdered judges in the 1990s is still alive (IT).*

*A Spanish judge interviewed for the present report worked in the Basque Country and in Marbella (respectively regions with concentrated terrorist and mafia presence). In both regions he needed police protection after receiving death threats against him and his family. (ES)*

*Two investigative judges in Nice were allegedly involved in swinger parties with cocaine use, in the presence of police officers, lawyers, and local crime figures. A drug-dealer involved in this network used his knowledge [in other similar cases video recordings are used] to blackmail the magistrates and pressure another judge into treating him favourably, threatening to expose his colleagues. (CS-FR)*

*In the German state of Saxony, in 2007 evidence from secret investigations going as far back as 1992 about organised crime related corruption of local politicians, the police, the judiciary surfaced. One of the allegations was that local politicians were covering an international prostitution ring that ran a brothel in Leipzig that politicians, police, and prosecutors used. The brothel owner was protected and charges against him were never brought, even when it surfaced in 2000 that some of the women had been children and had been abused. The head of Germany's Secret Service resigned in 2007 amidst allegations that he withheld information from the prosecution. (DE)*

some of the cases described (CS-BG), this is purposely done with the intention of being able to influence judicial decisions. In other countries (UK, SP, NL, BG) interviewees described a number of well-known criminal defence lawyers or law-firms as having the access or means to influence investigations.

- **Law-enforcement** (police/customs/prosecutors): case studies from Bulgaria and Greece describe in detail how such corrupt networks operate.
- **Intra-judicial networks:** While the above networks are used to secure access to the judiciary 'from the outside', some of the corruption networks involving judges, prosecutors, and lawyers function within the judiciary itself (RO, CS-EL, CS-BG). In hierarchical systems, such as the prosecution, top-down influences, particularly in countries with widespread judicial corruption, are quite common.

#### 4.5.2 Vulnerability factors and corruption mechanisms

The factors that render the judiciary more or less vulnerable to outside influence and corruption vary widely across the EU. They include complex cultural, institutional, historical and socio-economic factors that explain why and how corruption exists.

- **Salary levels:** interviewees have pointed to salary levels as an explanation as to why corruption is more (PL, SP) or less likely (UK). Often, members of the judiciary compare salaries with neighbouring countries (ES) or civil servants.
- **Plata o plomo:<sup>48</sup> the threat of violence** is also a factor that makes judges vulnerable to corruption, particularly in smaller towns, or in areas with significant mafia or terrorist presence where the threat of violence is very credible (CS-ES, CS-FR, CS-IT).
- **Blackmail:** judges and prosecutors might also be offered a very substantial initial bribe, or lured into using prostitutes or drugs (CS-FR, BG, DE, NL). They would then be blackmailed into committing further corrupt acts, on the threat that their previous corrupt acts or corrupt behaviour would be exposed.
- **Political influence** is closely connected to the problem of political corruption: i.e. political influence is more prominent in countries where political corruption (at the national rather than at the local level) exists (ES, BE, EL, CS-BG, CS-FR). Typically such influence occurs at a higher level involving higher-level politicians, higher level magistrates, and the criminal elite (especially white-collar criminals).
- Whether a politician acts as an intermediary to facilitate a bribe, or tries to pressure a magistrate and lobby for a favourable decision on behalf of a criminal, the politician is in a position that could potentially influence the magistrate's long-term career:

<sup>48</sup> Spanish for "silver (bribe) or lead (bullet)".

- **For judges** the potential threat stems from the fact that in many countries High Court judges or Supreme Judicial bodies are appointed or nominated by parliaments, or by the executive.
- **For prosecutors** the threat is even more imminent: the political dependence of the prosecution (DE, ES), particularly in countries where the Minister of Justice is also Prosecutor General (e.g. FR, PL) was highlighted by many interviewees. Members of the judiciary in some Member States (CS-FR, IT) have accused governments of trying to limit the independence of the prosecution by implementing legislative reforms that bring it under direct political control. The Chief Prosecutor could be very clearly favourable to the party that is currently in power and influence the decisions taken at lower levels. Lower level prosecutors not related to the ruling party might, under such circumstances, try to keep a low profile (ES).
- **Political influence** does not need to be direct, but could trickle down from the top of the judiciary towards the magistrates who need to be corrupted. The hierarchical nature of prosecutorial systems allows politicians to pressure lower-level prosecutors by using their influence on the prosecutor general or on judges at various levels (CS-BG, PL).
- **Self-censorship:** in countries where the political dependence of a judiciary official's career is clear, magistrates or prosecutors simply try to avoid politically sensitive cases by not starting or delaying them. High-profile cases where criminals are known donors of political parties, are immediately considered as high-risk cases by magistrates (BE).
- **Weak control systems** (RO & CZ) and lack of transparency (CZ) to the public or to other actors in the criminal justice system were pointed out as factors conducive to higher levels of judicial corruption (BE, RO). Further to this, lack of media scrutiny – due to the fact the media, including local media, is often controlled by individuals or companies involved in criminal activities (PL, FR, IT).
- **Legislative loopholes:** Corrupt judges and prosecutors often take advantage of and apply 'extreme' interpretations of penal procedural codes. For instance, in Romania the concept of 'social danger' is quite vague, leaving to judges a lot of discretion which they often abuse (RO). In Bulgaria, corrupt judges often purposely ignore discretion powers, which allows defence lawyers to protract trials abusing procedural details: frequently changing of defence lawyers, and non-appearance of witnesses, defendants, or lawyers for supposedly 'health' reasons.
- **Cultural setting:** the cultural and social factors that make members of the judiciary vulnerable to corruption or make society sensitive to judicial corruption are the most complex.

In areas with significant **mafia influence** the social setting and informal networks allow for pressures to be exerted on judges (IT, CS-FR). Tourist

coastal areas (CS-ES, BG) and border areas (PL, BG) with significant concentration of criminal activities (e.g. Costa del Sol, external Eastern EU borders), as well as local communities dependent on illegal economic activity, create similar pressures.

- **Favours:** The cultural concept of 'favour' takes on a different meaning in some Member States where it is an accepted and even expected way of working. As one interviewee stated, "You ask them a favour basically. This works with anything and anybody, it doesn't necessarily have to relate to organised crime" (EL).
- **Nepotistic relations** and family pressures are stronger in some Member States than others. Small towns could serve as catalyser to corruption, as informal relations and favours are considered socially acceptable (ES, PL, BG, EL). In many Northern European countries, where such values are not tolerated, small towns could even have a reverse effect.
- **Public tolerance:** In some Member States alleged corruption does not upset public opinion too much, and the judges are kept in their posts until a sentence is issued (SP, FR).
- **Judges vs. Prosecutors:** Overall, the perception of interviewees was that prosecutors were more vulnerable to corruption than judges (DE, NL, ES, BG, SE, BE, CZ, EE). Nevertheless, in some countries, interviewees stated either that both were either is equally targeted, or that judges were more often targeted (SL, DE, SP, EL, RO, PL, IT, EE). A number of factors could explain these differences:
  - **Proximity and frequency:** Criminals' first contact is with the police and prosecutors. Judges come last. Therefore, there are a lot more attempts to influence prosecutors on their part. The need for corrupting the judiciary, particularly judges, is much more haphazard in nature.
  - **Intermediaries:** In some countries, intermediaries to corrupt prosecutors are easier to find: a traditional career path for many investigators or prosecutors is to become defence lawyers (BG, PL, EL, IT). As a result they have a more direct access to corrupting prosecutors than judges.
  - **Transparency:** The outcome of the work of a judge is generally more public and scrutinised by oversight bodies and the media than those of a prosecutor. It is difficult for the judge to dismiss clear evidence presented in court; a misinterpretation or discontinuation of a trial would be too visible.
  - **Independence:** across the EU, prosecutors and judges enjoy varying degrees of independence from politicians: from the prosecution being directly under the Minister of Justice, to having Supreme Judicial oversight bodies being elected by Parliament, or appointed by the President.
  - **Role:** In some countries, the role of 'investigative judges' (e.g. France, Spain) makes them are much more exposed to corruption pressures than prosecutors are, so the latter are a less frequent target.
  - In some countries, judges specialise in criminal cases (e.g. EL). Particularly in smaller courts, this makes it very predictable which judge needs to be targeted.

- **Level:** Where respondents considered judicial corruption a serious issue (EL, BG, PL, IT, RO) instances of corruption were observed at all levels. Lower levels are generally more often corrupt (SE, BE, EL, ES, NL, EE) for several reasons:
  - **Judicial racket:** Judicial corruption is two-directional: it is not always initiated by criminals: sometimes prosecutors or judges themselves seek or offer corrupt deals. They may racketeer defendants for payments in exchange for favourable treatment (PL, CS-BG, EE).
  - **Lower salaries.**
  - **Less scrutiny** (see section on anti-corruption measures below).
  - **Small-towns: lower court/prosecutions** are placed in smaller towns.
  - High-level judiciary are mostly targeted by high-level (especially white-collar) criminals.
  - Low-level corruption takes the pressure off from the higher levels (cases are solved at first instance courts) (ES).

#### 4.5.3 Anti-corruption measures

The range of anti-corruption measures and the efficiency of anti-corruption institutions differ widely across the EU. The present study was not in a position to systematically analyse the anti-corruption efforts of each Member State, as such measures significantly across Member States.

- **Corruption-investigation bodies:** Some countries do not have dedicated judicial anti-corruption bodies (DK); others have multiple bodies with differing powers (CS-FR), or established national-level bodies (PL, BG, RO). In some Member States, individual courts have an appointed officer who monitors corruption (PL).
- **Rotation:** In courts, judges are rotated between civil and penal courts. So the same judge can try a civil case in one month and a penal case in a different month (EL).
- **Referring big cases to larger regional courts:** As explained above, small courts are much more vulnerable to corruption than larger ones. Establishing regulations in which organised crime related cases are automatically sent to larger regional courts where cases are distributed randomly amongst numerous judges and local family and political pressures are less likely, could be an effective anti-corruption measure. An example was provided that a southwest regional court in Poland sees all significant cases on organised crime, and judges there are relatively much less corrupt than local small town courts (PL).
- There are some internal control mechanisms: chiefs of jurisdiction, chiefs of courts who scrutinise what magistrates/judges do. Police investigators also scrutinise the work of investigative magistrates (prosecutors/judges). Therefore, it is necessary to corrupt the whole chain – corrupting just one magistrate may not be enough to achieve criminal goals (FR).
- Judges could be obliged to make their personal assets and wealth publicly known (ES, RO).
- **Random assignment of cases:** preventing predictability in the assignment of judges to criminal cases has pros and cons. On the one

hand it reduces the level of professionalism, as judges cannot become specialised in certain types of criminal cases. On the other hand it prevents corrupt judges from being able to be used effectively by criminals. This measure has significantly reduced corruption amongst judges in Bulgaria (CS-BG). Nevertheless, some corrupt heads of courts and corrupt judges have colluded to circumvent random assignments, and manipulate it in distributing cases to corrupt judges (CS-EL, BG).

## 5. ORGANISED CRIME, CORRUPTION, AND THE PRIVATE SECTOR

Unlike data on public sector corruption, information on corruption in the private sector is not systematically collected in EU Member States.<sup>49</sup> The policy and legislative responses to private sector corruption are still developing. In 2007, the EC published a monitoring report on the transposition of Council Framework Decision 2003/568/JHA on combating corruption in the private sector. The EC concluded that it was “a source of concern” that the Decision’s transposition was at an “early stage among Member States” (p.12). For the application of the Decision in some Member States (Greece, Spain, Malta and Cyprus), the report stated, there was not even up-to-date information (EC, COM (2007) 328 final).<sup>50</sup> As the present report has demonstrated, this still continues to be the case in some of these, for instance in Spain.

International surveys by private fraud investigation firms like Kroll, the Control Risks Group, PWC, Ernst & Young (see section 2.8 above), represent potentially the most systematic collection of information on the phenomenon of private sector corruption. However, their focus is much broader, and unfortunately none of them has been analysed from the exclusive point of view of corruption. Some surveys, like the periodic PWC Global Economic Crime Survey, have adequate data to conduct such analysis with an EU focus, since about 3,000 base companies participated in 2007, when the survey was last published.

The interviewees contacted for the present report were primarily private fraud investigators (leading domestic or international law firms, auditing firms, or fraud investigation firms). Corruption related to organised crime constitutes only a small part of fraud in the experience of interviewees (NL, PL, MT).<sup>51</sup> In addition, official information is scarce. Centralized anti-corruption bodies who were interviewed (MT, FR, NL, BG) for this survey did not cover the issue, did not collect systematic information, and were not able to provide any insight. The dearth of empirical knowledge is also explained with the fact that fraud, especially when involves a corrupt employee, is underreported by companies even if detected.<sup>52</sup> Most companies try to protect their public image and prefer to deal with it internally (NL, PL).

Adding to the above is the fact that in continental EU Member States, the number of trained antifraud professionals (such as Certified Fraud Examiners) is quite low. Also, the share of companies that regularly use

<sup>49</sup> This problem of lack of data at a global level has also been noted by scholars (Rose Ackerman 2007).

<sup>50</sup> In the US, purely commercial bribery is not even a federal crime (Rose-Ackerman 2007, p.1).

<sup>51</sup> Specialized ‘economic’ or ‘financial’ police interviewees who might have experience with such cases were not surveyed as part of this study.

<sup>52</sup> The PWC shows that when the fraudster involved was someone outside the company, frauds were reported to a regulator in 38% of cases, and to law enforcement in 64% of cases, whereas when the perpetrator was an employee, the incident was reported to regulators in only 24% of cases, and to law enforcement officers in only 55% (PWC 2007, p. 14). This indicates that corruption cases are less likely to be reported.

financial intelligence or investigative consulting firms to vet their potential partners is lower in some Member States (e.g. Belgium, Bulgaria, Romania) compared to the Anglo-Saxon countries (BE, BG, RO).

## 5.1 Scope of private sector corruption

Corruption within private companies is usually referred to (especially by fraud investigators) as 'internal fraud'. As the present study focuses on how criminals outside the firm use corruption, the present report focuses solely on cases **of internal fraud but acting in collusion with a fraudster outside the company**. The following lay outside the scope of the report:

- Cases when criminals establish Legitimate Business Structures (LBS) (OCTA 2007, p.1-13) which they run as front companies to their criminal operations or use them to engage in criminal behaviour, or
- Cases when criminals abuse companies which are oblivious to their criminal intentions.

The study focused solely on cases when criminals corrupt managers or employees (but not the owners) of legitimate companies. Another issue that was considered to lie outside the study's scope was the corruption of foreign offices of EU headquartered companies.

### *Corruption objectives*

There are three main reasons why criminals might corrupt an employee of a private company:

- to facilitate their criminal activities;
- to launder profits from other crimes;
- to facilitate the commitment of a crime against the company itself.

The first two goals coincide to a large extent with the reasons for which organised crime might **collude** with the owners of a legitimate company, or acquire full control of a company, or establish their own (front) company.

Depending on the types of criminal activities, different industries and companies are targeted. Some industries (e.g. transportation), though, are particularly vulnerable as they could be instrumental in a wide range of criminal activities. Below, each of the three main objectives is analysed separately.

## 5.2 Facilitating criminal activities

The type of private companies and type of employees that could be corrupted depends on the criminal activity in question. With the privatisation of security and public services across the EU, vulnerabilities within the private sector have increased. The table below provides a range of possible corruption targets and schemes related to the procurement, smuggling, and distribution of illegal goods or services (drugs, prostitution, or stolen vehicles). While the industries and types of companies listed could be corruption targets, they could also be established with a criminal purpose or their owners could collude with the criminal group (without the need for corruption).

**TABLE 15. PRIVATE SECTOR CORRUPTION RELATED TO PROCUREMENT, TRAFFICKING OR SALE OF ILLEGAL COMMODITIES (DRUGS, STOLEN VEHICLES, ILLEGAL CIGARETTES OR ALCOHOL, COUNTERFEIT PRODUCTS)**

Criminal activity	Corruption practice
<b>Production/ procurement of illegal goods</b>	Managers of cigarette/alcohol distributing companies could be corrupted into selling quantities clearly understanding that they would be re-exported as contraband.
	Cigarette factory managers could be corrupted into organising 'second shift production' in which additional quantities are produced for the illegal market. The production of brand clothing or medicine is exposed to same risks.
	Car dealership sale staff could be bribed into providing 'spare' keys to facilitate the theft of vehicles.
	Store staff of major retail stores could collude with organised retail theft gangs to facilitate or even engage in the theft of store inventory.
<b>Trafficking of illegal goods</b>	Drivers or managers with transport companies including international bus, truck companies, airline staff could be paid off to transport any illegal commodity (drugs, cigarettes), including illegal migrants or prostitutes.
	Security staff at sea-ports and air-ports (often operated by private companies) could be bribed to 'look the other way', or to be actively engaged in transporting the illegal commodity. The staff at such facilities is also knowledgeable of the operation details of customs and border posts, and could be bribed into providing such information.
	Service staff (airport luggage staff, or sea-port cargo operators) could be bribed into facilitating smuggling.
<b>Distribution of illegal goods</b>	Club bouncers of private security firms could be bribed into allowing drug dealers inside clubs, or allowing the distribution of drugs inside clubs.
	Used-car dealerships – sale staff could be bribed into selling stolen vehicles. Similarly, parking lots or car mechanic shops could be used as temporary storage facilities or sales outlets for stolen vehicles.
	Entertainment industry (bar or restaurant) staff or store sales staff could be corrupted into selling contraband cigarettes or alcohol, or even drugs. This type of activity very rarely goes on without the venue manager's knowledge.
	Distribution of illegally smuggled oil. <sup>53</sup> Although the majority of smuggled oil is distributed through smaller outlets that are willing to collude, corruption scheme could penetrate and ensure the sale even through established brands, where gas-station managers/employees are corrupt.
	Small 24-hour stores could be used to distribute stolen or illegal goods.
	Luxury-brand retail sales or management staff could be corrupted into distributing counterfeit brand goods.

The **transportation industry** (as discussed in the literature review) was mentioned throughout the interviews as the one industry that is most often targeted by organised crime. Shipping companies and freight forwarders are sometimes also involved as intermediaries in facilitating corruption between transport companies and criminals. Corruption there could be related to any type of smuggling activity. (BE, SE, IR, AU, RO, PL)

<sup>53</sup> Oil smuggling and the 'oil mafia' were mentioned as particular issues in most East European countries and Greece (EL, AU, RO, BG, CZ, and PL). Most corruption cases mentioned focused on political and customs corruption, but indications of private sector corruption were present in Bulgaria and Greece, indicating that distribution of smuggled oil feeds also private sector corruption as well.

The **private security industry** is another case in point. While the industry itself is an attractive cover up to protection rackets, corruption does not play a role (RO, BG, CS-FR). On the other hand in big cities with thriving clubbing and drugs culture, security firms could be instrumental in regulating the distribution of drugs in clubs (UK, ES). While in the majority of cases, the owners of such private security firms are directly involved or collude with drug dealers, on some occasions drug dealers could simply pay off bouncers to get their protection (UK).

**Construction industry:** although the participation of organised crime in the construction industry was much discussed, construction companies themselves are usually vehicles, rather than targets, of corruption. One exception could involve the case of cartels. Research on the construction company cartels in Germany has shown that they are formed on a horizontal principle – as when a number of companies in geographic area (region or town) form a cartel, as well as on a vertical principle – as when the supplier or sub-suppliers are integrated within a chain. To disguise the cartel, companies need lots of document manipulation and fake invoices. Therefore, corruption is used in other construction firms to supply the companies in the cartel with fraudulent invoices to disguise the cartel and to make it seem that the cartel companies deal with other companies as well (NL, DE).

### 5.3 Money laundering

The anti-money laundering systems of EU Member States mandate the cooperation of private sector more than any other law-enforcement area: notaries, financial institutions (banks, investment funds, brokerage houses, insurance companies, pension funds), whole-sellers, lawyers, accountants, real-estate companies, sports-clubs, and high-value dealers (e.g. of cars or jewellery).<sup>54</sup> Companies in these industries could be potentially used as money laundering vehicles. Consequently, corruption could play a role in preventing them from carrying out their obligation to report suspicious activities that may involve money laundering. Interviewees shared a number of examples of corruption of employees in such companies.

While some money-laundering schemes require complicity from the entire company, in other schemes the complicity of only some corrupt employees suffices. Interviewees mentioned the financial, the gambling, and the real estate sectors, as the primary targets of corruption.

Few of the interviewees were familiar with particular corruption cases. Representatives of financial intelligence units (FIUs) were not interviewed as part of this study.

#### 5.3.1 Financial sector

Interviewees found that corrupting bank employees not to report financial transactions related to money laundering was a fairly rare phenomenon.

<sup>54</sup> These categories are specified in the Third Anti-Money Laundering Directive (Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, Official Journal L 309, 25/11/2005 P. 0015 – 0036).

*A real estate broker was killed by a hit-man in the centre of Amsterdam in 2004. Starting in the 1980s, the broker had built a real estate empire estimated to be worth around 300 million Euros. Part of his wealth was from the investments of the proceeds of drug crimes of several known criminals. Since 2000, police reports and journalistic research have revealed that his symbiosis with several criminals allegedly led to extortion and attempts by criminal elements to take control of his business. Excerpts from his diary, published after his assassination, show how he was forced by threats as well as physical violence to hand over large sums of money to his former criminal business partners. (CS-NL)*

Bank collusion or insufficiently effective anti-money laundering measures were far more often the reason for successful money laundering schemes (SE, NL, MT, CZ). Launderers come up with schemes whereby bank complicity is difficult to prove or not needed: using off-shore companies, shell companies, trusts and foundations.<sup>55</sup> Some interviewees outlined that money exchange offices (SE, CZ) are targeted as government oversight is much weaker (SE, AU). Small locally owned banks were identified as more frequent targets, because they usually have less internal controls than big international banks (SE). A 2008 survey found that 12.5% of financial industry companies worldwide (higher than any other industry) reported to have suffered from money-laundering in the preceding three years (Kroll 2009, p.9).

### 5.3.2 Real estate

The second most often mentioned sector in which criminals use corruption or have investment interests was real-estate, especially related to tourism and the night-time economy (CZ, RO, IR, NL, BG, SI, FR, MT, DE, AU, PT, BE, PL, SE, ES). The purpose of acquiring real estate is two-fold: first, to launder the proceeds of crimes already committed, and secondly to acquire cash-intensive businesses<sup>56</sup> (bars, restaurants, retail outlets,<sup>57</sup> and entertainment venues) that would allow continuous money laundering of criminal proceeds in the future. Corruption could be used only in the process of acquisition or disposal of real estate.

The types of companies involved in real-estate deals (particularly commercial real estate) could vary widely, and potential for corruption or collusion exists when dealing with any of them. A study on money laundering in the US commercial real estate market found that property management companies, real estate investment companies, and realty companies were the top ones involved in money laundering schemes. Other businesses, such as construction companies, title companies, mortgage or loan brokers, and real estate agents were also involved but on a much smaller scale (FCEN<sup>58</sup> 2006). In the residential market, corruption targets are different, as the builder/developer, escrow companies, or real estate companies, and title companies were much more often implicated (FCEN 2008).

<sup>55</sup> *British banks are usually more complacent about money coming from the British Virgin Islands, which is now used more often to launder the money of the Italian organised crime (IT).*

<sup>56</sup> *In order for properties, e.g. bars, restaurants, dance clubs, or hotels, to be used as money-laundering vehicles, criminals need full control of the business. In other words, corrupting some employees of such establishments is insufficient to carry out money laundering. Several interviewees mentioned the well known money laundering scheme of 'Chinese restaurants' (BE, NL, DE), where restaurants with very few customers declare high-revenues usually from laundering proceeds from illegal immigration schemes.*

<sup>57</sup> *Some interviewees mentioned 24-hour shops or other small service outlets (beauty salons, mobile phone shops) (BE), or music record stores and pizza chains (DE) that usually use only cash, have little oversight, and could be used to launder money.*

<sup>58</sup> *Financial Crimes Enforcement Network (USA).*

### 5.3.3 Gambling

The gambling industry was mentioned as one of the sectors most often targeted by organised crime. Many interviewees stated that criminals either use corruption to penetrate legal gambling establishments (IT, BE) or that there are suspicions of criminals themselves being involved in the gambling business (CZ, DK, NL, PT).

In some countries, like France or Sweden, organised crime has sought direct ownership, particularly of gaming machines. In Sweden, Hell's Angels often control gambling machines in restaurants, and use violence threats against owners to allow them to place the machines there (SE). In some parts of France, the situation is similar, as criminals have tried to partition territories of operation and control of gaming machines in restaurants.

A recent FATF (2009) report on the vulnerability of casinos and the gaming industry to money laundering identified a number of ways in which corruption is used in facilitating the latter. Some money-laundering schemes do not require the complicity of casino staff, while for others only high-level complicity or corruption of several employees is needed. Most casinos and gaming facilities have very sophisticated monitoring and surveillance systems that exclude the possibility of certain money laundering schemes unless the casino management or company is itself involved. These cases and schemes are not discussed here, as they lie outside the scope of this paper.

FATF (2009) identifies the following schemes in which it is reasonable for organised crime to corrupt employees:

- **Avoiding detection:**
  - employees might be bribed into not filing a suspicious transaction report (STR) or threshold transaction report.<sup>59</sup> Cases from the US authorities provided to the FATF exemplify how corrupt networks are formed within casinos, including poker room supervisors, dealers, and bartenders, with the purpose of not filing STRs.
  - Destroying documents/transactions reports related to due diligence or reporting processes.
- **Facilitating money laundering:**
  - **Falsifying player ratings** and other gambling records to justify the accumulation of casino chips/gaming machine credits. One scheme has been related to bribing IT personnel to re-programme some gaming machines into giving repeated wins. Corruption could be related not only to the operators but also to the suppliers of the gaming machines.
  - **Junket programmes:**<sup>60</sup> The main vulnerability of companies that organised gambling trips is that 'junket operators' organise not only

<sup>59</sup> An example would be if someone goes to a casino and makes a cash-purchase of 100,000 euro worth of chips. After playing for 1 hour and losing 10,000 euro, the person goes back to the counter and converts the remaining 90,000 euro worth of chips back into cash. For this transaction the person obtains a receipt, and the 90,000 is now clean money. They could be deposited in a bank, as the person has proof that the money has been won while gambling at a casino.

<sup>60</sup> Casino junkets or casino-based gaming tours are derived from casino marketing programs; 'junket' is an organised gaming tour for people who travel to gamble in casinos, usually in another country. (FATF 2009, p.47)

the trip, but they move the clients' money to the travel destination, and then from one casino to the next. Corrupt employees could assist criminals in blending their funds with the legitimate funds, as tracing of the criminal cash across jurisdictions becomes complex.

#### 5.4 Professional services

The previous chapters (on judicial, customs, and police corruption) already outlined the intermediary role of corruptors that lawyers play. The professional services industry, in particular law-firms, accounting firms, and trust and company service providers (TCSPs) might play an important role in facilitating money laundering and white-collar crime.

In the majority of cases, the role of such professionals is collusive rather than corrupt (particularly when they are sole entrepreneurs). On occasions, though, when such professionals are employed at a large law or accounting firm, they might act against the established principle and rules of their company. The interviews showed that in the majority of cases, the professional services firms or individual professionals (lawyers, accountants, etc) that engage as intermediaries of corruption are of a specific type. The firms are usually smaller, and specialized in corruption brokerage.<sup>61</sup>

In the case of reputable auditing firms, the cases of corruption are equally difficult to conceptualise. If a partner or managing partner in a national country office decides not to qualify an opinion for an audit of a key client who is committing fraud, this could be interpreted as corruption. The case of Arthur Andersen and Enron is one of the well known ones. Even though only some Arthur Andersen partners were involved in the Enron fraud, the US court decided to hold the entire company responsible, which eventually led to its demise (Freidrichs 2007, p.13). On the other hand the corrupt partners had acted in the financial interest of Arthur Andersen (even though the headquarters might not have been aware of it). Lawyers in international law firms face similar dilemmas when in the course of legal due diligence of important clients they come across contracts that could raise suspicions of money laundering. Again such decisions are usually taken at the partner level, thus blurring the line between collusion and corruption.

Organised crime groups or individual criminals tend to seek out the services of professionals to benefit from their expertise in setting up companies that criminals then use for illicit purposes. Criminals may seek advice from trust and company service providers (TCSPs) who might collude in setting up corporate vehicles (off-shore companies, foundations, or trusts) that would be then used in money laundering or fraud schemes (FATF 2006).

Certain professional services, like real-estate surveyors and evaluators could be instrumental in **real-estate fraud schemes**. The overvaluation

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<sup>61</sup> *Corruption in the criminal justice system is facilitated by firms specialized in criminal defence, while the corrupt exchanges with politicians or administration could be facilitated by accounting firms or corporate law firms.*

of real-estate property by corrupt evaluators and surveyors is key to successful mortgage loan fraud schemes.

In all of the above categories it is very **difficult to determine professional services' degree of awareness of or involvement in the illicit purposes underlying their client's activities**. These range from some firms (or professionals) unknowingly facilitating illicit activities and others having greater knowledge of their clients' illicit purposes (FATF 2007, p.5). The line between **'complicity' and 'corruption'** is blurred and is a matter of interpretation.

Therefore, if one were to provide an accurate account of corrupt behaviour of such professionals in all possible, this would be redundant with the description of the various detailed money-laundering or white-collar schemes in publications such as FATF 2006, where their roles are outlined in detail.

**Notaries** can abuse their position by helping shield criminal activities and their proceeds. The corrupt activities of notaries include transactions on the property market, the establishment of legal entities. In one case, 'a notary linked his name and account to an advanced fee fraud. As a result, a swindler was able to persuade investors to transfer huge sums of money to the account (Nelen and Lankhorst 2008, 139). Notaries (but more often law-firms) could act as fronts to criminal companies, allowing these for instance to use their address as an official one (ES).

Various **(court) experts** usually, used by the defence or courts to provide expert assessment on evidence, are also susceptible to corruption. The particular issue of corruption of health professionals is discussed in a separate section, because although they are sometimes based in private companies, on many occasion they are public-sector employees.

## 5.5 Abusing a company

The third main reason why criminals corrupt company staff refers to the cases when they intend to abuse the company for their own financial gain. The most frequent type of fraud refers to cases where a purchase or procurement officer purchases a service or product that is not in the best interest of the company owners. The officer, though, receives a kickback. Some of the interviewees stated that this type of behaviour is a normal business practice in their countries: i.e. even if the service or product purchased is cost-effective to the company, the purchase officer still expects to receive a kickback from the provider (PL).

The provision of construction services is one of the areas where this type of fraud is quite frequent for the same reasons, for which the construction industry engages in corrupt practices with governments: the value of construction service is difficult to estimate, and oversight/management companies themselves may be collusive or corrupt. For this reason, construction is one of the business sectors attracting criminals (CZ, SE, NL, UK, IT, MT, EE, AU, PT, SI, LT, CZ, IT). In these cases, as the illustration from the Netherlands shows, the owners could be defrauded of millions

of euro. In addition, construction work could not only be overpriced, but also substandard.

*One respondent described a recent fraud case in the Netherlands involving one of the largest construction companies. The Rabo Bouwfonds property company, (owned by Rabobank, one of the largest banks in the country, and formerly by ABN Amro), concluded a real estate development deal with the Phillips Pension Fund. The total amount of the deal related to the fraud was 350 million euro. Over a period of more than ten years corrupt managers at the Phillips Pension Fund gave contracts to Robobouffons, which were inflated by millions of euros. According to the respondent, the reason why the construction sector is susceptible to corruption is because there is no transparent pricing mechanism, and oversight, especially at high levels, is often difficult. (NL)*

*A high-level manager of the franchise of a major multinational corporation (MNC) in Greece appointed procurement managers with whom he colluded in ensuring the 'right' suppliers were used'. After moving to another company, the high-level manager continued to play the role of intermediary in corruption deals. Suppliers willing to do business with the MNC were directed to him to negotiate corrupt supply arrangements'. (EL)*

The fraudulent services purchased by corrupt officers could also relate to complex financial frauds. Interviewee from the Netherlands pointed out another example, stating that fraudulent investment brokerage firms frequently use corruption to convince an investment manager in firm to make an investment in their securities which later turn out to be fraudulent (NL).

### Factors of corruption

In terms of intermediaries and factors in facilitating corruption in the private sector, no particular patterns could be discerned from the available information. Unlike the case with public sector employees, access to private sector employees is much easier and more direct. There are few limitations (especially legal) on private sector employees regarding meeting representatives of other companies or individuals. In addition, any criminal intentions might become clear much later in the process, as might the need for corruption. Further to that, the fact that criminals might appear to be potential clients for a legitimate deal, means that professionals have an incentive not to immediately alienate them, but rather to try to 'work out' a solution.

**Differences** in business cultures and practices also play a big role (as described above in the case of Poland). The role of business and corporate cultures in EU-10E in facilitating private sector corruption is potentially a vast topic. Nepotism, clientelistic networks, and informal bonds of trust substituting formal legalistic business relations, are just a few of the characteristics that could facilitate corruption.

Lack of sufficient or effective regulatory oversight of the private sector also provides good grounds for the growth of organised crime: the maintenance of low standards of accounting practices, such as keeping off-the-books accounts and non-accountable funds encourages corruption in the private sector. Here, all industries are potentially concerned.

## 5.6 Anti-corruption measures

In several countries interviewees were of the opinion that not many private companies take specific anti-corruption measures. Private sector governance is weak and preventive anti-fraud measures are not much developed (BE). The exceptions are either the bigger companies, or the subsidiaries of US listed companies whose policies and procedures are driven by the 2002 Sarbanes-Oxley Act and by the Foreign Corrupt Practice Act<sup>62</sup> (AU, BE, SE, MT). SMEs usually do not adhere to such anti-corruption standards as their implementation is too expensive. They usually naively assume nothing will happen until it does and then

<sup>62</sup> Following the Enron fraud scandal, in 2002 the US Congress passed the Sarbanes-Oxley law: legislation that created new standards of top-management responsibility for honest financial accounting and that increased penalties for defrauding investors in shares of corporate stock. Among other provisions, the act calls for increased oversight duties for corporate fraud, requires corporate CEOs and CFOs to certify corporate financial statements personally, and adjusts federal sentencing guidelines to implement longer prison sentences for high-level corporate executives convicted of corporate financial fraud. (Gerber & Jensen 2007, p.88)

they have to deal with it (SE). Professional service companies in smaller Member States are usually SMEs, which means that often they do not have sufficient anti-corruption measures in place (DM, BG). Interviewees from Member States with perceived high-levels of public sector corruption (RO, IT, BG, EL) also reported that anti-corruption measures in the private sector were rare and were either implemented as damage control to their public image once fraud had occurred, or if EU regulation (e.g. anti-money laundering rules) required it. Most large auditing and fraud investigation firms provide a full range of advisory services on designing comprehensive corporate anti-fraud (corruption) mechanisms. There is much written about the merits of or best practices relating to the various measures (e.g. PWC 2007, E&Y 2008). Below we list some of the common anti-corruption measures that interviewees discussed, and some of the problems that they identified.

Best practices for procurement staff should clearly include:

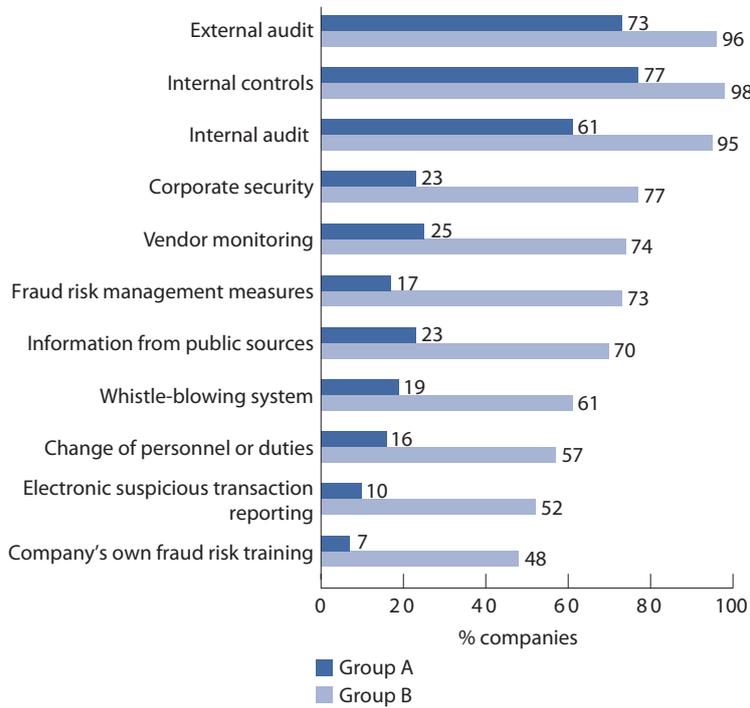
- Discouraging ‘facilitation payments’;
- Defining clearly what constitutes a conflict of interests;
- Requiring the presence of at least two persons for negotiations;
- Imposing limits for (token) gifts and benefits;
- And in-house appropriate controls of the above.

Interviewees from international professional services firms also reported specific anti-corruption measures, such as:

- Obligations of auditing firms to **report corruption and fraud** (AU);
- **Staff rotation** for employees exposed to corruption: for smaller local firms (e.g. accounting or law-offices) this is not usually possible (AU). Many banks use rotation as an anti-corruption measure (MT);
- **Corporate security departments** could refocus their activities to spot or prevent internal corruption;
- **IT system** monitoring and control mechanisms could also be used whenever they are designed to detect fraud (AU, SE, MT);
- **Internal audits** (SE, SI, MT) could specifically target in-house corruption – some interviewees commented on their falling effectiveness (AU), something that the PWC survey (see below) also concludes;
- **Whistle-blowing** programs (SE) are increasingly effective, but need careful design and appropriate corporate culture;
- **Corruption awareness campaigns**, special training sessions, and codes of conduct, AML guidelines (PL);
- **“Four eyes principle”**: requirement that every decision needs to be approved by the CEO and that no decision is to be taken by any employee alone (AU);
- Obligatory external audits (MT), **even for the smallest companies is seen as positive, but costly measure.**

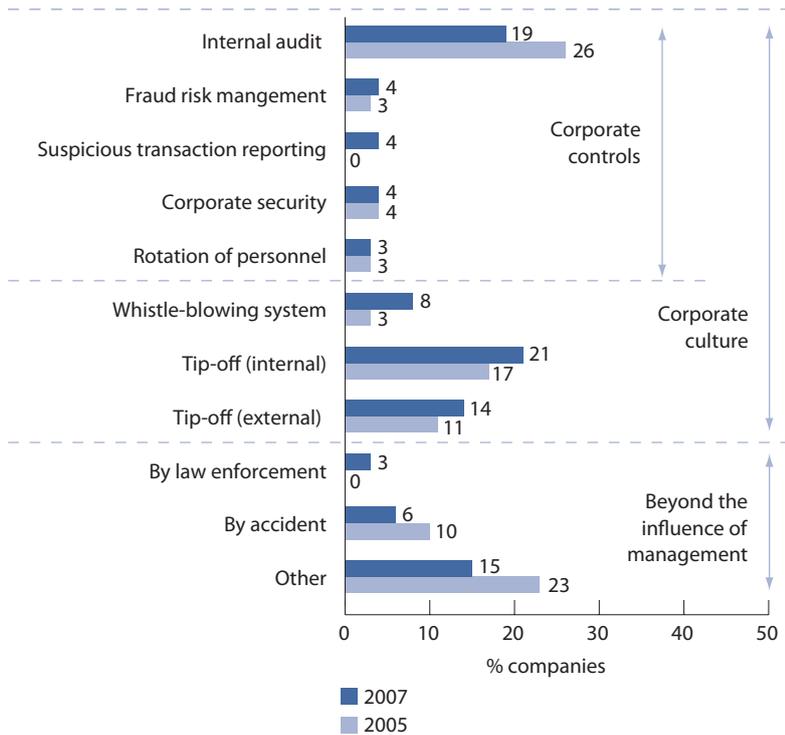
A 2007 PWC survey that included small and large companies listed a similar range of anti-corruption measures adopted by firms around the world. The survey nevertheless demonstrated that corporate controls contributed to the detection of fraud in only part of the cases. In the majority of cases it was factors related to corporate culture, or to outside bodies, or chance that contributed to the detection of fraud.

**FIGURE 11. FRAUD RISK MANAGEMENT CONTROLS IMPLEMENTED BY COMPANIES IN GROUP A (UP TO FIVE CONTROLS) AND GROUP B (MORE THAN FIVE CONTROLS)**



Source: PWC (2007, p.11).

**FIGURE 12. DETECTION METHODS**



Source: PWC (2007, p.10).



## 6. CORRUPTION AND CRIMINAL MARKETS

This chapter aims to provide a different dimension of organised criminals' use of corruption. While the previous chapters focus on institutions, here the analysis focuses on the how corruption facilitates particular 'organised criminal activities' that often involve multiple public institutions and private sector participants.

The proposed analysis focuses on "illegal markets," not simply on "criminal activities," for two reasons:

- It allows for easier measurements and comparisons of 'organised crime' across countries;
- It is broad enough to include all actors and aspects of corruption, not solely higher levels of structured criminal organisations; This approach provides a more comprehensive understanding of 'petty' and 'grand' corruption, which are often inextricably linked in the operation of illegal markets.

Many organised criminal activities (e.g. VAT fraud, or credit card fraud) are not market-based crimes based on 'demand' for illegal services or products. They are not discussed in this chapter, though they similarly might involve corruption. Most criminal groups and networks are involved in multiple markets and non-market based criminal activities. They use similar corruption networks for all types of crimes. Therefore, the analyses below provide sufficient analytical insight for further analysis of corruption in other types of organised criminal activities.

### 6.1 Illegal cigarettes

#### 6.1.1 The market

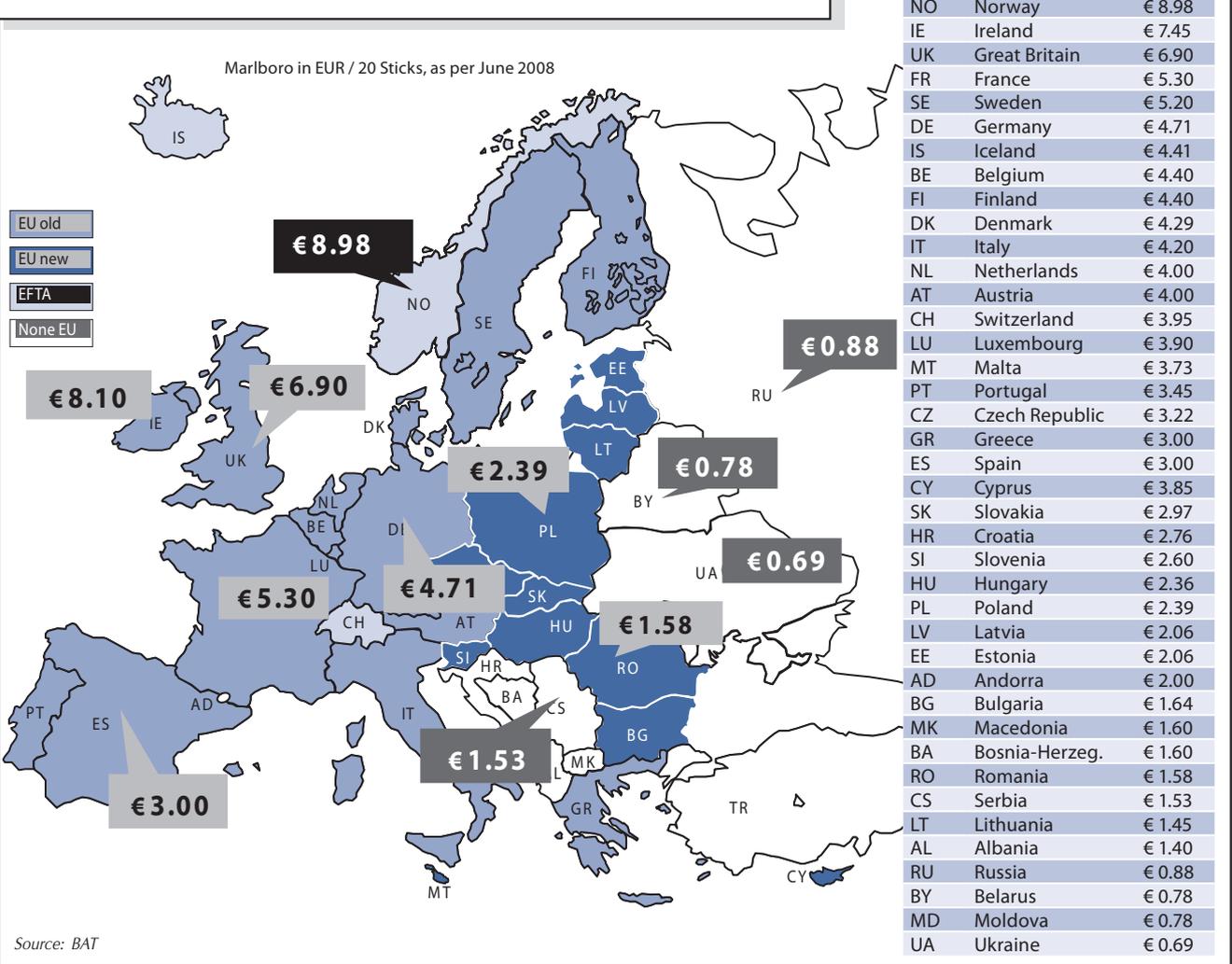
The sale of contraband cigarettes (legal or counterfeit) is one of the largest illegal markets in Europe. The price differentials of retail sales of cigarettes between the EU and its neighbouring countries, between EU-17 and EU-10E, or even within EU-17, create lucrative opportunities for criminals. An estimated 99 billion cigarettes are smuggled annually into the EU, of which 80% had been legally produced and 20% counterfeit. The main purpose of this illicit trade is avoiding excise taxes. Seizures account for only 3% of illicit trade in the EU. The losses to European governments according to some estimates are €10 billion. There are generally three types of smuggling practices:

- **Bootlegging**, or buying a quantity of cigarettes that exceeds custom regulations;
- **large-scale smuggling**;
- **postal imports**, or using the postal system to smuggle cigarettes;
- **counterfeit production**.

Large-scale smuggling and bootlegging possibly present the largest 'threats'. Some interviewees estimated that about 80% of cigarettes are smuggled across land borders through EU-10E countries, while about

20% (mostly counterfeit ones) are shipped by boat from outside the EU, mainly China.

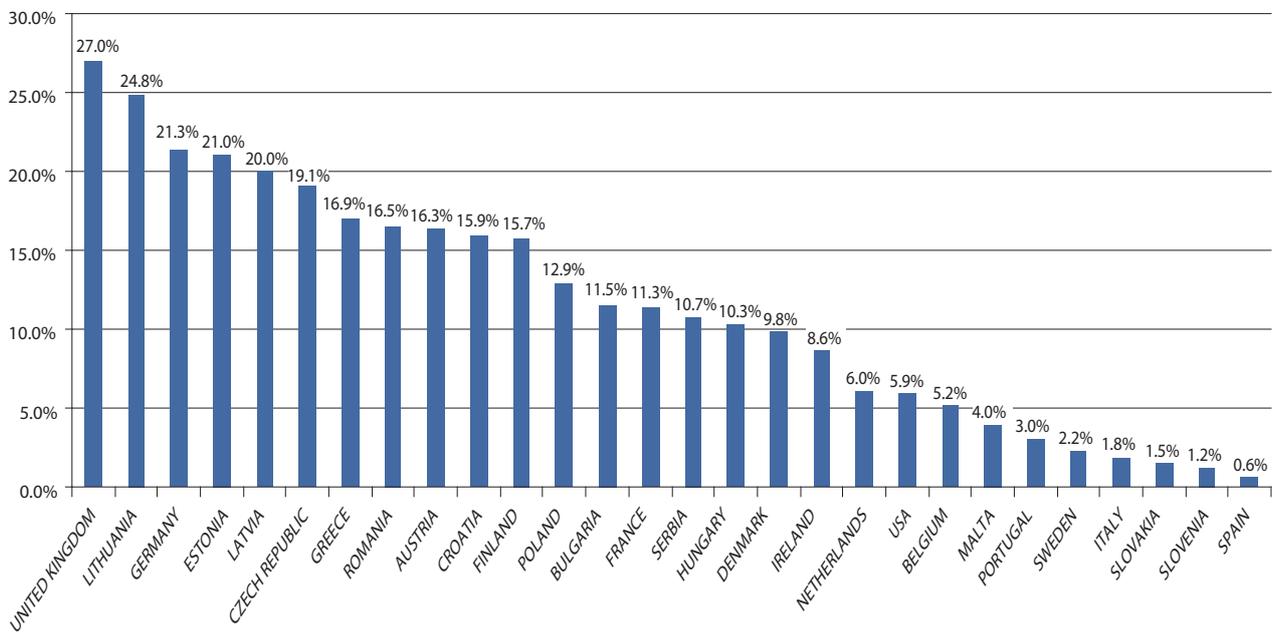
TABLE 16. CIGARETTE PRICES IN EUROPE



The key drivers for cigarette smuggling are the price differentials (see above map), the proximity to supplies (from EU-10E), and the size of the market. These factors determine that the most attractive markets and those that have the highest share of duty-not-paid (i.e. smuggled) cigarettes are Germany, Poland, Romania, Spain, the UK, etc. However, although price differentials and cigarette affordability are extremely important, there are a number of (non-financial) factors that, according to Joossens et al. (2009), contribute significantly to the establishment and consolidation of illegal markets in cigarettes (and other tobacco products). These include: (a) a long history of cigarette smuggling; (b) the presence of informal distribution networks; and (c) levels of a country's corruption that have been positively associated with the levels of illicit trade in cigarettes (see also Merriman et al. 2000).

The distribution of cigarettes across the EU is heavily dependent on informal labour and sectors of the economy with high levels of informality (e.g. 'night-time' economy).

FIGURE 13. ILLICIT TRADE AS PERCENTAGE OF TOTAL CONSUMPTION



Source: Euromonitor International<sup>63</sup>

### 6.1.2 Criminal structures and organisation

Across the EU, a large number of criminal entrepreneurs engage in cigarette smuggling and distribution, forming a variety of criminal networks throughout the EU with links to the former Soviet Union or China. Although each Member State has a specific illegal market structure (depending on the size of the market, the local legal cigarette prices, the country's position – transit or destination, the demand for illegal cigarettes) several generalisations could be made to sketch the illegal cigarette markets in the EU.

- **Large hierarchical** structures operating in networks, often connected to local producers in several countries. One example are the cigarette makers in Russia (Kaliningrad), Ukraine, and Belarus, whose products are smuggled into Eastern Europe, where part of them are sold, but ultimately destined to reach lucrative markets in Germany and the UK. The model often involves 3-4 large factory owners, wholesalers in Poland and the Baltic countries, and street vendors (Vietnamese immigrants) in Germany (Lampe 2001; LEI).
- **Large networks** involving dozens of trading companies, providing the purchase and delivery of international brands of cigarettes. After numerous transfers of the goods through duty-free zones and ports, the

<sup>63</sup> Malta's data is for 2002-2003. No data is available for Cyprus and Luxembourg. The estimates provided by Euromonitor should be considered carefully. National governments or "Big Tobacco" companies have their own estimates. These estimates were presented as they are probably more independent than others and provide a general idea of the country risks.

cigarettes are eventually smuggled and distributed through criminal networks of wholesalers and retailers.

- **Small networks.** The first two/three structures take advantage of the in-transit system which allows the temporary suspension of taxation.
- **Individual cigarette smugglers** who illegally deal in small quantities of duty-paid cigarettes bought from legitimate retail outlets (see, for instance, Antonopoulos and Mitra 2009).
- **Counterfeiting networks** organising illegal production of counterfeit cigarettes within the EU, particularly in Central Europe, using low-cost machinery from Asia. The investment pays off even if one container of cigarettes is sold.

The main players within these different networks include wholesale brokers who trade in various brands, and who are usually involved in securing the transit of the cigarettes, including paying the necessary bribes, between sellers and wholesalers who have exposure to retail networks. Polish traders who have a long tradition playing such an intermediary roles are one such example. The upper-level players are often criminal companies that have the financial capacity and legitimate *appearance* to purchase large quantities from legal distributors or producers (Lampe 2001).

Networks of warehouse owners serving the several thousand bootleggers who daily cross the borders between countries with higher and low priced cigarettes (e.g. Poland-Ukraine, Romania-Ukraine, Bulgaria-Serbia, Poland-Belorussia) also play an important role. Illegal cigarettes are distributed in these networks. The above-described entities for production, transport, import, wholesale and retail often interact and establish longer term symbiotic relations.

### 6.1.3 Corruption pressures

Corruption could be observed at all levels of these networks. The targets include:

- Customs
- Politicians
- Private sectors
- Police

**Customs:** The main target of corruption related to cigarette smuggling are customs agencies and checkpoints – the institutions involved in controlling imports of cigarettes and collecting excise taxes. The pressure is greatest along external EU borders, in particular the eastern borders of the EU Customs Union. In some Member States along the eastern border of the EC, entire land-border customs operations have been compromised – from front-line detection officers to supervisors, heads of office, regional directors, possibly even including at the central level (BG, HU, LT, RO).

Bootlegging, which is rife in border regions of EU-10E, is usually related to low-level corruption or even tolerance. The key border crossings that

were identified by interviewees as locations where large-scale cross-border bootlegging include:

- Bulgaria (Svilengrad, bordering Turkey; Kalotina, bordering Serbia)
- Romania (Siret/Suceava, bordering Ukraine)
- Poland (Bialystok, bordering Belarus; Przemysl-Medyka, bordering Ukraine)
- Greece (crossings with Bulgaria, Macedonia, and Albania)
- Hungary (Zahony, bordering Ukraine)
- Slovakia (Vysne Nemecke, bordering Ukraine)

The border towns at the crossings are heavily dependent on bootlegging and trafficking excisable goods. The local customs and border authorities usually allow this trade as a routine way of survival. Central and local customs leadership generally tolerate this cross-border culture. There are different schemes for 'border crossing fees': from fixed amounts, which are split between the officers on a shift, with a share going to higher-ups, to fees determined according to the quantity smuggled. The bribes are paid either by 'mules' transporting the cigarettes or scheme organisers.

The main reasons behind the continuing corruption interviewees mentioned were:

- Relatively low salaries;
- Inadequate organisation of operations to prevent corruption;
- Organisational cultures histories of tolerating corruption;
- Lack of economic alternatives of border communities involved in shuttle trade smuggling.

In EU-17, the lack of land-border posts concentrates the pressure for corruption amongst customs officers at sea ports/airports. Surprisingly, no corruption cases have been detected and reported by customs in most EU-17 ports where large shipments of cigarettes arrive (BE ES, NL, UK), with the exception of cases detected in Greece (EL). Interviewees explained that there was no need to use corruption. Smugglers refer to the '1 in 7 rule', which states that even if only one out of every seven containers smuggled passes, it compensates and makes the smuggler break even. In reality, as most customs, particularly in big ports like Le Havre, Rotterdam or Hamburg check less around 2% of containers, the statistical chances of successful smuggling are quite high.

Law enforcement experts argue that large shipments of more than one container are typically considered high-risk to smugglers, and they take precautions by bribing customs officials. This approach leaves open the question of why customs offices in ports across EU-17 are not coming across any corruption cases. Some interviewees offer one possible, albeit speculative, answer, saying that many customs offices in EU-17 don't traditionally handle corruption problems and thus are not making special efforts to detect them. In some Member States (e.g. BE, DM) there are no internal investigation departments in customs agencies. In others, particularly in Nordic countries, where organised crime has a more limited presence, fewer resources are allocated to complex investigations (e.g. involving wiretapping) to uncover corruption in customs (EU). Therefore,

the investigations usually stop at arresting the mule or the few immediate associates. For instance, the large seizure of close 1 billion cigarettes in several warehouses across Belgium did not result in uncovering corruption, yet according to law-enforcement experts such a large shipment is unlikely to have crossed border without any corruption (EU).

In some countries, smuggling takes place at sea or on rivers (BG, EL, ES, IT). In these cases, the smugglers disperse sealed packages with cigarettes near the coast, where small boats later collect the shipments. In such schemes, sometimes the corrupt border guards or customs officers inform smugglers of the patrolling schedules of border guards, so as to avoid detection. In countries like Italy and Greece that have thousands of kilometres of sea border, successful smuggling could also be attributed to the lack of the capacity to effectively guard the extensive coasts.

**Private sector:** several industries are particularly vulnerable to cigarette-smuggling-related corruption: transport, port services, and duty-free shops. Several studies present evidence of collusion between smugglers and legal companies, as well as corruption:

- **Transport sector:** research on cigarette smuggling in the Netherlands (Van Dijk, 2007) has shown that corruption could exist in about 19% of the cases where a company employee – most often a driver – would become involved in a smuggling ring. There were also smuggling cases involving managers or cargo-planners.
- **Port authorities:** there are various cases in which corrupt port or dock workers were arrested in smuggling schemes. In some cases, these workers might cooperate with corrupt customs officers. Corrupt workers could be used to transfer goods out of ports or duty free zones and help avoid customs detection.
- **Duty free shops:** the role of land-border duty free shops in Eastern Europe, in particular in Romania and Bulgaria has been noted in various studies (CSD 2004).
- **Retailers:** In EU-10E, small and medium-sized stores could distribute illegal cigarettes (through corrupt store managers or owners), while in EU-17, bars and coffee shops (Antonopoulos and Mitra, 2009) or even CD shops, groceries, haberdasheries and kiosks (Antonopoulos, 2008) play a similar role.
- **Tobacco manufacturers:** The bulk of the commodity to be sold on the illegal market comes from here. Tobacco manufacturers may appear as one of the parties that suffers losses from the illegal cigarette trade. However, by turning a blind eye to cigarette smuggling, they are the main beneficiaries, since they indirectly use the cigarette black market as a 'market entry strategy' (Joossens & Raw, 1998) to 'open' markets that are increasingly 'closed' due to a tighter tobacco control frameworks, introducing cheaper cigarettes and stimulating consumption. In addition, tobacco manufacturers 'exploit' the issues surrounding cigarette smuggling to pressure governments to reduce or avoid increasing cigarette taxes (Joossens & Raw, 1995; 1998; 2002).

**Political corruption:** political corruption is limited allegedly only to EU-10E Member States. No particular evidence was provided, although allegations were made about existing problems in Bulgaria, Lithuania,

Poland and Romania (BG, LT, PO, RO). Political corruption is used:

- To influence customs to provide protection;
- To act as intermediary in facilitating customs corruption;
- To provide protection to private sector players involved.

Political corruption, especially in local governments, is more frequent in border regions, particularly in towns where cross-border smuggling provides a living for many families.

**Police corruption:** In countries where customs agencies lack investigative powers (Bulgaria, Denmark, etc.), the police become a more important corruption target for smugglers. Throughout the EU, police enforce laws related to the retail distribution of counterfeit or smuggled cigarettes. Some interviewees stated that illegal cigarettes are generally a lower priority for police inspections, unlike customs, therefore making police corruption related to illegal cigarette distribution unnecessary. In Germany, for instance, police practically never arrest street sellers or even low-level whole-sellers of illegal cigarettes, as they usually carry only small legal quantities.

In Eastern Europe (e.g. Bulgaria), retail sales of illegal cigarettes could be ‘charged’ by low or middle-level officers. The charge is made in return for warning retailers about police raids or concentrating police raids on the competition. In some cases, durable relations between the officers and retailers do not exist. In cases of successful police raids, ad-hoc payments could be made to prevent or impede further investigations. High-level police corruption is usually related to political corruption, where investigations against large-scale smugglers are stopped under pressure from corrupt politicians or relevant intelligence is withheld.

TABLE 17. CIGARETTE SMUGGLING AND CORRUPTION

Illegal cigarettes and corruption summary card				
Targeted Institutions	Customs (all levels)	Private sector: Transport Ports Duty free outlets Retailers	Police(all levels)	Politicians Local and central government
Purpose of corruption	Avoid detection, ensure smuggling channels	Smuggle tobacco Distribute tobacco	Protection in distribution; protection from investigation	Influence customs, police, legislation
Countries targeted	BG, EL, LT, PL, RO, HU	All (except duty-free shops: RO & BG)	n/a	BG, PL, LT, RO
Level of risk	High	High	Low	Low

### 6.2 Prostitution and trafficking of human beings for sexual exploitation

The link between prostitution and trafficking in human beings for sexual exploitation (abbreviated as THB) can be elucidated by the large demand for sexual services across the EU, prostitution’s large profits and the relatively low-risk operation of people smuggling. Historical, geographic, and specific prostitution market contexts in Member States affect corruption pressure related to THB and prostitution.

### 6.2.1 Historic and geographic contexts

In the former communist countries – EU-10E, the prostitution market re-emerged after the democratic changes of the early 1990s. The transition to market economies that followed resulted in high levels of unemployment and marginalisation of many vulnerable groups, leading to a surge in the number of women involved in prostitution domestically and, above all, internationally.<sup>64</sup> At the same time, the low standards of living created a relatively limited prostitution market. These countervailing factors, coupled with the demand for sexual services in EU-17 and the larger profits earned from prostitution abroad, lead to a substantial number of women being trafficked for the purpose of sexual exploitation to wealthier Member States.

In destination countries of THB, the type of corruption pressure exerted is affected by the legal status and regulatory framework of prostitution. In Member States, where prostitution is legal but regulated, corruption of local administration (DE, NL) or tax authorities (EL) is likely to exist, as some sex workers or brothels work in the grey economy. In Member States, where certain prostitution related activities are criminalized (e.g. profiting from prostitution in France, inducing someone into prostitution in Bulgaria, paying for sexual services in Sweden), corruption pressure falls primarily on police officers.

The geographic distribution of sex markets across the EU also influences the prostitution landscape and, consequently, the corruption pressure exercised. Large metropolitan centres (e.g. London, Amsterdam, Brussels, Frankfurt, Madrid, or Paris), coastal tourist centres (e.g. Mediterranean or Black Sea resorts), or border areas usually concentrate demand for paid sex. These concentrations lead to high corruption pressure on local police officers, local authorities, and immigration offices (UK, NL, BG, EL, CY, ES, CZ, BE).

### 6.2.2 Market context

In most Member States, there are four main market segments for prostitution: the street, brothels, elite prostitutes, and independent prostitutes. Although the four levels are often interrelated, the actors (prostitutes or criminal networks) in them are often different, as are the corruption targets.

- **Street and highway prostitution:** this is the most conspicuous type of prostitution and most directly controlled by the police. Low-level corruption of patrolling police officers for protection/racketeering is most common (UK, BG, FR, ES, DE).
- **Club prostitution** (brothels, massage parlours etc): low to mid-level corruption of law enforcement is likely to be used to prevent raids and vice squad investigations (BG, UK, CY). Brothel-regulation-related

<sup>64</sup> In Bulgaria, within two decades after the fall of the regime, between 25,000 and 30,000 of women were involved in prostitution annually up from a few hundred at the most before 1990 (Bezlov et al. 2007).

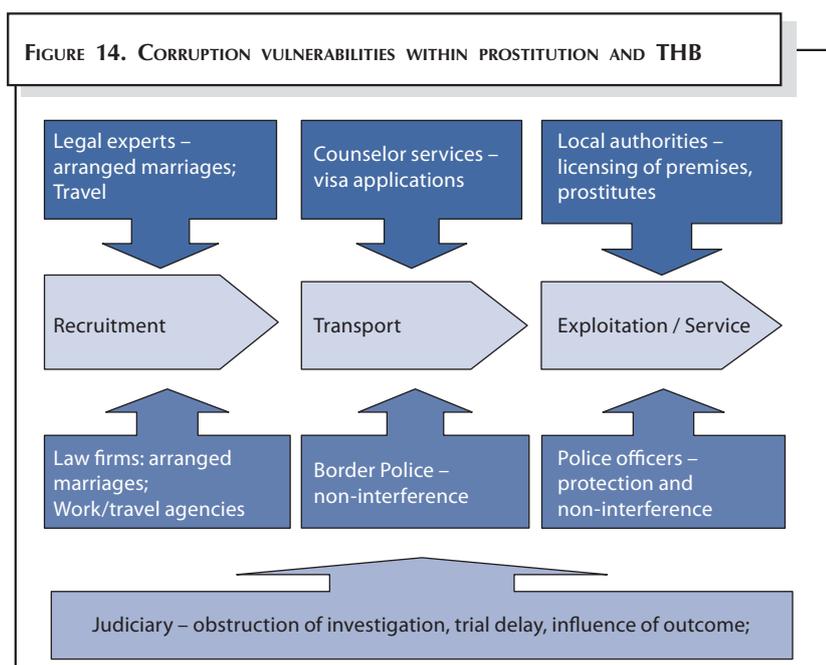
corruption could also affect local government and tax authorities that enforce licenses or zoning laws (NL, DE).

- **Elite prostitution:** Elite prostitutes are used as a corruption instrument by organised crime to gain influence over politicians, magistrates, and representatives of multinational corporations (FR, BG, DE).
- **Independent:** the internet has provided an opportunity for some women to work independently as prostitutes. Little corruption seems to be involved, and organised crime, especially in countries where prostitution is legal, often does not control independent prostitutes).

The criminal groups and organisations involved may be small, sometimes working in collaborations, or part of larger criminal structures. Often, parts of them operate remotely, with someone in the supply country (typically in Central and Eastern Europe) controlling women and pimps. Cooperation with local criminal structures controlling prostitution and local 'distribution channels' (e.g. brothel/cabaret/window/restaurant owners) is vital.

The most common activities within THB or trans-national prostitution networks are the following:

- Recruitment and procurement;
- Smuggling and transport;
- Counterfeiting of identity and travel documents;
- Provision, management and control of safe houses;
- Pimping;
- Operation of premises where victims are exploited or prostitutes work: bars, nightclubs, brothel factories, hotels, cabarets;
- Collection, delivery and distribution of the profits of trafficking;
- Money laundering and the management of assets and proceeds of crime (Europol, p.6).



### 6.2.3 Corruption pressure

Corruption could be used at many points during the trafficking process, or in the course of the operation of a prostitution ring, or the running of a legitimate or semi-legitimate commercial sex enterprise. The graph below illustrates how, starting from the recruitment of prostitutes or victims (typically in EU-10E, e.g. BG, CZ, PO, RO), and leading through the transport and the exploitation or 'service-provision' phases, private companies and public officials could be involved.

*Staff member of the Belgian Embassy in Sofia in 1996 were bribed by an organised criminal smuggling ring that led to the issuing of 250 visas to Bulgarian nationals, including many prostitutes. Subsequent evidence emerged that a senior diplomat had developed a network of front companies at home for making fictitious work visas. (BE)*

*Staff at the French embassy in Sofia (BG) were implicated in selling an estimated 20 000 to 25 000 visas to Bulgarian prostitutes and charges were brought against a former vice consul (US TIP Report 2001).*

*In Netherlands, the municipal councils responsible for the enforcement of the administrative law concerning the licensing of "sex workers" are often bribed by criminal groups to avoid payment of taxes (NL).*

*In Cyprus, where prostitution is illegal, trafficked women from Eastern Europe, Latin America, Southeast Asia and North Africa come to work in cabarets and bars on "artist" visa. Intermediaries are used and consular officials may be bribed to turn a blind eye when issuing the "artist" visa permits to foreign women (CY).*

#### **Political corruption: cases**

*In the past in Belgium there were two parliamentary commissions on organised crime and one on human trafficking. Political involvement in OC and corruption of politicians was to be discussed by those commissions. The parliamentary commissions, however, were liquidated in 2003 after politically sensitive report was issued. Magistrates were not allowed to speak publicly fearing that they will lose their jobs. OC groups probably corrupt politicians on various levels but there is no hard evidence and cases to provide strong support of such claims. (BE)*

*In public scandal, the Bulgarian Parliament passed a legislative amendment that became publicly known as the 'Vanko-1 amendment': named after not the legislators that initiated it, but after one of two well-known traffickers of human beings and pimps. The convicted pimp, Vanko-1, who was also a popular singer, was considered to have had undue influence on certain MPs through his lawyers. (BG)*

*Investigations have also shown links between the Italian mafia and the Socialist Party in Belgium. In Belgium, Defence Minister Van Den Boeynants is known to have had connections in the 1970s with criminal groups operating escort services. The use of escort »*

In the sections below, the various forms of administrative, police, law-enforcement, and judicial corruption are discussed.

#### **6.2.3.1 Administrative corruption**

Administrative corruption is more common where prostitution is legal and regulated (DE, NL). In such countries, brothels or prostitutes may decide to conduct activities without the necessary licences, avoiding tax, and are part of the grey, rather than the 'black,' economy. Nevertheless, administrations could be corrupted for different reasons:

- **Avoid zoning requirements** (in countries with legalised prostitution certain areas cannot have brothels), licensing regimes, and the payment of taxes (NL).
- **Work permits:** Labour bureaus are also a target of organised crime aiming to legalise the status of victims of trafficking (CZ).
- **Real estate:** concealing or changing the purpose of real estate operating as a brothel. In the Netherlands, municipal officials are bribed to change the classification of premises in the Red Light District purchased as "residential real estate" to "brothel" (NL).
- Obtaining licenses for bars and night clubs functioning as brothels (NL).
- **Visa-fraud:** securing forged documents for trafficking victims to facilitate **transportation**. In some cases, visa fraud secures legal stays in the EU Member State where the non-EU national criminal group resides (BE).

#### **6.2.3.2 Political corruption.**

As indicated in the section on political corruption, participants in illegal markets, such as prostitution or THB, have limited access to politicians in EU-17. Evidence reveals, though, that political corruption, mostly at a local level in EU-10E, is more common. Whenever it occurs, corrupt politicians ensure protection from investigations or prosecution (as already discussed in the sections on police and judicial corruption).

The disparity of the levels of political corruption in Eastern and Western Europe can be explained partially by the fact that larger shares of proceeds from prostitution and trafficking return to Eastern Europe, often via laundering in the 'white' economy. 'Ring leaders' are often based in Eastern European countries, where they become local economic players and might have political links, or even political posts (BG).

Political elites at the local level in EU-10E then become vulnerable to corruption pressure as they are more exposed to wealthy local businessmen involved in criminal networks dealing with prostitution and THB.

Across the EU, though, elite prostitutes and escort service are often used to corrupt political figures and provide criminal networks with protection from investigation (BG, DE, FR, NL). For the criminal networks running elite prostitution rings, access to politicians is either direct, or via businessmen that could be their clients.

»services by political elites/ royalties, notably Prince Albert (now King of Belgium), is often used as a blackmail tool by the criminal groups. (BE)

In 2000, Melikhov, member of Russia-Georgian mafia, operating in prostitution and human trafficking, money laundering, Antwerp diamond sector, bribed Belgian political figures to obtain Belgian nationality. (BE)

#### Police corruption

In Lithuania, police officers have been involved in racketeering involving prostitutes and criminal networks. The prostitute would service a rich client and complain to the police officers that she had been raped. The police officer or a fake relative would show photos to the client as evidence and demand pay-off (LT).

In a 2006 case, 7 community police officers from the Paris suburb of Seine-Saint-Denis were sentenced to various prison terms for committing a number of crimes, including obtaining free services from prostitutes. In a different case in 2006, four police officers (3 from Marseille and higher level Commissaire, from Carpentras) received sentences of between 1 and 4 years for having financed and operated at least two swinger clubs that also involved prostitution. (CS-FR)

On May 8, 2008, the chief of the local police of Coslada (a Madrid suburb) and other 26 local police officers were arrested on suspicion of involvement in a corruption ring that involved extortion from prostitutes, bars and local businesses. On May 14, a judge authorized detention without bail for 13 of the arrested officers (SP).

A recent case from Greece cited by an interviewee revealed the difficulty of drawing the line between police corruption and full-scale involvement in organised crime. The case involved four police officers who were arrested for their alleged participation in a sex-trafficking ring believed to have brought hundreds of women to Greece from Eastern Europe and the Balkans for prostitution. Two of the four had been previously prosecuted, while one was convicted and dismissed from the force after being found guilty of participating in extortion racketeering (GR).

Police officers in Germany make themselves vulnerable to blackmailing by visits brothels and the „milieu“. Police officers are then bribed into providing information to the criminal group (DE).

#### 6.2.3.3 Police corruption

Interviews revealed that police corruption is the most common type used throughout the EU to facilitate prostitution. Along with drugs, the prostitution market is a key driver to corruption within the police. In general, across the EU, police corruption takes place at the low level of the law enforcement hierarchy, where there is direct exposure to prostitutes, pimps, and brothels.

Different types of corruption pressure may be exerted, depending on the legal status of prostitution in the respective country and the level of prostitution (street level, club, elite). Brothels, especially, provide a covert environment where corrupt exchanges can take place. The following are the most common reasons, why criminals or prostitutes corrupt the police:

- In countries with liberal regulation of prostitution, police officers, responsible for the enforcing of the licensing regime, are bribed to “turn a blind eye” on non-licensed prostitutes (NL).
- In Member States that criminalise prostitution, corrupt police officers are essential for the operation of street level prostitution – the most conspicuous type of prostitution.
- In countries criminalising profiting from prostitution, police officers are bribed to provide protection of brothels and other types of premises for sexual services. Such corruption pressure is likely to affect police officers at a higher level to prevent investigations or ensure information (e.g. time and place) on police raids.
- Police officers are themselves involved in racketeering prostitutes, in return of sexual favours or payments (EL, FR, SP).<sup>65</sup>
- In some cases (FR, UK), police officers have been directly involved in prostitution, setting up and operating a brothel with Eastern European prostitutes (UK) and swinger clubs, that also involved prostitution (FR). In Greece, police officers were arrested for alleged participation in a trafficking ring; participation of police in trafficking networks is also evidenced in Bulgaria.
- Police officers leak information leaking on police operations or obstruct investigations for organised crime.
- Criminal networks bribe border control law enforcement to evade surveillance in the countries of origin of trafficking victims, such as Bulgaria.
- Acting on behalf of criminal groups, prostitutes blackmail police officers, a recurring trend throughout EU Member States (UK, NL, DE, BG). Recordings made of officers gambling or having sex with prostitutes is used to exhort information.

<sup>65</sup> A recent study of prostitution in Chicago revealed that around 3% of all ‘tricks’ that prostitutes did were freebies to police officers (Levitt and Venkatesh 2007).

**Judicial corruption: cases**

A recent case in Spain demonstrated connections between a judge and a criminal network, involved in, among others, prostitution and trafficking. The judge was suspended from the General Council of the Judicial power; later, however, the suspension was lifted (ES)

Other cases are presented in section 4.6 on judicial corruption in Germany and France.

**6.2.3.4 Judicial corruption**

The judiciary, particularly the courts, is much less targeted by organised crime than the police or politicians. The objectives criminal organizations pursue to corrupt the judiciary to facilitate prostitution or human trafficking follows the same models for the corrupt protection of other illegal activities – focusing on avoiding investigation, influencing the trial, obtaining lower sentences, etc.

Judicial corruption is often linked to political corruption. In some “politically sensitive cases” involving members of the political elite, magistrates may obstruct or refrain from investigations.

Interviews reveal that blackmail involving prostitutes is a common technique to corrupt judges and prosecutors (BG, CS-FR, DE, NL). Under threat of exposure, judges and prosecutor are then blackmailed into committing further corrupt acts.

Organised crime uses social, professional and political networks to influence the judiciary. The case study of Bulgaria reveals that prosecutors are involved in sub-networks of large local businessmen, local MPs, judges, mayors, city council members, law enforcement officers that act in concert in exercising or protecting organised crime activities, including THB.

**Private sector corruption**

Human trafficking activities in EU Member States have been facilitated by the involvement of law firms/legal consultants and work-abroad agencies. Advice provided by lawyers on marriage of convenience serves an important function in trafficking of women (NL).

- Lawyers can serve as intermediaries between criminal groups and magistrates for the settlement of cases related to THB.
- Work-abroad/ travel agencies serve to recruit victims of trafficking through advertisements of unrealistic job offers.
- Transport companies (particularly bus companies) could transport prostitutes, trafficking victims and earnings between source and destination countries. Bus drivers are usually easy corruption targets (BG).

**6.3 Drugs****6.3.1 The market**

The drug market continues to be one of the most significant source of income for organised crime (Europol 2005). The EU’s market for cannabis, cocaine, heroin, and amphetamine type substances (ATS) is estimated at between 55 and 100 billion EUR on the consumption level.<sup>66</sup>

<sup>66</sup> This estimate excludes meta-amphetamines and precursors.

(UNODC 2008, RAND 2009). EU member states have different levels of consumption (in both relative and absolute terms). The table below shows what share of adult population uses a given drug. Although the real market sizes could be much larger (see RAND 2009) the table indicates how different the drug markets landscape could be amongst MS.

TABLE 18. LIFETIME PREVALENCE (15-65)<sup>67</sup>

	Opiates	Cocaine	Amphetamines	XTC	Cannabis
UK	0.9	2.6	1.3	1.8	8.2
ES	0.2	3.0	1.0	1.2	11.2
AU	0.5	0.9	0.8	3.5	7.5
IT	0.8	2.1	0.4	0.4	11.2
EE	1.5	0.6	1.3	1.7	4.6
IE	0.5	1.7	0.4	1.2	6.3
LU	0.9	0.9	0.4	0.5	7.6
CZ	0.2	0.2	0.7	1.0	9.3
BE	0.4	0.9	0.6	0.9	5.0
LV	0.9	0.2	1.1	0.8	3.8
HU	0.4	0.4	0.8	1.4	3.9
DK	0.5	1.0	0.7	0.3	5.2
FR	0.4	0.6	0.2	0.5	8.6
NL	0.3	0.6	0.3	1.2	5.4
SI	0.5	0.3	0.2	0.9	6.2
SK	0.4	0.5	0.2	1.2	4.1
DE	0.3	0.7	0.5	0.4	4.7
BG	0.5	0.3	0.4	1.1	1.5
FI	0.2	0.5	0.6	0.5	3.6
PT	0.7	0.3	0.1	0.4	3.3
LT	0.6	0.3	0.3	0.4	2.2
CY	0.1	0.6	0.4	0.5	2.1
PO	0.2	0.2	0.7	0.3	2.7
SE	0.2	0.2	0.2	0.4	3.1
MT	0.6	0.3	0.03	0.2	0.8
EL	0.3	0.1	0.2	0.2	1.7
RO	0.2	0.1	0.1	0.1	0.9

Source: EMCDDA

<sup>67</sup> The data in this table comes from national representative surveys where respondents self-report the frequency and quantity of consumed drugs (see below).

Each of the four groups of drugs has its own specific sub-markets, with their own consumers, distribution, traffic and production (as is the case with cannabis and ATS). Organised crime participates in different aspects of these markets: import/production and wholesale and retail trade. In the various national markets, depending on the impact of organised crime, distribution at the lowest level in certain regions and towns might be free, while elsewhere distribution may be under total control. Accordingly, the opportunities for corruption pressure and influence over police and customs are different.

### 6.3.2 The cocaine market

EU countries consume about 250 tonnes out of the annual global output of about 800-1,000 tonnes of pure cocaine hydrochloride (UNODC 2008a). In the EU, about 100 tonnes of cocaine are seized annually, around half (49.6 tonnes) in Spain. The demand for cocaine continues to grow in many Member States, and especially in Spain and the UK (RAND 2009).

Corruption among customs officers is quite rare because a single officer or even a group of officers have very limited possibilities to provide a 'safe channel for smuggling' (UK, BG, FR). A successful import scheme would have to involve numerous teams from vertical and horizontal structures, and thus would become prohibitively expensive. It is much simpler to take into account the enormous volume of imports (in ports like Antwerp and Rotterdam), the expected percent of checked shipments, and to include the loss from intercepted goods in the overall price of cocaine. Another factor favouring the lack of pressure on customs officers is that inland controls are relatively light. At places where there is a more substantial control (for instance, the French-Spanish border where the trafficking route to the Netherlands passes, with distribution links to Denmark, Germany, Scandinavian countries and the UK), expected losses have been calculated for couriers travelling at their own risk.

Interviewees outlined other systemic weaknesses exploited by cocaine trafficking networks. For example, drug traffickers intentionally overfill airport detention facilities with "swallowers" (people who have swallowed cocaine for smuggling), knowing that customs officers would not be able to check everyone, so some "mules" would get through. Officers would not risk the lives of detainees who might die from the swallowed cocaine unless they are placed under required medical monitoring in specialized hospital rooms.

From the data about the seized cocaine, it could be concluded that organised crime in Latin America and Europe lose from such seizures about 4,5 to 5 billion EUR (re-calculated at retail prices). It is difficult, then, to explain the reported lack of attempts to corrupt customs and coastal guard officers in the major entry countries, such as Spain and Portugal (ES, PT). At the same time, other interviewees argued that shipments of more than 1 tonne of cocaine usually are sent through a 'safe

channel' (i.e. high-ranking customs officers provide protection).<sup>68</sup> Furthermore, cases were cited (NL, UK) in which customs officers at airports were involved in a cocaine channel where their role was to imitate a thorough check, thus letting cocaine smugglers go through the customs undisturbed. Their participation was uncovered by chance through unscheduled changes in the shifts.

Different hypotheses based on uncovered cases have been outlined with regard to involvement of corrupt law-enforcement employees. Criminal groups provided these employees with information pertaining to their rivals in return for unhindered trafficking of their shipments (ES, NL, UK). They even sacrificed their couriers in order to avoid any suspicion of possible involvement of these employees in the trafficking channel.

The EU's cocaine interception rate declined by 35% in 2007 (UNODC 2009). The main reason is that cocaine trafficking has shrunk in the old Member States, drastically in Spain, Portugal and France, and to a smaller degree in Belgium, Sweden, Italy. At the same time there is an increase in cocaine trafficking in the new member states – Central, Eastern and South-Eastern Europe.<sup>69</sup> In this context, some interviewees (BG, EL, RO) stated that for some time there have been attempts by organized crime to develop new channels for trafficking of cocaine in Western Europe. Taking into consideration the high corruption levels in the police force, border and customs services of the above-mentioned countries, the police could be turned into a preferred partner for securing a route for cocaine smuggling. There are different indications that organised crime in the Balkans is trying to add cocaine to its heroin trafficking based on the presumption that cocaine demand would increase while those of heroin decrease (BG).

In the retail market, the number of corrupt police officers varies by country. In some countries, like the Netherlands and Spain, street dealers are generally not prosecuted; middle-level distributors are targeted instead. This method is a much more cost effective in combating drug distribution (it causes much higher damage to the distribution networks with minimum resources). In addition, it avoids placing the low level police force at risk of corruption, or the risk of corrupt officers recruiting within their own ranks or even attracting their superiors (ES, NL). In EU-10E, the opposite model seems to be applied, as police try to report better statistical results and prosecute street level dealers, while avoiding higher levels (BG, RO). In some cases, insignificant players are prosecuted so that attention is diverted from the higher levels (BG).

In some countries (BG, CZ, EL, ES, HU, IT, PL, PT, RO), local immigrant distribution networks have established spheres of influence in the enter-

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<sup>68</sup> Interview with a Head of a Drugs Department in an EU Member customs who asked to remain anonymous. According to him, 'even if these attempts to pay for a 'safe passage' are not successful, they are recurring and certain customs officers would take the risk, get 2-3 million EUR and then retire'.

<sup>69</sup> The registered decline in cocaine interception rate spans over a short period of time and the information is fragmented so that no realistic analysis could be made. The reason for this change is still unclear having in mind that the increase in bulk and retail prices in the EU is insignificant in comparison to the USA (World Drug Report 2009, UNODC).

tainment industry (e.g. bars, night clubs and other places where cocaine is on demand). Organized crime employs various corruption instruments, depending on the country. In countries where the police are responsible for exerting control over street distribution of drugs, the targeted group are police officers. In others where the entrances of night clubs are controlled, the objects of corruption are private security companies and club owners (ES, UK).

### 6.3.3 The heroin market

UNODC has estimated that 135 tonnes of heroin are supplied annually to the EU. According to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), there have not been signs in recent years that point to a significant decrease of the market after the slowdown in the beginning of the century (Europol 2006). UNODC estimates that the size of the market exceeds €22 billion. RAND's estimates between €5 billion and €14 billion, depending on the purity level assumed (RAND Europe 2009, UNODC 2008, UNODC 2008a).

By a wide margin, most of the heroin that enters the EU originates from the opium poppy fields in Afghanistan. The Netherlands and, to a lesser degree, Belgium, play an important role in the secondary distribution of heroin across the EU. For instance, the Netherlands and Belgium supply most of the heroin destined for the United Kingdom. In addition, France, Germany and Spain have observed over the years that a considerable part of the heroin seized in their countries is being supplied via the Netherlands and Belgium (Europol 2006). Turkish criminal networks with ties to Afghanistan and the Netherlands, Belgium, France, Germany and the UK dominate the trade.

The big players in the heroin market (i.e. bosses of Turkish criminal clans) sell to traffic organisers who risk their own capital and hire 'mules' for transportation. Balkan route organisers or the new northern route are aware of the expected losses and include them in the price. If their planning turns out wrong, they lose money or may be forced out of business. The situation with wholesale storage facility owners is similar. The de jure owners of the facilities for storing of heroin are low-level players who, just like the 'mules', know only middlemen, while the real owners remain unknown. Law enforcement usually targets this lower-level group without significantly affecting the system. Thus, in the countries with low levels of corruption, criminal networks incur higher losses from seizures and arrest and calculate this difference in the price. In countries with high levels of corruption, the price of heroin is lower, because corruption expenses make losses lower. Analyses and interviews lead us to believe that in the EU there are very few regions (if any) where systematic corruption at all levels allows criminal groups to establish monopoly over local cocaine markets. Such controlled regions are disappearing even in the new member states (Bezlov et al. 2007). The old model of total corruption is replaced by a smaller or larger number of corrupt officers gaining income from criminal networks.

### 6.3.4 Amphetamine-type substances

After cannabis, the most commonly used drugs in the European Union are synthetic drugs, either amphetamine or ecstasy (EMCDDA). From the start of the decade, the amphetamine market has experienced a serious decline in the EU due to the change in the subcultures of young consumers. Unlike other drugs, local production largely supplies the amphetamine market. In the EU, approximately 70-90 illicit production facilities are dismantled annually (Europol 2007). The largest numbers have been detected in the Netherlands (47). Other facilities have been seized in Belgium, Hungary, and Poland. Smaller-scale synthetic drug production facilities have been reported by Austria, Denmark, Estonia, Germany and Lithuania (Europol 2007). Reports reveal that the Dutch and, to a lesser extent, Belgian OC groups still dominate the major production of synthetic drugs (Europol 2009).

It is unclear how illegal production continues in countries like the Netherlands and Belgium, which have effective law enforcement structures and low levels of corruption. The official version is that this production is the result of an effective strategy of risk reduction, where low-level producers are sacrificed to law enforcement seizure to ensure, through intermediaries, that highly qualified chemists and large-scale producers remain intact. This view holds that corruption is impossible due to the robust control by prosecutors, teamwork by the police and attention by the media and public opinion.

According to an alternative perspective, amphetamine production persists namely because drug producers in small towns are able to corrupt police officers who are often relatives or friends. On the street level, the police checks follow the same logic as with cocaine and heroin inspections.

Amphetamines and XTC are also known as 'party drugs' and, similarly to cocaine, are often related to corruption around dance clubs where they are usually distributed. Interviewees reported cases of both private sector (security company bouncers) and police corruption related to protecting drug distribution in dance clubs. (UK) In some cases, police officers directly controlled who could sell drugs in certain clubs. In other cases, former police officers working for private security firms served as middlemen in providing protection from the police. (UK)

### 6.3.5 Cannabis market

The cannabis market is the largest illicit drug market in the EU: between € 6.1 billion and € 28.5 billion (RAND 2009), or between 1165 and 5424 tons. Despite the significant criminal incomes generated in the cannabis market, most Member States pay fairly limited attention to this market, because the associated social and criminal harms are considered to be low. One specific characteristic of this market is that significant part of the cannabis sold is produced within the EU, and therefore much of trafficking is intra-regional. Much like with other drug markets, criminal networks are involved within all aspects of the cannabis market: production, trafficking wholesale, and retail distribution. In addition to

EU based production, criminal networks traffic significant amounts of cannabis resin into the EU (mostly from Morocco via Spain and towards the Netherlands for further distribution (Eurpopol 2009)).

The cannabis market generates different types of corruption pressure towards the police and customs, depending on the:

- national policies towards the legality of cannabis (e.g. the Netherlands)
- the size of the market (some countries, like the Czech Republic or Spain, have very high levels of consumption)
- the policies of tolerance towards consumption (e.g. Spain or Italy practically do not investigate retail distribution).

In countries with high levels of corruption, the expenses for police corruption for street level distribution is considered a necessary expense for the criminal networks. In these countries the police often racketeers not only retail dealers, but also consumers. In such countries police patrols or investigators might be receiving a regular income from criminal networks to tolerate the trade, even directly being involved in the distribution (BG). In such countries, the higher levels of law-enforcement might also tolerate the corruption of the patrol officers, as they see it as harmless 'stimulus package' to the employees. The problem is that criminal networks often use the cannabis distribution, as an entry point to recruiting officers into providing protection for other drugs as well (often leading to corruption also at higher level officers).

In countries with lower level of police corruption, and with more lenient attitudes towards retail distribution and consumption of cannabis, or legalisation of cannabis, the corruption pressure is low. The efforts there are focused on upper wholesale importers and distributors. Undertaking difficult investigations involving retail distributors, where the law is rather a murky, is generally avoided, as for the investigators it could only bring career problems (as failure is more likely). Further on, while the investigations on cannabis networks usually focus on mid to higher level dealers (as the low level might be legal), the ones for cocaine might start from the retail level (i.e. the street or local dealer). Therefore, the corruption risks in the cannabis market are lesser, as the scale is usually different.

The import trafficking of herbal cannabis and especially cannabis resin into the EU relies on an infrastructure similar to the cocaine one described above. Therefore the above described corruption risks for cocaine are more or less valid for trafficking of cannabis.

In countries with systemic corruption, the lack of investigations of higher levels of criminal networks or the associated money laundering schemes could indicate not only low capacity to tackle these levels, but also corruption.

## 6.4 Vehicle-theft

### 6.4.1 Market organisation

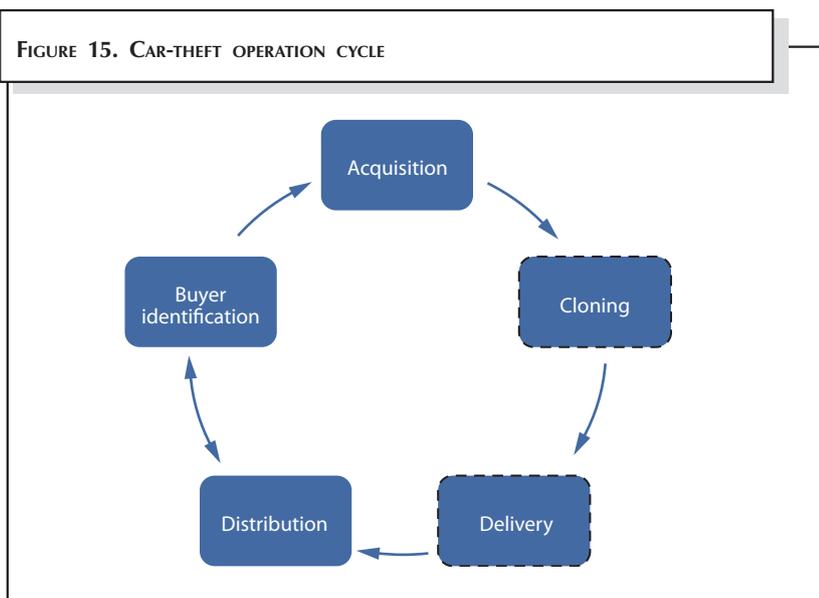
Eurpopol estimates that approximately one million vehicles were stolen in 2004. At least 450,000 vehicles with a total value of € 6.75 billion were

never recovered (Europol 2006). Professional criminal groups and networks usually steal these non-recovered vehicles. For much of the 1990s, when most Eastern European countries had a huge demand for cheap vehicles, massive car-theft rings stole hundreds of thousands of cars and resold them in EU-10E and former Soviet Union countries. In the late 1990s, with increases in living standards, access to credit, and increased sophistication of anti-vehicle theft mechanisms and vehicle theft policies (e.g. Europol electronic databases), the market for stolen cars focused primarily on expensive vehicles or those that could be resold for parts. EU-10E became less of a destination and more of an important trans-shipment point towards countries of the former Soviet Union or the Middle East.

Vehicle theft has become a rather complex criminal enterprise. It involves a range of players, depending on the particular theft scheme. The most common scheme, in which a vehicle is stolen and then made into a 'clone' and resold, has the following steps:

- Buyers of stolen cars order a particular brand and model: they could be located outside the EU (mainly former Soviet Union, Middle East and Africa), but also inside;
- Car thieves working individually or in small teams, often coordinated within larger groups or network: some are responsible for finding and spotting the vehicle; other teams or individuals steal it;
- In the meantime, an identical vehicle is found: this vehicle might have been in an accident,<sup>70</sup> and its identification numbers and documents are taken. Other professionals (or car-mechanics) are hired to forge chassis or vehicle identification numbers and forging the vehicle-document, so that the stolen vehicle is given the identity of a non-stolen one (i.e. the one that has been in an accident);
- mules drive the stolen car to a destination country; transport companies might be involved in driving vehicles across countries;
- distribution or sale of the stolen vehicle could take place through a used car dealership; mechanic shops, parking lots, or through direct sale.

FIGURE 15. CAR-THEFT OPERATION CYCLE



Although there are fixed costs that could reach to up to € 10,000 or more for expensive vehicles, the profit from a vehicle that could be resold for € 60,000 is split amongst different high-level players in the criminal network. The largest share of the profit usually goes to the 'ringleader' who organises the vehicle sale to the final buyer, who might be someone from the legal car market (e.g. an owner of a used car dealership). A significant part also goes to the person organising the theft and funding transportation to the destination country.

<sup>70</sup> There are numerous other possibilities to find a vehicle whose identity could be stolen.

### 6.4.2 Corruption and car-theft

As Europol has noted, vehicle theft is one of the 'low-risk – high gain' criminal activities. Once the stolen vehicle is transformed into a clone, it becomes a legal commodity, and corruption is not needed. Nevertheless, there are a number of points at which members of car-theft networks could turn to corruption to facilitate the stolen vehicles market:

- **Information on identifying a vehicle to be stolen:** corruption within traffic administrations could help criminals obtain information on the location (town/address) and victim from which a vehicle could be stolen. This access saves much time and effort, as once the vehicle is ordered from a potential buyer or middle-man, the car thieves could have difficulty spotting a particular model (BG, DE).
- **Buying information:** car-theft groups that are investigated could obtain access to information about ongoing investigations (BG, ES). As the section on police corruption explains, this takes place across the EU on various scales. Car thieves could also access corrupt police through drugs and prostitution networks.
- **Corruption in traffic police** (often associated with petty corruption) is needed if a stolen vehicle is pulled over in a regular traffic check. The mule could buy his way out of the check. Interviews with car thieves suggest this practice is common (BG, EL, HI, PO, RO).
- If the country of destination is not an EU Member State, **customs corruption** also plays a role, as stolen vehicles, particularly luxury ones, are subject to high import taxes. Thieves often further minimise their expenses by bribing customs officials or ensuring that no detailed customs checks take place. Customs usually are not linked to Europol's databases on stolen vehicles but could forward this information to police.
- **Registration of the stolen vehicle** in the destination country could also involve corruption within the police administration. Again, this access often is related to traffic police that usually are responsible for vehicle registration. In EU-10E, this category of police or administrative corruption is common and could be exploited by criminal groups for the purposes of car-theft operations.
- Finally, corruption could take place in the **process of distribution** through used car dealerships. Used car dealers could be bribed or collude into selling stolen vehicle (BG, ES, NL).
- **Judicial corruption:** the fact that ring leaders are often removed from car thieves or are associated with legal business structures (e.g. used car dealerships or service stations) means that they sometimes enjoy a higher socio-economic or political status. In Bulgaria for instance, many individuals at the top of international criminal car-theft rings are so far removed from the actual operations (and often have other legal businesses) that they enjoy easy access to judicial corruption, as much as any other white-collar criminal.
- **Border police corruption:** along the external eastern land borders of the EU, where stolen vehicles are driven into Russia, Ukraine, or Belarus, border police could be bribed to avoid inspections. This type of corruption usually serves multiple purposes, as stolen vehicles are transporting other illegal commodities (drugs or small arms) (LT, EE, BG).

The organisation of vehicle theft shows how a criminal activity that is seemingly a low-risk or corruption-free activity still takes advantage of corruption networks developed in other criminal markets.

## 6.5 Extortion racketeering<sup>71</sup>

Extortion-racketeering takes place across the entire economic spectrum, from illegal markets and the grey economy into the legal economy. Across the EU, a variety of extortion racketeering forms exist: from control over criminal networks, protection in immigrant communities or grey markets. The present study examines how and to what extent corruption plays a role in generating, facilitating or protecting extortion-racketeering schemes. There are important historical and demographic differences that have shaped the attitudes of victims and police across the EU.

- In certain regions of the EU (e.g. Corsica, Northern Ireland, Southern Italy) extortion rackets go back decades.
- In EU-10E during the 1990s, the crisis in law enforcement and judicial institutions and the drastic reduction of security forces left thousands of police officers or military members jobless. The unemployed turned to private security companies to fill the ‘security gap’, often resorting to protection rackets (CS-BG, CZ, RO).
- In EU-17 capitals, a big concentration of immigrant minorities from China, EU-10E and the former Soviet Union were subject to extortion from their organised criminal networks that were connected to powerful criminal structures in their countries of origin (DE, FR, UK).

These socio-historical specificities determine the three main reasons for extortion-racketeering and protection rackets:

- Financing of independence/terrorist and irredentist movements (Corsica, Northern Ireland);
- Lack of trust in state/weak state (EU-10E, Southern Italy);
- Isolation of immigrant communities.

One complex aspect in analysing ‘corruption’ in regards to ‘extortion-racketeering’ is the need to conceptually differentiate the two terms. Many of the interviewees talked about police “extortion” of criminals. The extortion of illegal market participants (e.g. prostitutes) is the area where **criminals and police compete**. In this sense, ‘extortion-racketeering’ should be seen as one particular aspect of corrupt police behaviour.<sup>72</sup>

Protection rackets are best known in the Italian context and have been described as part of the local socio-economic structures, or as a unique set of social arrangements (Blok, 1974) that emerged as an “expression of a need for order” (Falcone 1993, p.56). With reference to Sicily, Gambetta (2005, i) maintains that “the mafia, at its core, is an institution that exploits and thrives on the absence of trust, by providing protection, largely in the form of enforcing contracts, settling disputes and deterring competition”. Similar protection markets have been observed in parts

*In Northern Ireland until 1994, terrorist groups on both sides – Republicans and Loyalists were involved in protection rackets. That was a key way of raising funds. With the conclusion of the peace accord and the 1994 seize-fire much of the racketeering disappeared, as previously it was presented as ‘noble cause’. After 1994, paramilitaries, such as UDA or LDF, turned to protection and subsequently control of the drug trade, which coincided with a growing drug culture and rising incomes in N. Ireland. They started to extort protection rackets from any incoming foreign criminals. If you’re an entrepreneur that wanted to come and open a brothel in Belfast, you definitely need protection and back from someone with a local foothold, and ex-paramilitaries provide this. They also had the connections and relations of loyalties from the prior 1994 period, or from simply having the local social connections to officers. Therefore, in a way they could serve as intermediaries in corrupting officers, and there have been such cases. (UK)*

<sup>71</sup> Extortion is often defined as “the unlawful demand for property or money through the threat of force”. As such it has long been an entry level activity both for individuals embarking on criminal careers, and for collaborations of criminals seeking to establish a monopoly or “protected enclave” Arlacchi (1986).

<sup>72</sup> As in other cases (e.g. police officers distributing drugs), whether this sort of corrupt behaviour should be seen as ‘corruption’ or as a ‘police crime’ is a matter of interpretation.

of Eastern Europe, particularly in the 1990s, when law-enforcement and the judiciary were weak and businesses turned to private protection, including that provided by criminals.

It has been argued that the informal, grey economy<sup>73</sup> attracts private security firms because contracts cannot be enforced through the legal system and official law-enforcement, therefore opening a niche for private enforcers (Frye 2000). The attempts to hide business activity and to avoid taxes, regulatory fees or permits, makes entrepreneurs vulnerable to extortion and racketeering either by criminals or by corrupt police, tax, and other government authorities.

Europol (2007) explains that criminal groups often try to extort non-integrated minorities. Marginalised immigrant communities lean heavily upon their cultural inheritance and practices. They are cut off from the family structures that often sustain concepts of personal security and are unable to communicate with the indigenous population or its institutions. This has led to a concentration of specific criminal activities and the accompanying racketeering.

The social and historic circumstances surrounding the particular racketeering activity determines the levels of corruption needed. These circumstances also determine the police perceptions and its level of direct involvement in racketeering.

### 6.5.1 'Traditional' protection rackets

In Southern Italy, the largest mafia business continues to be protection rackets. There is **little corruption** related to this type of extortion arrangement. The victims never report to the police. Even in cases where the protection racket is forced on them, the complex social arrangements at the local level and fear instilled by criminals make reporting dangerous. The lack of victims willing to come forward as witnesses makes police investigations and prosecution unlikely and, consequently, corruption is not needed to prevent trial and investigations (IT).

In areas like Corsica (under the guise of a 'revolutionary tax'), or until recently in Northern Ireland, protection rackets were so much ingrained in the local social structure/or conflicts that, again, reporting to the police was uncommon. Further, many police officers were sympathetic to the independence movements and were therefore passively corrupt, tolerating protection rackets. In both Northern Ireland and Corsica, though, local politics is intertwined with violent movements, and Sinn Fein and the various Corsican independence parties were said to be profiting directly from protection rackets. (IE, UK, CS-FR)

*In one of the largest towns at the Balaton Lake, local Roma-run criminal network from the surrounding villages was actively extorting money from street vendors. At some point last year 200-300 Roma involved in protection rackets marched down the main street, in an apparent show of force to threaten vendors. The local police was aware of this and did nothing, which further left the local vendors with the sense that the local police was corrupt by the local organised crime. The scandal came out, after the media aired some reports. None of this was reported to the higher levels within the police; When the media tried to interview the vendors they all denied the existence of protection rackets. (HU)*

*There was an extortion scheme uncovered in Klaipeda where organised criminals were using police officers to racketeer wealthy individuals. A prostitute, part of the scheme, would have sex with the man, gather some evidence of it, then complain to the police claiming that she had been raped. Then, either directly police officers or a fake relative of the girl would approach the man and propose to settle for a sum. (LT)*

<sup>73</sup> The list of "grey markets" is long: retail trade, construction, street markets, restaurants, scrap, taxis, transport companies, construction, 'night-time economy', etc. In Member States, where prostitution functions on the fringes of legality, it is also in effect a grey market. Some industries that attract proceeds of crime such as the real estate sector can also become vulnerable targets.

### 6.5.2 Protection rackets in the legal and grey economies

Corruption is probably more common in protection rackets related to the grey economy. Interviewees commonly mentioned protection rackets to be widespread in entertainment (restaurants, bars and nightclubs) or construction industry (RO, BG, CZ, EL, CY). Extortion ranges from demands for cash sums of money to co-ownership stakes in the businesses (EL).

The grey economy is one of the areas where lower-level inspectors from the 'economic police', as well as detectives, could become corrupt. (RO) In countries with high levels of police corruption and low incomes, the police have a predatory disposition and look for alternative sources of income. In such cases, they might allow criminal groups to extort small businesses and receive a share of the extortion fees.

Extortion could also be carried against legal business, and corrupt police could cover up the groups engaged in such activities for a fee. Such cases are usually categorized as blackmail or ransom seeking.

In many parts of EU-10E (BG, EL, RO, SK), car theft is hand-in-glove with extortion. Victims whose cars are stolen are asked to pay a ransom for their car to be returned. In such schemes, corrupt police officers are often involved as intermediaries between the thieves and the owners, arranging ransom payments.

#### Extortion rackets and illegal markets

As Reuter (1983) has observed, illegal enterprises are unable to turn to state agencies for protection. Many academics (Gambetta 1993, Jacobs 1999, Varese 2001, Reuter 1983) have argued that mafias provide protection to unregulated markets or geographic areas where government law-enforcement is feeble, corrupt, or absent. Racketeering in criminal markets (prostitution, drugs, vehicle-theft, or trafficking of consumer goods) is more common than in grey or legal markets.

One particular aspect of interest to the present report is the protection rackets that indigenous criminal groups provide on foreign based groups. In these cases, local criminals could serve as intermediaries and provide protection from police, rather than protecting them from other competitors. (CS-FR, UK, IT)

In Italy, for instance, in some regions, foreign organised crime is independent from Italian criminal groups, because the latter are by now engaged in productive, entrepreneurial and financial activities. Other specific criminal sectors may have undergone a process of 'succession', whereby foreign groups occupy the space left by Italian groups who have moved on to operate elsewhere. In some cases, however, the succession is accompanied by the racket – 'requests' by Italian groups of a percentage on the profits made by the new comers. (CS-IT)

Similarly, while prostitution networks from Eastern Europe operate on the streets of cities like Marseille, or provide women to cabarets and

*'In Cyprus, usually those extorting illegal immigrants are middle-men between them and the police. By middle-men I merely mean that they act as police informants – i.e. tipping the police where there might be illegal immigrants and what sort of illicit activities they might be engaged in. The extortion usually revolves around the illegal status of immigrants – i.e. the 'middlemen' would often offer them legal advice through expensive lawyers, yet by tipping the police would also ensure the legal advice and all the fees paid are just wasted. All benefit in this case apart from the illegal immigrants – the middlemen score points with the police and get commissions from lawyers, the police can boast of successful actions, and the lawyers get their fees – but in the end illegal immigrants are deported. (CY)*

*To my knowledge, this only occurs in Jesenica, where there is actually a Bosnian Serb majority, with lots of racketeering occurring on a regular basis within the Bosnian Serb community. Police officers there do take bribes to protect racketeers. (SI)*

bars in Paris or Bordeaux, the street 'posts' or cabarets are controlled or racketed by local criminal elites. (CS-FR) The French and Spanish case studies also provide a number of examples of direct police rackets on prostitutes (CS-FR, CS-ES).

In Germany as well, Turkish and Polish groups have little connection to upwardly mobile social groups and therefore much less access to corruption (DE). Instead, they rely on their symbiosis with local criminals. In the UK, former IRA-turned-criminals in Northern Ireland have played a similar role of protection rackets from the police (see box).

### **6.5.3 Minorities and extortion racketeering**

Interviews mentioned extortion of small, immigrant-owned businesses in countries where significant concentrations of minorities and organised crime from their country of origin exist. The immigrant communities mentioned by interviewees included: Middle Eastern (DE), Russian/Ukrainian (CZ), Chinese (UK), Western Balkans (Bosnians, Montenegrins, Kosovars, Serbs) (SI). As in other cases, because victims usually do not report the crime, there is little need for corruption to prevent investigations. Instead, corruption attempts are limited mostly to police officers.

## 7. CONCLUSIONS AND RECOMMENDATIONS

### 7.1 Key findings

The starting point of this report was to describe the Member States positions on organised crime and corruption based on the available quantitative data: 125 corruption, crime, and social indicators. The main working hypothesis for causality is that organised crime uses corruption as a tool to achieve its goals. Applying regression and correlation analysis, we determined not only the existence of a relationship, but also the factors which have statistically significant influence on the levels of corruption, as well as the strength and direction of their influence. We also explored the question of reverse influence, i.e. whether higher levels of corruption induce higher levels of organised crime.

As a first step of the statistical analysis, the 27 Member States were grouped into separate clusters according to selected indices that measure organised crime, corruption, government effectiveness, the police, macro-economic indicators and indicators of the grey economy. Then we applied a more complex 'neural networks' clustering technique to generate a "portrait" of each cluster of countries.

The results from the first stage of **statistical** analysis showed a distinctive regional picture. The highest rates of corruption and organised crime exist in countries such as Bulgaria, Romania, Poland, and Italy. At the opposite end of the spectrum are the Scandinavian countries, where the indicators measuring corruption and organised crime are among the lowest compared to the other clusters. Historic and socio-economic characteristics set some countries (France, Italy, and to some extent Spain) apart and they could not be grouped into clusters with other MS.

The limitations of the quantitative approach, though, are significant, as none of the indicators or surveys used has been designed to measure specifically the relation between corruption and organised crime. The qualitative data from 156 in-depth interviews and review of literature aimed to reveal the specific objectives that corruption serves to criminals, as well as the historic, and socio-economic factors that determine these needs.

The study reviews how organised crime operates in various countries and influences targeted institutions. As it turned out, there is surprisingly little systematic research and institutional monitoring on this topic in the EU.

Political and administrative corruption is usually perceived as most common and most problematic. However, respondents rarely linked corruption with organised crime. The major reason is that 'white collar crimes' are commonly seen as distinct from 'organised crime'. In EU-10E countries, where this distinction is less pronounced, political corruption was more likely to be contributed to 'organised crime'. In EU-10E countries the transition from planned to market economy, accompanied by radical shifts in the overall social structure, resulted in fusion of the 'underground' and the 'elite'. In EU-17 (with the exception of Italy and

Greece), political corruption was usually only associated with 'white collar crime', while politicians, even at the local level, almost never associate with criminals involved in drugs distribution or prostitution (UK, FI, SE, DM, IE).

The study found that law-enforcement institutions were most directly affected by pressure from organised crime. The major factor defining the degree of vulnerability of police is the effectiveness of the public institutions working closely with police (prosecution and courts, and indirectly tax administration and customs). Even a single ineffective or weak public institution can make the police particularly vulnerable, as indicated by interviewees in many countries (IT, EL and most EU-10E countries). Internal factors also predetermine police susceptibility to corruption. The low level of prestige of the police forces leads to the recruitment of officers of low education and problematic behaviour. The lack of meritocracy in the police prevents the exposure of unprofessional, inefficient or corrupt behaviour and does not reward high performance (IT, EL, EU-10E). In some countries, the police subculture can act in the opposite direction, limiting and preventing corruption (UK, NL, DE, FI, DK, SE). Political and judicial influence over the police can facilitate its corruption by criminal networks. In certain countries (BG, RO, LV, HU, IT and FR (Corsica)) local government officials, connected with criminal networks, influence the appointment of local high level police officers. Pressure from prosecutors and magistrates can obstruct the police investigations of influential businessmen who are part of the criminal networks.

Another key factor determining the influence of organised crime on police and investigation officers is the effectiveness of Internal Affairs Units (IAU). Data suggests that the development of strong IAUs in the UK has resulted in sharp decline in police corruption in the 1980s, despite the large criminal market in the country. Similar developments are observed in eastern Germany. On the other hand, weak IAUs that focus on reporting crime statistics and investigating cases of petty corruption (BG, RO, EL) cannot limit the influence of organised crime on law-enforcement units.

Customs in most EU-10E countries (BG, RO, PL, LV, LT, HU, SK) and Greece were found to be seriously affected by corruption from organised crime. The reasons are both the tradition of mass smuggling in the 1990s and the outside land borders (while most of the old member states no longer have such borders). Customs officers are more frequently involved in supporting channels for consumer goods than smuggling of illegal goods like arms and drugs. The most typical cross-border criminal networks deal with cigarettes (EL, BG, AU, CZ, RO, MT, IE, HU, LV, LT), alcohol (BE, CZ, BG, RO, MT, IE), oil and oil products (EL, BG, MT, IE, PL, CZ). In some of the countries with high level of customs corruption politicians at local and national level exert strong influence on customs officers. Intensive collaboration with police and tax authorities is also common.

The least affected institution in EU is the judiciary, particularly the courts, as they are much less targeted by organised crime than the police or

politicians. The judiciary in EU-17 is sporadically corrupted by white-collar criminals, but as respondents indicated, these processes remain well hidden from the public eye. Political influence over the courts is one of the main factors of corruption vulnerability of the judiciary, especially in countries with high levels of political corruption.

The study revealed that the private sector is affected by organised crime in a specific way. The industries that are most likely targets are the 'night economy' (bars, entertainment houses, pawnshops, etc.), and also the financial, gambling, and real estate sectors. The major attraction for organised crime is the opportunity for money laundering offered by these industries. Real estate was identified as a sector with a high vulnerability of private sector corruption not only in EU-10E countries (CZ, RO, BG, SI, PL), but also in many EU-17 countries (SE, ES, DE, AU, PT, BE, IR, NL). Another industry in which organised crime invests is logistics and transportation companies, as they can be used in various smuggling schemes. Certain type of companies, such as law firms, accounting firms, and service providers are in high demand by organised crime as middlemen. Such companies may facilitate money laundering and white-collar crime. Various techniques are applied: corrupting of employees, in particular in corporations that operate similar to public institutions, agreements with senior management and company owners.

## 7.2 The impact of corruption

The impact of corruption used by organised or white-collar criminals is difficult to estimate as its extent in the EU remains unknown. Corruption is only one of the tools that criminals use to facilitate their activities. Therefore, one should understand the overall impact of organised and white-collar crime, and only then analyse what portion of this impact involves the use of corruption.

Few countries have tried to quantify the impact of organised crime. In the UK, the Home Office estimated that economic and social costs caused by organised crime in the UK are between £20 and £40 billion each year. Only a small part of these harms could be attributed to corruption, as in most cases, criminals try to avoid the use of corruption, as this is an additional expense. To fully understand the impact of corruption, more research, and particularly studies involving offenders are needed.<sup>74</sup>

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<sup>74</sup> To illustrate this point, one could use the example of drugs market. Although the costs of drugs-related criminal activities could be estimated (e.g. in the UK they £17.6 billion), to understand what portion has involved corruption, one could do a study of smuggler or drug dealers and understand, how often they have used corruption to smuggle and distribute drugs. If one establishes, for example, that only in 10% of the cases or only 10% of the criminal networks admit to use corruption, then, the impact of corruption could be quantified to be £1.76 billion. As the current report has shown, different criminal activities require different intensity of corruption use, and these differ widely across the EU. Therefore, a realistic estimate would be a very ambitious task.

TABLE 19. THE IMPACT OF CORRUPTION CAUSE BY ORGANISED CRIME

Societal harms	Harms to individuals	Business harms
The impact of fear and distrust caused by organised crime	Losses to individuals from organised frauds	Losses to businesses through fraud and the costs of preventing it
Losses to taxpayers from smuggling and fraud	Victimisation by drug-related crimes, including gun crime	Victimisation by drug-related thefts
The costs of dealing with organised crime and its effects	Harm caused by drug abuse	Loss of revenue to legitimate businesses from counterfeiting or piracy
Exploitation of trafficked persons		

Source: Home Office (2009, p.9)

### 7.3 Recommendations

#### 7.3.1 Recommendations to the European Commission

Although presently monitoring of anti-corruption policies is carried out through the OECD or Council of Europe’s GRECO evaluation reports, neither of these assesses the nature or scale of corruption. The issue of corruption is of paramount importance to the EU, and an independent monitoring mechanism should be considered.

- **Developing an independent corruption monitoring mechanism:** at present, information about corruption or anti-corruption policies in Member States is not collected systematically. The experience from Europol’s OCTA reports shows that relying on formalised responses from Member States has many limitations (especially when findings could be self-discrediting to Member State governments). The UNODC UNCAC Monitoring ‘self-assessment checklist’ is also unlikely to provide meaningful tools for assessments of corruption issues and anti-corruption policies.

The data collection and analysis model adopted by EU ‘watchdogs,’ like the Fundamental Rights Agency (FRA), is a more appropriate approach. An independent body should collect information that governments might consider negative and, as a result, might not be forthcoming in supplying. A watchdog agency could report directly to the European Parliament to ensure maximum independence and public accountability.

The above approach will allow the EC to take subsequent steps in developing a comprehensive monitoring mechanism:

- **Developing a network of independent (non-government) information analysts** that regularly collect and analyse official and alternative data on corruption and anti-corruption policies (similarly to the RAXEN network of National Focal Points that the FRA uses to collect data on discrimination and human rights issues). Independent academic or research institutions could be contracted to regularly monitor and collect information. The present research

showed that official anti-corruption bodies do not have the necessary level of independence, nor analytical capacity, to provide adequate monitoring and data collection.

- **Developing data collection tools:** Periodic corruption surveys by Eurobarometer should be made annual or bi-annual and expanded to survey businesses about corruption experiences **and** perceptions. In addition, qualitative data should be collected and analysed. Quantitative survey methods cannot adequately capture corruption related to white-collar and organised crime.
- **Developing benchmarking indicators:** Like those developed by non-profit organisations, such as Global Integrity, such benchmarks should be developed to regularly monitor progress in anti-corruption policies and their implementation. Such benchmarks could also draw on criteria or monitoring tools developed under the UN Convention against Corruption, or be complementary to GRECO and OECD evaluation mechanisms.
- **Collect information on powers, capacity and policies of institutional anti-corruption units** (in particular in police, customs, judiciary, tax administration, military, and national/local governments): institutions with internal anti-corruption units and proactive approaches detect a higher amount of corruption cases and formulate more elaborate anti-corruption policies. Such data will allow watchdogs to adequately evaluate official statistics and develop benchmarks.
- **Include alternative sources of information:** Official sources of information, and standardized methods of research, bring only marginal results. Aggressive methodologies that include interviews with offenders, private sector representatives, former law-enforcement, judiciary, or financial regulator employees, as well as fraud investigators and lawyers, should be exploited for meaningful information.
- In line with Article 83 of the Lisbon Treaty (developing ‘minimum rules concerning the definition’ of corruption in Member States legislation) the EC should **develop detailed guidelines to encompass a broad range of criminal offenses under the definition of corruption**. At present, most Member States do not have legislative definitions of corruption, while some have special anti-corruption laws. As this report has shown, corruption within the various public institutions (police, customs, judiciary, and government administrations) can be very different. The EC (with the help of Europol, Eurojust, and OLAF) can develop a set of recommended guidelines for acts that should be considered as ‘corruption’ for each type of public institution.
- **Harmonise statistics on institutional corruption:** The harmonisation of the definition of offenses that constitute ‘corruption’ will set the stage for harmonising institutional statistics. Comparable data on corruption in the police, customs, the judiciary or the public sector is key to monitoring and evaluating Member States’ anti-corruption efforts. At present, efforts regarding criminal justice harmonisation are limited to certain common criminal offences (homicides, car-theft,

etc.) The Lisbon Treaty (Art. 83) opens the door to moving towards comparable institutional statistics on corruption. Europol and Eurojust could play an important and leading role in developing commonly acceptable guidelines, such as on police offenses that should fall under the corruption umbrella, or list the recommended powers and capacity of Internal Affairs Units.

- **Adding a set of corruption-related questions to the EU Survey to assess the level and impact of crimes against business:**<sup>75</sup> police and the judiciary collect little or no information on private sector corruption. Yet business crime surveys have detected a high share of corruption offences (internal fraud) that are not reported to the police (e.g. PWC). Therefore, surveys would provide the most comprehensive understanding of corruption in the private sector. The ongoing development of such EU surveys presents an opportunity for the EC to commence monitoring private sector corruption, as well as the organised crime involvement in such cases. Such monitoring would imply adding a small set of sub-questions clarifying the source of external corruption and their association with organised criminal structures.
- **Developing practical anti-corruption training programmes drawing on EU27 experiences:** The lack of sufficient empirical data and knowledge has meant that anti-corruption training has often remained at a theoretical and superficial level. Many institutions have so few detected cases that developing profiles or case-based training materials is difficult. Therefore, creating a database of corruption cases from across the EU would help develop adequate training materials. These would draw on knowledge accumulated throughout the EU, particularly in countries that have more experience. Such an EU-level approach is appropriate in view of criminals' increased mobility (and corruption tactics) within the EU.
- **Increase funding support for empirically based research on corruption through instruments such as DG JLS grants or Framework Programme 7 research grants.** The collection of data on organised crime and corruption is slow, expensive and potentially dangerous. The report showed significant **gaps in academic research** in most Member States. It is unlikely that Member States would fund research programmes in such sensitive (and potentially self-discrediting) topics. Therefore, EU research funding instruments might provide the necessary distance and freedom to carry out this research. Additional empirical data would help law-enforcement better understand the phenomena, especially in countries where public institutions do not carry out such research internally. In addition, it could also jumpstart policy debates and stimulate policy changes in areas where most governments are extremely secretive.

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<sup>75</sup> The development of such study was started with Tender No. JLS/D2/2008/01 "The development of an EU Survey to assess the level and impact of crimes against business – Stage 1: Requirements gathering".

### 7.3.2 Recommendations to Member States

- **Conduct impact evaluation of anti-corruption policies.** The present report showed a great variety of Member States' anti-corruption measures. Even though some of them have a 'self-evident' impact, representatives of institutions were generally not familiar with professional impact evaluations (either ex-ante or ex-post). As a result, it is difficult to claim 'what works' or to speak of 'best practices'. Member State policy oversight institutions should either carry out audits or commission impact evaluations on key anti-corruption initiatives.
- **Public institutions should share information with independent researchers.** In some countries (BG, IT, NL, UK), law-enforcement institutions have open to work with academics and independent researchers. In others, (EL, ES, RO) this cooperation has been discouraged.
- **Improve cooperation and share corruption-related information:** anti-corruption bodies or anti-corruption departments within government bureaucracies (including within the police) have poor understanding (1) of organised crime (2) of the corrupting influence of organised crime and (3) the threat it poses. 'Organised crime' is considered a specific area where anti-corruption bodies have little professional knowledge. Such lack of knowledge undermines the effectiveness of these bodies and their anti-corruption policies.

Member States should develop mechanisms for increased cooperation between anti-corruption units, especially policy making anti-corruption bodies, on one side, and organised and white collar crime investigators, on the other. Periodic meetings and exchanges of reports and data could increase cooperation. For instance, Europol's national OCTA could be shared amongst all anti-corruption bodies or oversight departments in relevant public institutions.

- **Increasing internal institutional detection capacities:** at present, all Member States have an established mechanism to respond to corruption cases. Nevertheless, this is a reactive, rather than proactive, approach to detecting corruption. It is an approach that relies on discovery by chance, rather than on scrutinising or using aggressive approaches, such as provocation. The use of internal corruption investigative departments leads to increased corruption detection rates. Yet many law-enforcement institutions (in particular customs and tax authorities) do not have 'internal affairs' departments at all. Establishing internal investigation departments across public institutions, with investigators knowing about particular corruption schemes and culture of the institutions, is bound to have a strong preventive effect on corruption.
- **Institutional monitoring mechanisms:** Member States should increase their internal understanding and regularly monitor **corruption pressures**. Internal surveys could be designed and periodically conducted to better understand the threat of corruption. This could

be done across institutions (customs, police, public administration or judiciary). It would also identify vulnerable departments, positions or regions where there are heightened risks from corruption. There are many ways that surveys can be designed not to be self-incriminating, yet still reveal the scale and nature of corruption threats. Best practices, although not public, already exist: SOCA carries out reviews on corruption threats from organised crime on police in the UK, Sweden on customs corruption; Bulgarian Ministry of Interior on police corruption.

- **Increase training and raise awareness amongst public servants and the private sector:** In many Member States, the issue of corruption is a taboo. The official position of some institutions and governments is that corruption is not a problem and proactive measures are not needed. Such complacency gives organised criminals an opportunity to exploit the absence of anti-corruption systems. Law-enforcement and the judiciary should conduct mandatory corruption-awareness training programmes that are based on real cases and institutional experience.

## ANNEX 1: CASE STUDY – ITALY

### 1. Synopsis

Corruption and organised crime in Italy are closely intertwined. When investigations into corrupt activities are launched, the involvement of some criminal organisation is usually discovered. By the same token, when organised crime is investigated, the involvement of some corrupt politician or entrepreneur often comes to light. The relationship between corruption and organised crime in the country, however, does not lend itself to conventional analyses imputing to the latter the main responsibility for the spreading of the former. In fact in Italy widespread corruption within the social, economic and political spheres attracts organised criminal groups, encouraging them to participate in corrupt exchange and indirectly boosting their other various illicit activities.

### 2. Introduction

The information collected in this case study is based on:

- judicial documents, namely documents produced by courts in relation to proven cases leading to convictions and consequent penal sentences;
- journalists' sources discussing proven cases or ongoing investigations and trials;
- academic work discussing the above or analysing general issues around the causes and persistence of both corruption and organised crime;
- interviews with nine key informants.

Interviews were conducted with three judges, respectively an investigative judge working in Palermo (**J1**), an investigative judge working in Florence (**J2**) and a judge sitting on the National Council of Magistrates (Consiglio Superiore della Magistratura) (**J3**). The other two key informants were senior academics based at the University of Palermo and the University of Turin respectively (**A1**, **A2**). All five informants are also prominent authors, as they have produced a variety of publications in

Name	Position	Institution
J1	Investigative judge	Florence court
J2	Investigative judge	Palermo court
J3	Judge	Council of Magistrates
A1	Academic	University of Palermo
A2	Academic	University of Turin
G1	Ex-Officer	Guardia di Finanza
G2	Lieutenant Colonel	Guardia di Finanza
C1	Internal auditor	Italian Customs Agency
I1	Independent researcher	Transcrime

### 3. Background: organised crime in Italy

#### OC as a Social Organisation

*In order to identify the different interpretations of organised crime, it is useful to refer to the concept of social organisation. This concept relates to the variety of social relations which give rise to two types of networks. First, social organisation can be viewed as an association, a **network of individuals** who form some sort of culturally homogenous group. Second, social organisation can be seen as a **series of transactions**, a network of individuals involved in a common activity, without necessarily belonging to the same association, or without necessarily being socially and culturally homogenous. Transactions range from brief encounters to elaborate, rigid, and highly coordinated undertakings.*

*Some scholars, but also investigators, have chosen the first route, thus describing the criminal groups as separate entities constituted by cohesive enclaves and characterised by specific cultural codes. Others have opted for the second route, therefore focusing on the links the criminal group establishes with external, mainly official actors with whom joint activities are carried out (for this approach, among many others, see Arlacchi 1983; Ruggiero 1996; Armao 2000; Dino 2008; Lodato and Scarpinato 2008).*

*Those who have chosen the second route may highlight the capacity of organised crime to polarise markets through the use of violence, thus implying that the 'military' aspects of this type of crime are still very important. Others look specifically at the alliances and partnerships between organised crime, the official economy and the political world, and therefore suggest that organised crime combines forms of conventional criminality with a variety of white collar offences. This happens, in particular, when proceeds from illicit activities are invested in the official economy, where members of criminal groups are said to 'learn' the techniques and the rationalisations of their white collar counterparts. In this way, one could say, these groups do not corrupt markets, but they »*

the form of books and articles on the subject matter. In addition, four face-to-face or telephone interviews were conducted: with one former and one present officer at Guardia di Finanza (**G1**, **G2**), with a Customs representative (**C1**), and with an independent policy researcher (**I1**). The interviewees were willing to participate in the project on condition of anonymity.

#### 3.1 Indigenous criminal organisations

To gain an understanding of organised crime in Italy, it may be useful to provide a preliminary distinction of the different types of organisations:

- There are organisations mainly engaged in conventional illicit business, such as prostitution, gambling, smuggling, the supply of drugs, and so on. These organisations are criminal enterprises or syndicates operating in illegal markets, in the so-called underworld, where they promote, or respond to, demand for prohibited goods. In addition to some local criminal enterprises, a number of foreign-based ones (e.g. Albanian, Romanian, Bulgarian) form part of this type.
- On the other hand, there are organisations which do not limit their operations to the realm of illicit markets but also gain access to the official economic and political spheres. Such organisations, through their simultaneous presence in legitimate and illegitimate domains, exert territorial control and constitute 'power systems' which transcend conventional criminality. The very phrase organised crime, in Italy, mainly refers to this particular type, exemplified by organisations such as the Sicilian Mafia, the Camorra in the Campania region and the 'Ndrangheta in the Calabria region.
- The relatively recent development of another organisation operating in the Puglia region, the Sacra Corona Unita, is said to be the outcome of the influence of the Camorra in the region, where local groups claimed and slowly achieved independence from the Neapolitan organisation.<sup>76</sup> It is hard to establish the degree to which this group operating is capable of forming partnerships with official economic and political actors in Puglia. The groups that are certainly unable to do so are formed by non-indigenous (migrant) members or networks, to which we shall return shortly.

The awareness of the establishment of major Italian organisations as parallel 'power systems' dates back to the nineteenth century. For example, in 1876, Leopoldo Franchetti, a Member of Parliament, described mafia activity as a form of political crime promoted by sectors of the ruling class – namely the political actors and businessmen. Elite groups were said to employ members of the 'military mafia' and to use them as an illegal resource in their economic or political activities. Violence was used for the discouragement of economic competitors and the intimidation of political opponents (Scarpinato 2004). The groups lending their strong arm to official actors, in exchange, were granted relative freedom to operate in other illegal activities (mainly protection racket and contra-

<sup>76</sup> There is a controversy as to whether the Sacra Corona Unita has adopted the typical rituals characterising the 'secret brotherhoods' from Sicily and Campania as the result of sheer mimicking, or whether such rituals belonged to a pre-existent underworld subculture in the region (Massari 1998).

» are corrupted by them. In this perspective, it is more appropriate to talk about a number of exchanges, and a mutual entrepreneurial promotion in which the different actors engage. In this sense, the suggestion can be made that we are now faced with criminal networks, rather than organised crime, which involve a number of actors from the legitimate as well as the illegitimate world. These networks take advantage of the fact that in some sectors of the official economy unorthodox practices and illegal behaviour are widespread. Criminal networks imply the existence of interdependent units linked by a wide-ranging variety of ties, including kinship, ethnicity, cultural homogeneity, social proximity, or simply business partnership.

band). Similarly, the Camorra, at the time of the unification of the Italian peninsula (1860-61), was entrusted with the task of maintaining public order, as the regular police had been sent to back up Garibaldi's army. The authority of the *camorristi*, in fact, became accepted by many as the only power likely to guarantee order in a situation of war, when internal conflict breaching every rule could easily take place. The Camorra was playing the role of broker, acting as a mediator between a turbulent society and the official authorities: a role destined to evolve significantly in the years to come (Ruggiero 1993; Behan 1996; Barbagallo 1999).

As alluded to earlier, the establishment of organised crime in Italy is not a recent development; it dates back to the nineteenth century. Later, when sub-cultural theorists analysed organised crime, they too suggested that the most successful criminal groups were those that managed to establish some form of common interest with official actors (they meant the police, particularly). Only those who did so could, in their view, really develop the scope and profits of their criminal activity. The ability to operate in both the licit and the illicit arena allowed criminal groups to develop those multiple affiliations which could ensure success in both. As Cloward and Ohlin (1960) put it: apprentice criminals pass from one status to another in the illegitimate opportunity system, and as they do so, they develop a set of relationships with members of the legitimate world. Unless they can form these relationships, the possibility of a stable, protected criminal lifestyle is effectively precluded.

### 3.2 Non-indigenous criminal organisations

Some observations must be made about indigenous and non-indigenous criminal organisations. In the literature on organised crime dealing with migrants, images and judgements recur which are often based on opinions, hypotheses and moral panics. Some studies set off with the premise, reiterated and transmitted without corroboration from one commentator to the next, that organised crime formed by foreigners 'is characterised by particular forms of aggression and violence and the fast growth of their capacity to operate in different criminal areas' (Di Nicola 2008, p.193). It is very hard to establish of what this 'particularity' exactly consists, especially in Italy where the violence and expansive force of indigenous organised crime is a well-known fact. A more useful strategy, perhaps, consists of focusing on some specific types of criminal activity, or on some specific geographical area, and observing the interactions that organised criminal groups formed by migrants establish with the new or traditional Italian organised groups.

In some Italian regions foreign organised crime is independent from Italian criminal groups, because the latter are by now engaged in productive, entrepreneurial and financial activities. Other specific criminal sectors may have undergone a process of 'succession', whereby foreign groups occupy the space left by Italian groups who have moved on to operate elsewhere. In some cases, however, the succession is accompanied by the request by Italian groups of a percentage on the profits made by the new comers (Becucci and Massari 2001; Becucci 2006).

In other areas, partnerships can be formed between Italian and non-Italian groups, with a division of labour based on the respective power and on the capacity of the latter to access the sources of illicit goods and substances. In yet other areas, non-Italian groups are subordinate to Italian ones, particularly in contexts in which the demand for illicit goods and services is traditionally high.

What remains evident is that non-indigenous organised crime is confined to conventional criminal activities, including theft, robbery, prostitution rackets, human trafficking, drug distribution, and all other ancillary activities related to the above. Organised crime involving migrants, in brief, remains a form of *pariah* organised crime. The indigenous groups, instead, are in a position to control the major operations of conventional criminality (mainly protection rackets and large drug operations) while participating in the official economic and political worlds. Episodes of corruption occur in this context, prompting the question: to what extent does organised crime impact on the spreading of corrupt practices in the country?

#### 4. Background: corruption in Italy

Nineteenth-century Italian criminologists were fully aware of the inclination of powerful political groups in the country to violate the law (Ruggiero 2006). Left-leaning criminologists warned that 'the bourgeois tyranny' would soon deny human and civil rights to citizens (Pietro El-lero); that the elite was giving shape to 'new' forms of criminality, more devastating than the old ones (Cesare Lombroso); and that the ruling classes, with their contempt for legality, would dictate the moral (or immoral) tone of the entire country (Enrico Ferri).

Over a century later, in the 2008 annual report produced by the State Audit Board (the *Corte dei Conti* composed by judges who advise the Treasury), there was no sign that corruption, through payments given to politicians by entrepreneurs in exchange for public contracts, was subsiding (Il Sole 24 Ore, 4 February 2008). The most worrying aspect underlined by the Board, however, was the common practice of granting amnesties to those charged with corrupt behaviour. The amnesties prevented those charged with corruption from obtaining a criminal sentence. Similar concerns were expressed by the Anti-Corruption High Commissioner, who stressed that statistics indicating a decline in the reported cases were not a signal of the decline of the phenomenon, but rather of the growing tolerance towards it. Incidentally, the recent programme aimed at simplifying and shrinking the national bureaucratic apparatus included, among other measures, the suppression of the figure of High Commissioner (Unimondo.org, 2008).

Transparency International observed in March 2009 that in Italy corruption is the only industry that does not experience a crisis. In the year 2002, the country was listed at the 31<sup>st</sup> place in the table drawn through the 'perceived corruption index', while in 2008 it was placed at the 55<sup>th</sup> place. With regard to the 'bribe payers index',<sup>77</sup> Italy also

<sup>77</sup> This index measures the propensity of companies from the top industrialised countries to use corrupt methods when operating abroad.

occupied a low position: 17<sup>th</sup> out of 22 countries. The argument was also made that, given the current economic crisis, and given the state's intention to inject money into a variety of public works which may encourage productive recovery, corruption may increase as a consequence. Enterprises and political representatives were said to be poised to take advantage of such imminent opportunities. The new Bill discussed in Parliament about banning the use of telephone tapping for investigations concerning corruption was also seen as a new incentive for perpetrators. Finally, a strong antidote to corruption was identified, as usual, in market competition.

It is indeed around the variable 'competition' that many episodes of corrupt exchange can be grouped. An example is offered by the recent scandal involving the Bank of Italy. The type of illegal conduct adopted by the Bank shows how well connected powerful groups can influence high-level public officials and in actuality disregard the officially adhered to principles of liberal economic competition. In this case, the General Director Antonio Fazio accepted the bid made by the banker Gianpiero Fiorani, despite the fact that a non-Italian competitor had made a more advantageous offer to buy the Antonveneta Bank. Behind the national sentiment mobilised by Fazio in explaining his choice, there emerged a long-term partnership between him and Fiorani in numerous mutually-enhancing financial operations (Statera 2005).

During the early 1990s numerous similar cases came to light in the course of the anti-corruption judicial initiative known in Italy as 'clean hands' (Caferra 1992; Paci 1992; Pizzorno 1992; Della Porta 1992). Informant **J3** recalled those years in the following terms:

*'In the administrative and political sector corruption is systemic. We have seen numerous examples since the 1970s. What became a paradigmatic case revolved around the interests of the oil producing companies in Italy. These companies devised a well organised system of corruption aimed at representatives of all political parties. They managed, in this way, to involve part of the parliament in passing a law which was blatantly favourable to them in financial terms. Investigations of the 'clean hands' operations revealed that the money destined by the construction entrepreneurs for the corruption of national and local politicians was part of their budget, it was an item in their accounts, although this did not appear in the official balance sheets of the companies' (J3).*

The 'clean hands' phase ended in the 1990s with yet another sensational case. Lawyer David Mills was accused of receiving some 500,000 Euros from Silvio Berlusconi in return for giving false evidence in two corruption trials involving the Italian prime minister. Only in February 2009 was Mills found guilty and given a four and a half year sentence, though he remains free pending appeal. The court's motivation of the sentence states:

*'the direct involvement of Berlusconi in the creation of 64 offshore companies through which various illicit funds were channelled, in-*

*cluding the 12 million dollar pay-off that the Socialist leader Bettino Craxi received for approving the legislation that allowed Berlusconi to take more or less untrammelled control of the Italian airwaves' (Jones, 2009, p.23).*

An additional comment by informant **A1 reveals**: *'The current prime minister has managed to escape the trial because he passed a law giving the country's four highest office-holders immunity from prosecution, without which he would now be heading for a prison cell alongside Mills' (A1).*

With the new millennium, while lesser attention is devoted by academics to corrupt exchanges, judicial and journalistic sources indicate an exacerbation rather than an attenuation of the phenomenon. At the same time the dynamics and format of corrupt transactions appear to become increasingly diversified. The following is a limited sample of cases reported by the media over the last year:

- A lawyer operating in Milan, former member of the board of directors of Parmalat and La Scala Theatre, is arrested for acting as a straw man for a criminal organisation: he accepted to appear as the owner of properties and financial assets actually belonging to that organisation.
- A case coming to light in Florence indicates that municipal areas destined for public use are instead sold to urban developers in exchange for bribes.
- In Turin, a number of pharmaceutical companies are accused of bribing politicians in order to obtain licences for the sale of useless medicines and to outflank laboratory control about their hazardous nature.
- The governor of the Abruzzo region is arrested for requiring payments from entrepreneurs delivering services to the local health system.
- In Naples, a businessman is arrested for virtually monopolising contracts in several public sectors thanks to his connections with local politicians.
- In Turin, an investigative judge devises a network of fake consultancy companies run by friends or accomplices, claiming the expenses (from the state) for consultancy work that in fact is never carried out. A paradoxical aspect of this case is that this judge had previously conducted investigations on episodes of corruption occurring in the world of football, and it is reasonable to assume that, while unveiling the corruption of others, he was practising his own.
- A case that gained international resonance occurred in Naples in 2008. The companies contracted with the building of a waste disposal facility were unable to complete the work by the agreed deadline. The contract had been won through unorthodox practices and with a totally unrealistic bid, offering the required service for extremely low, therefore dubious, prices. The ineptitude of the company contracted led to the infamous 'waste emergency'.

#### 4.1 Corruption in relation to organised crime

The cases listed above cover a number of areas that criminologists would describe as *grey areas* in which politics, business and crime interact in various fashions. According to informant **A1**:

*'Corruption in Italy does not reveal the direct participation of organised crime such as, for example, the mafia. Rather, it shows the spreading of a "mafia method" in conducting business and doing politics. [...] Public representatives assimilate elements of the mafia culture [...] The "mafia method" is becoming the prevailing method inspiring the crimes of the powerful and [...] it affects market freedom and the democratic system as a whole' (A1).*

**Similar description was given by informant J1**, who noted that environments saturated by corrupt exchange offer everybody a chance to 'have a go'. In his view, corruption in Italy is characterised by a multiplying effect which is felt in all positions of the social hierarchy: *'corrupt exchange involving the elite and those involving ordinary citizens feed upon each other'*. As corruption spreads from the elite downwards to other social groups, impunity seems to increase its multiplying effect. This process causes increasing familiarisation and tolerance with unorthodox practices, even among those who benefit very little from their own corrupt practices.

*'The opportunities granted to ordinary citizens to benefit from minor episodes of corruption led to the partial condoning of large-scale corruption. The tolerance of petty immorality on the part of the elite paved the way for the acceptance of their own higher immorality by the non-elite. The moral tone of the country, however, was imposed by the ruling class, who by relentlessly displaying their own corruption made everyone indifferent to official rules and cynical towards the public welfare' (J1).*

*The stages of this process were addressed by informant A1*, who noted that during the 1970s corruption seemed to be confined to the margins of civil society, namely within a sub-system which had few occasions to interact with society as a whole. News about a state functionary being corrupt would cause a scandal, while corruption of entrepreneurs or politicians was not even contemplated as a possibility, because it was not brought to the limelight: therefore it did not exist. Since the early 1970s, when the first journalistic and judicial investigations drew some light on the corrupt mixture of professionals, politicians, businessmen and organised crime things have changed. At that time there was not a big distance between those who corrupt, those who are corrupted, and civil society. No professional sector was immune to corrupt practices (A1).

The consumer rights organisation 'Help Consumatori' (2007) informed in 2006, the loss of the Italian state for corrupt practices was 70 billion Euro, warning that all social sectors were getting accustomed to a 'culture of corruption' and that indignation over the pervasiveness of this culture was slowly fading. In this report, no specific responsibility for corruption was apportioned to organised crime, as the regions in which the growth of the phenomenon was observed were not those in which organised crime traditionally operated.

According to J2, criminal organisations such as the mafia are the most visible in terms of exercising power. Members of the mafia *'are used by*

*the state, they are protected, and then, when they are no longer needed, they are dumped'. In this perspective, 'if we want to understand the relationship between corruption and organised crime we have to rid ourselves of all the stereotypes and prejudices, and look at these phenomena against the background of the power elite' (J2). Political activity has by now become a straightforward form of business, in which individuals and groups are connected in a pyramidal configuration. These connections are national, and often, international expressions of power, global systems based on the control by the few upon the many.*

*'This is organised abuse of power, which causes injustice and social suffering. This pyramidal configuration offers some space to organised crime. [...] Organised crime uses corruption because everyone else does. [...] A ruling class that degrades the people is in turn degraded by it in a vicious circle [...] Organised crime just follows the general climate determined by the ruling class' (J2).*

*In the view of J3, the institutional actors who are more vulnerable to corruption by organised crime are local politicians and administrators. These actors handle public resources, they are geographically close to organised criminal groups they operate in the same social environment and therefore they are subject to the pressure that such groups exert. At the local level, however, corrupt exchange 'proposed' by organised crime to politicians is accompanied by an implicit degree of intimidation which determines the outcome of the proposal made. Informant A1, in this respect, talked about the well known 'offers that cannot be refused'.*

*'In other words, it is possible that a corrupt offer is rejected, but then intimidation follows against the person who does not want to be corrupted. The outcome will be the same, namely the illegal result that was initially pursued. In such cases, before even attempting to corrupt, organised crime aims to intimidate. At times, acceptance of a corrupt proposal may turn into quasi-affiliation with the organised group' (A1).*

Informants also stressed that when organised crime manages to corrupt any actor, this is due to the low professional ethics of those who make themselves available to corruption.

*'There is little sense of responsibility for the role one occupies, be it public or private. This may be difficult to evaluate in empirical terms, but the deficit of political and civic culture in a country exposes citizens to systemic corruption by organised crime, but also by other individuals and groups. In such contexts, even emulation – the desire to access prestigious positions and gain more financial resources than one holds – may become a significant variable' (A2).*

Emulation also plays a role in tax evasion, whereby small earners feel legitimised to escape their dues to the state when witnessing the spectacle of massive illegality by the elite. Tax evasion in Italy reaches such level that the state regularly proposes 'social pacts' or amnesties

requiring the payment of at least a portion of the unpaid sums. In the most recent such amnesty in October 2009, the excepted funds to be amnestied were 100 billion Euro or the estimated 300 billion held abroad (Momigliano 2009). Vulnerability to corruption, ultimately, may also be exacerbated by impunity, namely the certainty that there will be no prosecution. Except during the ‘clean hands’ period, corruptors and those they have corrupted have rarely been punished, judicially or morally (Della Porta and Vannucci 2007).

## 5. Targeted institutions and sectors

### 5.1 Corrupt sectors

Among corrupt practices, fraud against the state shows the most remarkable expansion. Fraud includes a range of false claims for financial entitlements and special state support, or consists of payment requests for fictitious work performed or incomplete services delivered (Davigo and Mannozi, 2008). These practices have gone up during the two years past by 40% and 200% respectively (Alto Commissario Anticorruzione 2007). The increase is not solely due to the growing interest of organised crime in state funds, but also to the spreading of fraudulent practices among professionals, administrators and private firms (see the list of recent cases provided above).

Fraud against the European Union constitutes an important variety of fraud against the state. In 2008, out of 10,495 public funding fraud cases in the EU, 1,323 were in Italy, of which 802 were EU structural funds related frauds, more than in any other Member State (EC, SEC (2009) 1003 final, p.152). The European budget attracts professionals, criminal groups and opportunistic entrepreneurs who may resort to fraud as a means of rescuing a failing company or expanding its business.

Returning to the national level, the construction sector is particularly exposed to corruption. The involvement of organised crime in construction may cover a plurality of industrial segments, ranging from the production of cement to the building and refinement of the facilities commissioned. Licit entrepreneurs are also involved, particularly in areas where environmental planning is vague, control regulations are weak, and administrators are willing to help developers by claiming that the areas sold are destined for private dwellings.

In the public works sector the formation of cartels is frequent. Auctions and tenders relating to such works are manipulated, and when organised crime is involved, the employment of ‘clean’ business partners and professionals becomes necessary.

According to informant **J1**, white collar and organised criminals in this sector operate jointly. They may even identify which service has to be put out to tender and what type of goods have to be delivered. The contract gained does not serve a specific need of the community, but only the financial interests of those contracted. When planning what type of service has to be contracted, the role of politicians is crucial. Subsequently, corruption may occur when the criteria for the granting

of the contract have to be established. Those manipulating the tendering process make sure that their competitors do not meet the criteria. When the bid is presented, the situation may arise where there is only one company left in the contest, while the winner often makes a series of bids through other companies (J1).

Finally, at the execution phase, the winner may sub-contract parts of the works to a friendly firm (which may in no way be connected to organised crime, but simply use organised-crime related firm as an intermediary to win the bid). If the bid made is low and unrealistic, the winning company may even plan not to complete the works for lack of sufficient funds, or due to the existence of corrupt supervisory bodies. The 'waste emergency' is one such case, where the failure of the legitimate entrepreneurs to honour a contract gave the opportunity for organised crime to offer its own, alternative disposal services. Similarly, companies failing to perform the tasks for which they have been paid may resort to sub-contracts with firms controlled by organised crime.

The public contracts sector constitutes an extremely important area for the economy of the country. 'Through public contracts, the state guarantees the realisation of infrastructure projects and the delivery of services to citizens. This is an essential function to encourage development and remove the economic and social obstacles limiting the freedom and equality of citizens' (Caneppele, 2009, p.7). The allocation of public contracts, however, needs impartial, efficient, and morally reliable administrators, who hand over public resources to those who are actually able to deliver at the appropriate standard and, simultaneously, at minimum cost to society. Where such administrators are wanting, opportunities are offered to shady entrepreneurs and organised criminals.

Public contracts are attractive for a number of reasons. First, they represent an important part of the resources available in specific contexts, particularly in regions where private entrepreneurship is insufficiently developed (Commissione Parlamentare Antimafia 2008). In Calabria, for instance, public finances constitute 80% of the financial assets available in the region. Second, fraudulent conduct in the arena of public contracts is met with particular leniency by institutional agencies, and when organised crime is involved, investigations require complex tools and skills. Organised criminals-turned-businessmen, therefore, may opt for this area of investment for the excellent prospects it offers in terms of revenues and for the negligible risk of apprehension. Third, public contracts are managed by vulnerable and inefficient public administrators, and have long been characterised by unorthodox behaviour and corrupt exchange between private entrepreneurs, political representatives and public administrators. Thus, as Calderoni and Caneppele explain, 'the infiltration of mafia organisations is therefore favoured by the spreading of illicit conduct and corruption within the public administration itself. Such an environment is more permeable to the presence of actors who are associated with criminal organisations due to the low level of legality that characterises them' (2009, p.8).

Finally, criminal organisations may benefit from public contracts in terms of prestige and power in the territories they control. For example, they may realistically play the role of employers, whether for their affiliates or for members of the general population. They may gain access to the business world, encountering peers and colleagues who may be helpful in future enterprises. In brief, they may progress in their careers by combining involvement in licit as well as illicit markets. Even when organised criminal groups do not succeed in gaining contracts, they act as mediators for other companies, activating their political relationships or their ‘means of persuasion’. In some cases, it is the winning company which will contact criminal organisations, ‘in order to agree in advance on the protection money due, thus avoiding future problems when works are in progress’ (ibid, p.8).

‘The phenomenon of criminal infiltration is distributed equally across the regions of the South of Italy. It is, however, mainly concentrated in Calabria and Sicily, and in some provinces of Campania, such as Caserta and Naples. The situation is critical in Calabria, where the ‘Ndrangheta has enjoyed until very recently little attention by public opinion and institutions. This has allowed it to expand beyond the Calabrese territory. Today the situation has changed and, as happened in Sicily after the massacre of judges and in Campania with the camorra wars, the Calabrese organisation too is at the centre of numerous investigations’ (ibid, p.127).

## 5.2 Police<sup>78</sup> and the judicial corruption

Corruption of the justice system, including its administrative staff, publicly appointed officials and judges, increased between 2005 and 2007 (Help Consumatori 2007). The increase, however, may not be statistically significant, as the cases of corruption were 8 in 2005 and 10 in 2007. What may be of interest is in which regions such cases occurred: Emilia Romagna, Lazio and Lombardy: namely, regions in which organised crime activity is not as prevalent as elsewhere. Judiciary corruption, therefore, can be mainly imputed to white collar offenders, either in the political or in the economic sphere. Some commentators, however, suggest that the increase signals both the ‘migration’ of organised crime to other regions and the spreading of the ‘mafia method’ throughout the country.

*‘The police and the judiciary seem less permeable to corruption, also because they can rely on a higher degree of internal cohesion and have a distinctive esprit de corps. Unlike for politicians and administrators, the career of police officers and judges can hardly be influenced by organised crime, whose power to corrupt, after all, consists in large measure of paying money. Finally, they are less vulnerable to intimidation, because they feel protected by their peers, they are more homogenous and less competitive with one another’ (A2).*

<sup>78</sup> A special section on police corruption in Italy is devoted inside the main body of the report, in the section on Police corruption, and these observations are not discussed here.

**The corruption of the judiciary, according to J1**, is associated with the inefficient and particularly lengthy investigation processes. Judges are given a precise deadline by which investigation has to be completed so that prosecution may commence. Failure to meet the deadline results in the offence being cancelled. Corrupt judges may prolong the investigation period on purpose, thus favouring the release of defendants.

A well known case in Italy involving judge Carnevale, resulted in the Court of Cassation invalidating all the previous trials in which mafia members had been found guilty. The invalidation was motivated with some procedural irregularities. The judge, eventually, was prosecuted and expelled from the judiciary.

Informant **J1** mentioned cases in which police officers were in good working relationships with people evading justice, or with people who were in the process of being arrested or investigated. *'These officers, therefore, informed members of the criminal world that something was going to happen to them, giving them time to hide, destroy documents or find an alibi'*. In such cases, **J1** added, sub-cultural factors play an important role, as *'the police officers may share a background of bullying, violence and criminality with the ones they are supposed to police'*.

### 5.3 Political corruption

Informant **J2** argued that all forms of allocating resources, be they private or public, imply a certain degree of corruption. The political world is central in this respect. The fact is, he said, that *'In politics, many people find a solution to their economic problems, and they try to occupy all the possible places where resources are distributed. Around elected politicians there are then cohorts of allies who participate in political activity and share some of the wealth. Finally, at the bottom, there are the masses, the subjects who sustain the whole system on their shoulders'* (**J2**).

This informant was reluctant to assert that the political system is corrupted by organised crime. He would rather claim that organised crime took advantage of a corrupt and inefficient system.

*'Take the example of the public financing of political parties. This was introduced after the scandals proved that businessmen (oil producers, developers, the pharmaceutical industry, and many more) were receiving favours from politicians in exchange for money. These favours consisted in promoting legislation that brought enormous amounts of money to entrepreneurs. The new law on the public funding of political parties was supposed to make the costs of political activity more transparent. But this was a big lie: politicians and economic actors continued financing one another in a covert manner. The result now is that, while this covert financing continues, we have the most expensive political system in Europe, with even small parties (who do not have a significant number of representatives) receiving exorbitant amounts of money. Organised*

*crime, in all this, is just one of the many actors involved; they appropriate resources like everybody else' (J2).*

Other interviewees, though, considered the political sphere the most vulnerable to corruption by organised crime (A2). This is because power groups tend to come together irrespective of the nature of the power they exercise. Politicians collude with organised crime as criminal networks guarantee the votes needed for parties to stay in power, particularly at the local level. For organised crime syndicates, corruption is a gateway to winning public contracts and resources and to expanding their influence and power.

#### 5.4 Administrative corruption

The sections above have described the roles played by politicians and administrators in the arena of public contracts. A brief addition to the information already presented, originates from informant **A2**, who argued that administrators are accustomed to exchanging favours for illegal income, due to the general climate in which they operate. Some of them become public administrators on the basis of nepotism or as a result of some corrupt exchange. Public administration positions may be distributed by influential figures, with the participation of political parties claiming their own share of jobs for their faithful members. Once employed, administrators are surrounded by 'clients' of a varied nature, friends and relatives, colleagues and acquaintances, who formulate incessant requests and propose creative bargains. *'Organised crime swims at ease in such corrupt waters. And administrators will be unable or unwilling to determine whether the companies they entrust with a public work is owned by a clean entrepreneur, a criminal one, or a partnership between the two' (A2).*

Informants concurred that in the south of the country administrative corruption is more visible. In the southern regions, investigations focusing on organised crime lead to the discovery that often local administrators or politicians are connected to local businessmen: the labyrinth of power and business emerges very clearly. However, *'in the north of the country power is just as corrupt, with a relatively lower presence of organised crime. The problem is that it is no longer possible to distinguish between organised crime and white collar crime' (J2).*

## 6. Private sector corruption

**According to A2** the private sector occupies third position in the corruption echelon. Entrepreneurs are deemed lacking market ethics and are prone to grasp at any possibility of operating under monopoly conditions. *'Escaping competition has become acceptable, and for some, in a sense, even legal'.* Elaborating further, informant **A2** explains:

*'In some contexts a criminal can turn into a private entrepreneur. He would conduct a series of legitimate activities with the illicit money accumulated. Also, the criminal may have to employ those affiliated with his organisation, and therefore give salaries in licit occupations. The mafia is an employer, let us not forget. Moreover,*

*organised crime is a money lending organisation, and at times, when its debtors become insolvent, their business is appropriated by the lending organisation. This is one of the other ways in which organised crime gains access to the official economy' (A2).*

While informant **J1** felt that organised crime, turned into business with the support of politicians, could renounce intimidation, **J2** dwelt again on the general economic practices prevailing in the country. In his view all economic sectors are corrupt at all levels of their respective hierarchy. The reason for this generalised diffusion of corrupt exchange is that:

*'We now have a criminal system that works by inertia: it has its own inherent motion. We have a system which is integrated, composed of different characters and entities, not all of which have criminal professionalism. We have the politician, the high public manager, the entrepreneur, the financier, the mediator, the representative of the institutions, and at times a representative of the mafia. The system is modular, in the sense that, depending on the circumstances, it includes new actors and excludes others' (J2).*

It is extremely difficult to find a remedy for this situation. Even whistleblowers in the private sector, do not serve as examples to others. They are often ostracised while the corrupt are still seen in the most glamorous public events and on TV. This is the result of the organic partnerships between business, politicians and organised crime. We are faced with post-mafia organisations, in the sense that in the past we could identify some figures of the official world who were 'external' allies of the mafia; now it is the mafia which is external to the illicit business of the ruling elite.

## 7. Conclusion

Corruption and organised crime in Italy are connected in a variety of ways. With the political, administrative and private sectors particularly prone to engage in corrupt transactions, illicit conduct tends to spread to many other groups and actors. Upturning a liberal metaphor, one could say that the elite has promoted a 'trickling down' process of illegality. Organised crime is a participant in this illegality, at times aided by intimidation and at times sustained by the interests of legitimate actors who play a *de facto* role of partners. In such a situation resources are not used to satisfy the needs of communities, but are appropriated through personal initiative, individual risk, power, and the ability to achieve impunity by outflanking rules. Corrupt behaviour in Italy has slowly become acceptable at the social level and has gained legitimacy at the political, and finally at the legislative level. Corruption has played the function of foundational conduct, one that lends itself to be imitated. It has altered the perception of what citizens should expect, what they should pursue, and how. It has taken on a 'founding force', namely the capacity to impose lifestyles, to transform previous jurisprudence, to establish new laws and new types of legitimacy. Corruption and organised crime, in sum, are intertwined in a 'criminal system' that reproduces power, be it illicit or otherwise.

## ANNEX 2: CASE STUDY – THE NETHERLANDS

### 1. Synopsis

The **Netherlands** for many years has been considered one of the least corrupt countries in the world. Organised crime in the Netherlands can be described as ‘transit’ in nature, involving illegal trade, trafficking and smuggling of goods and services, and taking advantage of country’s role as an important logistical hub. Low-level police corruption and information leakage related to drugs occasionally take place. Although national level politicians and the judiciary are considered not corrupt, at the local government and administrative level, white collar crime related corruption has been encountered (in particular related to construction industry). As some officials admitted, though, due to the perceptions of low corruption, often monitoring is not robust, and detection of corruption low.

### 2. Introduction

The collection of information took place between April and July 2009. Academic and grey literature of the period 1997-2009 and media sources (2002-2009) were also analysed. Interviews with nine key informants were also conducted:

- Three leading academics conducting research and producing numerous publications on corruption in the Netherlands (A1, A2, A3);
- The head of a Dutch government agency specializing in issues of integrity policy design (G1), and a member of the same agency actively involved in research (G2);
- A law-enforcement anti-corruption representative (R1);
- A leading partner of the Corporate Crime Department in a large independent Dutch law firm, specializing in fraud cases (L1);
- In addition, informal conversations were conducted with three entrepreneurs (import/export joint ventures) from Russia, Serbia and Ukraine, all of them based in the Netherlands (E1, E2, E3).

Name	Position	Institution
A1	Academic	Major University in the Netherlands
A2	Academic	Major University in the Netherlands
A3	Academic	Major University in the Netherlands
G1	Team leader	BIOS (Government agency specializing in issues of integrity policy design)
G2	Researcher	BIOS (Government agency specializing in issues of integrity policy design)
R1	Team leader	National Police Internal Investigation Department (Rijksrecherche)
L1	Partner	Independent Dutch law firm specializing in fraud cases
E1	Entrepreneur (of Russian origin, based in the Netherlands)	Import/export joint venture
E2	Entrepreneur (of Serb origin, based in the Netherlands)	Import/export joint venture
E3	Entrepreneur (of Ukrainian origin, based in the Netherlands)	Import/export joint venture

### 3. Background: organised crime in the Netherlands

In his book 'The Mafia in Amsterdam', investigative journalist Bart Middelburg described American mafia families running illegal casinos in the Red Light District of Amsterdam in 1970s (Middelburg 1988). At that time, his story was met with disbelief. In fact the possibility of mafia-type crime families discovering the Netherlands as a new territory of their activities was largely underestimated until the mid 1980s. In the nineties, however, criminologists confirmed the presence of American mafia on Dutch land (Fijnaut and Bovenkerk 1996). After the 1990 Dutch-American Conference on Organised Crime the problem of mafia presence gained prominence on the national political agenda and among the Dutch academic community (Fijnaut and Jacobs 1991; Fijnaut et al. 1998; Kleemans et al. 1998; Kleemans et al. 2002; etc.). Based on the perception that mafia-type families were operating in the Netherlands, corruption, racketeering and infiltration in economic sectors were viewed as major threats resulting from organised criminality. Yet, several consecutive studies (PEO December 1994, Fijnaut et al. 1998) proved that criminal groups did not manage to penetrate into political structures, and there were no specific economic sectors controlled by organised crime.

Organised crime in the Netherlands can be best described as 'transit crime', consisting primarily of cross-border criminal activities: drug smuggling, human smuggling, human trafficking for sexual and labour exploitation, trafficking in arms, trafficking in stolen vehicles, money laundering, evading taxes, etc. Though no hierarchical pyramids of mafia-groups or cartels are present in the country, there are (international) criminal networks operating inside its territory. In general, organised crime in the Netherlands can be described as illegal economic entrepreneurship (Van de Bunt and Kleemans 2007).

Rather than controlling certain regions or sectors of the economy, criminal networks use legal infrastructures, legal commodities and money flows. Logistical nodes (Amsterdam-Schiphol Airport, the port of Rotterdam) with Europe-wide importance create opportunity structures of which organised crime takes advantage. Certain economic sectors are used to commit, conceal crimes, or launder criminal proceeds: in particular bars, hotels and restaurants, prostitution, cars and transport.

#### 3.1 Ethnic criminal groups

Ethnicity is important factor in the composition of criminal groups in the Netherlands, though there are also ethnically 'mixed' networks. The large immigrant population in the Netherlands, originating from drug production regions such as Latin America (Cocaine), Turkey (heroin), Morocco (Cannabis), plays an important role in transnational drugs trafficking (Zaitch 2002; Bovenkerk and Yesilgoz 2007).

For instance, while Colombians are involved mainly in the trafficking of cocaine, the wholesale distribution is controlled by Dutch, Surinamese and Antillean criminal groups (NTA 2008, p.33). Three nationalities dominate wholesale heroin markets: Turkish, Dutch and British, where

Turkish criminals make up the largest group (ibid:39). The Netherlands is also considered a leading producer of ecstasy. Chinese and Eastern Europeans are thought to dominate the smuggling and importing of related precursors. Dutch nationals control the procurement of other chemicals and hardware, as well as production (ibid, p.49). There are cases in which native Dutch cooperate with other ethnic groups in trafficking in hashish and ecstasy (Van de Bunt and Kleemans 2007).

West African, mainly Nigerian, are involved in advanced fee fraud, drugs and women trafficking. In 2006-7 Siegel and De Blank (2008) conducted research on the role of the female women traffickers from Nigeria and Ghana, the so-called 'madams'. They concluded that these West African madams led large-scale international human trafficking networks from Nigeria, Ghana and Cameroon to the Netherlands. Other West-African Criminal Networks (WACN), which are mostly responsible for advance fee fraud, are described as flexible networks, consisting of separate cells (NTA 2008, p.109).

The phenomenon of 'mobile banditry' has spread widely in the Netherlands since the mid-1990s. It involves small groups (3-6 persons) of young people (15-25 years old), who arrive to the Netherlands from Baltic countries, Poland and some other East European countries. The gangs conduct a series of robberies or car-theft and return back to their countries within 24 hours.

#### 4. Background: corruption in the Netherlands

According to Transparency International (TI), the Netherlands ranks among the least corruption-prone countries in the world, consistently scoring at the top (least corrupt) ten in annual estimates of corruption. In the Netherlands, 'corruption' is considered as a judgmental term, and instead the term 'integrity' (or lack thereof), is perceived as more morally objective label (De Graaf et al. 2008). 'Lack of Integrity' is also seen as more encompassing concept than corruption, as it covers 'conflict of interest', 'abuses of power', 'manipulation of information', 'greasing palms and lionising', intimidation, discrimination, or misconduct in a person's private life (De Graaf et al. 2008, p.93).

Regardless of the choice of term, corruption is not absent from social and economic life in the Netherlands. Dutch journalists have revealed that policy makers and politicians are sometimes prone to corruption and collusion. Publications on a number of corruption cases have revealed relationships between local public functionaries and businesses in the construction and real estate industry (Nelen 2008; Van den Heuvel 2005).

The Monitor on Organised Crime (Kleemans et al. 2002; Van de Bunt and Kleemans 2007) reveals that the need for corruption is an important factor in the interrelationship between organised crime and 'legal' society. Within this framework, corruption serves three main goals:

- 'gaining indispensable resources 'such as licenses, visas or forged documents;
- evading surveillance (border controls, brothel checks, and so on); and

- getting information from the investigating authorities (such as ‘running investigations’ or imminent police actions)’ (Kleemans 2004, p.323).

## 5. Targeted Institutions

### 5.1 Political and administrative corruption

In the Netherlands, corruption is much more widespread in the public administration (particularly at the local level) than in political parties. Political influence over the judiciary, the police, or customs is rare, and even when it happens, it is very subtle (A3, L1). Several studies were conducted in recent years on corruption in different Dutch public administration institutions, though no studies have yet encompassed the entire apparatus. There is however no consensus on the nature and scale of corruption because of difference in definition (discussed earlier) between ‘corruption’ and ‘lack of integrity’. However, corruption at the local and regional levels seems to be more common than corruption in central administrative bodies.

The interviews confirmed the observation that local government is more vulnerable than other levels of government. According to one respondent, local government officials are more susceptible to corruption as they have more personal contacts with local businessmen (G2). One curious detail, on which several respondents seemed to agree, was that local level corruption typically involved small sums and presents, largely disproportionate to the financial damage being done (for instance by granting a construction permit in return).

Construction companies are the most likely perpetrators of local level administrative corruption, in particular in relation to public contracts. Usually, a construction company would pay a bribe to an official with access to information for competitive bids, and would be able to offer a price lower than the competitors. The company would then bribe other officials responsible for overseeing the completion of the public contract, and would not deliver part of the contracted work, making sure that the contract is profitable. This type of fraud has been detected to have been committed by companies in multiple cases across the country, whereby several officials in different branches of the administration and several municipalities have been bribed simultaneously. This type of fraud is not necessarily more likely to be committed by organised crime related construction companies. (R1)

Another common type of local administration corruption relates to red-light districts. Organised crime linked individuals would purchase residential real estate near or in the red-light district. They would then bribe municipal officials responsible for classifying the purpose for which the real estate property is to be used. The corrupt officials would change it from ‘residential’ to ‘brothel’ use. Such practices have inevitably increased real estate prices<sup>79</sup> in Red Light district areas and often create discomfort to neighbours.

<sup>79</sup> *Criminals thus have a distorting effect on the real estate market, as they are willing to pay premium prices for residential property, which is used for commercial purposes.*

The predominantly catholic province of Limburg in the south of the country is considered as more prone to corruption, which is explained by reference to ‘tightly-knit social networks, and reversed social capital’ by some (A3). In tight catholic communities the dense social network centred around religious identity facilitates corruption. Traditionally, local level corruption is connected to municipal real estate (e.g. land being sold at artificially low prices). Corruption is also used in municipal public contracts, where networks circumvent the standard rule of expertise, and rely on connections and local cliques to win the contract.

Civil servants susceptible to corruption are not usually to be found among the ranks of low-profile officials, but are rather noticeable personalities in the civil service organizations with the reputation of being astute “fixers” (De Graaf, et al. 2008). They frequently possess or demand the freedom to arrange matters on their own and are known as thorough and enterprising people’ (ibid p.89). Van Duyne et al (2003) describe the dynamics of corruption in the public sector as a “leadership disease”. He argues that corruption often exists alongside successful leadership. Paradoxically, strong leadership brings complacency and accountability is substituted by (blind) trust in the leader. This in turn becomes the breeding ground for corruption (ibid).

With regards to political parties, much of the corruption discussion in Netherlands has been focused on political party financing. This has led to the adoption of a law governing the funding of parties and ensuring some subsidies from the state. The law does not prohibit private funding, although all gifts of more than 5,000 EUR have to be made public. (van Duyne et al 2003). One of the respondents cited a case from the year 2000, when one of the political parties received donations from a businessman accused of real-estate fraud activities (A2).

During a 2001 Parliamentary Inquiry into construction fraud, evidence was gathered on corruption against civil servants and politicians. However, only six cases led to criminal investigations and all were related to one specific whistleblower (De Graaf et al. 2008, p.88; Dohmen and Verlaan 2004).

## 5.2 Judicial corruption

Corruption in the judiciary is generally not a problem at all: at least not in terms of in terms of bribes. Some high-level influence is possible, yet unusual. The lack of jury system is partially one reason for the lack of corruption. Influence by the government is rarely expected, even on big cases, and is not tolerated at by the public. One case that was recounted involved a Dutch prosecutor who frequently travelled to Turkey for the purposes of an international investigation. There he established contacts with Turkish criminal group operating in the Netherlands and dealing in drugs. Upon return from Turkey he started providing the criminal group with advice on how to avoid effective prosecution.

### 5.3 Police corruption

The interviewees consulted for the present research (both police and academic sources) shared the opinion that the level of police corruption in the country is relatively low, and generally not an issue of concern. Some argued that the low level could be a result of the lack of attention given to corruption in the country in general (R1). Most research shows that police corruption cases that do occur are “isolated incidents” (G1). Police corruption is restricted to misconduct by individuals, namely ‘grabbers’ and ‘rotten apples’ (Van de Bunt 2004, p.428). It is usually at the lower level of operations. For instance, there have been cases of information leaking, but these are incidental instances, and rarely based on permanent relation between the officer and the criminal (R1). The bribes used to compensate for such “favours” are usually insignificant (and often disproportionate to the favour provided) and may include tickets to games, vacations, dinners, or small amounts of cash. In some cases, officers are filmed receiving the payment and are blackmailed with the recordings in order to provide additional favours. (R1)

Police corruption may also happen in relation to the enforcement of the regulation on licensing of prostitutes. As licensed prostitutes need to pay taxes, some of them remain “illegal”, avoiding registration. Police officers are then bribed in order to turn a blind eye on unregistered prostitutes. This may also be the practice of illicit brothels, but such cases are rare and also involve low level corruption.

Even though, soft drugs are legal in the Netherlands, corruption in drugs investigation departments, are vulnerable to corruption. This is where most higher-level cases have been reported, usually related to information leaking. Despite the presence of much street level cocaine distribution in cities like Amsterdam, the official position of the police has been that street level distribution will not be a law-enforcement priority, and would be largely tolerated. No action is taken against cocaine street dealers, as their arrest with small quantity of drugs does not result in a significant penalty. Such arrests could take place only in smaller towns, where their presence is considered a ‘public nuisance’. Therefore, there is no incentive for drug dealers to corrupt officers. (R1)

Another reason for the fairly low corruption pressure on police officers is the legalisation of prostitution, and the limited way in which police is involved in enforcing the related laws (such as the ones on zoning of brothels). In terms of prostitution, a licence is required, and when a prostitute is ‘illegal’, i.e. if she is avoiding registration and tax payment, this is considered an administrative tax offence, subject to a fine. At the local level it is local authorities and to a lesser extent the police that enforces the licenses, and there could be some low level corruption related to this. If the illegal prostitute is an illegal foreigner, then she is considered a ‘victim’ and the pimp is automatically considered a ‘trafficker’, but for the prostitute this is a misdemeanour. In terms of corruption related to brothel operation, it is again local authorities rather than police that are involved in the enforcement. Certainly investigation into trafficking networks could involved information leakage but that was

not identified as a concern on the same level that drugs investigations were.

According to some observers, “conflict of loyalties” can be a cause for police corruption. Personal relationship with people outside the police organization, based on ethnic bonds or strong social ties, including romantic relationship, (Nelen and Nieuwendijk 2003) may lead some police officers to extenuate their actions. Cases of police inaction or misconduct due to ethnic (in the case of an immigration officer) or personal relationships (in the case of a police officer whose partner was involved with a criminal group) were also cited by two of the respondents (A2 and A1).

The regulation of vices and the ability of Dutch police to distance itself from politics are the major explanations of the low level of police corruption in the country.

Investigation of police corruption belongs to the tasks of the Rijksrecherche (the National Police Internal Investigation Department), an independent investigative unit, external to the regular Dutch police hierarchy.

A database, Registratie Interne Onderzoeken (RIO) (Registration of Internal Investigations), registers corruption cases within the police forces. The data supports the views of interviewees. The 2006 report indicates a total of 1,393 investigations, in which 1,495 people and 1,514 offences were involved. Criminal offences were identified in 180 cases and dereliction of duty in 507 cases. A total of 110 people were dismissed, 64 people were conditionally dismissed and 42 people resigned. The RIO database does not include a separate record of cases connected to organised crime, but there are a number of categories that could indicate the involvement of organised crime.

One major category is ‘misuse of office’. This applied to 258 of the 1,514 offences in 2006 (around 17%). In 53 cases information was leaked to criminals and 10 cases of bribery were recorded. Bribery is difficult to prove. Out of the 481 cases of integrity breaches ‘relating to a legal status’, 61 were cases of ‘undesirable contacts’. A total of 345 cases were reported to the National Police Internal Investigations Department in 2006, 120 of which were taken up. There were 46 corruption cases, while in 2005 there were 14 cases (NTA 2008, p.182).

#### 5.4 Customs corruption

The national borders are guarded by Customs and the Royal Netherlands Marechaussee (KMar – the border protection constabulary). There is little evidence of corruption at either and the respondents tend to agree that bribery of the customs or border guards is a rare phenomenon. The ability of criminals to smuggle illegal goods without the involvement of customs officers was cited by all respondents as one of the reasons for the low levels of corruption. One of the key explanations is the relatively few corruption opportunities (or little corruption pressure) that

customs officers have. The major flows of drugs (cocaine, heroin, or cannabis) or excise tax goods come from Southern or Eastern Europe, and do not pass through customs controls. The two key vulnerable infrastructure points: Schiphol Airport in Amsterdam and seaports of Rotterdam and Amsterdam, have such high volumes of traffic, that the statistical chances of passing undetected are very high (R1, A3).

According to respondents A1, L1, E2 and various leading publications, corruption of public servants is relatively insignificant. Some studies point out that the possibility to hide cocaine in containers is effective enough and corruption is not needed (Kleemans et al. 2002; Zaitch 2002). However, according to one respondent, the criminal groups would revert to corrupting customs officers in order to reduce the risk of investigation when large shipments of drugs are transported (R1). In addition to information on investigation and (new) measures of law enforcement, corrupt custom officers could create fictive legitimisation by the 'custom-stamp', creating impression of legalised (R1). According to a respondent, the fairly small team of customs officers at a big port like Rotterdam could easily fall under corruption pressure, and there is little to prevent that from happening. (R1)

At the airports, the strict passenger and baggage controls, or the so-called 100% control flights from the 'risk countries' (including Suriname, Dutch Antilles, Latin America, etc.), can lead to some corruption of customs. A study showed that at Amsterdam Schiphol airport between 1999 and 2002 only 12 corruption cases took place (Nelen and Nieuwendijk 2003).

### 5.5 Tax corruption

Corruption in the tax administration is generally not seen as an issue. Cases of VAT fraud are common (NTA 2008, p.96), as in other Member States. These schemes often need corrupt contacts among transporters, purchasers from companies in the Netherlands and abroad, financial service providers, forgers of documents and stamps. Occasionally, such schemes employ corruption in public bodies that could facilitate them, such as customs or tax authorities, or in the police and judiciary, which could provide protection from investigation. The estimates of financial damage as a result of VAT fraud for the Netherlands vary between 50 million and 100 to 200 million Euros (ibid, p.99). In 2006, the Tax and Customs Administration and FIOD-ECD handled 21 cases of VAT fraud, which had resulted in a tax loss of over 39 million Euro and a total loss of almost 120 million Euros (ibid, p.100). Different cases of VAT fraud were mentioned by A2, such as imports of cheap textiles from Asia, imports of meat from non-EU countries, and imports of cigarettes.

### 5.6 Preventive measures against corruption in targeted institutions

A number of measures to prevent corruption in the Netherlands have been identified. Juridical monitoring is established in a large number

of public sector organizations. ‘This often means that one or more employees have been allocated the specific task of monitoring the juridical quality of the organization’s operation’ (Huberts, et al. 2006, p.15). These employees are responsible for example for conducting legal audits. Internal integrity regulations in municipalities and provinces include integrity workshops and regular discussions. Disciplinary measures are implemented in cases of violation of the regulations.

The Amsterdam municipality established a special Integrity Bureau in 1997, and is considered as the most alert among Dutch municipalities. Following similar approaches in Italy and the US (New York), there is also an administrative approach to organised crime in place since mid-2003 in the form of the new BIBOB Act (*Bevordering Integriteitsbeoordelingen door het Openbaar Bestuur – Ensuring Integrity of Decisions by the Public Administration*). The act provides a legal basis to refuse or withdraw permits, licences and grants when there are serious suspicions regarding abuse by criminals in areas such as hotels and restaurants, the sex industry, the construction industry, public housing, and some others. (Van de Bunt 2004, p.699). Other measures include the MOT Act (*Wet Melding Ongebruikelijke Transacties – Act on the Disclosure of Unusual Transactions*), *Verklaring Omtrent Gedrag voor rechtspersonen (VOG)*: a statement on the integrity of a legal entity that can be shown to potential business partners, i.e. companies and authorities. ‘Watchdog groups’ and agencies have been set up in the Netherlands with the purpose of observing and supervising governmental and public organizations.

The National Police Internal Investigation Department (*Rijksrecherche*) employs around eighty-five investigators and 125 staff. It is a body under the National Prosecutor’s Office. It does not investigate low-level, but only higher level corruption. Its remit includes investigations of police, customs, judiciary, and all public institutions and bodies (ministries, institutions, politicians, Parliament, and local municipal authorities). Local police departments have their own internal investigation units dealing with local level corruption. Similarly, the Customs also have their internal investigations. A recent study of VU University Amsterdam showed that the greatest number of criminal investigations into corruption in the Netherlands are conducted by the police, followed by the Fiscal Intelligence and Investigation Department (Economic Crimes Division).

## 6. Private sector corruption

The last barometer report of Transparency International (2009) identified the private sector/business as the most affected by corruption as perceived by respondents (58%), leaving political, judicial and other institutions far behind.

In 2007, the analysis of the data from 120 extensive case studies from the Dutch Organised Crime Monitor was published, involving 1,623 suspects. (Van de Bunt and Kleemans 2007). The main sources for this ongoing research project are files of closed Dutch police investigations of criminal groups covering a period of several years. The analysis considers the linkages between various kinds of occupations and specific types of organised crime, or the embeddedness of specific criminal activities in

work relations. One case study describes the involvement of airline staff members who engaged in smuggling cocaine. Thus, in March 2009, the authorities at Schiphol airport arrested ten airport staff members, including seven KLM employees, who, over a period of at least one year, had been involved in smuggling cocaine from Suriname to the Netherlands, concealing drugs in various locations of the aircraft, and using airport service staff to smuggle it to the Netherlands (RNW 2009). Another case study describes a group of financial and tax advisors systematically collaborated to defraud the tax authorities.

The conclusion of the authors is that occupations, work relations and work settings may provide the breeding ground for organised crime activities, particularly in the case of cross-border or transit crime (Van de Bunt and Kleemans 2007). International contacts create various opportunities for (transit) crime. Examples are occupations involving travel, transportation services, and logistics. In addition, the individual employee's freedom of movement and/or discretion is important. 'This explains the involvement of directors of (small) businesses, independent professionals and, in some cases, individuals with relative autonomy in larger organisations, such as companies and banks' (Kleemans and Van de Bunt 2007).

The real estate sector is an attractive playing field for criminals. In a booming economy with great demand for high quality real estate, prices can easily 'explode'. Even in a period of economic crisis, the market is still vulnerable to fraud mechanisms, in particular involving price manipulation.

Real estate is among the markets which have attracted not only legitimate, but also illegitimate and irregular forms of trade, including serious forms of fraud and money laundering (ibid). In 2007, Ferwerda et al. (2007) published a study in which a distinction was made between fraudulent activities with regard to exploitation and speculation, including unlawful occupation, (i.e. the illegal (sub)letting of private homes to individuals who are legally or illegally residing in the Netherlands); rack-renters exploiting their tenants, mostly illegal migrants; and wrongful use ranging from illegal boarding houses to using the property as a cover for criminal activities such as cannabis farms, illegal brothels, etc.)

One of the greatest concerns with regards to organised crime is that criminal groups invest the proceeds of crime in legitimate enterprises, or that licit and illicit business join forces, (i.e. in so-called 'symbiotic relationships' between organised crime and its legitimate environment), which are characterized by mutual benefits. In the Netherlands, this symbiotic relationship involves financial institutions, lawyers, real estate dealers, and car rental firms, some of which cooperate with criminal groups.

Though no data was collected on specific cases of corruption in the private sector, the following information shows the number and types of companies, identified over the course of various law-enforcement investigations to have been connected to organised crime in 2006, by sector:

FIGURE 16. NETHERLANDS: TYPE OF COMPANY WITH A LINK TO CRIMINAL GROUPS, BY SECTOR

Sector	Number
Financial institutions (except insurance companies and pension funds)	220
Other commercial services	136
Wholesalers and brokers (not involving cars or motorbikes)	94
Provision of accommodation, meals and drinks (catering establishments)	71
Leasing of and trading in property	71
Trading in and repairing cars and motorbikes, petrol service stations	66
Stock exchanges, stockbrokers, insurance brokers, etc.	61
Employer, employee and professional organisations/ political organisations	54
Retail trade and repair of consumer articles	50
Culture, sport and recreation	49
Construction	48
Other/not known	216
Total	1,135

Source: KLPD, IPOL, list of criminal organisations 2006; Chambers of Commerce, NTA, 2008:204

As previously noted, the real estate and construction industry are especially vulnerable to corruption (although rarely involving traditional organised crime). To illustrate this relation, one respondent described a recent fraud case in the Netherlands involving one of the largest construction companies. The Rabo Bouwfonds property company, (owned by Rabobank, one of the largest banks in the country, and formerly by ABN Amro), concluded a real estate development deal with the Phillips Pension Fund. The total amount of the deal related to the fraud was 350 million Euro. Over a period of more than ten years corrupt managers at the Phillips Pension Fund gave contracts to Robobaufons, which were inflated by millions of Euros. According to the respondent, the reason why the construction sector is susceptible to corruption is because there is no transparent pricing mechanism, and oversight, especially at high levels, is often difficult (L1).

Another telling case in the real estate sector involved a real estate dealer who was killed by a hitman in front of his office in the centre of Amsterdam 2004. Starting in the 1980s, he built a real estate empire estimated to be worth around 300 million Euro (in 2001). In the 1990s, he owed at least part of his wealth to the fact that he invested the proceeds of drugs crimes in real estate for several known criminals. Since 2000, police reports and journalistic research have revealed that his symbiosis with several criminals allegedly turned into extortion and attempts by criminal elements to take control of his business. 'Excerpts from his diary, published a year after his assassination, show how he was forced by threats as well as physical violence to hand over large sums of money to his former criminal business partners' (Nelen 2005, p.3).

The main crimes and corruption schemes involving the construction industry are related to the establishment of illegal cartels. In 2004, a Parliamentary Inquiry into antitrust crimes in the Dutch construction industry revealed that construction companies systematically made agreements among themselves relating to the procedures of submitting tenders for contracts. Companies would agree on who would be awarded the contract and for what price. Though there was no hard evidence of organised crime involvement in such practices, it appeared that hundreds of ostensibly legitimate construction companies were heavily involved in price-fixing, cartel forming and secretly arranging the allocation of projects (Nelen 2005).

According to one respondent, similar cartels are formed along geographic lines (regional/town), or on a vertical principle – where supplier or sub-suppliers are integrated within the chain. In such cases, bribes are used to corrupt construction oversight bodies at the regional level. This, though, is often considered only an administrative and not a criminal offence. Nevertheless, forging documents and invoices is necessary to conceal the offence. Therefore, employees of other construction enterprises are bribed to provide the fraudulent invoices needed to disguise the cartel (A3). The same respondent noted that there is little evidence that the construction/real estate sector is used to launder significant amounts of organised crime profits. From the 700 cases of the Dutch Asset Confiscation Bureau, most of the assets confiscated were small apartments, shops, or other smaller investments. According to the respondent, typically, a criminal would own 5-10 premises – a few apartments, a store, etc. (A3)

Another example of corruption in the private sector concerns cargo theft. The research conducted for NTA (2008) revealed that an estimated 80% of cargo thefts involved ‘help from the inside’. This can range from leaving a gate unlocked to providing transport schedules, information about the contents of the lorry and involvement of the drivers themselves. People in the business community blame inadequate screening of new staff (NTA 2008, p.185).

Lawyers and public notaries sometimes also play an important role in facilitating corrupt deals. This usually concerns some small law offices and not the big well established firms (L1). In 2005, a lawyer/fiscal specialist was murdered in front of his house in Amsterdam. He had been accused of assisting top criminals in laundering their money abroad and of being a member of a criminal organisation (Nelen and Lankhorst 2008, p.127). Another case involved a lawyer in a drug trafficking case who ‘advised the leading members of the criminal groups on a regular basis. He had his own licit practice, which is located in the office complex of one of the leading members of the network’ (ibid, p.135). In yet another case, when one of the clients of a criminal defence lawyer was put into custody, the lawyer passed on information about the investigation to another suspect (also his client), who had not been arrested yet (ibid, p.132).

Notaries could also abuse their position by helping to shield criminal activities and their proceeds. The corrupt activities of notaries include

transactions on the property market, the establishment of legal entities and conducting fraudulent deeds to launder criminal money. In one case 'a notary... regularly established legal entities at the request of a major fraudster and also conducted share transactions on his behalf' (ibid: 138). In another case 'a notary linked his name and account to an advanced fee fraud. As a result, a swindler was able to persuade investors to transfer huge sums of money to the account' (ibid, p.139).

According to one respondent, no corruption of bank of officials is required for the transfer of money or for the laundering of smaller sums of money. For large amounts, some banks have the incentive to collude, as it is profitable to them, so no corruption is required again. Yet in some cases, certain bank employees might become involved in a money-laundering scheme as a result of corruption (L1).

## 7. Conclusion

Though the Netherlands still enjoys the reputation of a virtually 'corruption-free' country, the latest reports based on investigations of law enforcement (NTA 2008) and of the WODC of the Ministry of Justice (Van de Bunt and Kleemans 2007) or academics (Huberts 2006; Nelen 2008, etc.) that corruption is a more frequent phenomenon than sometimes assumed, and occasionally it is connected to organised crime.

Organised crime in the Netherlands may best be described as 'transit crime', which does not need to dominate specific economic branches or geographical regions. Therefore, crime in the Netherlands is fundamentally different from many other countries. In the case of cross-border crime and the trafficking illegal goods and people, criminals are not dependent on police and custom corruption.

The general opinion is that corruption of the judiciary, national level politicians, police and custom officers is relatively rare in the Netherlands, which is reflected by the low number of convictions for corruption. Despite the existence of occasional cases the corruption-organised crime nexus does not yet pose a very significant threat.

The analysis of different institutions that are or can be targeted by organised crime shows that the private sector and the local administration and government are the primary targets of OC corruption. The low number of corruption incidents in the police forces can be primarily explained by the strict formal and informal controls and clear codes of behaviour within the organization, but also by the fact that the legalisation of drugs and prostitution is naturally accompanied by lower levels of corruption pressures on police officers.



## ANNEX 3: CASE STUDY – SPAIN

### 1. Synopsis

The case of **Spain** is of interest, as it involves a unique mix of historic, socio-economic, and criminogenic factors, such as: strong pressures from drugs smuggling (cocaine and hashish); a big prostitution market; the largest recent increase in immigration in the EU; a terrorist problem with ETA, which is of priority to the police; a coastline that has attracted for years not only tourists but also criminals and money-launderers; and a culture where informal and family relations are of significant importance. The most serious issues identified were concerned police corruption and local level political and administrative corruption relating to the real estate and construction sectors. Political influence over the judiciary was also identified as an issue that plays a role in local level corruption, and occasionally is related to organised crime.

### 2. Introduction

#### *Methodology*

The writing of the report took place between May and July 2009. The sources of information used include judicial documents, journalistic sources, academic work and interviews with eleven key informants.

The interviewees that participated in this report were assured of anonymity. Therefore, their responses have been coded as follows:

Name	Position	Institution
J1	Former judge	Barcelona court
J2	Criminal lawyer dealing with organised crime cases	Private law firm
A1	Academic	Major university in Spain
P1	Superintendent (specialising in anti-drug and terrorist investigations)	National Police Corps
P2	Chief Superintendent (specialising in corruption investigations)	National Police Corps
P3	Commander (specialising in economic crime investigations)	Spanish Civil Guard
P4	Superintendent (specialising in organised crime intelligence)	National Police Corps
K1	Chief Inspector	National Tax Administration Agency
K2	Chief Audit & Tax Advisor	Private company
K3	Ex-MP and practising lawyer specialising in planning and development offences	Spanish Parliament/Private law firm
K4	Journalist specialising in economic /organised crime	National daily

### 3. Background: organised crime in Spain

At the beginning of the 2000s, public debate on organised crime in Spain was very scarce, if it existed at all. In his 2001 Address to the Nation, the then President of Spain, José María Aznar, excluded any reference to the scale and nature of serious and organised crime for profit in the country, which was surprising given the evidence at the time: "...over 33 tons of cocaine and over 860 tons of hashish seized in 2001; Over

30 drug-related vendettas in Madrid from 2000 to 2004; The disruption of over 650 criminal networks engaged in facilitating illegal immigration into Spain between 2000 and 2001; the mysterious escape of two of the main defendants in the Operation Temple maxi-trial charged over the importation into Spain of 11 tons of cocaine and 200 kg. of heroin in 1999, or the various serious fraud scandals that rocked the reputation and (lack of) transparency of the Spanish financial institutions in 2001 and 2002. (Gómez-Céspedes & Stangeland 2004, p.387)"

One thing to bear in mind when analysing the Spanish anti-organised crime agenda, its policy evolution and its political endorsement is that terrorism has always been considered a far more important problem and, the awareness and social construction of 'danger' at the political, police and society levels has, many times, overshadowed the issue of organised crime. In fact, until very recently, the official debate on organised crime in Spain was completely dominated by the debate on the terrorism perpetrated by ETA<sup>80</sup> (De la Cuesta 2004).

This is not surprising because terrorism-related criminal activity has had a far stronger impact on Spain (especially in terms of casualties of innocent people) than organised crime has. Terrorism has also become an essential political tool for the government and the parties in the opposition. Likewise, the associations for the support of victims of terrorism (over fifteen across the country) have succeeded to gain substantial social support in order to either get financial aid from the government and/or have their voices heard more clearly. This situation varies significantly from the case of anti-organised crime or anti-corruption associations which are virtually non-existent in the country.<sup>81</sup>

Perhaps, one of the unresolved matters regarding anti-organised crime policy relates to the fact that at present, legal persons are not criminally liable, especially in terms of economic crimes such as money laundering.<sup>82</sup> Legal persons may, however, be subject to administrative sanctions if the natural persons responsible for their management and direction are found guilty of a criminal offence involving the legal person in question. This includes the possibility of closing the enterprise, dissolving the company or suspending its activities.<sup>83</sup>

Possibly, the episode dated 4 December 2004, may turn out to have been a major turning point in the anti-organised crime agenda of the Spanish government. Two innocent people were killed in an organised

<sup>80</sup> *With the Islamist-related Madrid train bombings on 11 March 2004, the anti-terrorist agenda has gone through substantial changes but still has priority over economic and organised crime issues.*

<sup>81</sup> *The author recognises the efforts of some of these organisations such as the Erguete Association and Foundation (an anti-drug trafficking and rehabilitation association founded by Galician women who recognised drug-trafficking as an important threat to the health of their children) and the Association for Analysis and Reflection or AYRE (founded by lawyers who were aware of the pernicious effects that corruption and money laundering could have to the Rule of Law in Malaga and elsewhere). Also, the various civil associations inspired by planning and development related corruption.*

<sup>82</sup> *Anti-organised crime legislation in Spain has been enacted much as a legislation of emergency as opposed to the result of pre-legislation studies or evaluations of criminal trends. Much of the legal reforms that have been adopted so far originate from the pressure of international and European organisations.*

<sup>83</sup> *This trend is to be modified with the proposed amendment of the Criminal Code.*

crime related shootout in the Costa del Sol resort of Marbella on that day. A thirty-six-year-old Italian male who owned a beauty salon, and a ten-year-old boy from Seville who was on holiday, were killed, while three other relatives of the boy were injured. In the days that followed, the then Minister of the Interior, José Antonio Alonso, announced that a special anti-organised crime police unit would be established in the area<sup>84</sup> and the then Spanish Attorney General, Cándido Conde Pumpido stated that new anti-mafia prosecutors would be appointed in Malaga, Alicante and the Balearic Islands.

Since then, the government of Spain has been engaged in slowly-progressing yet steady efforts in the fight against organised crime, especially in terms of improved resources such as more police staff, better equipments, heightened databases and operations<sup>85</sup> and more adequate budgets. Equally important has been the government's recognition and awareness of the problem and, as a consequence of this, the incorporation of serious organised crime into the political agenda.

Nevertheless, the overall serious organised crime threat to Spain remains high and increasing in its scope and complexity. So far, the Ministry of the Interior has been the only agency that holds or collects raw data on the dynamics of organised crime. Unfortunately, that information is restricted and when published, usually through the media, it lacks a serious assessment of the nature of organised crime, its trends, prevention and reduction.<sup>86</sup> Given that framework, empirically-based academic research is inevitably scarce and even exceptional.

Spain's organised crime landscape is determined by four factors:

- its geographical position as the Southwest gateway of Europe;
- historical, cultural and geographic connections with Latin America and North-West Africa (in particular Morocco);
- its dynamic immigration situation (Spain had the largest increase of the share of immigrant population from 2 to almost 10%);
- rapid economic development since 1990, along with the development of the tourist industry and real-estate across the country, and in particular on the Mediterranean coast.

The above factors explain the central place that Spain has played (both as a transit point and as an illegal market) in smuggling and distribution of cocaine and cannabis in the EU; as an important destination or transit point for THB, illegal immigration, and money-laundering; and as a

<sup>84</sup> That Unit, attached to the National Police Corps, was called GRECO which stands for Groups of Special Response against Organised Crime. It was originally established in Malaga but it has further coverage today.

<sup>85</sup> Especially with the establishment, in September 2006, of the National Intelligence Centre against Organised Crime (CICO) attached to the Ministry of the Interior. CICO coordinates counter narcotics operations among various government agencies, including the Spanish Civil Guard, the National Police, Customs Service and the Ministry of Defence. Under their guidance, law enforcement cooperation appears to function well. Notwithstanding, cooperation agreements with regional police forces namely, the Mossos d'Esquadra in Catalonia and the Ertzaintza in the Basque Country are still pending.

<sup>86</sup> Although the Spanish Ministry of the Interior publishes public-access Annual Statistics, it was not until early 2006 that this Institution published a public-access summary of a Spanish Report against organised crime. It mentions some figures on the investigation of criminal groups (474) and the dismantling of such groups (290). It also provides the total number of people investigated (9,294 persons) and arrested (3,925 persons) for organised crime activities. The annual reports of the National Intelligence Centre against Organised Crime (CICO) are confidential.

destination of a number 'transit criminal activities', related to counterfeit money, credit card fraud, and motor-vehicle theft.

### 3.1 Organised crime markets

#### 3.1.1 Drugs

As discussed in the Europol OCTA report, Spain is the main transit point for hashish/cannabis from Morocco to the Netherlands, where it is further distributed within the EU. Criminals and groups of Spanish and Moroccan nationalities cooperate in this activity (2008, p. 42). Its historic links to South America, and large immigrant communities from Latin American countries, including Colombia and Bolivia, have also made Spain one of the main smuggling points for cocaine into the EU. Irish and British criminals, as well as the 'Ndrangheta, the main Italian OC group involved in the cocaine trade, have set up logistical bases in Spain. The cocaine market in Spain is largely regulated either by Spanish OCGs, with some South Americans facilitating contacts, or by OCGs composed of South American criminals. The above mentioned OCGs are reported to be in contact with OCGs based in other MS, such as The Netherlands, France and Italy, for further distribution. (Europol 2009, p.28, pp.42-44)

The above has transformed Spain as the biggest consumer (in terms of share of adult population) of both cocaine (3%) and cannabis (11.2%) in the EU (UNODC drugs database 2005 data), making it even more attractive to criminal groups.

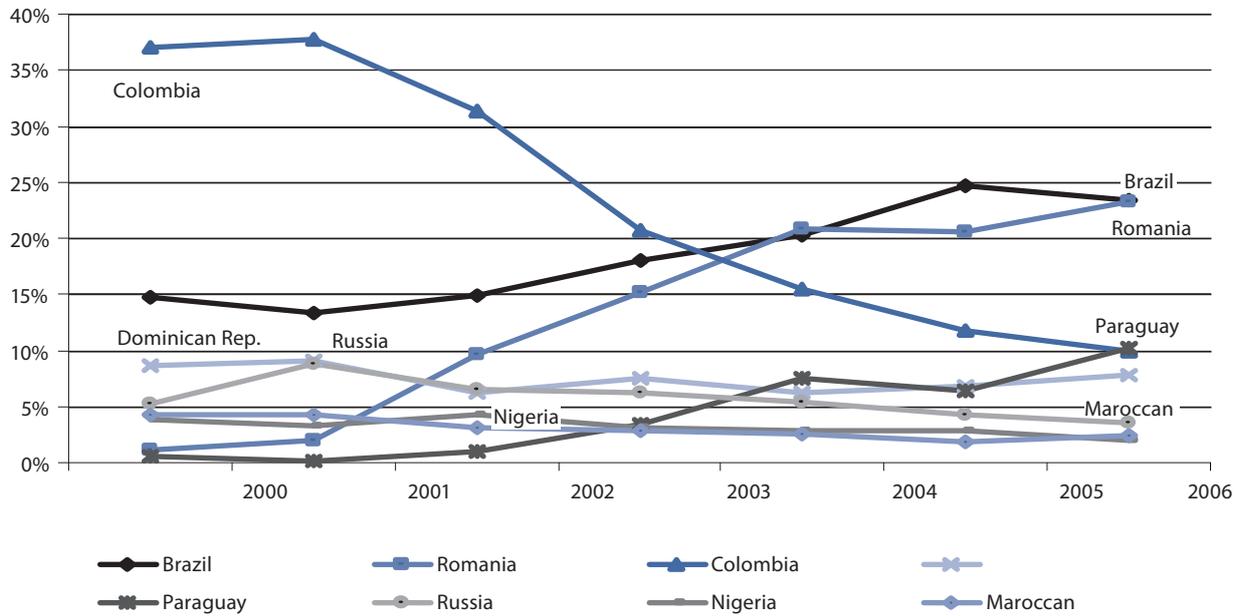
According to the United Nations World Drug Report (2006) Spain accounted for more than 40% of all cocaine seizures in Europe in 2004. In terms of world cocaine seizures, Spain ranked third in 2004, after Colombia and the United States. The geographic distribution of such seizures in that same year was as follows: about 60% of seizures were made while the cocaine was still at sea; 10% were made at airports and 30% on roads. In 2007, Spain fell to the 5<sup>th</sup> ranking position preceded by Colombia, the United States, Panama and Mexico, in that order. In 2007, Spain also remained the highest ranking country in seizures of hashish (50%) far ahead of runners-up Morocco (9%) and by Pakistan (8%).

As Díez Ripollés and Gómez Céspedes (2008) explain, the majority of those arrested for drug trafficking in Spain are still of Spanish origin. Nonetheless, Spanish nationals seem to be losing importance as the arrest of foreigners for this type of crime seems to be on the increase. For instance, the number of Spanish nationals that were arrested in the period 2001 – 2005 decreased 18.91%. Simultaneously, the number of foreigners that were arrested for that same period increased 13.68%. Foreigners arrested for drug trafficking in the year 2005 include the following ethnic groups: Moroccans (38.63%), Colombians (11.19%), Algerians (3.65%), French (3.18%), Dominicans (2.64%) and Portuguese (2.63%).

3.1.2 Human smuggling

The large immigrant communities from Northwest Africa (Morocco), South America (Ecuador, Colombia, Bolivia), and Eastern Europe (Romania, Bulgaria) (Pereda et al. 2008, p.2) determine to a certain extent the main countries of origin for the other key criminal markets: the ones related to THB and illegal migration. Trafficking for labour and illegal migration have been connected to the rapid development of Spain’s economy, and in particular real-estate and infrastructural development. Along with increased incomes, a fairly large domestic prostitution market developed, quickly supplied by South American and Eastern European sex workers. Spain (similarly to the UK) also has OCGs based outside the EU, specialising in money laundering (Europol 2009, p.45).

FIGURE 17. TRENDS IN MAIN ORIGIN OF VICTIMS OF HUMAN TRAFFICKING DETECTED IN SPAIN



Source: Guardia Civil (quoted in UNODC 2009)

Following the illegal drug trade, another large organised criminal activity in Spain is the organised smuggling of migrants (comprising largely immigrants coming from the African continent). Especially during the summer months, Spain faces the arrival of thousands of illegal immigrants originating in the sub-Saharan and the western-coast regions of Africa. These immigrants, travelling in small/medium overcrowded fishing boats undertake a hazardous trip into the shores of Andalusia and/or the Canary Islands.

The 2005 Report of the Spanish Department for Immigration and Emigration (Ministry of Work and Social Affairs 2005) reveals that the arrival of African immigrants via fishing boats has decreased considerably. Nonetheless, the figures for 2006 may reverse that trend as the arrival of immigrants especially into the Canary Islands could surpass all previous years’ figures.

It is believed that the Spanish-French border is crossed by thousands of non-European Union nationals who may enter the EU with valid passports yet remain in Spain or other European countries illegally. Barajas, the Madrid airport, is also believed to be another critical entry point for illegal immigrants originating in Latin America (e.g., especially nationals from Ecuador, Bolivia and Peru) and Asia. Again, these semi legal-immigrants may enter the country with valid passports yet overstay their visas.

### 3.1.3 Counterfeit currency

According to some estimates, over a quarter of all € 500 notes in the euro zone are believed to be circulating in Spain. The Spanish authorities have been able to trace roughly 10% of the € 500 banking notes circulating across financial institutions. The rest is probably circulating in illegal/informal circuits. In 2008, 30% of all investigations regarding the circulation of € 500 notes took place in Andalusia: 40% in Malaga, 30% in Seville and the rest between the provinces of Cadiz and Almeria. (K2)

### 3.1.4 Organised robberies

According to media and press releases from the Ministry of the Interior,<sup>87</sup> organised criminal groups are also profiting from property crime, namely robberies of industrial estates, jewellery shops and dwellings.

Even though it is very difficult to know the scale or cost of organised robberies in Spain (especially if one does not have access to reliable data) official statistics show that organised violent robberies remain relatively low. Nonetheless, the media coverage along with victims' testimonies and the alleged loss of assets, have caused a lot of bad publicity to this type of criminal activity when perpetrated by Albanian or Romanian criminals.

The Spanish Association of Jewellers, Silversmiths and Watchmakers have staged demonstrations in recent years on the streets of Madrid demanding enhanced security measures after a series of numerous violent robberies. In fact, back in 2002, the then president of this Association stated before the Senate that robberies had cost the sector € 17 million in 2000 and € 32 million in 2001.<sup>88</sup>

## 4. Background: corruption in Spain

According to the 2008 Corruption Perception Index published by Transparency International, Spain fell from 23<sup>rd</sup> to the 28<sup>th</sup> position worldwide compared to the previous year. Spain is still ahead of other European countries such as Portugal, Czech Republic, Slovakia, Greece or Italy.<sup>89</sup>

<sup>87</sup> Some of these are available online at <http://www.mir.es>.

<sup>88</sup> See, Gomez-Cespedes & Stangeland (2004).

<sup>89</sup> The country scores can be obtained from the TI web site: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2008](http://www.transparency.org/policy_research/surveys_indices/cpi/2008).

Corruption seems to be a comprehensive term combining a lot of different connotations to different people; to date, the Spanish legal system has not defined it. Rather, the Spanish Criminal Code of 1995 determines a series of offences that can be included under the umbrella of the term ‘corruption’. These offences include: *passive and active corruption* of Spanish authorities and public officials (Articles 419-427), *trading in influence* (Articles 428 – 431), *bribery in international transactions* (Article 445a), *offences against the Treasury* (Articles 305-310), *smuggling and offences against exchange controls*, *abuse of official authority* (Articles 404-406), *use and misuse of privileged information* (Article 418, where private individuals are concerned and Article 442 in respect of public officials), *misappropriation of public funds* (Articles 432-435), *fraud and extortion* (Articles 436-438), *negotiations prohibited to officials* (Articles 439-441), *illegal exercise of functions* (Articles 506-508) and all offences connected therewith. When any of the corruption related offences are committed in an organised manner, the offence of “unlawful association” (Article 515) also comes into play.<sup>90</sup> Broader social concepts, such as clientelism, nepotism, cronyism, patronage, discrimination, lack of transparency, “capture” of institutions by interest groups (Rose-Ackerman 2004) remain largely outside these narrow legal definitions.

Understanding how governance operates and how it is organised becomes indispensable to getting the picture of why corruption and organised crime opportunities seem to be so favourable in Spain. Nieto (1996, 2005, 2008)<sup>91</sup> has published extensively on the issue of the *ungovernance*<sup>92</sup> of the Spanish public institutions. He analyses the impact that the law has on the behaviour of citizens, public officials, the administration and the judges. With regard to the impact on public administration, he argues that non-performance of bureaucrats does not usually carry a personal responsibility but a disciplinary action with no serious consequences. He also criticizes that judges often pass legally correct yet contradictory sentences without consequences. Nieto also argues that the fact that the General Council of the Judicial Power (CGPJ) is voted in the Parliament makes it subordinate to political parties.

*“One cannot vote freely from a list of candidates, the party tells you who to vote for. Therefore, the CGPJ is shamelessly manipulated by the political parties”. (K3)*

The last trait of Spanish ungovernance is that power is exercised from a personal stand. The political system is made up of a network of personal relations and particular interests. Individuals are linked according to group, territorial or corporate interests: something concrete is given

<sup>90</sup> For a thorough description in English of the Spanish legal system and its shortcomings in the field of corruption, see the evaluation reports of the Council of Europe’s Groups of States against Corruption (GRECO), online at: [http://www.coe.int/t/dghl/monitoring/greco/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/default_en.asp).

<sup>91</sup> To the author’s knowledge, his work has only been published in Spanish yet it stands as one of the most acute portrayals of the Spanish government institutions, including the public administration, the judiciary, the political parties and the exercise of political power. Some titles include: “La organización del desgobierno”; “La ‘nueva’ organización del desgobierno”; “El desgobierno de lo público” or “El desgobierno judicial”.

<sup>92</sup> For Nieto the term “ungovernance” (*desgobierno*) implies not an absence of governance but a disorganised exercise of governance.

and something concrete is obtained in return. The political parties grant their affiliates access to power and universal protection (including protection from criminal prosecution) in exchange for loyalty and service. Politics has therefore turned into business and parties compete on a market-based principle. (A1)

## 5. Targeted institutions

### 5.1 Police corruption

The official view is that the country's level of police corruption is contained within ranges experienced in other West European countries as well. Police corruption is rather unsystematic and unlikely to last for long periods, as internal affairs units are proactive, and eventually investigate cases and bring charges against corrupt officials (P3). There are currently over 220 officers (including prison officers, National Police officers and Civil Guard officers) in prison (either as remand or convicted prisoners) in Spain. They are held in prisons in Madrid, Seville, Castellón and Logroño (K4).

The Internal Affairs Unit (located both at the National Police and Guardia Civil) is a fully independent investigative agency that processes complaints against law enforcement officials. This body has the power to instigate disciplinary proceedings against law enforcement officials and to refer cases to the judicial authorities which are competent to consider whether criminal proceedings should be brought.

The research for the present report has indicated that there has been an average of twenty-five police corruption cases reported every year in the Spanish press since 1996. Law-enforcement corruption is generally related to lower-level organised crime including drug trafficking, organised robbery, human smuggling and trafficking or trafficking of vehicles. Most of the media cases reported have involved police officers from the Civil Guard arrested for links to drug trafficking networks. This is understandable given the fact that the Civil Guard is charged with controlling the ports of entry. However, there have also been cases of National Police and Local Police officers, along with members of the military,<sup>93</sup> who have been linked to drug trafficking.

Nevertheless, a few recent examples of corrupt practices in law enforcement institutions which have been uncovered by internal affairs units, point to levels of police corruption that have not been observed recently in most EU-15 Member States.

#### 5.1.1 Operation Block: the Coslada police corruption ring<sup>94</sup>

Following complaints from victims of extortion, on May 8, 2008, the chief of the local police<sup>95</sup> of Coslada (a Madrid suburb) and another twenty-

<sup>93</sup> Cases involving military personnel usually occur in the Spanish enclaves of Ceuta and Melilla located in the north of Africa.

<sup>94</sup> See, national media at the beginning of May 2008.

<sup>95</sup> The local police corps (also called municipal police), is an armed force which comes under the jurisdiction of the Town Hall in each municipality. They have responsibility for traffic control and offences, enforcement of local ordinances, and minor crimes.

six local police officers were arrested on suspicion of involvement in a corruption ring that involved extortion from prostitutes, bars and local businesses. On May 14, a judge authorized detention without bail for thirteen of the arrested officers. Trial proceedings have not begun yet.

According to some police officers working in Coslada, the so-called “Sheriff” of the town, Ginés Jiménez Buendía, was the only one in charge of the local police corps. He liked to surround himself with people he trusted but if anyone opposed his orders, they would be quickly replaced. That is how he managed to build his core group which was known as The Block.

Ginés Jiménez Buendía told the investigative judge that he was innocent and had just gotten caught up in political in-fighting. The name of Ginés Jiménez has also been allegedly linked to extortion rackets of Madrid nightclubs (made public under the Operation Guateque) and of some brothels in Barcelona.

It has been claimed that Jiménez protected Bulgarian organised crime groups involved in prostitution and that he in turn has always enjoyed protection from Coslada Mayors since the early 1990s, while he also managed to befriend several judges. In fact, Judge Carlos Nogada from Coslada, was suspended temporarily by the General Council of the Judicial Power (CGPJ) after some wiretapped conversations between him and the Sheriff were made public.

### ***5.1.2 The Ronda police corruption ring***

The investigations into the alleged corruption ring among the National Police Corps stationed in Ronda<sup>96</sup> focussed on the irregular administration of immigration files and, above all, the relationships of certain officers with the local “red light district” clubs.

Three National Police officers (the Head of the Ronda National Police Station ranked as the Chief Inspector, a sub-inspector and an ordinary officer), an officer of the local Civil Guard, an individual with links to a local judge, as well as three other businesspeople who ran brothels in Ronda, have been indicted on charges ranging from bribery and abuse of authority, to sexual abuse, fraud and extortion.

The judge accused some law enforcement officers of demanding money from the owners of clubs in exchange for advance warnings of police raids, or for not searching their premises for women who might have been in the country illegally.

The investigation carried out by the National Police Internal Affairs Unit sprang from an unannounced raid into a brothel in which Malaga police officers found forged documents. These belonged to one of the prostitutes, who claimed to have obtained it from the local police sta-

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<sup>96</sup> *Inland from Marbella, Ronda is a city in the Spanish province of Malaga and is located about 100 kilometres (62 miles) from the city of Malaga.*

tion. This led the Internal Affairs Unit to the discovery of irregularities at the Ronda police station that had already been under investigation for two years, although the case had been shelved due to insufficient evidence.

The investigation revealed that certain officers likely had had sexual relations with prostitutes without paying for them, and that these contacts might even have taken place in offices at the police station and not just in clubs. The likelihood that officers would have taken advantage of their position to enjoy free sexual services is what led detectives to believe that these were obtained without consent. Therefore, charges of sexual abuse were included even though there was no evidence of violence or intimidation. The detainees denied all charges in front of the judge.

Sources close to the investigation confirm that the Chief Inspector is charged with sexual abuse, bribery, revelation of secrets, sexual assault and unlawful detention. While the first three of the above charges are shared by several of the officers allegedly involved, the final two appear not to be connected directly with the investigation but with the private life of the Chief Inspector. The trial is pending.

### **5.1.3 The Costa del Sol “Drug and Organised Crime Unit” (UDYCO)**

The Malaga Provincial Court sentenced, on 21 April, 2009, two former UDYCO<sup>97</sup> officers (the former head of UDYCO – Costa del Sol, Superintendent Valentín Bahut, and former chief of the Organised Crime Section, Chief Inspector Alfredo Marijuán) to eighteen months in prison and to an eleven-month-prohibition from holding public office for revealing secrets and failing to counteract crimes. A third defendant, also a police officer, was acquitted of the charges.

The charges related to the cover provided to an Italian protected witness who was allowed to travel freely between Spain and Morocco despite being the subject of a European arrest warrant. The police officers have appealed the sentence.

Other cases include the arrest of a lieutenant colonel of the Civil Guard,<sup>98</sup> the dismantling of the Santa Pola anti-drug unit,<sup>99</sup> or the theft of 400 kilograms of cocaine in the Port of Barcelona.<sup>100</sup>

## **5.2 Customs and tax corruption**

The magnitude of tax evasion and carousel fraud activities in Spain broke all records in 2002. Since then, the National Tax Administration

<sup>97</sup> UDYCO stands for *Unidad de Drogas y Crimen Organizado* or *Drugs and Organised Crime Unit* attached to the National Police.

<sup>98</sup> Like in the case of Lieutenant Colonel Rafael Masa. See *El País* 22/01/2001.

<sup>99</sup> *Las Provincias*, 13/02/2004.

<sup>100</sup> *El País*, 22/02/2009.

Agency (AEAT) has concentrated human and technical resources into addressing this serious issue (K2).

Tax corruption is quite subtle and not much is known about it. The tax authorities are known to have lots of information – sufficient to convict criminal companies – but no real enforcement takes place. Lower level tax officers have even protested over this.

Corruption in customs is used primarily to avoid detection and import duties. To a lesser extent it is also used for VAT fraud schemes. Again, this corruption very rarely involves officials at the Tax Agency.

The main corruption cases involve controls on VAT and excisable goods. The main targets are individual employees (rather than entire units) at the excise tax control departments and ports. It is mainly lower level public officials in any department at a local level who would be more vulnerable to corruption. VAT fraud schemes that involve false receipts in order to get VAT exemptions and smuggling of electronic devices, could also be facilitated through corruption.

There has been no public official from the Tax Agency who has been convicted for participating in any organised crime network and passive corruption by organised crime is very rare (K1).

Organised crime groups would use mainly employees from Customs Agencies and tax accountants as intermediaries.

On a yearly basis, the Department for Corruption Investigations analyzes around fifty cases of alleged corruption from public servants working at the Tax Agency. More than half of them are dismissed because of lack of evidence and the rest are mostly cases that involve only a breach of the law regulating the holding of multiple positions. There have been less than five cases a year where tax officials have actually been involved in corruption (K1).

**Anti-corruption efforts** rely mainly on the Department for Corruption Investigation. Public officials in the Agency are not aware of the ongoing operations of this department. The department monitors the bank accounts of public officials and their spouses, other personal income that they may have, and relevant financial operations in which they could be involved. It follows carefully any significant change in personal wealth and payments from companies or others. Random checks and inspections are also carried out (K1).

The Plan for the prevention of Tax Evasion was updated recently. Among other things, it reinforced the controls that were in place for different sectors that could be more vulnerable to corruption, like real estate, and adopted new measures against money laundering and drug and tobacco smuggling (K1).

### 5.3 Political corruption

Political/administrative corruption in Spain in relation to organised crime and white-collar crime is widespread at the local level, in particular as it relates to planning and urban offences. The 2008 Report on Democracy in Spain published by the Fundación Alternativas [*Alternatives Foundation*] includes a description of 151 cases (one hundred and fifty one) of town mayors and councillors who have been accused of and/or indicted for corruption since 2004. The list includes politicians from the three main national political parties (namely, Partido Popular (PP), Partido Socialista Obrero Español (PSOE) and Izquierda Unida (IU)) along with other regional parties. Most, if not all, allegations and/or charges of corruption are related to planning and development offences taking place at the local level.<sup>101</sup>

One of the most disturbing issues included on the conclusions of this Report is that "...the analysis of the municipal election results in those local government areas where accusations of political corruption were made demonstrates the limitations of the democratic vote as a control mechanism for corruption (Fundación Alternativas 2008, p.251)" as many of those mayors were elected in following local elections, despite the corruption scandals. **Informants P2, P3, K3 and K4** agreed that *political corruption in the Spanish planning and development sector is rampant at the local level.*

On 26 March, 2009, the European Parliament approved the *Auken Report*<sup>102</sup> on real estate, planning and development abuses in Spain. The report threatened to freeze all European Community funds for Spain until such abuses denounced in Brussels by Spanish residents from several EU countries were resolved. However, the decision to cut the funding was not binding. The report, compiled by Margrete Auken, a Green MEP from Denmark, portrayed an extremely harsh yet realistic reflection of the planning and development sector in Spain.

The text of the *report* asserted that urban planning and real estate development related corruption is endemic in Spain, and that the responsibility lies at all levels of the administration for the toleration of 'unsustainable development practices'. It slams the judiciary by saying that it is 'not correctly prepared' to deal with the problem, as its rulings in many cases cannot be carried out in a way that compensate victims of abuse. This situation has reinforced the impression of a lack of action and partiality of the Spanish justice system.

The report further states that there is a lack of 'clarity, precision and judicial security' in the current Spanish legislation regarding property rights, and a lack of application and coherent legislation in environmental matters, whereas lax judicial proceedings have created 'a form of

<sup>101</sup> The Report does not include the town mayors and all the councillors who were arrested under the Malaya Operation taking place in Marbella in March 2006.

<sup>102</sup> The Auken Report has been the third EU Parliament Report denouncing planning and development corrupt practices in Spain. Earlier EU Parliament reports (December 2005 and June 2007) did not threaten to withdraw EU funding.

endemic corruption'. The authors deplore the 'greed' and 'speculative conduct' on the part of local authorities.

The report singles out Marbella, citing concerns regarding town planning as 'dozens of thousands of homes have been constructed illegally probably infringing also community legislation'.

## 5.4 Judicial corruption

In 2007, the Spanish Chapter of Transparency International published a report regarding the extent of corruption in general and judicial corruption in particular (Mendieta 2008). The report emphasized three different types of judicial corruption:

- Corruption in the courts;
- Judicial corruption *in stricto sensu*;
- Undue political influence of governing bodies on the judicial system.

### 5.4.1 Corruption in the courts

This type has to do with corruption occurring in the courts which is usually perpetrated by civil servants (not necessarily judges) who abuse their positions in order to prioritise certain files/cases over others. In Spain, this type of corruption was rather common some years ago. Today, it has practically disappeared, due in large part to the implementation and management of computer-based information systems, particularly software applications and computer hardware. Nevertheless, the corruption that occurs in courts is not only connected to the speeding up or delay of proceedings but also to evidence that goes missing<sup>103</sup> or to the removal of judicial records.<sup>104</sup>

### 5.4.2 Judicial corruption in stricto sensu

This type of corruption relates to the voluntary loss of judicial impartiality in exchange for bribes or even to the extortion of bribes in order to ensure favourable rulings. This type of corruption is exceptional although some cases have been brought to light.

The intermediaries that organised crime most often uses are lawyers and tax advisers (law firms that have specialized in tax matters). It is well known that law firms often give their own address to shadowy domestic and international companies in return for payments. Notaries can also be useful as intermediaries, but to a lesser extent, as they very often do not know what the law firms are up to.

Perhaps the best example of this 'stricto sensu' judicial corruption is epitomised by the case of former judge Luis Pascual Estevill.

<sup>103</sup> In February 2006, various tapes incriminating drug traffickers got lost at the National Court.

<sup>104</sup> In August 2001, the press reported the theft of at least 15 judicial records in the courts of Marbella. The missing records were connected to then major of Marbella, Jesus Gil y Gil.

On January 3, 2005, the High Court of Justice of Catalonia passed a nine-year prison sentence on former judge Estevill. He was also fined 1.8 million Euro after being convicted on bribery, extortion and breach of legal duty charges. He was implicated in the biggest corruption scandal unveiled in the Spanish judicial system in twenty-five years. Estevill, a former judge in Barcelona and one-time member of the General Council of the Judiciary (Consejo General del Poder Judicial), was found to have accepted bribes and helped Catalan lawyer Joan Piqué Vidal run extortion activities between 1990 and 1994. Piqué Vidal was also sentenced to seven years imprisonment and fined 900,000 Euros. According to the court ruling, Estevill and Piqué Vidal abused their positions by demanding bribes from business people under investigation for or charged with economic crimes.<sup>105</sup> As a result of this, both Estevill and Piqué Vidal accumulated hundreds of thousands of euros in bribes over the four-year period. Several other people found guilty of participating in the scam, including Estevill's son, were fined and sentenced to up to one year in prison. Estevill had previously been disqualified from office.

A more recent example is the case of former judge Francisco Javier de Urquía in Marbella. Francisco Javier de Urquía was found guilty of accepting a 73,800 Euro bribe from Juan Antonio Roca, the former planning advisor to Marbella Town Hall and alleged man at the centre of Marbella's Malaya Operation corruption case. The bribe was allegedly paid in exchange for favourable treatment of Mr. Roca before his court. De Urquía was sentenced to a 21-month suspension but once the 21-month period was completed he applied for a vacant magistrate position. The General Council for the Judicial Power rejected his application and suggested he could only re-apply after March 2012.

Meanwhile, de Urquía is now charged with blackmailing defendants of the money-laundering *Hidalgo* case which he was instructing at the time he was suspended. Newspaper El País has reported that the Andalusian High Court of Justice (TSJA) considers he collaborated with two associates in the extortion of the Marbella hotelier David Shamoan in exchange for freeing up some of the property that had been until then been embargoed under the *Hidalgo* case. Likewise, the Pakistani businessman Azan Khan, arrested in the *Hidalgo* case, allegedly gave 60,000 Euros to one of the associates so that bail would be granted to him, his wife and his nephew. De Urquía has denied the allegations, insisting they were part of a mafia plot to link him to the money laundering case.

Although this type of corruption can be considered exceptional, one should take into account that judges are truly condescending when *judging* their *peers*. Not all cases will end up like the Estevill and de Urquía ones and, according to **Informant No. K4** "judges will be transferred or called into a chat before any disciplinary action is taken".

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<sup>105</sup> Some cases include the following: *Macosa*, *Nutrexpa*, *Vitalicio*, *Bertrán*, *Olabarria*, *Regesa* or *Prenafeta*.

### 5.4.3 Political influence on the judiciary

Higher levels of the judiciary are less likely to be corrupt (at least in terms of active or passive bribery). However, they are more exposed to political influence. Normally, the boards of judicial control have influence and/or are composed on the basis of political affiliation. These boards are subject to pressure from those who contributed to their appointment and thereby are at the mercy of partisan criteria in terms of disciplinary actions, appointments, promotions and transfers.

Whenever corrupt political networks are formed, they would try to guarantee impunity by having some control over the judiciary. In order to achieve that, politicians would place key magistrates in judicial governing bodies. If an investigation arose, these magistrates would be able to pressure local judges so that their political patrons might walk free.

It is not possible to assert that there exists rampant political corruption at the national level, nor can one affirm that a judge's independence is necessarily reduced by the government. However, this does not imply that the General Council of the Judicial Power (CGPJ) is free from partisan pressures. In fact, one could say that the degree of ideological division (on the left-right spectrum) in the Council and among the judges themselves is enormous. (A1)

At the top of the hierarchy of the judicial administration, judges are promoted by political parties, and they are likely going to have to decide on a few very controversial issues in accordance with on their political affiliation. There is a clear divide between judges that are considered to be close to the right wing party (PP) and those who have been promoted by the socialist party (PSOE). In the Prosecution Service, the Chief Prosecutor would tend to be very clearly favourable to the party that is currently in power. As it is a very hierarchical organisation, the top prosecutor is very likely to influence the decisions taken at a lower level. Presently, the lower level prosecutors not related to the ruling party are trying to keep a low profile. Corruption and even undue political influence rarely affects the higher levels of the judiciary, because the cases often end up being dismissed by lower courts, where most external pressure is focused.

## 6. Private sector corruption

The Spanish Penal Code does not criminalise corruption in private companies. Nevertheless, the draft amendments to the Penal Code have introduced the offence of bribery in the private sector. So far there have been no studies on the subject and the government does not collect systematic information.

The last Evaluation Report on Spain of the Group of States against Corruption (GRECO 2009, p. 14) appraised that:

*“Since there is no private bribery offence, the definition of “public official” has proven to be key to criminalise the broadest possible types of situation giving rise to a bribery offence; it would allow,*

*for example, to punish bribery instances within undertakings which are strictly private, but which continue to be controlled by the State. The safest punitive strategy with regard to private bribery is probably that represented by the offences of misappropriation/mismanagement, in cases where the employee (or the manager receiving the bribe) enters into a contract which harms the undertaking financially. In the civil-law field, private bribery is prohibited by the Law on Unfair Competition, which expressly prohibits "the inducement of workers, suppliers and other persons under contract to breach basic contractual duties that they have agreed to with competitors". Although the Law on Unfair Competition provides exclusively for instruments of a civil nature, the possibility would exist of imposing an administrative penalty (Article 7 of the Law for the Protection of Competition) in those cases where the unfair practice consisting in the payment of bribes was sufficient in scale to 'seriously distort competition on the market' and if that distortion affected the 'public interest'".*

According to **Informant K2**, strong companies are vulnerable to the activities of lonely fraudsters as opposed to the activities of organised criminal networks. However, given the lack of liquidity nowadays and the rise of full-time criminals in the legal economy, we can expect a more pronounced presence of organised crime in the private sector.

## 7. Conclusion

In Spain a variety of historic, socio-economic and criminogenic factors contribute to the increasing scope and complexity of organized crime. As Europe's main entry point for cocaine and for cannabis resin (hashish), Spain continues to provide a fertile ground for drug trafficking with increasing seizures of cocaine and cannabis resin. Smuggling of migrants (comprising largely immigrants coming from the African continent) is another large playing field for organised crime and poses a serious humanitarian challenge. Organised criminal groups also profit from property crime, including by burglarising industrial estates, jewellery shops and dwellings.

Organised crime exercises serious corruption pressures on law enforcement, the local level administration and politicians. Recent cases of police corruption have involved extortion from prostitutes, bars and local businesses, participation in drug trafficking networks, and relationships of certain officers with local "red light district" clubs. Nevertheless, corrupt arrangements in the police are not likely to be long-lasting as internal affairs units investigate cases and can be rather effective in bringing charges against corrupt officials.

Spain's coastline has long attracted criminals and money-launderers, which have exerted corrupt influence on local governance. This type of pressure has challenged the impartiality of the justice system, linking judicial corruption with political corruption.

Judicial corruption is singled out as a serious problem in Spain, whereas the courts are corrupted in order to delay or speed up proceedings, to

conceal evidence or judicial records. Judicial impartiality is sometimes achieved in exchange for bribes but most often through political pressures. Politicians place key magistrates in judicial governing bodies and in case of investigations magistrates are able to pressure lower level judges so that their political patrons and related businessmen may be acquitted.

Political parties grant their affiliates access to power and protection (including protection from criminal prosecution) in exchange for loyalty and electoral support. Politics has therefore turned into a market where parties compete like businesses, inspired by personal benefits and supported by corruption. This political system, made up of a network of personal relations and particular interests, is at the core of the so called Spanish “ungovernance”.



## ANNEX 4: CASE STUDY – BULGARIA

### 1. Synopsis

In Bulgaria, the borderline between the legal and the illegal economies is much less clear than most of the EU MS. Organised crime, generating wealth from drugs, smuggling and prostitution, has merged with corporations and groups that have privatised state-owned assets, or has transformed its accumulated wealth into political and administrative power. This influence in the political and administrative structures allows companies to use corruption to win public tenders, avoid taxes, and systematically break the laws to gain competitive advantages. Organised crime networks have infiltrated to significant levels most public institutions: the police, customs, and prosecution. The political elite and political parties are highly influenced by organised criminals at the local level, while some criminal structures have been able to influence MPs or national level politicians.

### 2. Introduction

#### *Methodology*

The current study is based on analytical papers published by CSD, earlier interviews related to organised crime, academic research, and journalist articles. Additional interviews with key representatives of various institutions were carried out in the May-July 2009 period.

Although all interviewees were assured that their views would not be published, many of them chose to remain anonymous:

Name	Position	Institution
R1	Senior anti-corruption officer	Ministry of Interior
R2	Former Director	Special Services
R3	Senior police officer	Ministry of Interior
R4	Senior prosecutor	Prosecutor's Office
R5	Prosecutor specialized in organised crime	Prosecutor's Office
K1	Former Director	Customs Intelligence and Investigation
K2	Senior official	National Revenue Agency
K3	Former senior official	National Revenue Agency
K4	Former Deputy Minister	Ministry of Finance

### 3. Background: organised crime in Bulgaria

Over the past decade, the concept of 'organised crime' has become a universal metaphor used to explain political and business dependencies and practically any economic and corporate crime committed in Bulgaria. Similarly, the topic of corruption is perceived as closely related to anything from the underdeveloped and ineffective state institutions to the constant political conflicts in the country.

A meaningful discussion of the concepts of organised crime and corruption should begin with an overview of their recent history and a review of the current state of the institutions affected by organised crime and its corruption instruments.

### 3.1 Historical perspectives on organised crime

#### *a) Soviet period*

All sources on criminal activity in Bulgaria before 1989 indicate that organised crime was nonexistent. To address corruption, Bulgaria followed the Soviet model which created various control mechanisms utilizing both the Communist party structures and the Ministry of the Interior. Practically all major state institutions like the police, customs, prosecution, courts, and local political figures were subject to a systematic open or secret surveillance and, when necessary, investigation. As a rule, any violations at the middle and high levels were severely punished, although there have been cases of more lenient treatment due to family ties or cronyism. Certain tolerance was shown to everyday corruption at the low level (e.g. money given to traffic police officers for small violations on the road, bribes for the supply of goods in short supply, etc. ), but this type of corruption was not too widespread. At the same time, the lack of classic corruption was replaced by a model of nepotistic and informal networks. In these networks, the currency was not money but favours and loyalty to one's patrons. This model's roots can be traced to patriarchal family relationships in villages, as Bulgaria had remained predominantly rural until the mid 1950s.

#### *b) Transition period (1990-2001)*

The social and economic foundations of organised crime in Bulgaria were laid out during the transition to market economy (1990-2001). Several parallel processes were under way during this period:

- The country's economy suffered its most severe crisis since independence in 1878. Many sectors of the economy (developed within the frameworks of central planning and the Council for Economic Cooperation) abruptly collapsed. As a result, whole cities found themselves with no working enterprises. The process of privatisation redistributed 100% of the state-owned assets in the industrial, service and agricultural sectors. Often, the new owners had a criminal record and their capital had criminal origins.
- Due to the small size of the economy and its open nature, import-export volumes equalled nearly 70% of GDP. Consequently, border crossing related corruption became a major instrument for the redistribution of national wealth. The huge shortage of locally produced consumer goods was satisfied by imports, and the strategy of all importers and wholesalers was to avoid custom duties and taxes. Anyone who paid duties and taxes became uncompetitive. Thus, importing and exporting companies turned into criminal organisations, some of which employed hundreds of people. The Yugoslav embargo

of 1992-1995 had a similar effect on the Bulgarian economy as the 'prohibition period' in the USA. The smuggling of oil products into Yugoslavia became the main business for many of the largest criminal groups in the country, who applied intense violence in their trade relations.

- The social and economic crisis, together with the crisis of law-enforcement and justice institutions, created a favourable environment for the proliferation of conventional crime. Official records indicated that general crime went up four times, while for certain types of crime the increase was seven- to ten-fold. The boom of everyday street crime and the new opportunities for economic crime created the market for protection services and racketeering, and led to the emergence of 'power entrepreneurs'.
- As a result of the change of the political system, law-enforcement and justice institutions underwent overall restructuring. A wave of resignations and firings followed, drastically reducing the scope of activity of these institutions. In the following years, criminal offenders were not prosecuted, while for law-enforcement and justice institutions widespread economic crime was transformed from a target into a mere source of additional income.

*c) Recent developments and the shaping up of organised crime*

The current structure of organised crime in Bulgaria emerged in the 1997-2000 period, when the political crisis was overcome and gradual economic stabilisation was initiated. The key factor shaping organised crime was the tolerance of the authorities for all three types (see 3.2 below) of organised crime. Oligarch structures and power groups<sup>106</sup> got the opportunity to continue most of their activities undisturbed by any interference from police, tax agents or the court system.

The merging of 'organised crime' with 'white-collar crime' presents one of the main challenges in defining Bulgarian organised crime.<sup>107</sup> The transition from planned to market economy brought radical shifts in the social texture and blurred the boundaries between 'the underground' and 'the elite'. Within the last decade, criminal structures were transformed into legal business entities, and criminal bosses became legitimate business owners.

By 2004-2005 it had become clear that Bulgaria had good chances to join the EU, and the prospect of membership impacted significantly the nature of organised crime. Its current characteristics are summarized below:

- Small entities tied up in networks replaced the disintegrating large hierarchical organizations. The new networks are formed and con-

<sup>106</sup> In particular those related to the 'credit millionaires', the bankrupt banks and the liquidated state-owned enterprises.

<sup>107</sup> This is a fundamental difference between the West European and American traditions, where white-collar crime is viewed as separate from the world of organised crime, and the situation in Eastern Europe where white collar crime represents a significant proportion of organised crime.

trolled by remnants of the old leadership of the power structures (mostly oligarchs).

- Dependence on the market: the success of the criminal networks and structures is now solely dependent on their ability to compete on their respective markets of goods and services ('black' or 'grey').
- The blending of legal and illegal business has become key to survival and expansion: the new networks operate on all three layers of the internal market: namely legal (white), grey and criminal (black). In one and the same network, the structures at the lowest level are involved in 'dirty operations', managed usually by the youngest and least familiar members. The leaders of criminal groups own strictly legitimate companies with proven sources of capital and stable income. At the same time, structures operating on the grey and black markets are controlled exclusively by 'confidants' and are formally owned by socially disadvantaged people or employees of the respective company and their family members. These companies operate in large networks that could reach 200 to 300 legal entities.
- Mobility of companies: adapting to the changing environment, companies operating on the black market may significantly reduce or even discontinue their activity during periods of intensified law-enforcement operations.<sup>108</sup> Once everything returns to normal, the criminal activity in question is renewed.

### 3.2 The social origins of organised crime

The early economic and political developments shaped three categories of actors that became involved in activities that today are referred to as 'organised crime':

- **"Power entrepreneurs"** or '*groupirovki*' (i.e. 'power groups' as they are known in Bulgaria and Russia) whose overall activity was based on protection rackets, debt collection, and business arbitrage through the use of violence (under the guise of private security companies – PSCs). These groups were made up of former sportsmen (e.g. wrestlers and boxers), employees of the Ministry of Interior and ex-prisoners. Gradually, the smaller groups united into larger organizations. After the state attempted to ban PSCs, two national companies emerged, VIS-2 and SIK, and instead of security services they started extorting companies and even citizens under the guise of insurance business. Their most successful business was auto insurance.
- **"Black merchants"** took advantage of the severe shortages of various consumer goods in the early 1990s. Later they developed smuggling channels and informal distribution networks, thus avoiding customs duties, taxes and fees. Through complex networks of state employ-

<sup>108</sup> For instance, the sale of alcohol products without license was temporarily interrupted during such a recent spate of police checks.

ees, the “black merchants” managed to circumvent the law and gain competitive advantage. It should be noted that this type of organised crime attracted very little public attention.

- **“Political investors”** were former apparatchiks-turned-businessmen, directors of state-owned enterprises, and other nouveaux riches. In the early 1990s they focused on rigging privatisation deals and smuggling, while at later stages they shifted their target to corrupting public tenders. As the resources that political investors controlled grew and as they consolidated their businesses, they created mega-business structures and spread across various industries. At that point they began to be described as oligarchs. In recent years, their ambitions were to monopolise the most profitable industries by using a set of corruption and clientelistic methods. At the local level, the aim was to control a whole region or town. In many cases, several local families control the whole local economy and naturally become political investors. Their activities would normally be described in EU-17 as white-collar crimes.

### 3.3 Market perspectives

There are two factors that have the strongest impact on illegal markets – EU accession in January 2007 and the recent economic crisis. The market for real estate was the most severely affected market structure of the criminal networks. In 2007 – the last year of the real estate’s “golden period” – expert estimates valued the market at about 11.3 billion Euro (which equalled approximately 39% of the country’s GDP), an estimated 50% of which comprised unregistered properties (Garkov 2007).

The deep crisis of the real estate market has created new opportunities for these criminal structures and entrepreneurs. Some of them continue to invest into real estate income from EU markets for prostitution, drugs, counterfeit money and documents. The market, which has been severely affected by the crisis, now offers good quality assets in many parts of central cities and resorts at significantly lower prices. Corrupt channels in banks and the local judiciary are employed to acquire such assets.

Nevertheless, those criminal entrepreneurs whose real estate investments have gone sour have been forced to look into alternative investment options. Some of them have sought new sources of income through entering directly into investments in infrastructure construction, agriculture, and clean-energy. This has been confirmed in several interviews conducted as part of the study (R1, R2)

Joining the EU has created new potential for cross-border criminal activity, continuing a trend of ‘exporting organised crime’ that started with the removal of travel visa restrictions to the EU for Bulgarian citizens in 2001. From prostitution and car-theft to cocaine and heroin smuggling, Bulgarian networks have since expanded throughout EU-17. In EU countries, criminals apply a model similar to that used in the Bulgaria by trying to corrupt law enforcement and customs authorities. Interviews

with Bulgarian criminal entrepreneurs in Italy, Spain and France reveal that occasionally they manage to achieve this by using the services of specialized attorneys, or by using local or native criminals as intermediaries.

#### 4. Background: corruption in Bulgaria

After 1990, various types of organised crime evolved and adapted to the changing institutions. As criminal entrepreneurs attempted to legalize their business, smuggling and tax fraud gradually declined and corruption techniques were adapted accordingly. Organised crime took a systematic approach to corruption, encompassing all levels of public institutions, from the lowest ranking employees to political party leaders.

In 2008, Bulgaria was perceived as the most corrupt country in the EU, with a 3.6 value of the Corruption Perceptions Index in the annual survey of Transparency International.<sup>109</sup> In fact Bulgaria's corruption perception value has fallen sharply since the previous year (when the country's CPI stood at 4.1). The indicators measuring the experience, rather than perception, of corruption show that 72% of the population in the country declare that they have not experienced corrupt behaviour, lagging behind Romania and Slovakia, which have scores of 65% and 67% respectively. (TI 2008) Corruption is defined as the number one problem by the population and despite the economic crisis in 2009 corruption continues to rank ahead of unemployment and low income (CSD 2009). In terms of linking corruption and organized crime, Eurobarometer data shows that 66% of the population believes that the two phenomena are connected. In the EU only Italy is ahead of Bulgaria in this respect, as 70% of surveyed Italians perceive a link between organized crime and corruption (Eurobarometer 2008).

#### 5. Targeted institutions

##### 5.1 Political corruption

To understand the impact of organised crime on the various state institutions in Bulgaria, it is important to review the established political model in the country.

At the beginning of the 1990s, the democratically elected political elites in Bulgaria controlled over 90% of national wealth (including state-owned enterprises and public property). They were tasked with quickly transferring this wealth into private hands. Similar to other countries in EU-10E, the institutions of political democracy (parties, political movements, trade unions, etc.) were completely undeveloped. While the major political parties retained their presence on the political scene after 1990,<sup>110</sup> they had a very limited number of professional politicians capable of managing ministries, state agencies, parliamentary commis-

<sup>109</sup> A country's CPI Score relates to perceptions of the degree of corruption as seen by business people and country analysts, and ranges between 10 (not at all corrupt) and 0 (highly corrupt).

<sup>110</sup> On the Left, the Bulgarian Socialist Party formed two governments of its own and three times was part of a ruling coalition; on the Right, the Union of Democratic Forces formed two governments on its own and was part of a ruling coalition three times. The Movement for Rights and Freedom (a party mainly representing ethnic Turks) took part in four governments as a junior partner.

sions, etc. Even the Socialist party, whose political elite came from the old Communist party, found it difficult to find capable candidates for key government posts.

The lack of legal framework for the minimal financing for political structures was another key problem for political parties throughout the 1990s. This meant that when political organizations went into opposition, they were often unable to finance their expert teams and party structure, or even to pay their office rents. Aware of this gap in financing, the emerging large entrepreneurs and business groups turned their support for individual politicians and political parties into political investments. At the same time, there were no mechanisms for effective financial and institutional control over political agents, leaving networks of politicians and 'political investors' untouchable.<sup>111</sup>

Political investors were not concerned which party would gain power, as they had little interest in political ideology per se. The large business groups usually diversified their investments by backing several political forces that stood a chance to get elected. Smaller political investors could only bet on a single candidate but they partnered with investors in competing political parties. The investors in the winning candidate would then help the ones who made the wrong investment.

The line between legitimate economic groups and criminal organizations quickly became blurred in that period. There were no criminal entrepreneurs who did not finance (directly or indirectly) political parties. The approaches of these 'political investors'<sup>112</sup> evolved with the changing environment. During the first period of transition, 1990-1997, when privatisation was limited, entrepreneurs tried to get control of state enterprises.<sup>113</sup> In the 1997-2001 period, when 90% of state-owned assets were privatised, 'political investors' were fully involved in rigging the privatisation process by paying bribes, salaries and bonuses to politicians, or by becoming directly involved in local and national political structures.

Since 2001, a new pattern of interaction between criminal networks and local and national political entities emerged. This pattern, presently in place today, involves privileged access to public tenders, concessions, access to EU funds, public real estate fraud (including swaps of public land), corrupt licensing of business activities, protecting industry monopolies, etc.

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<sup>111</sup> In fact, investigation of politicians in power and their circles of business supporters ends up with the removal, firing or even prosecution of the investigating officers from the police, tax and customs authorities, or the prosecutors.

<sup>112</sup> The other two types of criminal entrepreneurs, the 'force entrepreneurs' and the 'black merchants', also contact key politicians and use middlemen to gain access to senior political leaders.

<sup>113</sup> At state-owned enterprises, the executive directors and Board members (appointed by the government) guarantee to the 'political investors' access to the 'entrance', i.e. raw materials and other goods needed for the operations of a given enterprise, and at the same time provide to the 'political investors' control at the 'exit', i.e. all the output of a the enterprise. Thus the political investor is able to exploit both the supply to the enterprise (selling at higher than market price at the entrance), and its output (buying at lower than market price at the exit). Similar schemes work in banks, where political investors secure credits for their own companies.

The patterns of interaction between the economic (criminal) groups and the political elites after 2001 are described in similar terms by interviewees R2, R4 and K4. The respondents use the term 'single network' – a national social network consisting of a large number of sub-networks that encompass practically all personal contacts<sup>114</sup> of the most influential entrepreneurs and key politicians. Due to the small size of the country and the clientele model of recruitment and advancement of the elites, the number of people at the core of this 'single network' is several dozens; the secondary 'hubs' add another several hundred; and the widest circle (including mayors of mid-size cities and senior administration officers) adds up to a total of 2,000 to 3,000 people. Most participants within the professional sub-networks (lawyers, bankers, etc.) and within the regional sub-networks know each other. While at the beginning of the 1990s the personal and group networks were still being built and were often isolated and in conflict with one another, at the beginning of this century they started to connect and cooperate.

It is important to note that the most influential entrepreneurs support simultaneously competing political forces. The 'political weight' of a given politician is dependent not only on the success of his or her own party, but also on their access to the largest number of entrepreneurs and networks of political investors. The leader of the Movement for Rights and Freedoms (MRF)<sup>115</sup> Ahmed Dogan provided a concise description of this ideology of network of investors just before the parliamentary elections in 2005. He used the term 'circle of firms' to describe the fact that each political party has a network of economic groups and companies that support it financially. All following political scandals have revealed that economic groups can make corruption payments only if they are accepted as part of the 'circle of firms' of a given political party. The strength of political leaders is based on their ability to form alliances and avoid and resolve conflicts with the 'circle of firms' of other influential political competitors. It is important to work not only with the companies supporting one's own party or coalition, but also with the companies supporting political opponents. For certain political parties, a clear link to criminal organizations can be traced. Others have common assets or common projects with criminal entrepreneurs.

Criminal entrepreneurs use the following models to take advantage of their influence on political authorities:

- Recruitment decisions (e.g. for ministry staff);
- Regulatory and legislative decisions (amending laws in private interest);
- Economic agreements;
- Direct influence;
- Indirect influence;
- National level policy decisions; and
- Local level policy decisions.

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<sup>114</sup> Unlike the practice in developed countries (Western Europe, USA, Canada), where the mechanism of recruitment and advancement in public administration and political government are to a great extent formalised, in Bulgaria social networks play crucial role.

<sup>115</sup> The Movement for Rights and Freedom is a political party of ethnic Turks that was part of the governing political coalitions in the period 2001-2008.

Some of these are discussed at greater length below.

### *5.1.1 Recruitment decisions*

Usually, with the change of political power all senior administrative positions, like directors of state agencies, heads of departments at ministries, regional directors, etc. get replaced. The newly elected officials come from the social networks of the most influential politicians. The appointments are made after negotiations among key politicians in the ruling party or coalition and influential businessmen. Oftentimes the veto or 'initiative' (suggested candidate) of businessmen from the personal network of key politicians is crucial.

Senior officials in the public administration, like the Chief Secretary of the Ministry of the Interior, Directors of the Customs Agency or the National Revenue Agency, who are appointed by the government, must also consider key politicians of the parties in opposition. While politicians who have lost power also lose some of their ability to exert pressure on public officials, they still retain certain influence to reach targeted officials, if not directly, with the intermediation of middlemen.

Nevertheless, the massive changes after elections at all levels of administration, typical for the 1990s, are no longer common. Interviews with former senior public officials have indicated several types of political protection:

#### *Protection of the status quo*

Interviewee K4 recalls a case from his own experience. A regional director of the National Revenue Agency complained that a very influential MP demanded that the chief of a Roma clan be spared from prosecution on VAT fraud involving millions of euro. When there was an attempt to investigate the MP, the whole party (a member of the ruling coalition) stood in his defence. In the end, the prosecution of the VAT fraud scheme was discontinued. In turn, at the local elections a Roma clan secured a significant number of votes for the political party in question.

#### *Protecting employees*

An attempt to investigate and dismiss two regional customs directors for covering up tax fraud by local firms resulted in the mobilization of the social networks of those affected. Ministers, deputy-ministers and MPs from their own party and the coalition partners got involved. The two customs directors were not punished, because that would have impacted the position of a key politician in their networks. The higher in the hierarchy a public official stands, the stronger his network, and respectively, the more effort it takes to remove him from his position.<sup>116</sup>

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<sup>116</sup> A telling case was the incident with the Director of the Roads Fund who had to be removed despite the strong political and business support he enjoyed. It was found that he had donated more than 100 million worth of contracts to firms owned by his brothers.

### 5.1.2 Regulatory and legislative decisions

*Passing legislation, changing/blocking legislation.* This is effected via influencing MPs who manage to pass, change or block certain legislation for the benefit of a criminal structure or criminal market. A typical example of this corruption practice is the change in the Penal Code related to the punishment for human traffickers. The change was introduced by certain MPs, it was passed in a very short timeframe and resulted in much lower sentences for two well-known pimps. The debates on the Law on Prostitution continued for many years and it was obvious that criminal structures exerted direct pressure. Similarly, criminal interests affected the changes in the laws on gambling, duty-free shops, antiquities, etc.

*Regulatory decision by the executive branch.* Influencing changes in policy acts, internal rules, tariffs, etc. made by ministries and agencies is much easier to accomplish because they are not subject to much less public scrutiny. For instance, small changes in the listing of goods in a customs tariff can bring significant advantages to the agent who 'sponsored' the change. These changes are made either by agreements with the party leadership or with certain lobbyists or even individual MPs who might add a word or restructure a phrase to create an opportunity for criminal or financial benefit.

### 5.1.3 Economic arrangements

*Arrangement of tax framework:* this is practiced by large business groups (including foreign corporations operating in Bulgaria). They would reach an agreement with the political party in power on the amount of taxes they would pay, the licenses they would get from state authorities, etc. These arrangements are agreed upon at a high level and the respective state employees at lower levels (who are part of the social network involved) comply with the terms of the agreements (K3, K4).

*Prevention of control:* this is an agreement at a high political level whereby the activity of certain entrepreneurs will not be subjected to state control. The respective officials from the controlling authorities are informed of the agreement, and they make sure the entrepreneur is not troubled by any audits. In some cases the controlling organ does not get direct instructions not to carry out audits. Certain business groups and companies are publicly known as untouchable and the auditors never approach them. Interviewee P2 quotes cases where a group specialised in the investigation of organised crime has abandoned the investigation just because they have observed that the suspected criminals have had lunches or dinners with influential MPs.

*Prevention of prosecution of criminal entrepreneurs.* In cases when a crime committed by members of a certain network is revealed (e.g. counterfeit alcohol licenses, noncompliance with construction regulations, tax fraud, etc.) the institutions investigating the case are forced to discontinue the investigation.

#### 5.1.4 Direct involvement of organised crime in politics

In some cases, in particular at the local level, criminal entrepreneurs may take direct part in politics. As a rule, the lower the level, the more direct the involvement of organised crime. Sometimes notorious criminal offenders get elected mayors or city councillors.

The most famous of these cases is in the town of Dupnitsa (located 65 km south of Sofia, population 45,000). Two former special services officers, known as the Galev brothers, accumulated their capital through violence in the 1990s and then, using racketeering methods against local entrepreneurs, formed a political structure that won the local elections. In this manner they gained direct control over local administrative power. Dupnitsa became the most famous case of direct involvement of organised crime in the politics of a mid-size town.<sup>117</sup> (Gounev and Bezlov 2009) Similar cases of direct participation of criminal entrepreneurs in local politics were observed in some smaller resort towns.

In several larger cities, local power is practically controlled by criminal entrepreneurs and business groups through indirect participation in local politics. This trend started in 1999 and climaxed during the local election in 2007. The main incentive for organised crime was the booming real estate market. The most visible model of participation was *guaranteeing employees' votes for a certain candidate*. Criminal entrepreneurs who also owned legitimate businesses campaigned to (or rather forced) their employees to vote for a selected candidate.<sup>118</sup> Various techniques were applied, from threats to employees that they would lose their jobs to ad hoc payments, disguised as bonuses or covered travel expenses in addition to the regular salary. In other cases no cash was exchanged but voters received goods and services at lower prices or free of charge.<sup>119</sup> In the district of Sandanski there were documented cases of mobilising the black market network of dealers to influence elections. Cases of election coalitions arranged by criminal entrepreneurs and various schemes for attracting mayors and city council members were revealed in an independent study where this phenomenon was aptly called 'mayors on lease'(Tzoneva and Georgiev 2008).

## 5.2 Judicial corruption

The Constitution of 1991 established three autonomous judicial institutions: the investigation, the prosecution and the courts. As a result, the process from the registration of a crime to conviction is artificially separated into three separate stages, with different institution responsible for each of these steps. After the police completes an operation, it

<sup>117</sup> It is noteworthy that the Interior Minister Roumen Petkov was forced to resign after it was revealed that he held secret meetings with the Galev brothers.

<sup>118</sup> A recent example is Hristo Kovachki, who is investigated for a 5 million Euro tax-evasion. In the 2009 elections, the employees of all of his mines and heat generating plants were 'advised' to vote for his party "Leader" which narrowly missed getting into Parliament.

<sup>119</sup> For instance, a case was reported in Varna where prescription drugs were offered to elderly patients at lower cost, with the suggestion to vote for a certain candidate.

hands over the results to a preliminary investigator,<sup>120</sup> who delivers his or her findings to a prosecutor, who in turn decides whether to initiate a prosecution. The three professional groups – investigators, prosecutors and judges – come with exceptionally high job security. Very rarely are members of these groups fired or forced to quit, and their actions hardly ever become subject to an independent investigation.

Since 1991, two independent trends affecting the judicial system have been observed. First of all, political intervention has resulted in close interdependence between the magistrates, on one hand, and the political and business networks, on the other. Second, specific internal client networks have emerged within the judicial system. Political influence has been exercised through the Supreme Judicial Council (SJC) – the institution responsible for the management and control of the judicial system<sup>121</sup> and for guaranteeing its independence. Gaining control over the SJC has become a priority for every political party that has come to power after the Constitution of 1991 was adopted. In some cases, changes in the law have been made so that members of the SJC can be replaced at the beginning of the mandate of the new government with magistrates close to the new ruling party. In their turn, the magistrates have returned the favour when political or business disputes would arise ([izbori2009.com](http://izbori2009.com)) or even when criminal bosses are prosecuted ([sega.bg](http://sega.bg); [novinar.net](http://novinar.net)).

Similarly to politicians, magistrates found themselves in a unique position during the transition to market economy. At first the investigation, and later the prosecution became the institutions that would block or delay the prosecution of criminal cases, while crime prevention mechanisms (via the police, special services, financial control bodies) continued by inertia to feed evidence on criminal offenses. The politicians and entrepreneurs who were involved in the redistribution of national wealth had to reach an agreement with investigators and prosecutors that they would not interfere with the process. Economic disputes, including those where influential political sponsors were involved, were decided in the courts. The limited number of magistrates were ruling on these disputes made them an easy target for corruption practices.<sup>122</sup>

The small size of the judiciary, numbering 1,000 prosecutors, 1,500 investigators and 1,000 judges, makes it a closed community, with a strong sense of solidarity among its members. All penalties and promotions are the prerogative of the SJC (made up solely of magistrates). Criticism from outside the community (from journalists, police, politicians or EU administrators) rarely has any consequences even when it concerns publicly proven criminal acts by magistrates. Judicial officials are loyal not

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<sup>120</sup> According to the Constitution, the investigation is part of the judicial system and an independent institution. After year 2000 serious efforts were made to diminish the role of investigation and to remove it altogether from the judicial process since it caused most problems to those who were interested in blocking criminal cases.

<sup>121</sup> This supreme body is elected with equal quotas by Parliament and the judicial power. The Chief Prosecutor and the heads of the Administrative and the Cassation Courts have guaranteed seats.

<sup>122</sup> In Sofia and the three largest cities, where enormous resources were concentrated, there were between 100 and 200 magistrates who reviewed the most important economic and criminal cases. Accordingly, this group was identified as a prime target of organized crime.

only to the politicians who have helped them advance their careers, but also to fellow members of the magistrate community who refrain from criticism of their colleagues. Information regarding these mechanisms was revealed during the scandal surrounding the selection of the Chief Justice of the Sofia City Court (Bossev 2009).

Large law firms are another factor in judicial corruption networks (Bossev 2009). Often qualified judges, prosecutors and in particular investigators quit their state jobs due to low salaries, in order to join leading law firms as attorneys and consultants. It is this group of magistrates that are most often the middlemen between the criminal world and the magistrate community.

### **5.2.1 The Prosecution**

As stipulated in the Constitution, institution of the prosecution is independent, it enjoys extensive powers and at the same time is strictly hierarchical. A prosecutor has sole discretion whether to open a criminal case, to allow or to block certain actions in the investigation, etc. Thus the prosecutor can very effectively protect a criminal group or its members. The Chief Prosecutor is at the top of the institution, and he holds significant powers. If organised crime manages to influence the Chief Prosecutor, serious disturbances may result throughout the entire judicial system. A telling example is that of the first elected Chief Prosecutor, Ivan Tatarchev (1992-1999), under whose rule prosecutors started to delay cases, indicating clear signs of connections with criminal networks. The symbiosis of organised crime and prosecutors reached its climax under the next elected Chief Prosecutor, Nikola Filchev (1999-2006) (Hristov 2002). His brother Angel Filchev is known as one of the bosses of the antiques smuggling network. Publications in the press about his activities were followed by a series of prosecutions against newspaper publishers and politicians (*Capital* 2001; *Mediapool.bg*). Prosecutors close to Filchev were found to act in collaboration with organised crime by blocking criminal cases, participating in criminal acts and even managing criminal networks. Prosecutors at all levels were involved, from the lowest ranking district and city prosecutors to deputies of the Chief Prosecutor. Despite all evidences, including testimony of witnesses, records with special investigative means, documents, hidden currency and court rulings of foreign courts, no prosecutor has ever been convicted in Bulgaria.

Despite changes at the top level of the institution and the sharp increase in prosecutors' salaries in the past 3-4 years, old ties with organised crime, in particular at the local level, are still preserved. According to respondent R4, attempts to replace local prosecutors get blocked at the SJC level through a network of magistrate and political cronies.

According to respondents R2, R4, R6, and interviewees from other surveys, the model of interdependence between prosecutors and representatives of organised crime is changing. While before 2006 prosecutors were paid usually directly, either in cash or with other material assets, under the new model they have become part of business networks.

Prosecutors invest at local or national level and then are helped to earn maximum income from their capital.<sup>123</sup> Furthermore, prosecutors have forged stronger links with the other institutions. Publications in the press demonstrate that prosecutors get involved in regional sub-networks of large local businessmen, local MPs, judges, mayors, city council members, law enforcement officers, representatives of the Commission for repossession of unlawfully acquired property, officers from the National Revenue Agency and the Customs Agency, the Health Insurance Office and other state institutions.

Several measures could help eradicate the influence of organized crime on prosecutions. One is to put in place limitations in the powers of prosecutors and establish internal regulations, such as random the distribution of cases; another is to establish control over the terms of case schedules and procedures and ensure the systematic supervision of cases.

### 5.2.2 The Courts

In contrast to the prosecution, the structure of the courts is anti-hierarchical. Nevertheless, the courts are also targeted by organised crime, although to a lesser degree than investigators and prosecutors are. Some respondents suggest that the more authority a given court has, the more often criminal entrepreneurs attempt to influence it (R2-R6 and K1). The most widespread cases of such influence involve refusals by judges to authorise the use of electronic surveillance, refusals to issue arrest warrants, dismissals of cases for lack of evidence, and most commonly, delays of trials. Without formally breaking the law, a judge can indefinitely postpone any trial for technical reasons (choice of new attorney, illness of a witness or defendant, etc.).

The courts have been under most pressure from criminal entrepreneurs with regards to the settlement of trade disputes in court. As capital accumulated through criminal affairs is being transformed into legitimate assets, organised crime has undertaken aggressive legal attacks against competitors. In some notorious cases, it has managed to take away companies from their lawful owners.

Various schemes have been recorded in which judges *directly participated* in actions benefiting organised crime. Most often these have been cases of fraud relating to real estate. By law, a judge can assign ownership over a certain piece of land if there are two witnesses. Taking advantage of this provision, organised crime has acquired hundreds of attractive plots of state- or municipality-owned land in resorts on the Black Sea coast or in mountain resorts, and in the largest cities. Fictitious 'owners' would go to court with two witnesses claiming to own the land and although the fraud may be obvious to everyone judges would claim that they have no reason to rule against these 'landowners'.

<sup>123</sup> A prosecutor cannot openly demonstrate the capital he/she has accumulated, but they can take advantage of it through their relatives. For instance, Hristo Manchev, former deputy Chief Prosecutor, and Nikolay Ganchev, a prosecutor in the Sofia Appellate Court, in actuality have acquired luxury hotels officially owned by their daughter and spouse, respectively (Lex.bg 2007; Sega 2008).

Another form of direct collusion of judges in organised criminal activities involves providing lenient sentences. One of the most famous cases, among hundreds of similar ones, is the ‘Opitsvet’ affair (Opitsvet is a village in western Bulgaria, where workshops for illegal production of drugs were located). After first and second instance courts had found the defendants guilty, a Supreme Judge ruled in favour of the defendants claiming that 600 kg of amphetamine had been used for the purpose of chemical experiments instead of drug distribution. After this ruling the judge retired, and there have been speculations in judicial circles regarding the amount of the payment received since. Similar rulings of the Supreme Court have been passed in cases involving bankers, smugglers of cigarettes, and some famous singers acting as organisers of a pimp network.

The Supreme Administrative Court is also suspected of corrupt practices. The most discussed cases include the overturning of the privatisation decision on the Bulgarian tobacco monopoly Bulgartabak and the concessions for the Varna and Bourgas airports. Interview respondents pointed out that direct bribes are paid only in Sofia and in several other large cities. In smaller towns judges are part of local sub-networks and convictions of local criminal entrepreneurs are hardly possible. Examples of this practice are the cases of the Galev brothers in Dupnitsa or Koce-Mace<sup>124</sup> in Petrich, where, in the words of respondent R4, „if a magistrate (either a prosecutor or a judge), ruled against a well-known local criminal entrepreneur, he and his family would have to leave the town“. In this context, at the regional level a ruling may be a voluntary or a forced favour. At the same time, there are small towns where cash payments to judges are wide-spread. Most often these are towns close to the national borders where a lot of trans-border criminal activity takes place.

Another approach of organised crime is to find a small town court that would pass a favourable decision on a certain matter. Unlike large cities where cases are now randomly assigned, in smaller towns there is usually just one judge who deals with all the cases. An example of this practice is the small town of Peshtera (with a population of 21,000) where a judge used to change the names of convicted criminals, thus in effect clearing their criminal records (Nezavisim.net 2005).

### 5.2.3 Attorneys

Attorneys and law firms play a significant role in corruption practices in the judicial system. Most often, they act as middlemen between magistrates and criminal entrepreneurs. In some instances, attorneys directly pay bribes to magistrates who are known to be receptive to such practices. In large cities, young magistrates are initially ‘tested’ by attorneys from other towns who have not established a regular practice in the respective city. If the magistrate refuses the bribe, the attorney is under no risk as such offers are rarely prosecuted. The most common model would typically involve a family working together, where one of

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<sup>124</sup> A local city-councilor and football club owner who was convicted in 2008 by a German court for cigarette smuggling.

the spouses is an attorney and the other one is a prosecutor or a judge. The attorney would get clients and easily win cases even when the other spouse may not be directly involved in those cases – yet would still be familiar to the local judges' community, so that the attorney's clients would get favourable treatment in court.

Another type of network is made up of former colleagues. In Sofia, for instance, the so called 'black attorneys' (CSD 2003, Bezlov et al. 2007) work for the major mid-to high-level drug dealers. Customers are referred to the respective attorney who has connections in the district where the dealer has been arrested. There are also 'star' attorneys, who usually defend big criminal bosses and typically win their cases. Unlike their western counterparts, who usually try to find weak points in the prosecution, Bulgarian 'star' attorneys look for channels to directly influence the court.<sup>125</sup> Similar models are used by a few famous law firms specialising in commercial and administrative law. They rarely lose cases as they employ former magistrates with large personal networks. Several interviewees have claimed that 'star' attorneys and the law firms that never lose cases can influence the appointment of magistrates and even change the law in favour of their clients (R2, R4).

### 5.3 Police corruption

The Ministry of Interior (MVR) is the institution that has the broadest responsibilities and power in regards to organised crime. It is larger than any other public or private organization in Bulgaria, totalling about 55,000 employees.<sup>126</sup> In 2008, a specialised body called the State Agency for National Security (DANS) was created, whose responsibilities include countering organised crime and corruption at the highest levels of power.<sup>127</sup>

As is the case in other countries, Bulgaria's institutions charged with internal security are isolated from other professional and social groups. This isolation and stigmatization is not new to Bulgaria and was widespread during communism, when the police was called the People's Militia. Police officers provided security for the communist political elites and were guaranteed higher income despite their lower education compared to other professional groups. The tolerated use of force against criminals and citizens alike (whenever incidents occurred) was another reason for negative public attitudes toward the police. This isolation has led to recruitment of new police officers mainly from families of active or retired police officers, which guarantees additional, 'family-based' loyalty.

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<sup>125</sup> *The professional experience of such attorneys is impressive: consultant in the parliamentary Judicial Commission, former judge in the Sofia City Court, former Interior Minister.*

<sup>126</sup> *Under the umbrella of the Interior Ministry there are various independent services like police, gendarmerie, border control, fire departments, police academy, and technical services.*

<sup>127</sup> *The agency was created from the National Security Service (counter-intelligence), which was previously part of the Interior Ministry, and from the Military counter-intelligence (previously part of the Defence Ministry. The new agency is under the direct supervision of the Prime Minister.*

This model has naturally created family and crony networks, where personal contacts and favours were a major resource. The exchange of favours and the size of one's personal network was the main factor for advancement in the system, while rational criteria for effectiveness had limited impact. Only in the special services whose mission was to defend the most sensitive systems of the state were meritocracy principles applied. The police subculture is characterised by the existence of specific destructive networks, which corrupt police officers use to counteract or disrupt their (also corrupt) colleagues' networks by means of spreading rumours, producing secret investigations, and feeding information (or misinformation) interfering with their work. In contrast to other systems, 'anti-networks' play a significant role in police officers' career advancement.

The transition to market economy preserved and even reinforced the subculture of exchange of favours and nepotistic networks. At the same time, due to frequent political changes, the former loyalty to the ruling (Socialist) party withered away and was replaced by links to the sub-networks of the new political elites. While in the communist period the police network was deliberately isolated from the political elite (the *nomenklatura*), in the new social framework the police built up contacts with all political forces as a means of enhancing job security and career advancement. At the same time, the transition placed the Ministry of Interior structures in a state of constant financial constraints and shortages, such as low salaries, lack of payment for overtime served, delay of salary payments during crisis periods, etc.

As a result, the behaviour of police officers became subject to a new, parallel system of norms and values, as they were forced to find additional sources of income (some unlicensed and some outright illegal). Police officers started working second jobs as private guards of buildings or as bodyguards. In addition, abusing their official status, law enforcement officials developed a whole new system of obtaining additional income while performing their regular duties. The most massive sources of income were bribes for the traffic police, for customs officers, and for street patrols, i.e. police officers who dealt with petty crimes and misdemeanours and had extensive powers to apply penalties. These small bribes may add anywhere from 50% to 300% to the salary of a regular street policeman. The practice has become extremely widespread due to severe peer pressure – any officer who does not play by the new rules is isolated from his peers and if he still refuses to adapt to the system, „everyone will make sure the rebel is destroyed“.<sup>128</sup>

There are various description of the relationship between police and organised crime. Henk Van De Bunt identifies four categories: 1) 'donkeys', or individual officers who take bribes randomly and without systematic coordination with the rest of their workmates); 2) 'hawks', or high ranking officers who observe and 'take bribes' only when there is a large booty; ) 3) 'vultures', or officers operating in their 'home territory',

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<sup>128</sup> This phrase is repeated very frequently at various levels of the Interior Ministry. In our case, we quote respondents R1, R2 and R3.

with defined 'hunting partners' and 'enemies', with whom vultures compete; and 4) 'packs', which are a more advanced form of the 'vultures' model, including representatives of other public institutions in addition to police officers.

In Bulgaria the 'vultures' model is the most widespread one and is observed both in the regional structures (local police departments, district and regional headquarters), and in the special departments of the Ministry of Interior (those dealing with organised crime, economic crimes, wire tapping, inspectorate, etc.).

If the managing officers are highly 'infected', there is a system of redistribution of income to higher levels: the lowest ranking officers (usually a group of five to twenty people) share part of their bribes with their supervisor; in turn, the supervisor shares with his superior officer, and so on. Such schemes can thus encompass as many as one hundred to three hundred officers in regional police districts. Very large 'targets', generating respectively large incomes,<sup>129</sup> are considered 'big bosses' territory.

Nevertheless, the above system and its full absorption of a police department is becoming an exception rather than the rule in recent years. One of the reasons for its disappearance is the economic stabilisation of the country in recent years. Another reason is that highly infected structures pose problems for the very officers who participate in them, because such structures trigger numerous complaints from citizens and employees of other agencies, leading to the involvement of politicians. As a consequence, supervising officers are being replaced and outside agents enter the system, forcing insiders to impose self-limitations on their incomes. The 'vultures ecosystem' of paying upward has remained in existence only in some of the most infected district offices in Sofia, in some of the largest cities and in the resort towns of the country. A more typical case nowadays is that of supervisors allowing subordinates to acquire additional income (for instance from prostitutes) without taking any payments from them. Supervisors don't need these payments because they have their own sources of income (e.g. from local criminal bosses/white-collar criminals).

The genesis of the relationship between organized crime and law enforcement has been the subject of intense debates. Contrary to hypotheses that remnants of the Communist senior elite at the Ministry of Interior created and indirectly managed 'organised crime' at the beginning of the 1990s, the authors of this study consider the forming of the symbiosis between organized crime and law enforcement to have been more random. (CSD 2004) The political changes at the beginning of the 1990s caused restructurings in the Ministry of Interior followed by a wave of firings and resignations. Some of these former employees then found jobs with companies involved in semi-legal or outright criminal activities. Familiar with the inner workings of the MoI, these individuals knew how to avoid prosecution. They used their skills and knowledge

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<sup>129</sup> For instance, the bosses of the drugs regions, owners of prostitution networks or of chains of stores selling excisable goods.

and their networks of colleagues and friends who retained their old jobs to pursue illicit activities. The new criminal entrepreneurs offered favours (such as job positions for a relative, colleague or friend) and payments to law enforcement officials aiming to integrate them in criminal networks. Another form of collaboration involved offers of information leading to the successful investigation of a certain criminal incident.

The most widespread form of corruption within law enforcement is the direct or indirect payment for certain favours. These payments affect all levels, from the very bottom of the system reaching even to Ministers themselves. These are the well-known corruption practices in ascending order:

Organised crime is less interested in the *lowest levels* because they cannot offer many of the services it needs, but still various forms of cooperation have emerged. For instance, payments are made to street officers in order for them not to 'disturb' prostitutes and their clients, to 'look the other way' when excisable goods like alcohol and cigarettes are illegally sold in small shops, or to avoid areas where street drug dealers practice their trade. A more active form of cooperation is the deployment of street police officers for security or delivery services. This form is used when drugs or illegal excise goods are transported, when cars are stolen or when prostitution homes require protection. Due to inefficient controls, low level police officers often reach agreements with the respective level of organised crime.

Under the dominating 'vultures model', monetary income is possible only in the largest cities of the country. In smaller towns, the prevailing method is either a favour or some payment in-kind. If a police officer is loyal to the local criminal bosses, he may get daily 'extras' like cheaper food in a restaurant, help in finding a job for his relatives, or an opportunity to become part of a local business.

Middle levels of organised crime deal with the respective middle levels in the Ministry of Interior. For instance, district drug bosses in large cities have agreements with the deputy directors of the respective district police department, the heads of criminal investigation groups, etc. In Sofia, the borders of drug distribution districts coincide with the borders of district police departments (CSD 2003, Bezlov et al. 2007). Similar agreements are observed in other markets like prostitution and trade with illegal excise goods. After the 2003-2005 period real estate frauds become common. The function of the middle level in law enforcement is to cover up these frauds, to warn if a counteraction campaign is planned and if an incident is revealed, or to appoint a preliminary investigator who would block the investigation. As a rule, middle level officers get regular payments for protecting the activities of brothels, or a certain number of prostitutes, drug dealers, or pawn houses and entertainment or commercial establishments operating in the grey area, which are left undisturbed by police control.

In smaller towns, high ranking police officials often have direct or indirect connections to influential criminal bosses who are in charge of

criminal or legal markets, or participate in a national criminal network. A widespread practice for police officers, prosecutors, judges and tax officials is to own significant shares in companies, hotels, restaurants, etc.

Officials at the highest levels, like directors and deputy-directors at the special services or directors of regional police headquarters are usually part of the networks of famous and influential entrepreneurs. One amongst many examples is the case of the deputy director of the Special Service for Combating Organised Crime, Ivan Ivanov. As a result of internal conflicts among senior officials at the Ministry of Interior, electronic surveillance transcripts were leaked to the press, demonstrating that Ivanov, together with other senior police officers, had held meetings with key organised crime figures. Ivanov had arranged for lower payments of excise tax for the largest producer of alcohol in the country.

At the highest level of organised crime, where black entrepreneurs and oligarchs are involved, the relationships are usually with key politicians. A case illustrating such ties are the secret meetings held between the Galev brothers (based in Dupnitsa – see above) and the former Minister of Interior Roumen Petkov, who was forced to resign when the meetings became public knowledge in 2008 (see Gounev and Bezlov 2009).

The total ‘infection’ of the Ministry of Interior creates great difficulties for the internal control departments of the ministry. In the transition period the internal control departments were under constant pressure from influential political and police sub-networks. ‘Anti-networks’ were used to remove inconvenient officers. When serious connections with organised crime were revealed, usually department heads were fired. There were cases when even the special services that wiretap and track suspects were infiltrated with corrupt agents who would deliver secret information to criminal networks.

The advancing economic development of the country and the ongoing normalisation of all institutions are gradually diminishing the influence of organised crime. As the black and grey markets shrink, the economic base aiming to corrupting the Interior Ministry slowly begins to disappear. Thus the new controlling structures in the ministry are able to exert broader and more systematic pressure on officers connected to organised crime. However, as pointed out by respondent R1, there is still not enough capacity to deal with corruption at the highest levels.

#### **5.4 Customs and tax corruption**

The links of the Customs Agency (CA) and the National Revenue Agency (NRA) to organised crime may be best understood, as with other public institutions, in the context of the social and political transformations of the 1990s. Until the end of the 1990s, relatively little attention was paid to the work of tax authorities, as the general attitude in Bulgaria was

that tax evasion was something quite natural.<sup>130</sup> At the same time, the Customs Agency became one of the most significant institutions of the transition period.

#### 5.4.1 Customs corruption

The Customs Agency has been identified in public opinion polls as by far the most corrupt state institution. Similar to magistrates, customs officers are a very small professional community (numbering about 3,000 employees in the 1990s) and hence they developed a strong social network. In contrast to magistrates, there are no requirements for specialised education and the profession is open to almost anyone. Customs officers cannot make arrests and do not have access to agents or wire-tapping facilities, but at the same time they have access to cash – since the beginning of the transition period through 2006 between 1,000 and 2,000 customs officers<sup>131</sup> controlled as imports and exports crossing the state borders evaluated at over 70% of GDP.

Access to customs officers in key positions (fee collection, control and personnel management), on the one hand, and to businessmen who conduct cross border transactions on the other, was (and continues to be) a crucial asset to any criminal network. Unlike police officers, who need to ‘hunt’ for their victims to earn additional income, customs officers operate on a purely ‘market’ principle: they provide a ‘service’ in high demand. The officers of the Customs Agency are involved in a complex, multi-layer corruption infrastructure that serves thousands of people, from households engaged in ‘suitcase/shuttle trade’ to the enormous networks of organised crime. Surveys of customs corruption have identifies numerous factors contributing to this phenomenon (CSD 2000; CSD 2002; CSD 2002a; CSD 2004): low salaries at the Customs Agency, the exceptionally high share of the grey economy (reaching over 50% during the crisis of 1996-1997), lack of control mechanisms in combating corruption, frequent politically motivated personnel changes, etc.

The emergence of so-called *brokers*, or officers who are not high in the agency’s hierarchy but can act as middlemen, is new phenomenon in the customs community. Entrepreneurs look for their services when they have a problem, and brokers can solve it by relying on the size and effectiveness of their networks. They are able to provide these services only because their networks overlap with other networks: those of ‘power entrepreneurs’, police officers, magistrates, and, most importantly, of ‘clients in possession of goods’. According to respondents K1 and R2, at the time when Bulgaria joined the EU there were probably 20 to 30 ‘brokers’, usually rank-and-file current or former employees of the Customs Agency, who exercised stronger influence than the directors of regional headquarters. They are actually the basic channel through which all major criminal networks operate.

<sup>130</sup> Tax revenues were collected mostly from state-owned enterprises (until 1997 privatisation had practically not begun), and the pressure for collection came mainly from the respective ministries.

<sup>131</sup> The headcount of the Customs Agency in the period 1990-2005 is not more than 3,000 employees.

With every change of government, big criminal entrepreneurs try to promote their own candidates for Director of the Customs Agency, for deputy-directors, and for heads of key departments. Even if they cannot secure the appointment of their candidates, the practice of newly appointed directors is to look for compromises with the oligarchs and to avoid audits of the companies that make up their network of friendly businesses.

Regional customs directors are forced to perform a more difficult balancing act. On the one hand, they have to comply with the average national requirements for collected revenue. On the other, they have to meet the demands of local criminal bosses. As pressure from the top intensifies, regional customs directors start to exercise pressure on their criminal clients.

The significant corruption pressure on the customs<sup>132</sup> is driven by the small size of the national market and the open nature of the Bulgarian economy, which make imports and exports a decisive factor for the success or failure of all types of businesses in Bulgaria. In the 1990s, over 300,000 people made their living by crossing the border with suitcases of goods such as clothes and cheap accessories and selling them at a higher price in a neighbouring country (the so-called "suitcase trade"). Organised crime took advantage of the same weaknesses in the operation of customs that allowed suitcase merchants to make a living by daily crossing of the border. Instead of mere suitcases, however, large companies were importing train-loads and ship-loads, avoiding any customs fees and taxes.

The most common imports for organised crime were the commodities in short supply on the internal market (cooking oil, sugar, etc.) and excise goods (alcohol and cigarettes). The smuggling of excise and consumer goods from food to luxury cars became the main engine of the market economy. Criminal entrepreneurs earned their highest profits from the smuggling of natural oil products into former Yugoslavia during the embargo.

The changed economic and political environment in Bulgaria diminished the opportunities for organised crime to illicitly import consumer and excise goods in mass quantities. The shrinking of the black and grey markets and the entrance of multinational companies had a significant effect to that end, as did Bulgaria's EU entry in 2007 since over 60% of the exports/imports of goods to and from EU countries are no longer subject to customs control.

Despite all this, some very important sources of income for organised crime still remain under the control of customs: namely the Chinese and Turkish imports as well as excise goods. The equalization of excise tax<sup>133</sup> on alcohol, cigarettes and oil products resulted in steep

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<sup>132</sup> The institution invariably ranks as the most corrupt in opinion polls.

<sup>133</sup> In the middle of 2006, the Customs Agency takes control of excisable goods, to soften the sever job cuts in customs officers after the country joins the EU.

increases in prices, making smuggling and black market sales very attractive.

A typical example of 'looking the other way' is the case of alcohol producing companies. In 2004, they paid for 112,9 million excise tax bands,<sup>134</sup> while in 2006 this number declined to 25,9 million. At the same time, marketing surveys indicate that the consumption of hard liquor had actually gone up. The only explanation for the decline is that following the increase of excise tax (from 5 to 11 cents per alcohol degree), companies turned to smuggling alcohol, using fake bands, or selling alcohol illegally. At the same time, no one in the Customs Agency raised the question of uncollected revenue from excise tax. Furthermore, the President and the Prime Minister attended the opening ceremonies for the new facilities of the two largest producers of alcohol, Peshtera and S&S Industries, responsible for almost 60% of hard alcohol sales in the country.<sup>135</sup> Similar is the treatment of the monopolist in oil products, Lukoil. According to respondents K1 and K4, the Bulgarian state does not monitor the quantities of raw oil that Lukoil imports or the quantities of processed oil it exports. The reason is that no one dares to force the company to install metering machines at the entrance or at the exit of loading pipelines. No one can verify the losses that Lukoil reports from its operations.

The influence of organized crime has been somewhat diminished by a series of reforms at the Customs Agency. The introduction of an electronic system for real time processing of imports and exports, the setting up of mobile groups for control inside the country, the adoption of special anti-corruption measures targeted at customs officers (i.e. declarations of income and personal property and limitations on business activities) have had a positive effect. The more active role of the inspectorate and the hiring of foreign consulting companies to enhance the analysis and control of revenues have also contributed to more transparent customs operations.

#### **5.4.1 Corruption at the National Revenue Agency (NRA)**

When the period of mass extortion and racketeering ended<sup>136</sup> in 1998 and the cross-border smuggling traffic was sharply reduced at the beginning of the century, criminal entrepreneurs turned their attention to legalising their accumulated wealth and income. As a result, the tax administration gained significant importance and power. With the centralization of the tax administration and consolidation of information resources in the 2001-2008 period, whole sectors of the economy and regions of the country that until then evaded payment of taxes, now felt under pressure to comply with the law.

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<sup>134</sup> Specially printed bands by the Ministry of Finance with holograms, stuck on liquor bottles to indicate that excise tax is paid.

<sup>135</sup> According to Jan-Feb 2008 alcohol market retail sales data from ACNielsen (not published), at the beginning of 2008 S&S Industries had 25.1% of the sales volume of rakiya, and Vinprom Peshtera had 34.5%.

<sup>136</sup> Power insurance' companies, like VIS-2, SIK, Apollo-Balkan, Levski-Spartak, Zora etc., lost their licenses to operate.

At the beginning of 2006, the functions of the Tax Administration (TA) and the National Insurance Institute (responsible for the collection of payments for health insurance, pensions and additional pension insurance, etc.) were integrated into one entity. All these changes prompted criminal entrepreneurs to pay special attention to the tax authorities.

As in the case of customs and law enforcement institutions, organised crime uses two main channels of influence the tax administration. At the first or political level, it promotes its own candidates or defends those ones who have already infiltrated the tax administration. The second channel is through tax brokers (similar to customs brokers) who arrange the covering up of tax offences, set up false tax audits of certain firms, or provide insider information to organised crime. In addition, tax authorities are used as a tool to attack competitors – criminal entrepreneurs may trigger tax audits to disturb competing firms.

The National Revenue Agency is decentralised into territorial directorates (TD) that hire their tax agents and initiate tax audits of local companies. Respondents K2, K3 and K4 believe that the TDs are probably the institution that suffers the highest degree of interference from the political elites. The appointments and resignations of TD directors are always surrounded by waves of lobbying efforts from members of parliament elected in the respective regions or from high-ranking local politicians. Personnel decisions affecting the TD directors are practically always taken not only by the Director of NRA but also by the finance minister and the respective deputy minister.

Similar to the Customs Agency, the NRA has a 'political contract' with the largest tax payers. The agency has a special department, 'Large Taxpayers', designed to work with the largest companies in the country. It is currently in charge of 700 companies that generate about 70% of the national tax revenue. According to respondents K2 and K4, all large companies in the country strive to get included in this group because allegedly each company under this section 'pays as much as it negotiates with the politicians'. The tax officers responsible for big business are all located in Sofia and their number is only 70 (with the argument to save expenses). The audits performed by these agents are mostly related to reimbursement of VAT, and due to their high workload, audits are a mere formality ([www.legalworld.bg](http://www.legalworld.bg)). Moreover, according to respondent K4, in the past 10 years the same teams perform all audits.

The gaps in the operation of NRA and its Large Taxpayers department are best illustrated by the decline in VAT collection. After Bulgaria joined the EU in 2007, NRA has to collect VAT on the imports of large companies, based on data from the Customs Agency. Despite the economic growth and the explosion in consumption, the VAT collected turned out to be 15% less. Periodically, incidents with the Large Taxpayers department result in personnel changes, such as the firing of its head Dima Zaharinoва followed by the dismissal of the Director of NRA, Maria Murgina.

At the regional and local levels, similar negotiations are practiced. The regional directors, just like their counterpart at the Customs Agency, have to balance the pressure from the state to generate higher tax revenue, and the demands of local businessmen for lower taxes and lighter tax audits. Systematic under-achievement of tax collection goals, or incidents revealing the milking of VAT, may result in the firing of the regional director. At the same time, the director and the deputy directors are part of the local social network and they try to promote the interests of large economic structures on their territory.

The election campaign in 2009 revealed various corruption schemes of the regional directorates of NRA. The former Director of NRA was accused of not reacting to a conflict between the director of the revenue agency in Silistra and a high-ranking local leader of the Movement for Rights and Freedom in regards to tax evasion. Similar accusations have been raised in other regional centres, such as Vratsa, Plovdiv, Bourgas and Sliven<sup>137</sup> (Lazarova 2009). One of the big problems of local tax authorities is that in small and mid-size towns all residents know each other. Any planned audit becomes public knowledge before it starts, and any punitive measure is met with social disapproval and isolation of the agents who apply it. Rotation of auditors is not practiced, with the argument that local agents know best who is who in the local business community and are best equipped to discover offenses.

With smaller criminal entrepreneurs, brokers are used to exert pressure on the NRA. A certain amount is paid to the broker who then distributes it among the tax officers involved. Bribes vary depending on the complexity of the 'service': for severe abuses, audited by officers from a different town, prices are much higher, while for simple 'consulting' in the grey economy they are low. There are tariffs for the provision of information on upcoming audits, for conducting a 'lighter' audit or speeding up the reimbursement of VAT. Respectively, payments can be used against competitors, when agents are asked to delay VAT reimbursement, initiate an audit or 'find' abuses in the operation of a competing company.

'Closed circles' in the network exist to deal with high-risk activities such as VAT milking. Usually these operations involve high-ranking officials of NRA who assume that a given company is compliant with the law and that any consequent audit is covered (CSD 2005).

## 6. Private sector corruption

Despite the normalization of the political and economic environment in Bulgaria, the line between criminal and legitimate business remains very fuzzy. There are different patterns of influence of criminal structures on business. Firstly, many companies and economic groups have their origins in criminal activity or criminal capital. Part of them have been set up with the purpose of legitimising people and business structures. Hence, even after these companies are sold to large international corpo-

<sup>137</sup> Sliven is a regional centre in South Bulgaria with a population of about 100,000.

rations, they are still influenced by the connections of the management or even mid level employees to the criminal world.

The influence of criminal groups remains also with normal companies that, at the beginning of transition, had had relationships with different leaders and criminal gangs (for instance by paying of protection racket). They continue to comply with criminal leaders by refraining from competing in public tenders, or refusing to supply to certain clients.

Even major Bulgarian and foreign companies that have never had contact with criminal structures use opportunities for exerting influence and mediating in procurement, or for achieving market dominance at the local, and in some cases the national level. Influence is also exerted for the adoption of laws, regulations and amendments, through the involvement of lobbying groups in the legislature or the executive. In recent years, several court cases have revealed that powerful criminal networks have been used for commercial gain, even by large and reputable foreign companies.

## 7. Conclusion

The isolation caused by the wars in former Yugoslavia, together with the long and rough transition to market economy, weakened the state and led to a sharp decline in households' incomes. As a result, for the first time in history, classic structures of organised crime emerged in Bulgaria. They got involved in trafficking heroin to Western Europe, in the trafficking of people, trading in stolen cars, etc. However, much harsher were the consequences of the criminal redistribution of national wealth (which was almost entirely state-owned until 1989), and the legalisation of all capital accumulated through criminal activities. Thus organised crime, political and economic elites formed a unique symbiosis.

As the country returned to political and economic stability (1997) and the process of joining the EU was launched (2000), structures of organised crime started to disintegrate and certain criminal markets began to shrink (i.e. the smuggling of consumer and excise goods, stolen cars, racketeering, etc.). When large multinational corporations entered the Bulgarian market, and the national economy got more integrated into the European market, Bulgarian economic groups that had benefited from criminal privatisation and were linked to criminal activities began to steadily lose importance, in particular in key sectors like banking, insurance, and retail. Despite the positive changes in the socio-economic and institutional environment, organised crime groups managed to adapt by concealing their criminal activities under the cover of legal companies. Mass violence got replaced by mass and systemic corruption. Taking advantage of the culture of family and clientelistic networks in public institutions, organised crime retained its privileged access to national wealth via rigged public tenders and concessions, the cartelisation of gambling, tourism, real estate, etc.

Organised crime exercises its influence at all levels: at the political level, votes get bought at national and local elections and the passing of laws favouring certain business interests is negotiated through lobbying

groups; at the magistrates' level, selections, appointments and rulings are being influenced and paid for by middlemen; at the level of the revenue administration, employees of all ranks are being recruited and corrupted to ensure custom duties, income tax and other taxes are avoided; and at the law enforcement level organised crime invests both in horizontal and vertical structures to cover up crimes or to destroy competition.

A new trend in the activity of Bulgarian criminal networks, after the country joined the EU, has been the attempt to corrupt officers of foreign administrations to make criminal activities abroad less vulnerable.



## ANNEX 5: CASE STUDY – GREECE

### 1. Synopsis

Although the official view of institutions in Greece is that corruption is of a non-systematic nature and limited frequency, criminals seem to use it actively when dealing with the criminal justice process, customs, tax administration, and the judiciary. Investigations and trials in the past five years have revealed systematic and long-term corrupt relations permeating all these sectors, and political influence at all levels. Corruption pressures stem from both the important position of Greece as a transit point for smuggled cigarettes, drugs, and illegal migrants or human trafficking, and from the high levels of grey economic activity (stemming from significant informal labour inputs in certain economic sectors, or from smuggled products like oil, clothing, and cigarettes). Bureaucratic and political traditions based on nepotism and informal personal, family, or professional networks create an environment where criminals or their intermediaries easily tap into connections (in public and private sector institutions), allowing them to facilitate crimes or avoid justice.

### 2. Introduction

The information collected in this case study is based on:

- Interviews with nine key informants;
- Reports by international and national organizations, as well as NGOs, on corruption and organised crime;
- Journalistic sources discussing proven cases of corruption or ongoing investigations and judicial activity;
- Academic work discussing the above or analyzing general issues around the causes and persistence of both corruption and organised crime;
- The 1999, 2004, and 2005 Greek organised crime reports.

Interviews were conducted with officials from the Supreme Court of Greece, the Court of First Instance, the Greek Police Force, Greek liaison officers at Europol, leading criminologists, a UNODC official, and a representative from the private sector. The interviewees were willing to participate in the project on the condition and with the understanding that their identities would not be revealed. For this reason, they will be referred to as I1 to I9.

Name	Position	Institution
I1	Thessaloniki entrepreneur	Privately-owned company
I2	Academic	UK University
I3	Judge	Court of First Instance
I4	Senior Police Official	Greek Police – Division for the analysis of criminality
I5	Intelligence official	Europol
I6	Criminal lawyer	Supreme Court and Athens Bar Association
I7	Criminal investigator	Europol
I8	Criminologist	UK University
I9	Senior Researcher	UNODC

### 3. Background: organised crime in Greece

Historical studies into Greek business traditions (Theodoridis and Lzarakou 1981) have traced illegal behaviour of Greek businessmen several centuries back to 18th century, when Greek merchants smuggled prohibited goods to European ports. The official discussion on organised crime has recently revolved around traditional organised crime activities (drug trafficking, prostitution, etc.) but these are presented as an external *threat*.<sup>138</sup> Official reports on trends, patterns, or contributing factors of organised criminal activity have not been regularly produced.<sup>139</sup> In 1999, 2004, and 2005, the Greek Ministry of Public Order (MPO)<sup>140</sup> produced public Organised Crime Reports.<sup>141</sup> The OC reports offer detailed description of the variety of OC groups operating in the country, but little insight into causal factors. Discussion of white-collar crime is almost non-existent, being limited to occasional and scarce references to fraud.

Today, Greece is a major transit country for drugs, cigarettes, and illegal immigrants entering the EU. In addition a number of domestic illegal markets (prostitution, oil, consumer goods) also exist. The main organised criminal activities include:

- Illegal immigration – immigrants from Balkan neighbours, Asia or Africa are trafficked by organised trafficking networks originating in Greece, Turkey, Albania, Bulgaria and the Middle East.
- Trafficking in human beings (mainly for sexual exploitation) – Greek, Albanian, Bulgarian, Russian, and Turkish groups are involved in this type of criminal activity. Prostitution in Greece is legal and it is regulated. The National Statistical Service of Greece (NSSG – ΕΣΥΕ) estimates that it represents one of the largest illegal markets, with an estimated € 2 billion a year, € 180 million of which refer to bribes paid to corrupt officials (Sterigiou 2009). Nevertheless, organized crime is involved in supplying women for the Greek sex industry.
- Trafficking in drugs – Greece lies on both the Balkan heroin route, and the Atlantic route cocaine route. Links exist between foreign OC groups (Colombian, Nigerian, Spanish, Dutch) and Greek groups having as key members merchants involved in the shipping business, with the know-how and means to transport large quantities of drugs by sea. The NSSG estimated drug smuggling is estimated at about € 234 million a year.
- Trafficking in stolen vehicles – Greece is a transit point for trafficking in stolen vehicles from the rest of EU-17 countries to EU-10E, the former U.S.S.R., the Middle East and Asia. Vehicles are also stolen in the interior of the country and resold in the domestic market or are forwarded to Albania.

<sup>138</sup> Reports produced or published by law enforcement agents/agencies have also viewed the issue of organized crime through the prism of threat. Trigazis (2002), for instance, a high rank police officer, argued in his report on the organization of the Greek police against organized crime that the phenomenon of organized crime features high on the list of new dangers after the collapse of the Soviet bloc and the end of Cold War, and that organized crime threatens to corrode political institutions and disorganize economic order and societal cohesion (cited in Antonopoulos 2009).

<sup>139</sup> Some pieces of information and statistics on what could be described as empirical manifestations of organized crime can also be obtained from Coast Guard and Bureau for Special Inspections websites.

<sup>140</sup> In 2007, the Ministry of Public Order was merged with the Ministry for the Interior.

<sup>141</sup> Although similar reports have been produced since 2005 they have not been publicly available (11).

- Smuggling of excise tax goods: Greece is mainly a transit country of smuggled cigarettes. Cigarette smuggling is estimated at about € 78 million a year. Alcohol and fuel are the other two large illegal markets. Alcohol smuggling is at about € 104 million a year, and fuel smuggling has an annual turnover of € 400 million.

According to NSSG, the annual turnover of goods smuggled in Greece is approximately € 2.8 billion.

### 3.1 Non-indigenous groups

Ethnicity and immigrant status constitute important explanatory variables of organised criminal activities in Greece, and the OC reports make explicit reference to the threat posed by non-indigenous ‘organised crime groups’. Specifically, the 1999 report suggests that “the ethnic crime groups that constituted a specific threat...were the Albanians, Russians, Bulgarians, Romanians, Turkish, Iraqi, and in some cases Pakistani and groups of Bangladeshi nationals...” (MPO 1999). The 2004 and 2005 Greek OC reports added a mix of other nationalities, such as Middle Eastern and Asian OC groups (Chinese, Iraqi, Pakistani and Turkish) are involved in illegal immigration, or Russian and Ukrainian OC groups involved in cigarette smuggling (MPO 2004 and 2005).

### 3.2 Indigenous OC groups

The Greek OC reports also describe the roles of Greek organised criminal groups in various OC activities:

- Working together with OC groups engaged in human trafficking; providing facilities for the detention of victims;
- Providing means of transportation for cocaine along the Atlantic route and cooperating with foreign OC groups for the purpose;
- cooperating with Albanian OC groups in the trafficking of marijuana along the Balkan route;
- Extortion (e.g. restaurants and night clubs).

The OC reports note that the EU expansion has led to an increase in heterogeneous and foreign OC groups, whereas homogenous and domestic groups have decreased. According to the 2004 and 2005 OC reports, out of 317 ‘criminal organisations’, 110 (34.7%) were composed of foreign nationals only, 110 (34.7%) were composed of Greek nationals only, and a further 78 (24.6%) were composed of both Greek *and* foreign nationals, although the degree and nature of collaboration among Greek and foreign nationals is unclear (Antonopoulos 2009).

Labour mobility within the EU, along with the country’s geographical position, including its position at the crossroads of drug trafficking transit routes, its long coastline, and political and economic problems in neighbouring countries are seen as circumstances outside the full control of law enforcement making the fight against organised crime difficult (MPO 2005, p.25).

Trafficking in a wide range of excise goods is a criminal activity in which indigenous criminal companies and individuals engage: cigarettes, alcohol, foodstuffs and fuel being the primary commodities smuggled. Alcohol beverages are a primary target of smugglers due to the very high excise tax rates on them. A variety of methods are used – e.g. fraudulent documents permitting the exporting of alcohol to foreign countries, which is actually distributed in Greece tax-free; or the setting up of ‘shop-front businesses’ which declare bankruptcy before duties can be collected. The trafficking of various petrol products has also been quite a frequent occurrence. The main mechanism involves tax-free petrol supplied to ships, yachts and fishing boats sailing under foreign flags, which is actually used as petrol for automobiles. Thus, ships have often supplied fraudulent documents detailing alleged stops at Greek ports for the purpose of refuelling, whereas such stops are never made. The untaxed petrol is then instead passed on to various fuel-supplying companies and fuelling stations, which sell it at a much higher price;

Greece’s shadow economy has levels closer to those in transition countries. The share of the hidden economy is estimated to be at 26.3% of GDP in 2005 (Scneider 2007). As one interviewee noted, “there seems to be a symbiotic relationship between the legal and the illegal sector that makes investigation [of organised crime] quite difficult” (I2). Another interviewee (I1) stated that “there are hundreds of [seemingly legal] businesses that are related to organised crime...there are so many businesses in the country that live off black money”.

Seemingly legal businesses in Greece are often perpetrators of serious organised offences, exploiting legal loopholes as well as differing regulations in different countries (e.g. more lax regulations on taxation or more stringent bank secrecy laws in tax havens). The Greek OC reports devote very little attention to the matter, as serious analysis of white-collar crime is practically absent.

Misuse and fraudulent obtaining of EU subsidies, also referred to as ‘euro-frauds’, is a significant issue: criminals exploit subsidies for exports of European goods to non-EU countries, or subsidies intended for agricultural products, development projects or EU educational schemes. In 2008, Greece reported 585 irregularities worth approximately 47 million euro.<sup>142</sup>

The rigging of public bids and concessions is probably the most widespread form of white-collar crime. The culture of corruption helps firms that are willing to bribe officials in order to win public bids, concessions, etc, to prosper; the rest that are not willing to bribe are forced to either be at a competitive disadvantage, or to avoid paying taxes and/or exploit illegal immigrants in order to stay competitive. Such firms may eventually be forced to bribe officials at tax and employment authorities to avoid inspections (Katsios 2006).

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<sup>142</sup> In 2005, the European Commission asked Greece to repay €518 million of European funds that were paid in breach of EU public contract regulation rules. (*Europolitics.info* 2005)

Tax evasion is also very widespread in Greece, both amongst individuals as well as companies. It is estimated to reach as much as 15% of GDP (Matsaganis & Flevotomou 2008). The use of offshore companies as a means of tax avoidance (or evasion) is common. Offshore companies are frequently used as intermediary links for the trade in goods with companies from third countries, so that a significant portion of the profits of the importing or exporting Greek company remains at the head office of the offshore company it controls, where tax rates are low. Greek companies also typically overvalue export goods and, conversely, undervalue import goods to further inflate their profits;

At the same time, offshore companies are the preferred method of bribery to political leaders – as I9 has indicated, whereas administrative, lower-level officials, are bribed by means of payments that are made within the country and in cash, “payments to higher-level officials, such as government Ministers, are done via offshore accounts”, where they can also be easily ‘laundered’. Therefore, the Greek media (ToVima 1996, 1999, 2000) and official institutions like GRECOA, have often appealed that it is imperative to engage simultaneously in the fight against corruption *and* money laundering.

Stock market fraud is also common: perpetrators secure the trust of unsuspecting investors from whom they take money for investment in supposedly high-return investments, or they solicit hefty commissions via false promises that investors will receive a large number of newly floated shares. Subsequently, investors’ funds disappear together with the perpetrator(s), with the money often being sent to banks abroad or to offshore companies in tax havens where, due to strict anonymity laws, it becomes untraceable. More complex forms of Stock Market related fraud involve the illegal use of confidential information and the manipulation of share prices, or the creation of financial ‘pyramids’.

#### 4. Background: corruption in Greece

The Modern Greek state has been characterized by a blurring of boundaries between the public and private sectors, which has meant that corruption has taken the form of kleptocracy, allowing the enrichment of a few oligarchic families at the expense of the bulk of the population (Bull and Newell 2003). Even in recent years and since democracy (in 1975) has been re-established, high levels of corruption at the political level have also alienated the general population. Indeed, it is easy to become cynical with respect to democratic or civic values and responsibilities when, as I5 observes, “corruption in Greece and favours to organised crime get a legal and even democratic mask and pretext”. However, unlike with former communist countries, by the time lasting democratization had taken hold Greece already had in place a system of property rights and an established capitalist market economy, which had already led to the concentration of wealth in a number of oligarchic families without the ensuing high levels of gang-related violence.

Numerous reports by Greek government institutions as well as by international organizations and NGOs have noted that corruption levels in Greece are very high for the country’s level of economic develop-

ment. While Greece's GDP is not far below the average for Western European countries, it lags far behind "Old Europe's" average in terms of corruption perceptions. Greece's TI scores (ranging between 4.3 and 4.7 since 2004) have consistently been closer to those of newer EU-10 countries than to those of the EU-15. The series of corruption trials against the judiciary, customs and tax officials, as well as politicians have even further heightened public perceptions of political and judicial corruption.

The question then arises as to what could explain the fact that an economically well developed country such as Greece is characterised by such high levels of corruption. Some have pointed to deep historical and cultural roots. Koutsoukis (2003, p. 25) explains that when the Modern Greek state was formed in the mid-nineteenth century, "corruption was...encouraged by an inherited culture of *rousfeti*, a system of bribery widely practiced in the Ottoman Empire". Polychroniou (2008) also points out "graft and corruption have always been an integral part of Greece's political culture".

A number of factors related to the size and operation of the public sector in Greece explain to a certain extent the broader environment that creates a corrupt business environment:

- The size of the Greek public sector is another possible explanation. OECD reports have consistently shown that Greece has one of the largest public sectors in Europe – second only to Italy's – and bigger *in absolute terms* than even Germany's. The size of the public sector relates to greater 'protectionism' to entrepreneurial activities and a greater intervention in private businesses (Tatsos 2001).
- *The system of administrative organization*: the Greek system of administrative organization is extremely centralized, while research has shown that there is a negative correlation between decentralization of state organization and corruption (Fisman & Gatti 2002).
- *Unclear and even contradictory laws and regulations and non-codified procedures*, incompatible with the overall system of administration, and allowing the use of discretion on the part of the public officials, who are as a consequence vulnerable to corruption. A report by the *Bureau of Inspectors of Public Administration* in 2001 suggested that approximately 50% of actions by public administration bodies had no legal basis. (Delvinioti 2001).
- *The level of bureaucracy*. The level of bureaucracy constitutes a very important root cause of corruption in the Greek context for a variety of reasons. According to a European Commission report, the cost of ('good' and 'bad') bureaucracy in Greece is estimated at approximately € 16.7 billion (or 6.8% of the country's GDP, which is the highest in the European Union).
- *Low salaries for public officials and especially those who are in the lower echelons of the agencies, and who have regular contact with illegal market actors*.

For all of the above, corruption is one of the ways for entrepreneurs to circumvent as effectively and – in particular – as quickly as possibly such obstacles placed by the repressive, monopolistic power of the bu-

reaucratic mechanism. That is why the money paid to corrupt officials in these cases is euphemistically termed *'grigorosimo'* ('quick stamp').

## 5. Targeted Institutions

The majority of Greeks (61% in 2007) consider organised crime as the major cause of corruption (Eurobarometer 2008). The 2004 OC report acknowledges the links between corruption and organised crime but only in the context of low-level, non-political corruption facilitating illegal immigration and human trafficking (MPO 2004, p.29):

*"In some cases, criminal organisations cannot accomplish their economic goals without the tolerance and protection offered by civil servants. This is why they always want to approach and enlist civil servants and employees (of the judiciary, police, tax authorities, customs, etc.) for help to their criminal actions in order to assure their tolerance or protection in exchange of a considerable economic profit. During the year 2004, it was concluded that civil servants were only engaged in forgery and frauds relating with the legalization of illegal aliens in Greece."*

As revealed by official documents of Greek political and administrative decision-makers with respect to corruption, the Greek Police "focuses almost exclusively on corrupt practices of the public administration" (Lambropoulou 2007).

### 5.1 Administrative corruption

Administrative corruption and bribery in relation to illegal immigration seems to be a major issue. In Greece, several municipal employees and civil servants have been accused of receiving money in order to supply foreigners with false documents or documents without previous production of supporting documents, which are necessary for their legal residence in the country. The amounts received through the above methods are large (MPO 2004, p.8). According to the OC reports, the Greek-Albanian criminal organisations are active in the issue of false documents and stealing of legal residence permits in Greece. Their basic collaborators are employees of municipalities who play a substantial role in their activity (MPO 2004, p.22).

Interviews conducted for the purposes of the study have suggested that corrupt civil servants facilitate illegal immigration not only by providing fraudulent documents, but also by not fulfilling their obligations to inspect businesses employing illegal immigrants. When asked whether some parts of the government administration are particularly vulnerable from white-collar or organised crime, I2 points to employment authorities, which are "bribed by illegal/legal entrepreneurs to turn a blind usually to the exploitation of people". I2 gives the following example: "Recently, the employment authorities in Thessaloniki were bribed to avoid properly inspecting the premises of a sweatshop employing/exploiting undocumented foreigners." When asked about the main reasons why criminal enterprises use administrative corruption, the same interviewee

states that “they do so primarily to avoid checks that could jeopardise their illegal business”.

In this context it is appropriate to note the close link between, on the one hand, the so-called black sector of the economy – i.e. the sector having to do with producing illegal goods (e.g. drugs) – and, on the other, the gray sector producing legal goods (e.g. cigarettes) yet using informal labour. Namely, the sweatshop under discussion was employing illegal immigrants – probably not for the production of illegal goods – yet a good proportion of these immigrants would have probably ended up in the labour market as a result of help obtained by trafficking networks. Indeed, the fact that similar businesses need to perform illegal activities – not just bribing officials, but also concealing taxes in a fairly regular and organised manner – makes the distinction between the gray and black economic sectors rather difficult to maintain, to which we will return later in the analysis. Yet again it must be stressed that gray economic activity receives very little attention in the Greek OC reports.

Sometimes in analyzing the link between corruption and organised crime, we run into further *definitional* complications. Namely, OC influence in the administration may start with occasional bribes, but then could progress to a situation where civil servants either engage in activities associated with traditional organised crime, such as extortion racketeering (Kambylis 2008), or become members of OC groups, so that it becomes impossible to conceptually separate corruption from collusion. Thus, in Greece “in many cases, members of criminal organisations were civil servants in key positions and their duties related to the issue of [false] documents” (MPO 2004) with the purpose of legalizing illegal immigrants. This becomes particularly difficult when several members or whole departments of state administrative bodies collude with OC groups by engaging in what is termed ‘systemic’ or ‘organised corruption’. What is of particular concern in the case of Greece is that the interviews conducted with experts and officials in the various branches of government have revealed evidence of instances when such large-scale corrupt collusion with organised criminals has occurred in recent years – yet somehow information on this is missing from the Greek OC reports produced and publicized so far.

## 5.2. Police corruption

The three OC reports barely refer to OC groups’ use of police corruption.<sup>143</sup> This is consistent with Lambropoulou’s study mentioned earlier, which found that reports of the Police Division of Internal Affairs dealing with corruption “describe cases of police misuse of power and corruption as occasional and not structural” (Lambropoulou 2007, p.9). Nevertheless, the evidence that the present study has arrived at indicates that there *is* police corruption in Greece, and sometimes it is systemic and organised. Indeed, it is so well organised and sometimes police officers

<sup>143</sup> The 2004 Greek OC report mentions only one case of police corruption involving a border guard, who served at the Illegal Immigration Enforcement Section in Athens and participated in an OC group active in human trafficking (MPO 2004, p.25)

are so closely involved in protecting the activities of OC groups that one wonders where the “police force” ends and where organised crime begins. If such outstanding examples of cooperation between the police and organised criminals have been revealed by the present study, however, this could certainly be considered evidence in support of the claim that it is not unlikely that levels of OC activity in Greece as represented by official statistics are at best underestimated, and at worst – just the “tip of the iceberg”.

There are varying opinions on police corruption among this study’s interviewees. For I2, police corruption in Greece is primarily a problem “on the lower level of police work, which involves a confrontation between the police and illegal entrepreneurs, and the need on the part of illegal entrepreneurs to neutralise law enforcement.” However, according to I6, “there is significant corruption [in the Greek police], and I believe it is widespread across the various ranks of the police force [emphasis added]”. More specifically, another interviewee (I3) points out that “organised corruption involving multiple officers at different levels can be found in the vice, narcotics and immigration divisions.”

In terms of the kinds of OC activity facilitated by police corruption, I5 indicates that the police too, just like other civil servants, play a role in human trafficking:

Years ago, an important Greek people smuggler approached a coast-guard investigator. Later on the officer said that he was shocked when the criminal entered his office and said: “why are you after me? I can make you rich. Do you know how many officers I have on my payroll?”

The same interviewee (I5) proceeds with a discussion of systemic corruption facilitating other types of crimes as well, such as drug trafficking, cigarette smuggling, etc. The dividing line between someone being a corrupt police officer and someone being a member of an OC group is not at all clear in the well-known case of organised corruption within the police recounted by I2. In a recent case a number of individuals were arrested, including coastguards (elite divers and their commanding officer) due to involvement in the criminal organisation of the notorious criminal Stefanakos. This organised crime group was involved in the extortion business, drug trafficking, oil smuggling, cigarette smuggling, etc. The court case was partially successful and several of the accused were acquitted due to the poor evidence base. According to police sources, Stefanakos, at a time when the security police of Attica was trying to bring him to justice, was issued a new ID card by a corrupt police lieutenant. Moreover, even after his imprisonment, Stefanakos’ criminal business runs uninterrupted. (I2)

Another very recent case of organised corruption in the police demonstrates the difficulty of drawing a line between police corruption and direct involvement in organised criminality. It involved four police officers, who were arrested for their alleged participation in a sex-trafficking ring believed to have brought hundreds of women to Greece from EU-10E

and the Balkans for prostitution. Two of the four had been previously prosecuted, while one was convicted and dismissed from the force after being found guilty of participating in extortion racketeering (Kathimerini 2009).

The anti-corruption efforts of the Greek police seem to be quite limited. There has been an internal affairs division since 1999, which has had some impact in terms of countering police corruption (I1, I2). Interviewees have commented that its ability to impact the ability of organised crime to corrupt official to a significant extent have been limited. On the other hand institutional preventive measures against police corruption, such as specific procedures during hiring or further education, do not exist.

### 5.3. Customs and tax corruption

Corruption within the Greek tax and customs is a significant issue (I1, I5, I6, I7). A number of audits by the Ministry of Finance and trials into various customs and tax offices around the country have revealed systemic corruption on a scale comparable to the situation in the EU-10E countries, rather than those in Western Europe (Siomopolous 2007). In the most recent round of trials, in 2006, 49 customs and 14 tax officials were tried and many imprisoned for cases that also included VAT fraud schemes, smuggling of cigarettes and oil, as well as numerous cases of illegal clearance (Hiotis 2006). Only a few years earlier, in 2003, the Ministry of Finance publicly released a list of 39 tax officials and 52 customs officers that had been prosecuted or dismissed for having engaged during 2002 in corruption related to smuggling, tax evasion, and VAT fraud (Kathimerini 2003a).

The scandals that surrounded the Greek customs and Ministry of Finance revealed how highly politicized the Customs Administration had become. The attempt to move the heads of certain customs offices to different position by the Secretary of Finance (as well as his open criticism of customs corruption) provoked a political reaction that also revealed the customs officers concerned were children of leading politicians, and were in practice political appointees.

The most important cases involve oil companies viewed by some as “the ‘big business’ in customs” (I6). When it comes to tax corruption however, it should be borne in mind that *even legal businesses* will attempt to bribe tax inspectors in order for them to turn a blind eye to violations of the tax code [emphasis added].

As with the police, systemic and long-lasting corruption occurs in some customs departments as well. While discussing the recent “disappearance” from the Port of Piraeus container terminal (SEMPO) of a container shipped from Latin America with a load of 20 tonnes of coffee, I5 notes that in the course of the subsequent investigation it emerged that the procedure was so lax that basically anyone could lay their hands on the shipping documents and drive off with the cargo. It was

strongly suspected that hidden in the coffee was a load of cocaine. It also transpired that corrupt officers on duty at the Keratsini customs office used to take a fixed bribe from each lorry leaving the zone. Further investigations revealed that hundreds of thefts were taking place inside SEMPO zone each year without being reported to the Security police or to the Prosecutor's office of Piraeus port. The importers did not complain because that would affect their business negatively, while the thefts and related losses were seen as "normal" business risk. A number of other investigations clearly pointed to systemic/long-lasting corruption of customs officers and criminal activities of SEMPO workers.

The port of Piraeus also comes up when I2 is asked about which customs offices are most vulnerable to corruption. According to the interviewee it is those "at the borders, particularly the northern borders of the country, as well as the ports of Piraeus and Patras." As for the OC activities facilitated by customs corruption, I2 states: "Cigarette smuggling primarily. But I would also add other legal commodities except stolen cars. Secondarily, it is drugs."

Another interviewee – I7 – also points to cigarette smuggling as an activity facilitated by customs corruption. Indeed, according to expert estimates, around 8% of cigarettes sold in Greece have been smuggled (Antonopoulos 2008, pp.263-288), which translates into staggering tax revenue losses amounting to millions of Euros per year for the Greek state. As one example of organised corruption among many, just recently – in 2006 – six customs officers were prosecuted for cigarettes smuggling in Doirani (a Greek-FYROM border check point). Tax revenues from oil smuggling are also likely to be very high indeed. The losses to the state from just one such instance facilitated again by organised corruption, in which three Customs officials were sent to prison over a petrol company's provision of five fraudulent supply permits<sup>144</sup> to ships in the port of Piraeus, amounted to 17,000 Euro (Eleftheros Typos 2000).

#### 5.4 Judicial corruption

The experts interviewed for the present study largely agreed that corruption within the judiciary is a problem in Greece, and organized and white-collar criminals are some of the biggest drivers for the phenomenon. Judicial corruption in Greece is not restricted to ad hoc occurrences. Since 2005, multiple trials on judicial corruption networks have been initiated and have revealed what one prosecutor called the 'tip of the iceberg or only 1/10 of what is there'. These cases are referred in Greece as the 'para-judicial networks' ('παραδικαστικό κύκλωμα'). These networks involved corrupt actors from across the judiciary and concerned hundreds of organised crime or white-collar crime defendants involving sums totalling hundreds of millions of euro. Just the first case against Leonidas Stathis<sup>145</sup> concerned 18 favourable decisions related to

<sup>144</sup> Of course, as is typical of similar cases, no petrol was really supplied.

<sup>145</sup> He moved in four years between First Instance Courts in Katerini, Thessaloniki, and Athens

€ 160 million euro, and involved 10 lawyers (also prosecuted) who had deposited money in multiple accounts.

The two big 'para-judicial network' cases that were uncovered, in Athens and in Thessaloniki, provide a glimpse into how such networks operate (possibly in other parts of Greece as well). The most common scheme involved corrupt defence lawyers who would act as intermediaries and ensure impunity and/or favourable treatment of the defendants. In some of the cases an MP, civil servants, or members of the police, the customs, and or the private sector also acted as intermediaries (Ertonline News 2009; Karamanoli 2009; Lampropoulos 2007). Bank accounts in Switzerland were used to deposit the bribes.

In Thessaloniki, another 'para-judicial network has been on trial since 2006. It included 7 judges, 3 lawyers, businessmen, academics, and customs officials (some already convicted). The lawyers served as intermediaries in ensuring (1) that the process of random distribution of the cases was manipulated so that the case went to one of corrupt judges, and (2) that judges were paid to exonerate defendants or to treat them favourably (such as by reducing penalties to nominal amounts in cases that involved "laundering" dirty money, drug trafficking, fuel smuggling, bribery, murder with intent, embezzlement, forgery and extortion.) Another trial included 8 judges, 6 lawyers, 2 court officials, and a prosecutor.

One of the judges, Mr. Evangelo Kalusis, was sentenced in 2008 to 22 years of imprisonment for passive bribery, money laundering activity, attempted extortion, breach of duty, abuse of power and instigation to it, and for withholding exemption. His statement before the prosecution citing the 'self-evident reasons' as to why seven lawyers had deposited money in his accounts, captures well the type of social networks used in facilitating corruption in Greece:

*Mr. Papacharalambous is my family lawyer for over twenty years, George Nikolakopoulos is my university fellow from Thessaloniki from thirty years ago, Mr. Plevris is my friend with whom we play chess, Mr. Stafrianakis and Mr. Dimosthenous are my compatriots [from Eratini], our wives are also friends from Eratini. As for Mr. Nektarios Athanassopoulos, he is my relative by marriage (Skai 2005).*

As evident, professional, family and town-of-birth networks constitute probably some of the strongest networks. The very fact that Mr. Kalusis, found these explanations of networks to be self-evident proofs of his innocence, shows how strong they are. In the para-judicial networks uncovered, payment the "corrupt exchanges" often involved favours, such as a promotion of a daughter or relative. In addition, Kalousis was bribed and allegedly used the services of prostitutes from EU-10E, who were exploited by organised criminals. Kalousis and Bourboulia also laundered money in the Athens stock market.

Despite the lengthy sentences given to these individuals, questionable judicial practices aided by corruption in the healthcare sector have

undermined the judicial process. A journalist investigation in July 2009 showed that exclusively white-collar criminals and former judges have been released on bail from prison citing health reason and providing evidence from doctors (including in the above cited case of Mr. Kalusis). While the prosecution objected, the Court of Appeal upheld the requests for release from prison for health reasons (Skai 2005).

#### 5.4 Political corruption

Most interviewees agreed that out of all sectors – private, administrative, customs/tax, judicial, police, or political – it is the latter sector that is amongst the most vulnerable to corruption.

Political corruption is most often associated with white collar criminals (I2) (whether Greek or foreign run). Nevertheless, as cases below demonstrated, political corruption is also often used by companies or individuals involved in smuggling of excise goods or even in drugs cases.

When citing an example of political corruption related to organised crime, several interviewees referred to the recent Zoniana case. Zoniana, described by the media and the government as the ‘lawless village’ on the island of Crete, was the location of a 2007 Special Forces operation, during which 25 villagers were detained on drug trafficking and arms possession charges (later as many 53 individuals were brought to trial (Xpatathens.com 2007; Bgglas.com 2009). Only a few days earlier, a police convoy conducting a drug raid on the village had been ambushed, and 3 police officers were shot and injured (Novinar.net 2007). In an interview the Minister of Interior, Prokopis Pavlopoulos, admitted that ‘for many years the government has allowed lawlessness to exist in many parts of Crete’ (Xpatathens.com 2007). In the case of Zoniana local drug lords have been able to operate uninterrupted as police ‘turned a blind eye’ under (alleged) pressure from several politicians, including a Member of the Parliament. Indeed, the situation in Zoniana “resembles, albeit on a smaller scale, the network of entangled interests that bring together criminals, politicians, police officers and judges in Italy” (Lygeros 2007). I7 points out that the cannabis cultivators throughout Crete and not just in Zoniana seem to have access to various levels and types of authorities.

In another case, also from Crete, Yannis Kefalogiannis, former MP and advisor of the Prime Minister, was sentenced in 2008 to 5 months in prison (and 3 years suspended sentences) for having pressured police officers to scrap evidence in an attempt to protect a cannabis grower in Crete.

Political power depends on the informal relationships with individuals or groups that help politicians assume a certain degree of power (the so called ‘client relationships’ – ‘πελατειακές σχέσεις’ or ‘rousfeti’, which have their roots in the Ottoman Empire). The nature of social relationships in Greece (primarily in the provinces) is such as to favour informal transactions: local politicians are elected on the basis of favours to local economic power holders, which often involves turning a blind eye to criminal activities.

Politicians and their close aides/advisors, as ultimate 'gatekeepers' of Greece's 'client-based' political system, are among the prime targets of organised crime. Political support from 'voters', who happen to be organised criminals is sometimes crucial to winning elections. Corrupt exchanges, therefore, represent one of the biggest threats to the Greek society and its democratic functioning. However, proving that political corruption has taken place is extremely difficult and if one gets close, cover-up attempts most likely follow.

One interviewee (I5) argued that "political corruption in relation to organised crime is encountered at all levels", with the Zoniana case being "just one example of what is actually happening across this country". In the interplay of OC and corruption, I5 suggests that the Greek political parties and politicians contribute to a climate of corruptive influence that organised crime readily exploits either directly or indirectly".

Another interviewee claims that what goes on at the local level pales into insignificance when compared to corrupt deals at the central level (I2) further suggesting that:

*Activities that involve large amounts of money, multinational corporations and high-standing individuals are usually encountered by central governments. Overall, I would say that the local government does not really have a say here primarily because local governments are controlled by the central governments (or centrally by the parties that local governments derive from). As far as organised crime is concerned, it is central governments that appear to be the most corrupt.*

In this context it is particularly pertinent to mention the role of multinational companies (MNCs) and their interaction with political leaders. MNCs use political corruption at the highest levels. The Siemens scandal is one that can partly assist in the conceptualization of the role of political corruption in white-collar activities, and the establishment of big fortunes by the so called 'oligarchs'. The company acted as a major funder for the two main political parties – New Democracy and PASOK – in exchange for favourable treatments in public tenders. According to media reports, bribes for contracts to the tune of 100 million euro are alleged to have been paid on PASOK's watch and most intensely in the years preceding the 2004 Olympic Games. As usually happens with bribes involving political leaders rather than low-ranking civil servants, direct cash payments were not involved. Instead, 100 million Euro allegedly went into Greek bank accounts from a large number of offshore companies set up in the Caribbean, Hong Kong, Dubai, Liechtenstein and Switzerland.

Another example of 'oligarchic', influence is the case of Socrates Kokkalis, who appeared in the financial scene of the country in the early 1990s and because of his relatively sudden appearance and activities, received considerable media and criminal justice system attention. Kokkalis, owner of (amongst many other companies) Intracom telecommunications, was employed as a Stasi agent for the period 1985 to

1989, during which time he accumulated significant information about the general situation in Greece, Greek politicians, the Greek secret services, terrorism, and Greek defence policy. (Kathimerini 2003). It has been claimed that Kokkalis became the fourth richest Greek individual through ambiguous business with DDR, and through controlling important actors of the Greek political life. (Pappas 2008)

A variety of accusation of illegal dealings have been aimed at Kokkalis. In 2003, he faced Russian charges of fraud involving one of his companies setting up a Lotto lottery game in Russia, but on appeal the court found that Kokkalis “does not have unfinished business with the Russian Lotto” (Kathimerini 2003). In 2008, however, the German monthly financial magazine, ‘Capital’, claimed he was involved in the Siemens’ ‘black funds’ scandal (Pappas 2008). According to ‘Capital’s’ 2008 article, DM 86 million were given since the mid-1990s to the Greek Telecommunications Organization (OTE), and another DM 18 million to Greek politicians in order for Siemens to win the public bid for the digitization of the Greek telephone network. However, Siemens was allocated 50% and Kokkalis the other half of the lucrative deal. A former member of Siemens’ executive board, Mr. Jung, also responsible for the company’s business in Greece, was allegedly very close to Kokkalis. After his retirement from Siemens, Jung became member of Intracom’s board, which was sold in 2006 for € 200 million to the Russian company AFK-Sistema – on whose board Jung also sat.

A case illustrating the point made by I2 that the link between corruption and organised crime is of greatest concern at the highest (central) level of politics is that of the 2007 suicide attempt of the former general secretary of the Ministry of Culture, Christos Zachopoulos. Mr Zachopoulos was a close associate of the Greek PM himself who was responsible for managing and allocating billions of euros worth of state funds.<sup>146</sup> The director of the PM’s office was handed a copy a DVD tape that had content implicating Mr. Zachopoulos in infidelity. In addition, though, there was content implicating him in corruption. The tape, though, was provided by the co-owner of the Proto Thema newspaper, who happened to be under investigation by the Financial Crime Squad for a € 5.5 million money-laundering scheme. It appeared that the newspaper’s co-owner was blackmailing the PM’s office to discontinue the investigation or threatened to go public with the tape. Then, in a further development, the other co-owner of Proto Tema publicly announced that he had been approached by a Greek MP on behalf of the head of the Financial Crimes Squad, and asked not to publicise DVD story and that, in exchange, the government was to discontinue the money-laundering investigation.<sup>147</sup>

<sup>146</sup> A full account of the case and surrounding circumstances is given in the article by Chronis Polychroniou: “Political culture and corruption in Greece: A synergistic relationship” (available at [http://onlinejournal.com/artman/publish/printer\\_2911.shtml](http://onlinejournal.com/artman/publish/printer_2911.shtml)).

<sup>147</sup> GRECO’s recent compliance report on Greece concluded that the money laundering regulatory framework with respect to corruption is very weak, leading to the recommendation that the Greek authorities need to “strengthen their anti-money laundering regime with a view to increasing its efficiency and contribution to the fight against corruption” (GRECO 2008).

## 6. Private Sector Corruption

The 2004 Greek OC report mentions one small case of passive corruption/infiltration of a private company. The case describes a company producing “forged credit cards stealing data from real cards and then, *in cooperation with storekeepers*, buying goods [emphasis added] (MPO 2004, p.21)”. It also mentions briefly the role of the private sector as an intermediary in corruption, and in particular the fact that OC groups seek “cooperation with lawyers who played the role of *mediator with illegal aliens* [emphasis added]” (MPO 2004, p.23).

Several interviewees discussed the role of lawyers as mediators between organised crime and corrupt officials. I2 points out that “the inefficient legal framework on organised crime, which is exploited by witty lawyers, is also accountable for failed [police] investigations [of organised crime]”. Another interviewee (I5) discusses a case related to drug smuggling, in which a lawyer attempted to negotiate a deal on behalf of his clients who were serving life sentence for multi-tonne cocaine smuggling. The language used in the meeting was very carefully selected by the lawyer, who frequently complimented the officers on their successes. According to I2, these were disguised corruption attempts: the police were in fact being offered a deal where they would appear to be doing their work while the criminals would be entitled to privileged treatment stipulated by law.

## 7. Conclusion

The study findings suggest that it is at the political level that the links between corruption and organised crime – particularly white-collar crime – present the greatest dangers to the democratic functioning of Greek society. There are widespread perceptions in Greek society that there is too much interdependence between politicians and private interests and that this has been responsible for certain kinds of illegal or in any case unethical exchanges between political parties and the private sector (Bull, M. and Newell, J. 2003). In view of this, a much more complicated picture has emerged than is presented in official publications – such as the Greek OC reports – with regard to the inter-relationship between corruption and organised criminality.

Although the size of illegal markets or criminal activities is moderate (as suggested by official OC reports), corruption is actively used throughout. Traditional organised criminal activities – such as drug trafficking, goods smuggling, etc – in some cases enjoy the covert and sometimes organised protection of politicians and/or civil servants at various levels of the administration, police, judiciary, customs and tax authorities.

The interviews have provided evidence on links between the so-called black and gray sectors of the economy, pointing to the difficulties in maintaining a conceptual distinction between the two. The significant levels of white-collar crime explain public perceptions in Greece that organised criminals are behind most corruption. In addition, the pervasive corruption practices related to the activities of ordinary citizens or legitimate companies establish an atmosphere which organised crime benefits from. In this situation, corruption provides a competitive advantage to those business structures – whether in the gray or black sector – which do not operate according to officially established rules.

## ANNEX 6: CASE STUDY – FRANCE

### 1. Synopsis

Corruption is largely a taboo issue in France. Neither government nor independent researchers have conducted any comprehensive and empirically based analyses of the phenomenon in the recent past. In addition, the French government does not report publicly on organised crime, and academic research is very limited. The information available publicly nevertheless provides sufficient evidence that in certain geographic (Corsica, large cities, or South-Eastern France) or economic areas (public utility contracts, energy, real-estate, or defence sectors) corruption is often encountered. At the lower level of organised crime, police (information leaking, or direct involvement in OC activities) and local authorities (regarding public contracts) are most often targeted by criminals. At the higher level, judicial corruption and undue political influence over the criminal justice process occur in relation to financial and corporate crimes. The scale of the corruption problem remains unclear due to lack of data. In Corsica, parliamentary reports indicate that the problem is commensurate with the one in mafia-affected regions of Italy.

### 2. Introduction

The case study is based on analysis of academic literature, media publications, and interviews with key experts. Officials from key French institutions were interviewed: customs, Central Service for the Prevention of Corruption, the main police anti-corruption body, the main judicial anticorruption bodies. A number of independent sources were also contacted, including academics and researchers.

To increase the level of openness, interviewees were assured that their identities would not be linked to particular statements. Some interviewees nevertheless preferred to remain anonymous. A list of the interviewees is provided in the table below. The small number of interviews and the lack of systematic studies on recent corruption in France does not allow for a definitive assessment of the scale and extent to which criminals use corruption in France.

Position	Institution
Member of the Studies Department	General Inspectorate – National Police
Head of the Studies Department	General Inspectorate – National Police
Head of the Central Disciplinary Department	General Inspectorate – National Police
Deputy Head of Anti-Fraud Department	Customs Administration
Rédactrice, Direction Générale des Douanes et Droits Indirects	Customs Administration
Researcher	Institut National des Hautes Etudes de Sécurité
Former prosecutor	Central Office for the Prevention of Corruption
Former magistrate	General Inspectorate of the Judicial Services
Academic	University of Versailles St Quentin
Academic	Institut d'Etudes Politiques
Manager	Private sector
Magistrate	Magistrates' Supreme Council

### 3. Background: corruption in France

The issue of corruption in France is generally avoided by official institutions. It has not been systematically studied by the authorities or by independent analysts or academics.<sup>148</sup> The position of government interviewees has been that corruption is a phenomenon of very limited scope in France. Similarly, the term of 'organised crime' in the country has not gained wide acceptance officially. Instead, terms like 'milieu' and 'grand banditry' are used. Some of the interviewees in anti-corruption institutions were even of the opinion that organised crime in France does not exist; that instead of criminal groups one sees individual criminals.

The official perceptions presented in the course of the present study largely reflect the official French government policy of denial of corruption as a phenomenon. In France no institution has a comprehensive understanding of the issue of corruption. Knowledge of corruption exists at the local level but no single body is tasked with connecting evidence and data on corruption networks or incidents into an overall analysis. As a result, corruption is considered and presented as an 'epiphenomenon', occurring only sporadically.

The limited understanding of the phenomenon is also due to the general lack of attention from media, criminologists, or other social scientists. Public corruption perception surveys and statistical information have, thus, become largely inadequate instruments to assess a well disguised phenomenon. Several of the interviews and a number of media and academic articles presented evidence that corruption in France is actively used by both 'white-collar' and 'traditional' organized criminals. What sets France apart from other Member States is that this occurs within the context of an elitist political system and strong hierarchical government bureaucracies. It also exists in a society where cultural and social norms and the attitudes towards 'the state' and the related corruption, are diverse and difficult to generalize.

This peculiar state of denial translates into a very narrow understanding of the term 'corruption' that is employed by official institutions (and the media). This narrow approach, often strictly adhering to legal definition, is a way to disguise the real scale and nature of the corruption phenomenon. An example of this aversion towards the term 'corruption' could be seen in the extensive Parliamentary Report (1999) on the Functioning of the Security Forces in Corsica. Although the report presents multiple instances of undue influence and inappropriate behaviour of the judiciary and police forces, the word corruption is not used at all.

### 4. Background: organised crime in France

The French government does not prepare a regular assessment of organized crime in the country; or if it does, as when cooperating with Europol, it is not distributed to anti-corruption departments or institutions. Existing statistical data shows that France's illegal markets (drugs, prostitution, stolen vehicles, illegal immigration, counterfeit goods, and

<sup>148</sup> The most recent study refers to the period before 1990 (Yves Meny, *La Corruption de la République*, Paris: Fayard, 1992). Other studies have focused on public perceptions, do not explain or analyse the various aspects of the phenomenon itself.

cigarettes) are as well developed as those of other EU countries (see table below).

**TABLE 20. FRANCE – MARKETS FOR ILLEGAL GOODS AND SERVICES**

Illegal Drugs	% prevalence of drug use	Opiates	Cocaine	Cannabis	Amphetamines	XTC
	France	0.40	0.60	8.60	0.20	0.50
	EU Median	0.40	0.50	4.60	0.50	0.40
<b>Source:</b> UNODC						
Stolen vehicles		2004	2005	2006	2007	
	Stolen vehicles	186,430			168,388	
	Not recovered(related to OC)	116,472			74,613	
<b>Source:</b> Europol/Aubry (2009)						
Trafficking of women		2003	2004	2005	2006	2007
	Traffickers indicted	1,609	1,716	2,059	1,963	
	Victims saved	900	999	1,189	1,218	
<b>Source:</b> UNODC						
Illegal Immigration		2007			Rank EU26	
	Illegal border crossing incidents	5,748			22	
<b>Source:</b> Frontex						
Prostitution	Estimated number of street prostitutes: 18,000					
	<b>Source:</b> French Ministry of Interior					
Cigarettes		2003	2004	2005	2006	2007
	Penetration of illegal trade as share of total sales	5.7	7.8	8.9	11.0	11.3
<b>Source:</b> Euromonitor International						

**TABLE 21. ILLEGAL DRUGS SEIZURES IN FRANCE (2003 – 2007)<sup>149</sup>**

Illicit drugs Seizures	2003	2004	2005	2006	2007
Cannabis	82,430 kg	107,666 kg	86,548 kg	71,725 kg	37,282 kg
Cocaine	4,172 kg	4,484 kg	5,185 kg	10,166 kg	6,578 kg
Heroin	545 kg	557 kg	748 kg	1,051 kg	1,035 kg
Amphetamines	274 kg	75 kg	111 kg	77 kg	307 kg
Ecstasy (pills)	2,211,727	1,893,226	833,648	1,488,919	1,359,912

<sup>149</sup> Source : Osiris Data Base, Office central pour la répression du trafic illicite de stupéfiants, Direction centrale de la police judiciaire, Paris, 2008.

Lalam (2004) explains that after World War II, the main organized criminal activities included:

- prostitution and human trafficking;
- bank robberies/kidnapping for ransom;
- various other activities including forgery, racketeering, gaming machines, and smuggling.

With the increased security of banks in particular, armed robberies were gradually abandoned by a majority of criminals and many of them moved into the growing market of drug-trafficking. The drugs market gradually became the largest illegal market. Many crime figures involved in drugs or prostitution chose to invest their profit or to secure a steady income by operating illegal gaming machines. Customs and cigarette market data confirm (see above) that in recent years, France has also become a destination and transshipment country for illegal cigarettes. In 2008, the Customs confiscated 249.7 tonnes of cigarettes, an 18.3% increase over the previous year (Cornevin 2009).

An analysis of organised crime and corruption in France, requires taking into account the historic and cultural geography of the country.<sup>150</sup> One can conceptually differentiate between three aspects of organized crime: traditional indigenous structures; marginalized groups, and migratory/foreign-run criminal networks.

- **Indigenous structures:** Going back at least to the decade prior to World War II, the terms traditional 'grand banditry' (*grand banditisme*) or '*le milieu*' were used to describe indigenous criminal networks in France. Until the present day these traditional criminal structures reside predominantly in the South-east of France (Provence – Alps – Cote d'Azur), and in particular Marseille, Toulon, Nice, Lyon, Grenoble, and the island of Corsica. In some of these areas, and in particular in Corsica, they even resemble the mafia social organization of Southern Italy.<sup>151</sup> These structures also have strong presence in the north – in Paris, Nantes, (one of France's largest ports), and Lille (bordering the Belgium) (Lalam 2004). The main part of this French criminal elite is of low, working class origins. They have started their criminal careers with odd jobs, or as petty thieves. To a large extent this social background has deprived them of direct and easy corruption access to the upper professional classes (magistrates or politicians). Many of the representatives of this criminal elite were participants in the 'French connection'. Some live in exile in Spain, from where they participate only in the financing of large drug deals (interviews).
- **Marginalised communities:** In recent decades high rates of immigration and marginalisation have led to the formation of criminal

<sup>150</sup> In this case study, the specifics of French overseas territories will not be discussed, even though culturally they present a different case altogether.

<sup>151</sup> Historical parallels between the two also exist. During WWII, Hitler particularly targets the criminal structures in Marseille, as thousands of its residents are exiled, and around 600 sent to death camps (pp.47-49). Following the war, the CIA comes in close contacts and uses criminal structures to counter the influence of pro-communist trade unions (pp.72-92) (Follorou & Nouzille 2004).

structures of a variety of types around ‘difficult suburbs’ in large cities across France.

- **The foreign or ‘itinerant’ criminal networks**, often specialized in particular criminal activities along ethnic lines are another type of criminal formation. The various criminal markets attract criminals from around Europe: money laundering & financial crime (Russian); prostitution (Bulgarian, Romanian, Russian, other Balkan countries); production of counterfeit clothing (Chinese); racketeering & debt collection (Russian, Chinese); arms trafficking (Russian), car-theft (Russian, Polish, Ukrainian, Bulgarian), etc. (Aubry 2009)

Although these three groups could be analysed separately, in reality they are interrelated at least in two important aspects: first, the fact that in respect to some illegal markets (e.g. drugs) all three groups are simultaneously involved (either working jointly or by being involved in different aspects of the market). The special professional skills and the level of trust amongst criminals are key for working together, while ethnicity takes on a secondary importance; second, the indigenous French criminal elite are often the ‘gate keepers’ and control and tax the entry of foreign players in (some) illegal markets.<sup>152</sup> In exchange, they might provide protection from competition or from law-enforcement, using their greater ability to use corruption.

For instance, in the drugs market, members of the French criminal elite may be the key financiers of the large drug shipments while retail distribution is to be provided by networks operating ‘difficult suburbs’, or by foreign-run networks in large cities. Similarly, while prostitution networks from Eastern Europe operate on the streets of cities like Marseille, or provide women to cabarets and bars in Paris or Bordeaux, the street ‘posts’ or cabarets are controlled or racketed by local indigenous criminal elites who in turn could also serve as intermediaries of corruption.

While the above types of criminal networks are all involved in the same illegal markets (e.g. drugs) their ability to launder criminal proceeds and to accumulate economic power at the local level differs. The ability to use corruption remains often limited at the local or regional level. Only a small part of the criminal elite has access to local level law-enforcement or political corruption. The picture differs significantly when one considers the involvement of the French business elite or other economic players in committing ‘white collar crimes’ and their ability to use corruption (discussed further below).

In the course of the interviews Corsica and Marseille were often seen as cases apart from the rest of France. Despite their alleged connections with and influence over the rest of the country, the existing literature considers them also separately. The interviewees were largely unwilling or unable to discuss in depth the specifics of these regions.

<sup>152</sup> For example street prostitution in Marseille involves women and pimps from Bulgaria and Romania, but access to street posts is also regulated by indigenous criminal structures.

#### 4.1 Marseille

Marseille, the third largest city in France, dominated by its historical past of the 'French Connection',<sup>153</sup> is an emblematic case of a city penetrated by organised crime (Montel 2008). Today one doesn't find large hierarchical groups with someone on top, but rather fluid networks operating across different criminal markets. Traditionally, a city dominated by prostitution networks, gambling (particularly territorial control over slot machines), counterfeit money, ransom-seeking kidnappings, and above all a range of cross-border smuggling activities (from drugs, cigarettes, or any other type of goods) are the main activities of organised crime there. (Alvarez 2003) Adding to gambling and real estate development (and related money laundering), the partition of concessions of public beaches has also turned into a profitable business (interviews).

#### 4.2 Corsica<sup>154</sup>

The island of Corsica has a turbulent past and present. With a population of only 260,000, and a social structure based on clan-affiliations and tightly knit clientelistic networks, Corsica is a unique part of France. Historically, Corsica's strong and violent **independence movement** has also shaped the local criminal landscape. Some independence fighters were transformed into organised criminals, taking over large parts of the local economy through extortion or racketeering (Briquet 2008, p. 252). Culturally and in terms of describing the specifics of organised crime on the island, Corsica is often compared to Sicily. Since 1930s Corsican organised crime and its 'godfathers' (*parrains*) have formed part of the French criminal elite (Follorou and Nouzille 2004, p.13). Following the French Connection (dubbed the Corsican Connection) many of these individuals were jailed or fled to Spain, but never ended their involvement in criminal activities. Today, many continue to be at the core of organised crime in Corsica.

Analyzing organised crime in Corsica is challenging as the lines between organised crime and clandestine independence groups are blurred. The latter are involved in criminal activities, often under the guise of furthering the cause of independence. At the same time, both types of groups have significant stakes in the legal economy, where they also use corruption. In addition, the notion of 'corruption' takes on an entirely different meaning than one would find in the north of France. Nationalistic, clan, political, or local affiliations establish powerful rules of relations, in which a straightforward materialistic motivation of corrupt behaviour could be entirely absent: i.e. even though someone's behaviour could appear to be corrupt, the underlying reasons might be much more complex than simple material gain.

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<sup>153</sup> The "French connection", sometimes dubbed 'The Corsican Connection' is one of the biggest trafficking schemes, largely controlled by Corsican organised crimes, in which heroin was smuggled from Turkey to France, and then to the USA.

<sup>154</sup> Two parliamentary enquiries and a major investigative journalist study on Corsica are the main sources quoted below.

In Corsica, there are multiple nationalist movements that since the 1990s have used a variety of criminal methods to fund their activities or to enrich their leaders, such as diversion of public funds (e.g. from Corsica Economic Development Fund), racketeering (under the guise of a ‘revolutionary tax’), armed robberies (e.g. the UBS affair), bank credits (e.g. the Crédit Agricole affair) or gambling machines rackets. Often these movements divide territories in which they exercise control over criminal activities. On the other hand, some criminal groups/networks use the nationalist branding to justify or disguise their criminal activities as nationalist ones: for example by claiming that a hold-up took place in the name of the terrorist cause.<sup>155</sup>

In the early 1990s, two key nationalist movements formed after the *Front national de libération de la Corse* (FLNC) split due (partly) to difficulties in sharing the extortion racketeering income amongst its members. Each new formation had its own military and legitimate face: the *ex-FLNC-Canal Historique* with its *A Cuncolta Naziunalista* and the *ex-FLNC-Canal Habituel* and its *Mouvement pour l'autodétermination* (MPA).<sup>156</sup> The *ex-FLNC-Canal Historique* had also a number of satellite legitimate organisations around it: such as the Trade Union of Corsican Peasants, The Federation of Independent Workers, the Union of Corsican Workers, etc. Nationalist movements also make significant use of companies to provide them with logistical support, and as way to launder criminal profits or raised funds. Car-rental companies or security companies (e.g. *Bastia Securita*) served such purposes, allowing in some cases the legal arming of certain movements, or serving as the legal face for protection rackets on local banks. Adding to the legal economic face, nationalist movements also had a sizeable political representation in local parliament and participated in local elections. In the late 1990s the Parliamentary report estimated that twelve municipal mayors were related to nationalist movements, and a number of city councillors in various cities. In the 1999 elections, the various nationalist movements gathered altogether 27.74% of the vote for the Corsican Parliament.

Apart from the nationalist movements, there are a number of criminal networks. The government-commissioned report by Bastia<sup>157</sup> prosecutor Bernard Legras, known as the *Legras Report*, investigated organized crime in Corsica. It concluded that clan relationships in Corsica manage to control economic, political, and administrative powers using fluid clientelistic relationships based on corruption or on fear. Legras (2000) concluded that high-level politicians on the island “have had and have in their hands the support of local organised crime, which they at times openly defend”. He explains that initially, the political involvement of groups like Brise de Mer was limited to financial support during electoral campaigns, but it gradually accumulated power and was able to influence directly local (cantonal) elections (Legras 2000).

<sup>155</sup> Ms. Mireille Ballestrazzi, *Former Director of Regional Service of the Judicial Police in Caresche 1999.*

<sup>156</sup> *The year before in 1989 already another FLNC group had been formed, Accolta Naziunali Corsa (ANC), which later was associated with its military wing Resistenza.*

<sup>157</sup> *In Upper Corsica.*

Associates of 'Brise de Mer' or 'Du Valinco' have accumulated significant economic power, based on investments in numerous real estate properties, hotels, or gambling facilities. The employment of local residents has allowed it to gradually control or be able to influence a significant number of people, and to establish 'a spider web, typical of a mafia organisation, which is already at an advanced stage'. The small island of Cavallo near Corsica luxury, replete with real estate properties, has become synonymous with an even stronger presence of organized criminals, including crime figures based in Sicily and Sardinia.<sup>158</sup>

The influence of Corsican organised crime is not limited to the island. Its influence is most pronounced on Marseille and the South of France, but it also spreads beyond, to Paris and other big cities (Nouzille and Follorou 2004). Criminal proceeds from activities in the mainland are then laundered on the island. In addition, though, Corsica is divided into micro-regions in terms of 'markets for public funds'. External (e.g. Italian) criminal groups have not yet been successful in penetrating these (Legras 2000).

## 5. Targeted institutions

Unlike Anglo-Saxon countries, France, along with other Mediterranean democracies (Italy, Spain) delayed until the very end of the twentieth century the public identification of the various forms that "public misconduct" can take (Meny 1992; Della Porta and Meny, 1995), and the country has only since begun to address them politically (Lascoumes 2001). The impunity that prevailed until recently corresponded to an absolutist conception of power that kept to a minimum the accountability of government officials. The ideology of "public interest" which is fundamental to French democracy, is often used as an excuse to avoid scrutiny of the motivations and underlying personal interest of civil servants, particularly the top ones (Meny 1992). Lascoumes (2001) argues that the impunity bestowed to high-level officials is rooted in an absolutist conception of power that keeps to a minimum the accountability of government officials. The cases of corruption are usually presented 'exceptional situations in public life'.

Since the beginning of the 1990s, Lascoumes (2001) observes the effects on corruption of a three-fold change: a politicization of the corruption issue, a new ideological stance, and a higher degree of responsibility conferred to a new generation of players in the public sector. As a result, between 1992 and 1995 the number of corruption cases brought to court more than tripled, rising from 17 to 54. As one interviewee commented: "corruption was at the top of the political agenda in the 1990s" but has since passed.

As Lascoumes explains, a new generation of public officials coming from the middle classes gained access to administrative, judicial, and police professions. These newcomers were trained in a less conformist (i.e. corruption tolerant) way. This changed these professions, their values, and

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<sup>158</sup> Corsican organized crime has never 'receded' any 'territories' to Italian organized crime, but has rather cooperated.

the way they operated in this new social context. A respect for the law and an awareness of the changing social context became more valued.

The anti-corruption efforts of the French government are usually referred to the Central Service for the Prevention of Corruption (*Service Central pour la Prévention de la Corruption*). SCPC is composed of councillors from different public bodies: judiciary, gendarmerie, audit office, tax administration, and civil administration. The mission of the SCPC remains limited to the ‘diagnosis of the conditions that facilitate corruption and make it hard to detect’. It is also supposed to collect information about corrupt practices and provides technical advice to various public authorities. The SCPC, though, fails to analyse the corruption situation in France in any meaningful way in its annual reports. The latter provide little else than general judicial statistics on corruption, analysis of related legislation, theoretical description of fraud schemes – usually focusing on private sector rather than public sector corruption – and almost entirely avoiding the issue of political corruption, or the big corruption scandals that figure in the media.

### 5.1 Political corruption

The ever-growing focus on “political scandals” since the late 1980’s has led to more radical measures than had previously been the case. After 1988, all company financing of parties and candidates was forbidden, be it direct or indirect. On the other hand, public funding was increased and extended to all campaigns. Tax legislation made individual contributions more attractive and subject to an upper limit. The punishment for violations of these regulations was extended as well (five years of ineligibility for political representatives indicted for corruption or influence peddling and a five-year exclusion from public procurement contracts for those who make illegal contributions).

Several other legislative measures were undertaken to curb political corruption, including a special law (passed in 1993) regulating public procurement procedures, a law governing the campaign for the election of president (passed in 1995) and a law on the declaration of patrimony by members of government and key public officials. The resources of parties and political figures were subjected to transparency rules aiming to avoid lavish financing of parties and political figures. In 1995, the authorities decided to fully cut off the financing of political parties by companies by fully prohibiting financing by legal entities. (Interviews)

Nevertheless, political corruption remains probably the most contested issue in France, and the issue that still attracts the most media attention. The writing of this report coincided with some of the most dramatic recent corruption trials: one against Jacques Chirac on embezzlement charges, and another ending in an effective sentence related to illegal arms deals on former minister Charles Pasqua. However, no recent empirically-based studies have been conducted on the topic, and the media, particularly the local one, has shied away from investigating and

uncovering political corruption. De Brie (1997) has conceptualized the three main types of corruption networks that exist:

- **Locally based networks:** from Corsica to Alsace these local/regional networks of businesses, politicians, and local government, are usually the ones used to facilitate corruption. Evans (2003, pp.79-92) has called this the local system of *notables*. *He argues that historically, strong centralization has meant that corruption matters at the local level were considered peripheral and of lesser importance. The increasing decentralization in recent decades has given increasing power to local mayors and their circle of delegates.*

In the past, Marseilles has been another example of politicians using organised crime to further their goals. Politicians, there, had recruited armed gangs to maintain law and order at the political rallies (Monzini 2003/Allum). Monzini also gives the example of a deputy mayor who launched a poster campaign to proclaim his solidarity with two prominent criminals who had been accused of murder (Monzini 2003/Allum). She also writes that local politicians in Marseilles used organised crime's power of persuasion to maintain social order when it was no longer guaranteed by legal means. Criminal gangs were also informally asked to prevent strikes and other forms of industrial action.

- **Political networks:** these networks dominate with their own networks: Ile-de-France, Provence-Côte d'Azur, Rhône-Alpes. In the 1990s, corruption scandals came to light which involved the mayors of Cannes (involved in a racketeering scandal around the slot machines in the city's casinos) or Toulon (where connections to the local mafia and its international partners were revealed). At the national level, Evans (2003) explains that political elites in major parties share the same background and networks based on **elite schools**. Alternating administrative and political positions is common.
- **Business and professional networks,** are in turn also tightly knit into the elite political networks, based not only on the fact that the majority of executives of private companies are graduates of the same elite schools, but also reinforced by legitimate practices of 'pantouflage' (hiring of former government officials – see below).

Political party financing has been the biggest corruption driver: a process that has been further accelerated with the process of administrative decentralization and regionalization in recent decades in France. Public contracts in large cities like Paris have been granted to companies that have provided support to political parties.

The showcase trial of Charles Pasqua, former Minister of the Interior (investigated on numerous corruption charges) who granted a casino license to finance his political campaign, is only just of the cases that have surfaced. Political corruption in France has generally enjoyed impunity in the late 1990s, that some authors describing former politicians as having tools which allow them to pressure the judiciary. Nominations

within the prosecution office are used to discontinue investigations, or block, or slow down procedures. ‘Destabilisation operations’ against judges considered too curious, blocking international judicial assistance, surveillance and pressure exerted on witnesses or whistle-blowers are some other methods that have been used in the past.

High-level political corruption and related white-collar crime are typically associated with big multinational or national companies. These corruption networks are governed by a different dynamic than regional or local ones. King (2004) explains that the French **political elite** is well defined, with its roots strongly set in the ‘grandes écoles’ (elite universities). The high-profile trials and sentences given to Bernard Tapie,<sup>159</sup> Loik le Floch-Prigent,<sup>160</sup> or Alfred Sirven<sup>161</sup> were possible because these individuals were not part of the core elite. The mainstream media has also largely played along and contributed to a sense of impunity – Le Figaro, L’Express, TF1, and Paris Match have been bought by big industrial groups such as Lagardere, Dassault (armaments) and Bouygues (construction).<sup>162</sup>

Much of this high-level corruption has been associated with taking advantage of public contracts in exchange for party financing or kickbacks. The most publicised series of corruption scandals that are closely linked with white-collar crime are related to the public water utility sector in France. Godoy (2003) explains that companies, including large multinational ones such as Suez Lyonnaise des Eaux and Vivendi Environnement, have been investigated in numerous criminal and civil cases, with accusations that have included bribery of public officials, illegal political contributions, kickbacks, price fixing, operating cartels and fraudulent accounting. The two largest cases related to the cities of Paris and Grenoble have revealed that companies like Suez and Vivendi paid millions of francs worth of bribes to political parties and mayors in the 1980s and in 1990s. In one of the largest cases, prosecutors alleged that between 1989 and 1995 public contracts worth \$3.3 billion were awarded in violation of the law in Île-de-France (the Paris region). In exchange, \$86 million was funnelled to the Rassemblement pour la République (RPR) party, while many other parties got smaller kickbacks. The bribes ensured impunity for these companies which then engaged in criminal behaviour by using fraudulent accounting practices to overcharge customers, or by pocketing the interest from bill overpayment accounts. In many of the trials, top executives were not effectively prosecuted or were protected. For instance, Jérôme Monod, a top Suez exe-

<sup>159</sup> Convicted for football related corruption in 1995.

<sup>160</sup> Chief executive of Elf – Aquitaine, one of the largest corruption affairs (allegedly state-sanctioned) of bribery, largely in Africa. (Schofield 2003)

<sup>161</sup> Deputy head of Elf – Aquitaine.

<sup>162</sup> In 2001, investigative reporter Denis Robert and Ernest Backes, an executive at Cedel (presently Clearstream) until May 1983, published a book with the title of *Revelation in which they alleged Clearstream (is the custody and settlement division of Deutsche Börse, based in Luxembourg) played a major part in French political corruption. According to the authors Clearstream was a main platform for money laundering for hundreds of banks, and “operated hundreds of confidential accounts for banks so they could move money undetected. The accusations were that French political figures, industrial leaders, and members of the secret services of maintaining secret accounts at Clearstream, which allegedly were used to transfer kickbacks in the France – Taiwan frigates scandal. The courts found no evidence of the accusation, and the authors were convicted for libel in numerous lawsuits.*

cutive, who was allegedly instrumental to the water privatisation bribery scandal that led to the imprisonment of the mayor of Grenoble, was not only exonerated but also became a senior adviser to former French President Jacques Chirac.

Meny (1997) explains that in France there is a certain level of ignorance about the concept of 'conflict of interest'. The widespread practices of 'mandate accumulation' (*cumul des mandats*) or *pantouflage* are two of its manifestations. Mandate accumulation allows someone in France to hold multiple elective offices: for instance as Member of Parliament one can still retain certain elected or administrative positions in local or regional government. The practice of '*pantouflage*' – or the employment of former government officials who have been in a position to grant contracts to private company – is the other most frequently cited (and even more direct) mode of corruption. The common practice of "*pantouflage*" has led to the establishment of a special Public Figures Ethics Commission responsible for investigating conflict of interest of former political figures involved in the private sector or representing a different party in the public sector. Since it started its work in 1995, this commission has somewhat reduced the risks of *pantouflage*: it checks whether the potential positions that former public officials are about to take are not in conflict with their previous work.

The statistical data on corruption-related convictions supports the above observations. Between 1996 and 2006, on an annual basis only a few dozen cases of corruption of public officials have resulted in convictions, with the majority of the latter being focused on the corrupters rather than the corrupted, and less than a dozen being related to elected officials (SCPC 2007, pp.169-193).

## 5.2 Judicial corruption

The media in France often criticize and question the independence of the judiciary. Straightforward cases of corruption are very rare, and the statistical information provided has indicated only single cases in recent years. There are two key issues that are addressed: one is the vulnerability to political pressures in cases of white collar crime and political corruption; the second is judicial independence in regions with significant presence of organised crime, such as Corsica.

Evans (2003) has argued that in France the direct control of prosecution by the Ministry of Justice has created a de-facto politicised judiciary, whereby the investigation of high-level figures has been thwarted in various ways, while judges have been subdued to undue media pressure. The few investigative judges or prosecutors (Eva Joly, Eric Halphen, or Eric de Montgolfier) who have investigated high-profile political and judicial corruption, and who have dared to speak out, have all revealed in books or interviews the great amount of political pressure, threats, and counter-investigations mounted against them by the police to thwart their work (Le Monde 2004).

Joly<sup>163</sup> (2007) has expressed concern about the receding independence of investigative judges in France. Following several high-profile corporate-crime and related political corruption investigations, the powers of investigative judges in France have been gradually shifted towards the Public Prosecution Office (which is under the Minister of Justice). The elimination of investigative judges has thus reduced the independence of criminal investigations. In terms of traditional organized crime, where little high-level political corruption is involved, this is not of concern. In terms of white collar crime, particularly as it relates to political party funding and political corruption, this could greatly reduce the judicial powers to effectively prosecute corruption. Joly (2007, p. 86) explains that in France it has become “difficult and even dangerous to attack key figures suspected of corruption, which by definition may implicate people wielding power at the highest levels”. She further explains that the same members of the National Assembly that were under investigation for corruption were the ones that put the most radical legislative changes aimed at reducing the powers of investigative judges (p.86).

### *5.2.1 The case of the Nice magistrates*

One of the few high-profile corruption cases involved a Nice judge, Jean-Paul Renard. The close association of Judge Renard with the local Freemasonry organisation had led to multiple cases of corrupt and questionable behaviour. Judge Renard was sentenced for having consulted on numerous occasions police files to obtain background information on candidates who applied to the Grand National Lodge of France (Grande loge nationale de France – GLNF). In 2000 a police officer from Nice and a GLNF member was dismissed after it was established that he had regularly consulted the police information database (STIC) not only to vet candidates but also to obtain information on GLNF members who were being investigated (Pascal 2000).

The CSM report disclosed that, for over fifteen years, the magistrate had had a close relationship with Marcel Allieis, a Freemason and a former security services officer of a South American state. During this time, there were several investigations against Allieis in which Renard was involved, and that were resolved via out of court settlements through the mediation of another Freemason who was a police officer. In addition, wiretaps provided evidence that Allieis boasted that his relationship with judge Renard allowed him to help lift arrest warrants. The report also revealed that Allieis used his connection with Renard to help Claude Paccavia – an individual suspected of being linked to the Calabrian Mafia – get rid of his criminal record. Renard’s wife, a lawyer, was used as an intermediary in the deal. In addition, Judge Renard had had a close relationship with Michel Mouillot, former Mayor of Cannes who was convicted in several corruption cases (Mathon 2004).

In a different CSM inquiry, Judge Renard admitted to have given a lighter sentence to a drug trafficker after the trafficker’s lawyer informed

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<sup>163</sup> Joly was an investigative judge between 1990 and 2002, and led one of the largest corruption investigations against Elf-Total.

Renard that his client had discrediting materials regarding other investigative judges in the Nice court. The report described that two other investigative judges had participated, along with local police officers, lawyers, and criminal figures, in multiple swinging parties involving significant cocaine use. The trafficker in question was not in direct contact with the judge, but one of his main clients was a friend of the judge and had been present at the parties. Jean-Paul Renard was transferred to Grasse in June 2002, and later (in 2004) was removed from office, while the other judges were also transferred to different tribunals but were not suspended (Lhomme 2005).

In a 2005 interview, the prosecutor behind all of the above investigations, Eric de Montgolfier, offers his explanations regarding the pressures exerted from politicians and the Ministry of Justice. Montgolfier also argues that Masonic lodges continue to exercise undue influence, since a number of their members are using them to promote their interests and influence the judiciary. The treatment of Mr. Montgolfier by the French Judicial system is in itself telling of this influence. The investigations of Mr. Montgolfier into Mr. Renard provoked two different oversight institutions, the Inspection générale des services judiciaires (IGSJ) and the Conseil supérieur de la magistrature (CSM) to produce two entirely different reports on the case of Mr. Renard: IGSJ entirely exonerating the judge, while the second providing the evidence recounted above, and eventually leading to Mr. Renard's dismissal. In an interview, Mr. Montgolfier talks about a discrediting report against him that was made public on the Ministry of Justice website, while the blatant disregard for facts in the IGSJ report was never addressed: facts that he said 'forces one only to conclude that influence of freemasonry' is behind that disregard. (Lhomme 2005a)

Another recent case of judiciary corruption involved Jean-Louis Voirain, a magistrate of Bobigny (Paris), who has been sentenced to three years imprisonment and a 30,000 Euro fine for corruption in the "Sentier II" case involving a money laundering network operating between France and Israel. Mr. Voirain was removed from office in January 2004 and was convicted by the Paris Criminal Court of crimes of corruption and undue influence. He was prosecuted for having accepted cash bribes in exchange for the "legal protection", advice and assistance that he provided to leaders of an international money laundering network. In this trial, 151 people were prosecuted and four banks (two of the banks, La Société Marseillaise de Crédit and the National Bank of Pakistan were found guilty) (AFP 2008).

### *5.2.2 The Judiciary in Corsica*

The issue of corruption and political influence over the judiciary manifests itself in a specific situation in Corsica. The 1999 Parliamentary Report established that an informal policy of 'circumspection' was at play within the prosecutor's office. The policy was in effect pushing magistrates, and above all prosecutors, to take into account local political and social 'sensitivities'. This policy of 'judicial prudence' on many occasions bordered impunity and the discretion to interpret the law as

was convenient provided space for corrupt behaviour. The ‘circumspection’ policy nevertheless went beyond the prosecution and in fact also characterised the work of the police as well. Police forces often received orders for selective arrests that took into account the political balance and in-fights amongst the various nationalist factions. This went so far as not prosecuting assassinations that were publicly claimed by certain nationalist factions. In other instances quoted, armed nationalists arrested ‘by mistake’ were released on orders from the Ministry of Interior. In the late 1990s, magistrates were subjected to lots of pressure and direct threats. Fourteen magistrates protested publicly against the circumspection policies by stating that ‘certain judicial decisions that are taken can be explained only by the existence of negotiations’ with the members of clandestine organisations (Caresche 1999).

### 5.3 Police corruption

Corruption in the French police (and gendarmerie) is a rarely discussed topic. The general perception of the police leadership is that police corruption is a very rare occurrence, and in terms of corruption related to organized or white collar crime, it is practically absent. The statistical data supports this perception. In 2008, the Main Inspectorate of the National Police (IGPN – Inspection générale de la police) reported that 3243 police officers had been sanctioned (L’Express 2009). Out of these though, as the table below shows, only a handful were related to corruption (the rest referred to various forms of unethical or criminal behaviour). The National Gendarmerie cases are even fewer, as in 2007, only 75 internal investigations against members were taken, that comprised all sorts of inappropriate or criminal behaviour by officers (violence, abuse of power, thefts, etc.). There cases involved only petty corruption related to pocketing ticket fines from foreign drivers who paid in cash. The perception of some of the interviewees was that the military discipline and culture resulted in a lesser number of corruption cases in the Gendarmerie (Cornevin 2008).

TABLE 22. NUMBER OF POLICE OFFICERS

Year	2004	2005	2006	2007	2008
Number of prosecuted officers	7	7	11	6	12

Source: IGPN<sup>164</sup>

The above-mentioned statistics and perceptions, though, seem to reflect a narrow understanding of corruption, a general denial of the problem, and apparent inability to effectively tackle it in certain parts of the country, such as Corsica (or the overseas territories). The relatively narrow legal definition, as some interviewees explained, stipulated the presence

<sup>164</sup> The only systematic analysis of IGPN’s corruption related data Razafindranaly (2001) was based on 18 corruption cases that were registered in 2000.

of 'direct or indirect offers, promises, gifts, presents, and advantages' (Penal Code, Art. 432.11).

Publicly known cases of corruption indicate that the police in France suffers from the problems common to police forces in other EU-17 countries. There are three general areas where most cases of police corruption or corrupt behaviour related to organized crime occur: drugs, prostitution, and economic crime. Information leakage seems to be the biggest concern in terms of corruption by organized crime (LEI-1-3). Direct involvement in organized criminal activities and the related protection of criminal associates (again by means of the provision of information allowing criminals to avoid detection) seem to be the main issues. In some cases, informants seem to be the main intermediaries, while in others this role is served by former police officers.

To illustrate the above, below we present a number of cases that were quoted in interviews and the media:

- In November 2008, François Stuber, former police captain, and former deputy head of the Drug Squad of the Strasbourg police, was given the maximum prison sentence of 10 years. He had been charged with the task of destroying drugs seized by his department. Instead of destroying them, between 2003 and 2007 he established a network and traded the seized drugs (that included heroin, cocaine, cannabis, and subutex). He also became involved in the importation of some drugs. Captain Stuber's intimate partner, Laurence Hamon, was an employee at the local court, where she had access to files, indicating whether anyone from the distribution network that Mr. Stuber used to distribute the drugs was under investigation. [This tactic was apparently used to avoid the variety of tracing mechanisms instituted by the IGPN to prevent unnecessary information access]. In addition, her premises were used to stock the drugs, and her bank accounts to launder some of the income. The drugs distribution network included at least seven distributors (most of them police informants), and was headed by a police informant, who also doubled as a customs informant. Although the defence tried to present a case that captain had used the drugs as a way to pay his informants, it was revealed that between 2003 and 2007, the key informant coordinating the network had paid Mr. Stuber between € 400,000 and € 500,000 (LibeStrasbourg 2007, 2008). Despite the lack of involvement (or at least indictments) of other officers in the case, there seemed to be a general questioning of the management of seized drugs and systems in place that failed to detect for such a long time the theft of seized drugs. The case also illustrated the corruption vulnerability of police officers in their work with informants. The Perben II law (dating from 9 March 2004) legalised the practice of police officers paying informants for delivery of information. This new tool was essentially aimed at fighting organised crime. Several years after the adoption of the law, it seems that the payments permitted by the law are an insufficient stimulus for the informant's cooperation. Hence, the old practices of using illegal means (e.g. exchanges of favours or information) to compensate informants continue.

- A number of other cases related to the issue of police involvement in prostitution networks. Prostitution is generally legal in France, but there are a number of limitations that criminalise pimping and all other ways of profiting from prostitution, making brothels illegal. The most common form of corruption involving police relates to obtaining free services from sex workers. Interviewees stated that the high penalties posed on pimps made their presence in France rather rare, therefore making corruption involving pimps or pimp networks difficult. In a 2006 case, seven community police officers from the Paris suburb of Seine-Saint-Denis were sentenced to various prison terms for committing a number of crimes, including obtaining free services from prostitutes. (Liberation 2006). In a different case, in 2006 four police officers (three from Marseille and higher level Commissaire, from Carpentras) received sentences of between one and four years for having financed and operated at least two swinger clubs (*clubs échangistes*) that also involved prostitution (TF1 2006).
- The third type of cases that were brought up included trading in information. In 2008, Patrick Moigne, who since 2003 headed the Anti-Payment Fraud Brigade of the Paris Police was indicted for having sold confidential information regarding the ongoing investigation against the oil giant Total.<sup>165</sup> Mr. Moigne sold two types of information: (1) information on planned arrests or police operations related to the Total investigation; (2) information extracted from the national police STIC database, which listed huge amounts of large-sum transaction data. The two buyers of this information were business intelligence industry representatives, one of them, though, was Jacques Le Roy, a former officer of the Financial Crime Police Brigade, who had been employed in the business intelligence industry. This is one of the most senior police ever implicated in a corruption case (Lévêque 2008).

This latter case reminds a point brought up by interviewees, and a point that SCPC (2004, pp.84-114) has analysed in more depth. SCPC explains that 10-15% of business intelligence information that a company needs to understand its competition is contained in non-open sources, which could be accessed only in illegal ways. Access to such information usually resides either with certain public administrative services/law enforcement or with private companies. Interviewees also stated that the incidence of former police officers tapping into old contacts to obtain confidential information from the police is an issue of concern for the French police (LEI 1-3).

Police corruption is particularly problematic in regions of the country where organised crime has a traditionally strong hold, such as Corsica or Marseille. For many years, the police priority in Corsica has been the fight against the nationalist movement. In the early 1990s there were even specific instructions for local police to focus exclusively on pro-independence groups. This allowed organized crime to flourish for a number of years. The general assessment was that at the time ‘po-

<sup>165</sup> There had been different investigations against Total: one was related to the oil-for-food programme; a second was involved gas field exploration contract in Iran, and the third one was related to money laundering related to the former Minister of Justice of Cameroon.

lice services were either infiltrated or had formed relationships either with the nationalist movements as well as with organized crime'.<sup>166</sup> This forced many police operations to be conducted directly from Paris, or to involve as few people as possible. A case was recounted with an arrest of a high-level nationalist (*Mattei et Santoni*), where only the Head of the Anti-terrorist unit of the prosecution along with a couple of very senior officers conducted the operation. In addition, corruption not only of police but also of France Telecom employees made the use of surveillance instruments (bugging phones) almost impossible, as one interviewee stated that these normally were leaked within 48 hours.<sup>167</sup> Police officers that were suspected of leaking information were preventively arrested before operations started to prevent leakage. As a result of the information leakage issue the Gendarmerie lacked confidence in the Police, and the two institutions did not exchange any information, thus failing to cooperate adequately.<sup>168</sup>

Presently, the situation with respect to police corruption in Corsica is monitored directly from the IGPN office in Paris. The observation of the interviewees was that the detection of any inappropriate relations and behaviour was extremely difficult. The small size of the island meant that police at all levels had personal knowledge and even relations with local organized crime figures or economic elites. Officers coming on rotation from Paris or the mainland are usually perceived as outsiders and kept at arm's length by locals.

### 5.3.1 Police anti-corruption strategies

There are several bodies that monitor and investigate police corruption cases in France:

- The Main Inspectorate of the National Police (IGPN – Inspection générale de la police), headquartered in Paris and with regional offices in Lyon and Marseille. It is a general police oversight body that monitors police behaviour and performance of close to 135,000 members of the National Police. In addition, it is responsible for overseeing issues of police misbehaviour (crimes or violence committed by police officers);
- Inspection de la gendarmerie nationale (IGN) – 103,000;
- In addition, similar functions are carried out by the General Inspectorate of Services (IGS) in the Paris region;
- Commission nationale de déontologie de la sécurité (CNDS): National Ethics Commission on the Security Forces – established in 2000 and responsible for monitoring adherence to the ethics and moral codes of the security forces on the territory of France.

Although there is no particular counter-corruption strategy aimed at organised crime, a number of counter corruption measures are in place and are continuously developed:

<sup>166</sup> Mr. Bernard Lemaire, Former Head of Police (Préfet) of Upper Corsica (Haute-Corse) quoted in Caresche (1999).

<sup>167</sup> Mr. Jean-Louis Bruguère, premier vice-président chargé de l'instruction au tribunal de grande instance de Paris quoted in Caresche (1999).

<sup>168</sup> M. Jean-Pierre Dintilhac, Former Director General of the Gendarmerie National quoted in Caresche (1999).

- Unlike some other police forces in the EU, officers are usually not allowed to serve in the particular neighbourhoods from which they originate. This general guideline is certainly difficult to adhere to in small towns or neighbourhoods.
- In certain areas, for instance in Corsica, anti-corruption efforts (as well as serious and organized crime investigations) are carried out directly from Paris. Even though the IGPN has a regional office in Marseille, the significant Corsican population in the city, has induced an additional precautionary measure, of investigations being removed further away.
- Limitations on the employment of former police officers as private investigators or as employees in corporate investigation firms. For a period of three years subsequent to leaving the police, officers are not eligible to be employed in such positions.
- Although provocation is not allowed under French law, various undercover inspections have been introduced to improve the quality of police services. One of these also includes the prevention of abusive access to police files.
- A number IT solutions have been implemented to prevent abusive access to information systems. Preventive software solutions warning of excessive access or access by unrelated officers to information of investigations have been introduced.
- A number of measures have also been introduced to prevent officers being exposed to financial hardship. It has been illegal for police officers to default on bank loans.
- Stringent penalties and high levels of responsibility for supervising officers. In one of the corruption cases cited, seven traffic officers in Paris were running a scheme in which they were writing fake tickets to drivers and pocketing the money. In addition to the imposition of lengthy prison sentences to the officers involved, their supervisor was dismissed for failing to detect or prevent the corrupt behaviour of the officers. In other cases quoted, officers have been dismissed for accepting bribes as little as € 10.

#### 5.4 Customs corruption

The customs authorities, like the police, prefer to treat corruption as an internal matter: as a consequence, the public is unfamiliar with the issues surrounding corrupt transactions involving customs officials. The interviews indicated that the perception within the French Customs is that corruption is a non-issue. Historically, in the 1980s a culture of corruption prevailed in many land-border posts (e.g. with Belgium). The risks of corruption were further reduced with the reduction of land border customs posts (with the creation of the EU customs union), the introduction of electronic processing systems, the awarding of the status of 'public servant' to the customs officers, and improvement in their remuneration (interviews). Between 1990 and May 2009, there had been a total of only forty-six cases of corruption in the French customs: an average of only two cases per year.<sup>169</sup> From this statistical data, though,

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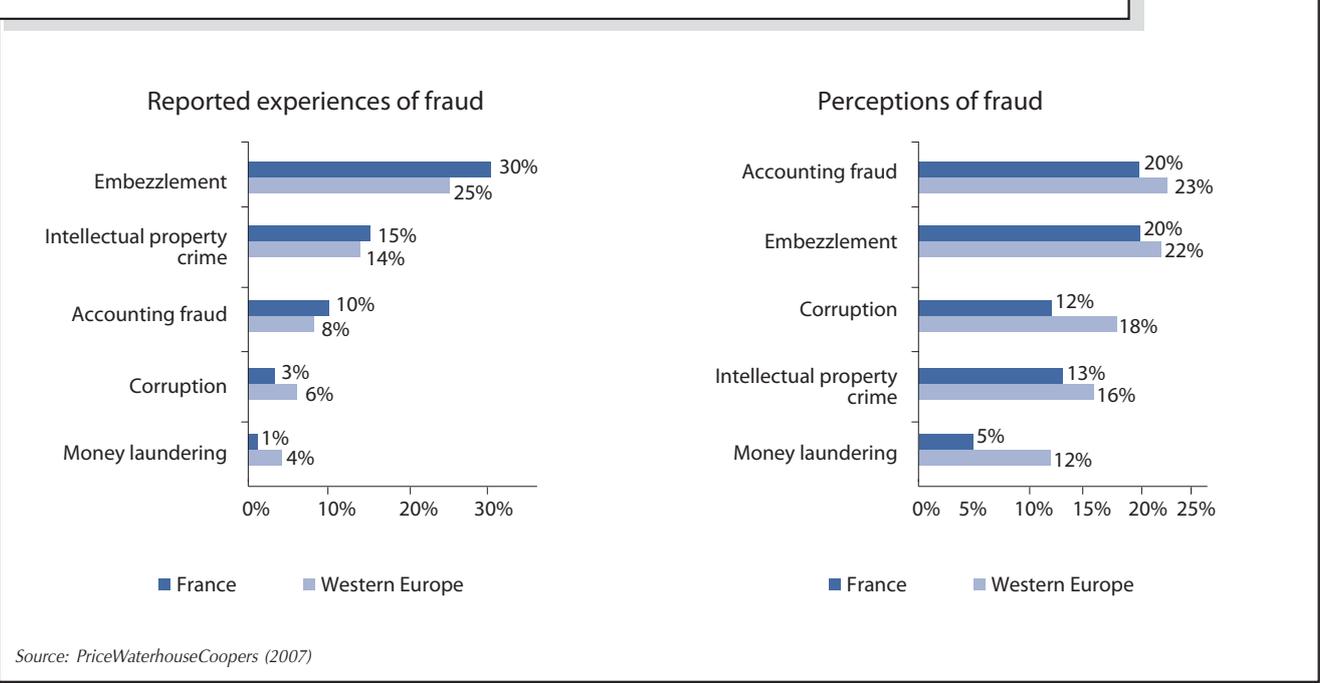
<sup>169</sup> The data was provided by French Customs in official communication to Project One.

it is difficult to assess the level of organised crime related corruption in the customs.

### 6. Private sector corruption

Private sector corruption – both in terms of the perceptions and the experiences of companies surveyed by PwC – seems to be lower than in other EU-17 countries. In addition, while in Western Europe 14% of companies report that they feel to have lost market share or a contract to a competitor who has paid a bribe, in France only 11% report so. Whether the survey results indicate that corruption in France is really lower than in other Western European countries, or whether this is a result of the possibility that corruption is something of a taboo issue that business are reluctant to discuss, is a matter of debate.

FIGURE 18. EXPERIENCES AND PERCEPTIONS OF FRAUD AND CORRUPTION IN FRANCE (% OF COMPANIES IN 2007)



In France, as in other countries, lawyers are particularly exposed to corruption risks in their role of defending or consulting clients. A well known corruption case in France involved administrators appointed by the commercial courts for the redress of companies that have filed for bankruptcy. For instance, in the case of SDBO, a former subsidiary of Credit Lyonnais, thirteen directors and court-appointed administrators were implicated in the corruption scandal. These individuals secured loans from SDBO for the companies they were administering. The case was returned for revision in late October 2006 by Judge Evelyne Picard. The defendants were convicted to ten years of imprisonment for “bribery” with a 150,000 euro fine imposed. The briber, Pierre Despessailles, 79, former CEO of SDBO, was indicted for having “designed” a “corrupt pact” to encourage agents and administrators to secure the SDBO loans. Prosecutors said the officers were involved “with varying degrees of greed” in this illegal agreement. A tax audit in 1996 revealed that the administrators accepted, between 1982 and 1992, private or business

loans at rates from up to five to six points below the market interest rates at the time.

## 7. Conclusion

The personal experience of citizens with corruption in France (Eurobarometer 2008) places the country slightly below the least corrupt countries or Northern Europe or the UK, yet above its southern neighbours of Italy and Spain. Yet the regional differences within the country (south-north), or specific regions like Corsica, as well as the cultural specifics of the business-political elite networks, create favourable conditions for criminals to use corruption. The often subtle nature of corruption, the passive media, and the high tolerance of the public have created an environment from which white-collar criminals could benefit.

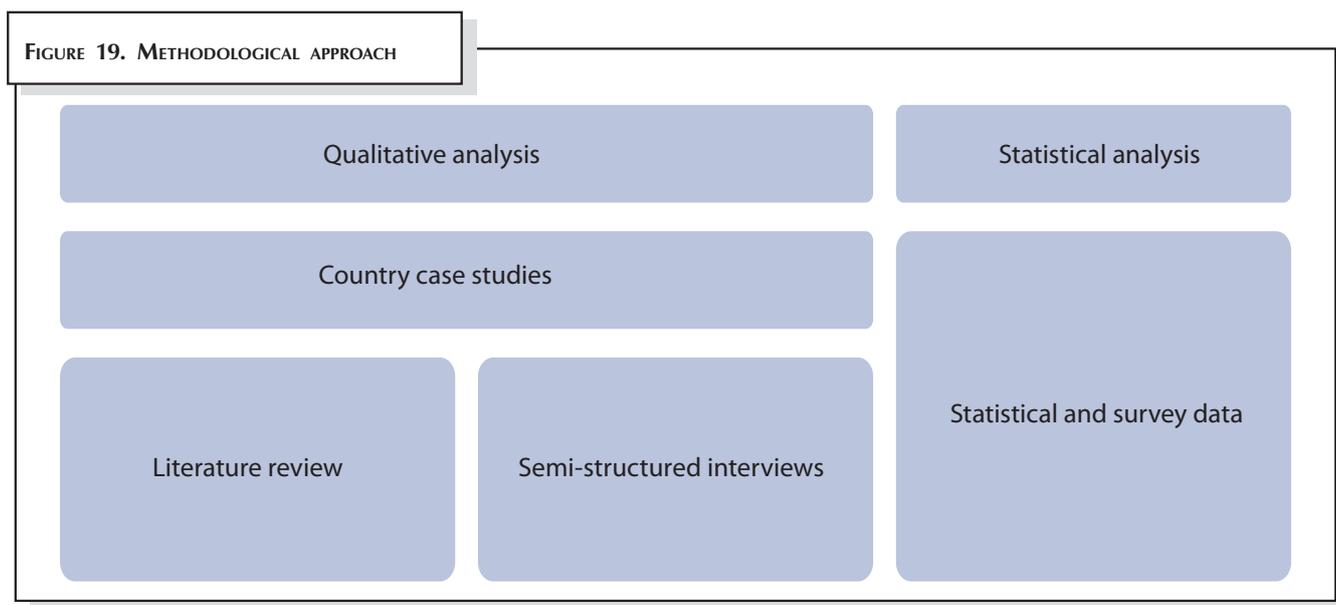
The present research has indicated that in certain regions of France (Corsica and to some extent the south-west) local criminal elites use various forms of corruption on local judicial officials, police officers, and politicians. Although often these cases are not of the classic bribery type, but instead constitute trading in influence or favours, organised crime creates an environment where its activities continue uninterrupted. In other parts of the country sporadic evidence suggests that police corruption and occasional cases of influence over the judiciary occur but the scale is unclear. Political corruption, except in the above mentioned regions, seems to be limited to complex corporate crimes and corruption deals, especially in industries with significant public sector exposure (such as utilities). In these situations well established networks of the French *elite*, whether business or political, facilitate corrupt transactions.

The lack of access of criminologists and social scientists to business and political elites or to low class traditional criminals from the 'milieu' has left a corruption knowledge gap. The lack of comprehensive government reporting could probably be explained by the fact that two successive French presidents – namely, Jacques Chirac and Francois Mitterrand – have been involved and prosecuted in a number of political corruption scandals. The shift of power from Mitterrand to Chirac in the late 1990s produced a spur of investigations, corruption trials, and a public debate that have since abated. Although a number of political party financing anti-corruption measures were introduced since the mid 1990s, the continuing lack of proactive anti-corruption mechanisms could mean that corruption networks have simply been transformed and that even subtler mechanisms are now being used.



## ANNEX 7: METHODOLOGY

The methodological approach of this study includes a broad collection of secondary (literature and statistics) and primary data (interviews and field visits), followed by a rigorous quantitative (statistical) and qualitative (software aided) analyses.



The **data collection** for the study was based on four key elements:

- **Literature:** included academic works, government reports on corruption and organised crime; reports by research institutes, international organisations (GRECO, FATF), or private companies. The literature reviewed was in Dutch, Italian, Greek, Bulgarian, French, Spanish, Russian, Serbo-Croatian and English. Media sources in almost all Member State languages were also consulted.
- **Statistical and survey data** on corruption and organised crime: a full list of the 105 indexes and indicators that were assembled and the related methodological issues in their analysis are presented in Annex 4. Most member states also provided official statistical data on corruption.
- **In-depth semi-structured interviews** with law-enforcement, judicial, government officials and private sector were carried out in all 27 member states via phone or in person. These were expert interviews as the interviewees were asked to provide their expert *opinion and assessment*. In total 156 interviews were conducted: 69 were face-to-face interviews and 87 were done over telephone.
- Six **country studies (case studies)** were carried out: Netherlands, Greece, Italy, Bulgaria, France, and Spain. The countries were selected based on the quantitative and preliminary qualitative analysis. Each case study was based on approximately ten interviews, literature, and media review. The help of locally based academics and researchers was solicited for all studies.

**The data analysis** was based on triangulation of the collected data and combined quantitative and qualitative analyses:

- **Review of secondary literature:** the approach taken included review of key academic journals and relevant academic literature, as well as review of grey academic literature, such as national organised crime reports, or policy analyses published by non-governmental organisations.
- **Statistical analysis:** The main types of statistical analyses included: (1) a cluster analysis to determine groups of EU member states with similar characteristics related to corruption and organised crime; and (2) multiple regression analysis to determine the ways in which corruption, organised crime and a range of other socio-economic factors were related. The methodology and technical results of the cluster analysis is provided in Annex 3. The technical results from the multiple regression analysis will be provided in an annex. The conclusions of both analyses are included in the report.
- **Qualitative analysis** of interviews was aided by the NVivo software.<sup>170</sup> This analysis included coding, identifying, and distilling common themes in the interviews, and supporting them with evidence from the secondary literature and statistical analysis.

### *Literature review process*

The lack of specific studies examining the link between corruption and organised crime, forced the research team to broaden the scope of the review. The approach taken for each type of literature review, academic and grey, is described in more detail below.

Academic sources: the academic research was conducted in two stages. In both cases, databases, such as ISI Web of Knowledge, Factiva, and EBSCO were used, as well as the libraries of Oxford University and the London School of Economics. To compensate for the lack of studies that dealt specifically with the link between corruption and organised crime the team looked further into several strains of academic literature:

- Key studies on organised crime (in English, Greek, Dutch, Russian, Spanish, Bulgarian and Italian);
- Literature on police corruption; and
- Literature on judicial corruption.

**Grey literature:** The main source of grey literature were the national organised crime reports. The public versions of these reports largely did not address the issue of corruption. Some government or police reports (national OCTA reports) were sent or referred to by officials in the course of the in-depth interviews. Although these reports do not deal specifically with the subject, some of them contain ad-hoc references to the links between corruption and organised crime. In addition, the team reviewed the 2001 Evaluation reports carried out by GRECO.

<sup>170</sup> A software package for qualitative research, NVivo provides a range of tools for handling data, ideas, information and theories built up from observations, interviews, document analysis, or literature reviews. NVivo supports coding and retrieval of coded material, searching and theorizing, combined with ability to annotate and edit documents. NVivo is designed for methods requiring more flexible development of rich data in dynamic documents, and more subtle ways of linking data to ideas and showing and reflecting on the results (Jupp 2006).

The lack of empirically based studies on the link between corruption and organised crime led us to introduce some criteria for the review of grey literature:

- **Exclude literature from the ‘developing’ world.** Literature on Africa and Latin America, or development studies literature was largely ignored.
- **Focus on studies that are empirically based.** We largely ignored legal discussions, or theoretical discussions, studies that did not provide sound methodologies or evidence.
- **Focus on key studies:** beyond the EU, we have reviewed the most influential studies, i.e. those most often quoted in academic literature.
- **Separating the literature on Italy/Bulgaria.** The Italian literature on the present topic is vast, and there is significant number of studies on Bulgaria as well. Therefore, to avoid disproportionate presentation of this literature, much of it will be addressed in the country-case studies on Italy and Bulgaria.

### *Semi-structured interviews*

156 in-depth interviews were conducted. The team identified the respondents in three main ways:

- in the course of the literature review/research;
- through official correspondence with government/law-enforcement bodies;
- through snowballing sampling method: i.e. respondents recommended other interviewees;
- Connections from previous work in the field of organised crime/corruption.

The main goal was to develop a sample that could provide balanced and objective (if possible) views of experts. As government and law-enforcement institutions are often reluctant to admit corruption within their ranks, outside opinions were necessary. In the course of the interviews, some respondents were found to have insufficient knowledge on the subject matter, although they were recommended or appointed by governments or institutions, or recommended by other experts. In such cases, additional respondents were sought for compensation. In some instances, former law-enforcement officers or government officials were more appropriate interviewees, as they were more likely to speak openly. In each country between 4 and 6 respondents were targeted:

- **Academic or independent researchers.** In a Malta, Cyprus, and Luxembourg such researchers could not be identified: In several other countries they were identified, but were not willing to provide an interview (some were associated with government research institutions and apparently did not feel free to speak on the subject).
- **Investigative journalists.**
- **Government/Parliament:** national anti-corruption bodies or commissions.
- **Law-enforcement** (representatives of “Internal Affairs” departments of national customs and police forces were targeted). Official letters with requests were sent to police and customs in all 27 member

states. Police contacts included all members of the EPAC (European Partners Against Corruption) – a network that includes representatives of National Police Oversight Bodies and Anti-corruption Authorities in all EU MS.

- **Customs/Tax:** Not all customs agencies have internal investigation departments. Therefore in some countries interviews were conducted with human resource representatives responsible for handling cases of internal corruption. Several MS officially responded (CY, PT) that the link between organised crime and corruption has not been observed, and therefore declined to provide an interview, instead providing general statistics. Tax officials were approached only in a few countries. Although considered relevant to the study, the limit of 5-6 interviews per country meant that customs representatives were given preference.
- **Judiciary** – judges and prosecutors, as well as representatives of judicial system oversight bodies were contacted.
- **Private sector representatives:** representatives of corruption and fraud investigation firms, law firms, or other private corporations that were victims to corruption.

FIGURE 20. BACKGROUND OF INTERVIEW RESPONDENTS

Background	Number of interviewees
Academic	24
International organisation	3
Journalist	8
Judiciary	18
Law enforcement (police)	36
NGO/research institute	8
Other government (e.g. Anticorruption commissions)	13
Private sector (law firms, accounting firms, fraud investigators)	29
Customs & tax administration	17
Total	156

The make-up of the group of interviewees for each country depended on several factors:

- Availability of the type of interviewee required;
- The range of issues that needed to be discussed (either in the review of secondary sources.) Interviewees generally agreed on the broad range of issues related to the problem (political, customs, police, administrative, private sector corruption). Based on the preliminary responses and the main problem fields identified, in some countries interviewees with judiciary or customs were deemed irrelevant and were not carried out.

For this reason, in some countries the number of interviewees is 6, while in others it was 4. In the case study countries the total number

of interviews was 10. Therefore at the first stage of in-depth interviews, only 4 interviews were completed, with the expectation that in the course of the country-case study, more interviews would be carried out.

In addition, interviews with EC representatives that are familiar with Member States' problems related to corruption and organised crime are to be conducted:

- representatives of OLAF;
- representatives of Europol (2 representatives were already interviewed).

### *Piloting*

Interviews were piloted in three countries: the UK, Bulgaria, and Estonia. As telephone interviews provide significantly lower quality due to the sensitivity of the information or language barriers it was decided that effort should be made to conduct as many interviews as possible: (1) face-to-face and (2) in mother tongue of the interviewee. Therefore, additional experienced researchers based in EU member states were hired, to conduct interviews and carry out the country studies.

### *Interviews guides*

The interviews lasted on average one hour for the telephone interviews, and two hours for the face-to-face interviews. A questionnaire guide with detailed instructions and prop questions was developed. The questions were deliberately left open and the interviews were semi-structured to achieve greater level of comfort and trust by the interviewees.

Some interviewees requested to receive the questions in advance so that they could prepare and discuss them with colleagues. On several occasions, sections of the questionnaire had to be translated in Spanish and French for ease of the interviewees.

### *Anonymity*

The sensitivity of the issue required that all interviewees were specifically asked if their names were to be revealed. It was agreed that no quotes will be associated with names of interviewees. In addition, some interviewees specifically agreed to speak on condition of anonymity. This is understandable bearing in mind the situation in some Member States, where political corruption is rife and the police and the judiciary are not independent. Hence, interviewees feared to share their knowledge as they could be easily discredited.

### *Case studies methodology*

In six countries (Italy, Netherlands, Bulgaria, Greece, Spain, France) a more in-depth research was carried out. These countries were selected out of the initial quantitative analysis and the interviews, as well as from evidence from the literature review. Each country study was based on:

- Review of the existing literature/surveys;

- Analysis of the available official statistics;
- 8 to 10 face-to-face interviews official and alternative sources.

### ***Semi-structured interviews questionnaire***

The introduction and conclusion of the questionnaire was identical for all interviewees. Specific modules for the different types of interviewees (customs, police, judicial, political, and private sector corruption) were developed. Experts with broader or more general knowledge, such as academics and journalists, were interviewed on several sections of the questionnaire, while other interviewees felt comfortable answering to only one section (e.g. police or customs). An attempt was made to obtain at least general views of the interviewees on all main aspects of corruption. All questions were opened, as the bullet points provided only prodding questions to the interviewers. Interviews lasted between 1 and 2 hours, some even longer. Below are the questions that were used for the semi-structured interview:

#### **Introduction**

1. Could you tell us a few words about your background and experience in dealing with corruption & organised crime.
2. Which of the following sectors you consider more vulnerable to corruption in your country:
  - Judicial;
  - Political;
  - Administrative;
  - Private sector.
3. What do you base this assessment on?
  - Your work/personal experience;
  - Specific studies;
  - Media reports;
  - Specific cases you are familiar.

#### **A. Police/Investigation**

4. When criminal investigations against organised crime fail in your country – what are the main reasons?
5. Is corruption in the police considered a problem in your country?
6. Are there particular departments/services of the police that are more affected than others? Are any of them particularly targeted by organised crime?
7. Within the police hierarchy are any levels targeted by organised crime more than others? Are there cases in which one finds the systemic/organised corruption involving multiple officers at different levels or in different departments, or colluding with other institutions?
8. If you are to describe the corrupt relations that exist, are they predominantly of temporary/ad-hoc nature, or are these long-lasting

- relations? If the cases that a long-lasting relation exist, can you think of specific circumstances that might have contributed to this?
9. What form does usually the corrupt exchange between police and participants in illegal markets take (e.g. payments, trading in influence)?
  10. What are the main reasons for organised crime to corrupt the police (e.g. protection, information)?
  11. Which sectors of the economy are most affected by extortion racketeering (e.g. immigrant owned businesses)?
  12. Is corruption used to cover up continuous extortion racketeering arrangements?
  13. Why are police officers vulnerable to corruption by organised crime?
  14. Are there any special measures against police corruption that you feel have impacted the ability of organised crime to influence corruption?
  15. Do you have any national level statistical information on investigations against police corruption?
  16. Are any intermediaries used to corrupt police officers (e.g. lawyers)?
  17. Are any criminal groups more likely to be able to corrupt police than others (e.g. run by former police officers)?
  18. Is there a particular case of corruption by organised crime, with which you might be familiar? Could you describe it?
  19. Grey economy questions: Is organised crime active in industries, with significant grey economy, like construction, entertainment (bars, restaurants), transport, agriculture? In which industries is it most active? Do such companies related to organised crime use corruption to cover up their grey economic activity (e.g. paying immigration authorities to employ illegal migrants; or police not to enforce regulations in night-clubs)?

## B. Customs/Tax

20. Is customs corruption by organised crime considered a problem in your country?
21. Are there particular customs offices or departments that are more vulnerable to corruption by organised crime than others?
22. What kind of organised criminal activities are facilitated by customs corruption in your country (e.g. drugs smuggling)?
23. What kind of organised criminal activities are facilitated by tax corruption?
24. Why do criminal groups use corruption in customs?
25. What kind of intermediaries do organised crime groups use to corrupt customs (e.g. former customs officers)?
26. If you are to describe the corrupt relations that exist, are they predominantly of a temporary/ad-hoc nature, or are these long-lasting relations? If cases of long-lasting relations exist, can you think of specific circumstances that might have contributed to this?
27. Why are the customs vulnerable to corruption by organised crime?
28. Are there any measures against corruption in customs that have an impact on organised crime?

29. Is there a particular case of corruption used/caused by organised crime, with which you might be familiar? Could you describe it?
30. Grey economy questions: Is organised crime active in industries, with significant grey economy, like construction, entertainment (bars, restaurants), transport, agriculture? In which industries it is most active? Do such companies related to organised crime use corruption to cover up their grey economic activity (e.g. paying immigration authorities to employ illegal migrants; or police not to enforce regulations in night-clubs)?

### C. Judiciary

31. Is corruption in the judiciary generally considered a problem in your country?
32. Which branches of the judiciary does organised crime most often targets through corruption (e.g. judges)?
33. What levels or types of judicial authorities are prone to corruption by organised crime (e.g. small towns, courts of appeal)?
34. Are any type of criminal groups more likely to have access to corruption in the judiciary than others?
35. What kind of intermediaries does organised crime most often use?
36. If you are to describe the corrupt relations that exist, are they predominantly of a temporary/ad-hoc nature, or are these long-lasting relations? If cases of long-lasting relations exist, can you think of specific circumstances that might have contributed to this?
37. Why does organised crime use corruption of the judiciary?
38. What are the factors that contribute to corruption of the judiciary?
39. Is there a particular case of judicial corruption caused by organised crime, with which you might be familiar? Could you describe it?

### D. Political

40. Are there particular political parties (including smaller, local ones) that are known to be more corrupt and have relations to oligarchs/organised crime figures?
41. At what level is political corruption encountered in relation to organised crime (e.g. local, central government)?
42. What types or levels of criminals are likely to use political corruption?
43. What forms does national level political corruption take (e.g. trading in influence)?
44. If you are to describe the corrupt relations that exist, are they predominantly of temporary/ad-hoc nature, or are these long-lasting relations? If the cases that a long-lasting relation exist, can you think of specific circumstances that might have contributed to this?
45. Why does organised crime use political corruption?
46. Are there particular regions or towns of your country, where corruption or organised crime are considered to be a particular problem?
47. Why are politicians in your country susceptible to corruption?
48. Is there a particular case of political corruption caused by organised crime, with which you might be familiar? Could you describe it?

### E. Administrative/Bureaucratic corruption

49. Are there particular industries where organised crime related individuals have investments or business interests?
50. Are there particular parts of the government administration that are vulnerable to corruption from white collar or organised criminals (that have interests in such legal business structures)?
51. Why do criminal enterprises need to use corruption on administration and bureaucracy?
52. Why is bureaucracy vulnerable to corruption by organised crime?
53. Are there any particular measures against administrative corruption that specifically aimed at preventing the threat of organised crime?
54. Is there a particular case of administrative corruption by organised crime, with which you might be familiar? Could you describe it?
55. Grey economy questions: Is organised crime active in industries, with significant grey economy, like construction, entertainment (bars, restaurants), transport, agriculture? In which industries is it most active? Do such companies related to organised crime use corruption to cover up their grey economic activity (e.g. paying immigration authorities to employ illegal migrants; or police not to enforce regulations in night-clubs)?

### F. Private sector corruption

56. Are there industries which are particular targets of organised crime?
57. Which company positions/departments are particularly vulnerable?
58. Why does organised crime use corruption to target private companies?
59. Why are private sector positions vulnerable to corruption by organised corruption?
60. Do companies take specific anti-corruption measures related to vulnerable areas exploited by organised crime?
61. Is there a particular case of private sector corruption caused by organised crime, with which you might be familiar? Could you describe it?
62. Grey economy questions: Is organised crime active in industries, with significant grey economy, like construction, entertainment (bars, restaurants), transport, agriculture? In which industries is it most active? Do such companies related to organised crime use corruption to cover up their grey economic activity (e.g. paying immigration authorities to employ illegal migrants; or police not to enforce regulations in night-clubs)?

### Conclusion

63. How do you think the financial crisis has affected the levels of corruption? Some economists have argued that the share of the grey economy is bound to increase during the crisis – do you agree/disagree? Legal and illegal enterprises alike are facing fall in revenues. Has this put more corruption pressure on public/judicial officials?

64. Do you mind if your name and/or institution be anonymous shared with the EC, as someone who has contributed to the study by providing an interview? Your name will not be made public and will not be associated with a particular statement, if the report is made public.
65. Could you recommend anyone else that we should interview?

## ANNEX 8: STATISTICAL ANALYSIS

### 1. Introduction

The present study has attempted to define and to provide a sufficiently thorough and encompassing quantitative analysis of the relationship between corruption and organized crime, based on the available data.

Utilising measures of corruption and organized crime, the countries have been grouped. Then, an analysis has been made of the clusters of countries obtained from the survey so that comparisons can be made not only between the individual EU countries, but also between the clusters of countries themselves.

In this way, it is possible to analyse the development of corruption and organized crime in the European Union and, which would aid in the selection of the most effective approach of counteracting them.

The indicators that have been used in the analysis include:

- corruption indices,
- indices that measure organized crime,
- the effectiveness of government,
- the gray economy,
- as well as various macro-economic indicators.

Some of these are composite indices, while the rest have been obtained from surveys of experts or from populations surveys (e.g. Eurobarometer). The period for which data has been collected comprises the years 2004 – 2009.

The table below lists the main indicators that were tested: corruption indicators for specific institutions (police, customs, judiciary, administrative and political) and organised crime indicators for various illegal markets and activities (drugs, sex-trafficking, car theft, and money laundering).<sup>171</sup>

When selecting indicators for organised crime, the project team tried to identify indexes that are derived from objectively registered crimes likely to have been carried out by organised criminal groups, and other illegal markets data. For instance, in the case of usage of drugs by the population of a given country, instead of police records, representative surveys of drug usage prevalence were used. These studies are collected on a regular basis by the EMCDDA (prevalence data for Cannabis, Cocaine, Amphetamines, Ecstasy and Heroin). In the case of theft of motor vehicles, police records were used (collected by Eurostat), as they are considered more reliable due to the high percent of victims reporting these crimes to comply with the insurance requirements and to avoid administrative sanctions. This type of crimes is characterised by a sharp decline in amateur thefts, as criminal organisation and infrastructure have become a necessity.

TABLE 23. LIST OF TESTED INDICATORS

Type of indicator	Name of indicator	Source
<b>Corruption – general indicators:</b>	Control of Corruption Index (2007)	IBRD 2000-2007
	Extra Payments Bribes (2006)	CATO/GCR 2000-2006
	Corruption in National Institutions (2007)	Eurobarometer 2002 & 2005
<b>Corruption – specific indicators:</b>	Police Corruption (Experience & Perceptions)	Eurobarometer 2005 & 2007
	<b>Police corruption</b>	Police Corruption experience & perception of asking bribes
	Police Corruption perceptions & experience of offering bribes	Eurobarometer 2005 & 2007
<b>Customs corruption</b>	Irregular Payments in Import Export permits (2005)	GCR 2001-2006
<b>Judicial corruption</b>	Irregular payments in judicial decisions (2006)	GCR 2002-2006
	Judicial independence	GCR 2001-2008
<b>Admin. corruption</b>	Irregular payments in Public Contracts (2006)	GCR 2001-2006
	Corruption in Local Institutions (2007)	Eurobarometer 2002 & 2005
<b>Political corruption</b>	Corruption in National Institutions (2007)	Eurobarometer 2002 & 2005
	Favouritism in decisions of government officials (2008)	GCR 2001-2008
<b>Organised crime: general indicator</b>	Organized crime (2008)	GCR 2001-2008
<b>Organised crime: specific indicators:</b>		
<b>Drugs</b>	Prevalence use amongst adults of Cannabis, Cocaine, Amphetamines, Ecstasy, Heroin	EMCDDA (national surveys)
<b>Sex trafficking</b>	Trafficking of people Convictions and investigations 2007	UNODC 2003-2007
<b>Car theft</b>	Police recorded thefts per 100,000 population	Eurostat 1999-2006
<b>Money laundering</b>	Pervasiveness of Money Laundering through banks (2005)	GCR 2002-2005
	Pervasiveness of Money Laundering through Non-bank Channels 2004	GCR 2002-2004

In the present analysis, two main goals have been set:

- **The first goal** was to group all 27 countries of the European Union in clusters with similar characteristics, based on the indicators of corruption and organised crime. This has been achieved by means of cluster analysis and neural networks.

<sup>171</sup> Two additional indicators were considered but dismissed: illegal migrants – data by Frontex on illegal migrant arrest at borders – the data was highly volatile; Murder data – no recent conviction statistics were available to determine the level of organised crime related murders.

- **The second goal** has been to examine the strength and direction of the relations between the selected indicators through correlation analysis, and also to model the relations thus obtained. In order to model the relationships, regression analysis was used.

The analysis had the following tasks:

1. To examine the relations amongst the indicators that measure corruption, organized crime, the effectiveness of the police and of government;
2. To standardize and transform the data;
3. To group the countries of the study with the aid of cluster analysis and neural networks, utilising indices of corruption, organized crime, the gray economy, and selected macro-economic indicators;
4. To determine the relationship between corruption and organized crime through regression and correlation analysis;
5. To draw conclusions and offer recommendations.

The scope of the data that was collected: included all European Union Member States, and the indicators used covered the period 2004 – 2009.

## 2. Description of methods used

### 2.1. Cluster analysis

Cluster analysis is a set of techniques that allows groupings of cases to be formed on the basis of one or more variables. Cluster analysis may be used where the number of groups is initially unknown, as well as after this number has been hypothesized or established.

There are three different procedures that can be used to cluster data: **hierarchical cluster analysis**, *k*-means cluster, and two-step cluster. If a small data set is available and the goal is to easily examine solutions with increasing numbers of clusters (as is the case), hierarchical clustering may be used.

Hierarchical clustering is one of the most straightforward methods of cluster analysis. Agglomerative hierarchical clustering starts with each case (in this study, each country) being a cluster. At the next step, two or more countries that have the smallest value for the distance measure (or largest value if one uses similarities) are joined into a single cluster. At the second step, either a third case is added to the cluster that already contains two cases or two other cases are merged into a new cluster. At every step, either individual cases are added to existing clusters, two individual cases are combined, or two existing clusters are combined.

The results of the application of the clustering technique are best described using a *dendrogram*. The branches illustrate when the cluster method joins subgroups containing the objects. The *length* of the branches indicates the distance between the subgroups when they are joined. *Distance* is a measure of how far apart two objects are, while *similarity* measures how similar two objects are.

There is no right or wrong answer as to how many clusters can be formed. The choice on the number of clusters depends on the aims of the research project in question. To find a good cluster solution, a study must consider the characteristics of the clusters at successive steps and decide when an interpretable solution, or a solution that has a reasonable number of fairly homogeneous clusters, has been arrived at.

## 2.2. Neural Networks

Neural networks are an alternative approach to cluster analyses which adds further explanatory value to the results.

### 2.2.1. *Self Organizing Kohonen Maps*

Kohonen maps are among the most popular kinds of neural networks. They are intended to identify clusters of similar data, and to determine their proximity as well. They work on the principle of 'unsupervised learning', realizing a process of clustering. Only input data is sent to the network, and it does not have any preliminary given output information.

The algorithm involved in Kohonen maps is a variation of multi-dimensional vectors clustering. With the help of this algorithm a mapping from a higher dimensional input space (determined by the number of indicators) to a lower dimensional (it is usually two-dimensional, but it is also possible to be one-dimensional) with preserving the topological resemblance, is achieved. This means that all vectors, which are adjacent to the topological map, are also adjacent in the input space. It should be noted that the opposite is not always true.

Beginning with these randomly situated centres of clusters, the algorithm gradually improves their position in such a way as to catch the input data clustering (the objects in the input space are represented as dots). As a result of the iterative procedure of learning the map self-organizes in such a way that the elements, corresponding to the centres and situated near one another in the input space, are also situated close to the topological map (the output layer). The algorithm is known as 'the winner takes all'.

After the Kohonen network is trained, the so called 'Unified Distance Matrix' (U-Matrix) is used for the recognition of clusters. In this way the distance (usually Euclid) from each neuron to its neighbours on the topological map is calculated. This distance determines in what colour the neuron is represented on the map. Small distances signify resemblance of the neuron-neighbours, while greater distances stand for greater difference. The colouring is done analogically to altitude maps – small values are coloured in green, and high ones- in brown. In this way, clusters on the map should form areas in green colours, and around them beige-brown-red areas should be situated- the boundaries of the clusters. Another colouring option is to use black and white. In this option white corresponds to small distances, and black corresponds to large ones. In this way clusters are coloured in white, and their boundaries – in black.

It is also possible that maps of variables are produced, used for describing the input vectors. In this way it can be identified in which region of the map the corresponding variable has low values, and in which region -high ones. This makes it possible, 'portraits' of the clusters to be made, that is, their description to be made up. The received combination of cards represents an original 'atlas', describing the situation of the variables and clusters in the combination of data.

## 2.3. Regression and Correlation Analyses

Regression and correlation analyses are statistical techniques used extensively to examine causal relationships between variables.

### 2.3.1. Linear Regression Analysis

In linear regression, the model used to describe the relationship between a single dependent variable and a single independent variable is:

$$Y_i = \beta_0 + \beta_1 X_i + \varepsilon_i$$

where,  $\beta_0$  and  $\beta_1$  are referred to as the model parameters,  $Y_i$  is the value of the dependent variable,  $X_i$  is the value of the independent variable,  $e$  in this equation means "error" and refers to the fact that we don't expect any regression equation to perfectly predict  $Y_i$ .

**The regression coefficient  $\beta_1$**  represents the change in the predicted value of dependent variable for each one-unit increase in independent variable. This means that if independent variable is changed by one unit, dependent variable will increase or decrease by  $\beta_1$  units, on average.

**The significance levels** show how likely a result is due to chance. The most common level, used to mean something is good enough to be believed, is 0.95. This means that the finding has a 95% chance of being true. Instead it will show you 0.05, meaning that the finding has 5% chance of not being true, which is the converse of a 95% chance of being true.

To measure how strong the correlation is between the two variables, we can determine the amount of the total variation in **Y** that is associated with the regression model. This ratio is sometimes called **the coefficient of determination (R square)**. This coefficient describes what proportion of the variation in the dependent variable is associated with the variation of an independent variable. The value of the coefficient of determination ranges from 0 to 1.

### 2.3.2. Correlation Analysis

Another useful regression statistic that measures the strength of the correlation between two variables is the Pearson's correlation coefficient. This statistic is often represented by the symbol **r** and is determined by taking the square-root of the **coefficient of determination**. The value of the

correlation coefficient ranges from 1 to -1. A value of 0 indicates that there is absolutely no relationship between the  $X$  and  $Y$  variables. The strength of the relationship between the  $X$  and  $Y$  variables increases as the value of  $r$  approaches 1 or -1. Positive correlation coefficients indicate that an increase in the value of the  $X$  variable results in an increase in the value of the  $Y$  variable. Negative correlation coefficients indicate that an increase in the value of the  $X$  variable results in a decrease in the value of the  $Y$  variable.

Correlation and regression analysis are related in the sense that both deal with relationships among variables. For simple linear regression, the sample correlation coefficient is the square root of the coefficient of determination, with the sign of the correlation coefficient being the same as the sign of  $\beta_1$  – the regression coefficient.

### 3. Data analysis

#### 3.1. Standardization and transformation of the data

In order to apply correctly cluster analysis two steps should be considered as a precondition:

- A set of appropriate variables has to be chosen. This step is essential, because any change of the set of variables involved affects the results of the analysis.
- Values of the selected variables have to be transformed. This has to be done especially when there are variables presented on different scales (as is the case). There are different types of transformation. In this particular case a “mini-max” transformation is used. The values are standardized to a min of 0 and max of 10.

Data from 125 indicators have been used in the study, 6 of which on a scale from -2,5 to 2,5, 17 are from 1 to 5, 13 are from 1 to 7, 11 are from 0 to 10, 14 are from 0 to 100, 51 are from 0 to 100 %, and 8 are in absolute values. There is only one indicator on a scale from 0 to 5 and 4 indicators expressed in a currency. Depending on these measuring scales, all the variables are transformed within limits of from 0 to 10 by the mini-max transformation.

Should the data take absolute values, it is necessary first to norm them. An example of such data is the police data on recorded traffic of people and drugs, thefts of motor vehicles, convictions for murders. In order to norm the data, their absolute values are divided by the population number, and then they are transformed.

#### 3.2. Grouping of the countries in the study using Cluster Analysis and Neural Networks

There are different approaches to classify the countries. The most frequently used are cluster analysis and neural networks. It should be stressed that the task of classification has usually more than one solution.

TABLE 24. SUMMARY OF THE REGRESSION RESULTS FOR THE INDICATOR CORRELATIONS TESTED

Nº	Year	Variable 1	Variable 2	R correlation
1	2007	Corruption in National Institutions_2007	Reliability of police services: Q: Police services in your country _2007	0.747
2	2007	Corruption in National Institutions_2007	Corruption in the Police_2007	0.659
3	2007	Corruption in National Institutions_2007	Corruption in Local Institutions_2007	0.974
4	2007	Corruption in National Institutions_2007	Favouritism in decisions of government officials_2007	0.834
5	2007	Corruption in National Institutions_2007	Drugs data UNODC	0.105
6	2003	Control of Corruption Index _2003	Shadow Economy Estimate as percentage of GDP_2003	0.647
7	2007	Control of Corruption Index _2007	Reliability of police services: Q: Police services in your country _2007	0.916
8	2007	Control of Corruption Index _2007	Corruption in the Police_2007	0.752
9	2005	Control of Corruption Index _2005	Irregular payments in Import/Export permits_2005	0.830
10	2006	Control of Corruption Index _2006	Irregular payments in judicial decisions_2006	0.913
11	2006	Control of Corruption Index _2006	Irregular payments in Public Contracts_2006	0.901
12	2007	Control of Corruption Index _2007	Corruption in Local Institutions_2007	0.851
13	2007	Control of Corruption Index _2007	Corruption in National Institutions_2007	0.837
14	2007	Control of Corruption Index _2007	Favouritism in decisions of government officials_2007	0.947
15	2007	Control of Corruption Index _2007	Drugsdata_UNODC	0.292
16	2006	Control of Corruption Index _2006	Trafficking of people Convictions and investigations_2006	0.029
17	2006	Control of Corruption Index _2006	N_Crimes recorded by the police Theft of a motor vehicle_2006	0.529
18	2005	Control of Corruption Index _2005	Pervasiveness of Money Laundering through Banks_2005	0.885
19	2004	Control of Corruption Index _2004	Pervasiveness of Money Laundering through Nonbank Channels_2004	0.919
20	2003	Extra payments/bribes _2003	Shadow Economy Estimate as percentage of GDP_2003	0.472
21	2006	Extra payments/bribes _2006	Reliability of police services: Q: Police services in your country _2006	0.866
22	2005	Extra payments/bribes _2005	Irregular payments in Import/Export permits_2005	0.932
23	2006	Extra payments/bribes _2006	Irregular payments in judicial decisions_2006	0.921
24	2006	Extra payments/bribes _2006	Irregular payments in Public Contracts_2006	0.921
25	2006	Extra payments/bribes _2006	Favouritism in decisions of government officials_2006	0.908
26	2006	Extra payments/bribes _2006	Drugs data UNODC	0.319
27	2006	Extra payments/bribes _2006	Trafficking of people Convictions and investigations_2006	0.060
28	2006	Extra payments/bribes _2006	N_Crimes recorded by the police Theft of a motor vehicle_2006	0.521
29	2005	Extra payments/bribes _2005	Pervasiveness of Money Laundering through Banks_2005	0.796
30	2004	Extra payments/bribes _2004	Pervasiveness of Money Laundering through Nonbank Channels_2004	0.838
31	2008	Organized crime_2008	Reliability of police services: Q: Police services in your country _2008	0.671
32	2007	Organized crime_2007	Corruption in the Police_2007	0.291
33	2005	Organized crime_2005	Irregular payments in Import/Export permits_2005	0.634
34	2006	Organized crime_2006	Irregular payments in judicial decisions_2006	0.592
35	2006	Organized crime_2006	Irregular payments in Public Contracts_2006	0.510
36	2007	Organized crime_2007	Corruption in Local Institutions_2007	0.516
37	2007	Organized crime_2007	Corruption in National Institutions_2007	0.491
38	2008	Organized crime_2008	Favouritism in decisions of government officials_2008	0.613
39	2008	Organized crime_2008	Drugs data UNODC	0.111
40	2006	Organized crime_2006	Trafficking of people Convictions and investigations_2006	0.117
41	2006	Organized crime_2006	N_Crimes recorded by the police Theft of a motor vehicle_2006	0.180
42	2005	Organized crime_2005	Pervasiveness of Money Laundering through Banks_2005	0.812
43	2004	Organized crime_2004	Pervasiveness of Money Laundering through Nonbank Channels_2004	0.857

### 3.2.1. Cluster Analysis

In order to reach a final variant of clustering of the countries, a total of 332 different iterative experiments have been conducted with the aid of the hierarchical cluster analysis, wherein various indicators for the countries have been involved. **Usually, the change in the number and type of indicators by which the analysis is made may lead to the formation of various clusters.** The inclusion (or exclusion) even of a single indicator may have a substantial impact on the formulation and the composition of the clusters.

*For the above reason, the most important and essential stage in the application of cluster analysis is the proper set of variables by which the individual groups of objects may be formed (in this case, the member countries of the EU).*

*The final clustering of the countries was based on the following indicators that measure corruption, organized crime, the effectiveness of government, macro-economic indicators, and the size of the grey economy:*

- 1) Control of Corruption Index from 2000, 2002 to 2007 Year
- 2) Extra payments/bribes from 2000 to 2006 Year
- 3) Organized crime from 2001 to 2008 Year
- 4) Corporate Ethics Index for 2004 Year
- 5) Rule of Law Index from 2000 to 2007 Year
- 6) Crimes recorded by the police: Drug Trafficking from 1999 to 2006 Year
- 7) Crimes recorded by the police: Theft of a motor vehicle from 1999 to 2006 Year
- 8) Cocaine (UNODC – drugs data) from 2003 to 2006 Year
- 9) Size of Government Index from 2000 to 2006 Year
- 10) Government Effectiveness Index from 2000 to 2007 Year
- 11) Overall Economic Freedom Score from 1999 to 2009 Year
- 12) GDP per capita in PPS from 1999 to 2008 Year
- 13) Share of Envelope Wages for 2007 Year

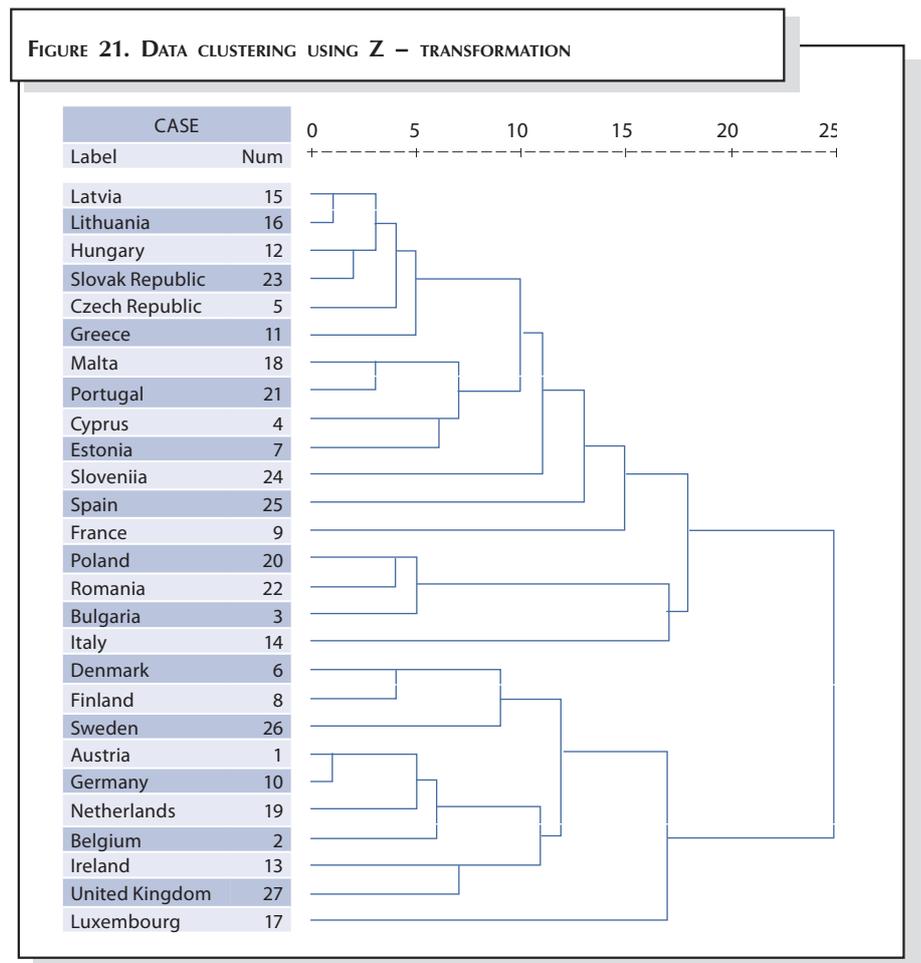
The next stage in a correct and proper application of the cluster analysis is the transformation of the data in such a way that they could be represented on the same scale.

Initially, the values of the selected variables by which the respective groups of countries have been formed, are transformed through a mini-max transformation. What's typical for it is that the values of the standardized variables receive a minimum in the zero and a maximum in the one.

Through the use of the same indicators, a new clustering has been done, using a Z-transformation this time. In comparison with the mini-max transformation, the clusters obtained by a Z-transformation are more stable. In other words, irrespective of the algorithm and metrics that have been used, in most cases the composition of the groups of countries thus formed remains the same.

With the Z-transformation, the values of the variables receive a mean of 0 and a standard deviation of 1. With the hierarchical cluster analysis the results can be visualized with the aid of a tree-type diagram (dendrogram). It is possible to track the clustering process on it, every single country forming a separate cluster in the beginning. Gradually, the countries begin to be grouped according to their degree of similarity in terms of the investigated characteristics. The more similar the countries, the quicker they group together, while the more different they are, the more iterations of the algorithm are necessary in order to unite them. The clustering process is concluded when all the countries have been united into one single cluster.

As already mentioned, during the first step of clustering, every country is separated in a different cluster. During the second step, 11 clusters of countries have been formed, but they are not clearly expressed. During the next step, one can already clearly distinguish 6 clusters that satisfy the goal of the study. The countries have been grouped in the following way:



**Cluster 1 – Austria, Belgium, Denmark, Finland, Germany, Ireland, Netherlands, Sweden and UK**

**Cluster 2 – Bulgaria, Poland, Romania**

**Cluster 3 – Cyprus, Czech Republic, Estonia, Greece, Hungary, Lithuania, Latvia, Malta, Portugal, Slovakia, Slovenia, Spain**

**Cluster 4 – France**

**Cluster 5 – Italy**

**Cluster 6 – Luxemburg**

When six separate groups of countries had been obtained, then a comparison was made with the average values of the indicators that measure the effectiveness of government, the financial and economic indices, and those of the gray economy. Thus, a profile is obtained (a portrait) of the selected clusters, and it answers the question why the countries of the European Union have grouped themselves in such a way in terms of the above listed indicators. Besides, with the help of the results thus obtained a comparison may be made both between the individual EU countries as well as between the clusters themselves.

**Cluster 1** is described as one with the highest level of control of corruption and the lowest of the organized crime, the highest value of the ethic index, effective rule of law and also effectiveness of the government, as well as the highest GDP per capita. At the same time countries in this cluster have the highest value of the drug trafficking and the theft of motor vehicle.

**Cluster 2** countries have the worst scores for the following indicators – the lowest levels of control of corruption and rule of law, the lowest GDP per capita. It also has the highest level of undeclared income (envelope wages) but the lowest value of the theft of motor vehicle.

**Cluster 3** is similar to Cluster 2, but with better scores for control of corruption and rule of law.

The last three independent clusters consist of one state each which speaks of the uniqueness of the respective countries and of the impossibility to include them in any of the remaining clusters. Luxembourg (**Cluster 6**) is the country with the highest results for all of the indicators (high degree of control on corruption, low rates of organized crime, the highest GDP per capita of the population). At the same time, it demonstrates a highly developed market for drugs and car thefts. High results are also exhibited by **Cluster 4** (France). Besides, the indicator measuring drug traffic and car theft in France is sufficiently low. Italy (**Cluster 5**) is the country with some of the poorest results – similar to cluster 2, which contains Bulgaria, Romania, and Poland.

### 3.3.1. Neural Networks (Self-Organizing Kohonen Maps)

#### 3.3.1.1. Architecture of the Kohonen Maps

A number of experiments were carried out to come up with the optimal network architecture. Maps of various sizes were tested, starting from 8x8 (64 neurons) to 50x50 (2500 neurons). We selected a map size of 50x50 for the Kohonen layer. We tested the selected architecture to guarantee sustainability of results.

#### 3.3.1.2. Results of the Kohonen Maps – Interpretation

The values of the following indicators were used to group the EU countries:

- 1) Control of Corruption Index for 2007 Year
- 2) Extra payments/bribes for 2006 Year
- 3) Organised crime for 2008 Year
- 4) Corporate Ethics Index for 2004 Year
- 5) Rule of Law Index for 2007 Year
- 6) Crimes recorded by the police: Drug Trafficking for 2006 Year
- 7) Crimes recorded by the police: Theft of a motor vehicle for 2006 Year
- 8) Cocaine usage (UNODC – drugs data) from 2003 to 2006 Year
- 9) Size of Government Index for 2006 Year
- 10) Government Effectiveness Index for 2007 Year
- 11) Overall Economic Freedom Score for 2009 Year
- 12) GDP per capita in PPS for 2008 Year
- 13) Share of Envelope Wages for 2007 Year
- 14) GINI coefficient for 2007 Year

The figure, below, presents a Unified Distance Matrix. The resulting complex surface has peaks (representing long distances between neurons), and valleys (representing small distances).

Information that can be extracted from this map is related to the placement of countries on it and the colour of the “border” neurons, which are interpreted as a similarity or dissimilarity between them. Slovenia (SVN) is placed at the top left corner of the map, immediately adjacent to Luxembourg (LUX), Netherlands (NLD) and Belgium (BEL). The distance between these countries is relatively small (identified by the beige and light-brown colour of their neurons on the chart). Not far from the above countries are placed Germany (DEU), Austria (AUT), Ireland (IRL), United Kingdom (GBR) and Spain (ESP).

In other group belong Latvia (LTU), Lithuania (LTV), Estonia (EST) and Portugal (PRT). Greece (GRC), Hungary (HUN), Czech Republic (CZE), Cyprus (CYP), Slovakia (SVK) and Malta (MLT) form another cluster.

In an independent group are Bulgaria (BGR), Romania (ROM), Poland (POL) and they are far from the cluster, composed of Denmark (DNK), Finland (FIN), Sweden (SWE).

FIGURE 22. UNIFIED DISTANCE MATRIX (U-MATRIX)



France (FRA) and Italy (ITA) are placed in separate clusters, because of their dissimilarity to the neighbours (these two countries are surrounded by neurons coloured in dark-brown and red).

#### 3.3.1.3. Cluster characteristics

Moreover analysis of the composition of clusters is necessary to clarify the reasons for their formation. The self-organising maps created for each indicator allowed to provide a detailed description of the resulting clusters. The colouring is the same principle – the areas in which the index has low values are coloured in green and those in which the values are high – in brown-red.

To visualise the resulting clusters, each cluster is compared with the average values of the government effectiveness indicator, the financial and economic indexes, the grey economy index and GINI coefficient.

**Cluster 1: Denmark, Finland and Sweden.** These countries are with the best scores of the almost all indicators – low levels of organised crime and corruption and effectiveness of the government.

**Cluster 2: UK, Ireland, Austria, Germany, Netherlands, Belgium, Luxembourg, Slovenia and Spain.** These are the countries with best control of corruption, lowest level of organised crime, highest scores for rule of law, and highest GDP per capita. Like Cluster 1, but there is GDP is higher.

**Cluster 3: France.** Statistical analysis demonstrated that France is unique by some key indicators and therefore cannot be included in any of the other clusters. It is characterised by high level of control of corruption, low frequency of bribes, and effective rule of law. The size of government is the lowest, and effectiveness of government is one of the highest in EU. France also has one of the highest GDP per capita. At the same time, by these same indicators (corruption, rule of law, GDP) France scores distinctively lower than most of its west European neighbours (Cluster 2) and the Scandinavian countries (Cluster 1).

**Cluster 4: Latvia, Lithuania, Estonia and Portugal.** It has one of the lowest levels of organised crime. With better indicators than Italy, Greece, and considerably worse than the countries in Clusters 1 and 2. This cluster is also characterised by one of the lowest GDP.

**Cluster 5: Greece, Hungary, Czech Republic, Cyprus, Slovakia and Malta.** There is characterised by relatively low control of corruption and frequent use of bribes. At the same time, low level of organised crime.

**Cluster 6: Italy.** Similar to France, Italy's key indicators have significantly different values that justify placing it in a cluster of its own. Italy has the highest level of organised crime among the member states, combined with one of the lowest scores for control of corruption and rule of law. It also has the highest level of undeclared income (envelope wages).

**Cluster 7: Bulgaria, Romania and Poland** where corruption control is lowest and organised crime is at a level similar to Italy. These countries have the worst scores for rule of law, effectiveness of government and corporate ethics. They also have the lowest GDP per capita among the member states.

The self-organising maps created for each indicator allowed to provide a detailed description of the resulting clusters. The colouring of the Unified Distance Matrix (Figure 3) follows the same principle: low values of each indicator are coloured in green, while zones with high values are coloured in brown/red.

To visualise the resulting clusters, each cluster is compared with the average values of the government effectiveness indicator, the financial and economic indexes, the grey economy index, as well as the additional indicator, GINI coefficient.

The table below provides a detailed numerical description of each of the identified clusters. The table consists of the average values of each indicator taken to construct each cluster. For instance, the average value of the Control of Corruption Index for the countries in Cluster 1 (Denmark, Sweden, and Finland) is the highest (2.459), while for the countries in Cluster 7 (Bulgaria, Romania, and Poland), it has the lowest value (0.091). The clusters are described inside the report

TABLE 25. AVERAGE VALUES OF CLUSTER CHARACTERISTICS

CLUSTER #INDICATOR	1	2	3	4	5	6	7
Control of Corruption Index 2007	2.459	1.721	1.320	0.639	0.541	0.449	- 0.091
Extra payments/ bribes 2006	9.470	8.361	8.240	6.918	6.397	6.290	5.397
Organised crime 2008	6.600	6.056	5.900	6.150	5.983	3.600	4.433
Corporate Ethics Index 2004	0.825	0.662	0.597	0.430	0.376	0.409	0.229
Rule of Law Index 2007	1.905	1.587	1.317	0.750	0.836	0.426	- 0.013
Drug Trafficking 2006 (Eurostat police data)	60.941	91.711	9.137	42.740	47.258	54.634	19.833
Theft of a motor vehicle 2006 (Eurostat)	439.481	183.841	383.570	129.698	139.851	473.805	31.427
Cocaine prevalence use (EMCDDA)	0.567	1.289	0.600	0.350	0.350	2.100	0.200
Size of Government Index 2006	6.423	5.166	4.110	6.348	6.308	5.990	5.277
Government Effectiveness Index 2007	2.079	1.561	1.304	0.850	0.934	0.329	0.131
Overall Economic Freedom Score 2009	74.867	73.356	63.300	69.475	67.217	61.400	62.700
GDP per capita in PPS 2008	116.133	131.689	105.700	63.525	78.500	97.600	45.700
Share of Envelope Wages 2007	0.070	0.172	0.540	0.420	0.194	0.629	0.555
GINI 2007	24.330	28.330	28.000	36.750	28.330	33.000	31.000

On the basis of the resulted groups specific statistical methods will be applied such as regression and correlation analysis.

### 3.3. Determining relationship between corruption and organised crime using regression and correlation analysis

By means of the analyses that were used, the relations between the basic indicators and the specific indicators of corruption and organized crime were investigated. Besides, with their aid, it is proper to show the impact of indicators such as government effectiveness, the economic and financial indicators, and others on variables measuring corruption and crime.

By the respective analysis, a relationship is sought both between absolute values of the given indices and between their accretions for two consecutive years.

In Table 1, the value of **R square – the coefficient of determination** is 0.520. The correlation coefficient is **r = 0.721**. Therefore, it can be admitted that the examined indices are very closely related to each other, and that 52% of the changes to the extra payments and bribes in the member countries of the EU are due to changes in organized crime.

TABLE 26. RELATIONSHIP BETWEEN CORRUPTION (EXTRA PAYMENTS/ BRIBES) AND ORGANISED CRIME

Year	Model Summary		Coefficients					
	Dependent Variable	Independent Variable	r	R square	Coefficients	B	Std. Error	Significance
2006	Extra payments/ bribes	Organized crime	0.721	0.520	constant	2.223	1.015	0.038
					coefficient	0.949	0.182	0.000

The remaining percentages up to 100 (in this case, 48%) are accounted for as the impact of other factors.

**B** – the regression coefficient is 0.949. This shows that if organized crime would decrease by one point, it can be expected that the indicator of corruption (Extra payments/ bribes) would decrease significantly (by 0,949 points).

The **Significance** of the regression coefficient is less than 0.01. Therefore, it can be asserted with a probability of 99% that the basic index which measures organized crime exerts a substantial impact on the bribes in the EU countries for the year 2007.

The last table shows a significant interrelationship between organized crime and the effectiveness of government.

TABLE 27. RELATIONSHIP BETWEEN ORGANIZED CRIME AND GOVERNMENT AND INSTITUTIONAL EFFECTIVENESS (JUDICIAL/LEGAL EFFECTIVENESS)

Year	Model Summary		Coefficients					
	Dependent Variable	Independent Variable	r	R square	Coefficients	B	Std. Error	Significance
2004	Organized crime	Judicial/Legal Effectiveness	0.872	0.761	constant	3.042	0.277	0.000
					coefficient	3.731	0.418	0.000

In Table 29, the coefficient of ordinary correlation is very close to one. That is why, it is possible to admit that the indicators of crime and the effectiveness of the judicial system are closely interrelated.

The **Significance** of the regression coefficient in the models that are shown is less than 0,01, and with a probability rate of 99% it can be asserted that organized crime exerts a substantial impact on corruption and vice versa. Besides, the effectiveness of government and the gray economy have a significant impact on the development of corruption and organized crime in the member countries of the EU.



## ANNEX 9: LIST OF INDICATORS AND INDEXES USED IN STATISTICAL ANALYSIS

The list below contains the full list of indicators and indexes that were collected, analysed, and included in the statistical clustering and multiple regression analysis.

1. Corruption indexes. These are generally of two types: expert assessments and public perceptions. Separate tests should be run on both types to establish differences between the two.
  - 1.1. Corruption perception index (Transparency International) – a composite index, that includes EIU and IBRD indexes;
  - 1.2. Control of corruption index (IBRD) – a composite index that includes TI's Global Corruption and CATO/GCR;
  - 1.3. Prevalence of corruption (Eurobarometer) – only for 2002 and 2005 (public perceptions survey);
  - 1.4. Level of corruption Index (EIU) – 20 member states only (expert evaluation);
  - 1.5. Extra payments/bribes (CATO/GCR) – composite of 5 survey questions of business perceptions;
  - 1.6. Lack of corruption experience (Eurobarometer) – only for 2002 and 2005;
  - 1.7. Corruption measurements: vulnerable public sectors:
    - 1.7.1. Local institutions (Eurobarometer 2002 & 2005 survey) – perceptions;
    - 1.7.2. Regional institutions (Eurobarometer 2002 & 2005 survey) – perceptions;
    - 1.7.3. National institutions (Eurobarometer 2002 & 2005 survey) – perceptions;
    - 1.7.4. Officials awarding public tenders (Eurobarometer 2002 & 2005 survey) – perceptions & experience;
    - 1.7.5. Irregular payments public contracts (GCR survey 2001-2006) – expert opinions;
    - 1.7.6. Officials issuing building permits (Eurobarometer 2002 & 2005 survey) – perceptions & experience;
    - 1.7.7. Officials issuing business permits (Eurobarometer 2002 & 2005 survey) – perceptions & experience;
    - 1.7.8. Inspectors (health, building, food, etc.);
    - 1.7.9. Corruption in registry and permits (TI, 2004-2007), 20 countries – survey opinions.
  - 1.8. Police corruption:
    - 1.8.1. (Eurobarometer 2002 & 2005 survey) – perceptions & experience;
    - 1.8.2. Reliability of police services (GCR survey 2002 – 2008) – this question could equally refer to effectiveness as well as corruption. It could be tested against the Eurobarometer data above;
    - 1.8.3. TI (Global Corruption Barometer) contains experience for 17 EU countries from 2004 – 2007, as well as two different experience related questions for 2006 and 2007 (20 countries).

- 1.9. Customs corruption:
  - 1.9.1. (Eurobarometer 2002 & 2005 survey) – perceptions & experience;
  - 1.9.2. Corruption Perceptions (TI, 2004-2007), 20 countries.
- 1.10. Irregular payments in import/export permits (GCR survey 2001-2006) – expert opinions;
- 1.11. Tax authorities:
  - 1.11.1. Irregular payments in tax collections (GCR survey 2001-2006) – expert opinions;
  - 1.11.2. TI (Global Corruption Barometer) contains experience for 17 EU countries from 2004 – 2007, as well as two different experience related questions for 2006 and 2007 (20 countries);
  - 1.11.3. (TI, 2004-2007), 20 countries – survey opinions.
- 1.12. Private sector: this is quite important as one of the issues that is being examined whether and how organised has been able to penetrate private companies and financial institutions:
  - 1.12.1. (TI, 2004-2007), 20 countries – survey opinions.
- 1.13. NGOs: non-profits are also occasionally used by criminal groups to launder money or to disguise criminal activities:
  - 1.13.1. (TI, 2004-2007), 20 countries – survey opinions.
- 1.14. Judiciary corruption:
  - 1.14.1. (Eurobarometer 2002 & 2005 survey) – perceptions & experience;
  - 1.14.2. Irregular payments judicial decisions (GCR survey 2002-2006) – expert opinions;
  - 1.14.3. Judicial independence (GCR survey 2001 – 2008) expert opinions – this question in essence asks about corruption;
  - 1.14.4. TI (Global Corruption Barometer) contains experience for 17 EU countries from 2004 – 2007, as well as two different experience related questions for 2006 and 2007 (20 countries).
- 1.15. Political corruption:
  - 1.15.1. National institutions (Eurobarometer 2002 & 2005 survey) – perceptions & experience;
  - 1.15.2. Corporate illegal corruption (IBRD, 2004) – expert opinions;
  - 1.15.3. Corporate legal corruption (IBRD, 2004) – expert opinions;
  - 1.15.4. Corporate ethics index (IBRD, 2004) – expert opinions;
  - 1.15.5. Favouritism in decisions of government (GCR survey 2001-2008) – expert opinions;
  - 1.15.6. Diversion of public funds (GCR survey 2002-2008) – expert opinions;
  - 1.15.7. Political parties corruption (TI, 2004-2007), 20 countries – survey opinions;
  - 1.15.8. Parliament Corruption TI, 2004-2007), 20 countries – survey opinions;
  - 1.15.9. Local politicians (Eurobarometer 2002 & 2005 survey) – public perceptions & experience;
  - 1.15.10. Regional politicians (Eurobarometer 2002 & 2005 survey) – public perceptions & experience.

2. Organised crime markets: The indicators gathered are again of three types: (a) perceptions of experts; (b) police or judicial statistics; (c) illegal market data (e.g. admitted drug use):
  - 2.1. Organised crime cost on business (GCR) – perceptions of corporate leaders;
  - 2.2. Organised crime (French Government expert survey 2001 and 2006, only some EU countries);
  - 2.3. Pervasiveness of money laundering (in banking and non-banking system) (GCR);
  - 2.4. Prevalence data for Cannabis, Cocaine, Heroine, Amphetamines, Ecstasy (UNODC);
  - 2.5. Police recorded statistics (Eurostat):
    - 2.5.1. Drugs;
    - 2.5.2. Homicides;
    - 2.5.3. Motor Vehicle Theft;
    - 2.5.4. Illegal border crossings (Frontex);
  - 2.6. Judicial statistics;
    - 2.6.1. Drug convictions;
    - 2.6.2. Homicide Convictions;
    - 2.6.3. Trafficking of people convictions (UNODC) (this data is a mix of convictions and investigations). If used year-to-year comparisons will have to be for the same country, as comparisons between countries are not possible.
  - 2.7. Other (NGO):
    - 2.7.1. Data on victims of trafficking: this is a mix of government and NGO data (UNODC).
3. Other:
  - 3.1. Government effectiveness:
    - 3.1.1. Rule of law index (IBRD, 2000, 2002-2007): measuring perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence. It includes numerous indicators, including EIU, GCR, and statistics on trafficking. The way in which its weighted is not clear from publicly available methodology.
    - 3.1.2. Impartial Courts (CATO/GRC, 2000-2006): this measurement combines both efficiency and corruption.
    - 3.1.3. Reliability of police (GCR, 2002-2008): this measurement combines both efficiency and corruption.
    - 3.1.4. Legal enforcement of contracts (CATO/World Bank, 2005 & 2006): an efficiency measure of the legal system based on the speed to collect or clear a debt. One of the services offered by organised crime is debt collection. Therefore the inefficiency of the judiciary could be filled by organised crime: low debt collection rating could be associated with high organised crime presence.
    - 3.1.5. Judicial/Legal effectiveness (IBRD, 2004).
    - 3.1.6. Transparency and fairness of Legal System Index (EIU, 1999-2008, 20 countries).

4. General governance indicators:
  - 4.1. Corporate governance index (IBRD, 2004);
  - 4.2. Quality of bureaucracy index (EIU, 1999-2008), 20 countries;
  - 4.3. Political inefficacy risk index (EIU, 2002-2008), 20 countries;
  - 4.4. Government size index (Heritage Foundation, 1999-2008);
  - 4.5. Size of government index (CATO, 2000-2006);
  - 4.6. Voice and accountability index (IBRD, 2000, 2002-2007);
  - 4.7. Government Effectiveness Index (IBRD, 2000, 2002-2007);
  - 4.8. Regulatory Quality Index (IBRD, 2000, 2002-2007).
  
5. Political and Economic factors:
  - 5.1. Political:
    - 5.1.1. Political stability and absence of violence (IBRD, 2000, 2002-2007);
    - 5.1.2. Political risk score (EIU, 1999-2008);
    - 5.1.3. Legal and regulatory risk score (EIU, 2002-2008), 20 countries only.
  - 5.2. Economic freedom indicators:
    - 5.2.1. Overall Economic Freedom Score (Heritage, 1999-2009);
    - 5.2.2. Business Freedom Score (Heritage, 1999-2009);
    - 5.2.3. Trade Freedom Score (Heritage, 1999-2009);
    - 5.2.4. Fiscal Freedom Index (Heritage, 1999-2009);
    - 5.2.5. Monetary Freedom Index (Heritage, 1999-2009);
    - 5.2.6. Investment Freedom Index (Heritage, 1999-2009);
    - 5.2.7. Financial Freedom Index (Heritage, 1999-2009);
    - 5.2.8. Property Rights Index (Heritage, 1999-2009);
    - 5.2.9. Labour Freedom Index (Heritage, 2005-2009);
    - 5.2.10. Taxes on International Trade (CATO/IMF, 2000-2006);
    - 5.2.11. Regulatory Trade Barriers Index (CATO/, 2000-2006);
    - 5.2.12. International Market Controls Index (CATO, 2000-2006);
    - 5.2.13. Credit Market Regulations Index (CATO/WB/IMF, 2000-2006);
    - 5.2.14. Labour Market Regulations Index (CATO/WB, 2000-2006);
    - 5.2.15. Business Regulations Index (CATO, 2000-2006);
    - 5.2.16. Open Budget Index (Open Budget Initiative, 2008, 8 countries).
  - 5.3. General Economic Indicators:
    - 5.3.1. Average Wages Monthly (EIU, 1999-2008) 20 countries;
    - 5.3.2. State Ownership Control (EIU, 1999-2008) 20 countries;
    - 5.3.3. Wage Regulation (EIU, 1999-2008) 20 countries;
    - 5.3.4. Corporate Tax Burden (EIU, 1999-2008) 20 countries;
    - 5.3.5. Value Added Tax (EIU, 1999-2008) 20 countries;
    - 5.3.6. Top Marginal Income Tax, (EIU, 1999-2008) 20 countries;
    - 5.3.7. Employers Social Security Contributions (EIU, 1999-2008) 20 countries;
    - 5.3.8. Overall unit labour costs levels (EIU, 1999-2008) 20 countries;
    - 5.3.9. Labour Market Risk Score (EIU, 1999-2008) 20 countries;
    - 5.3.10. Recorded Unemployment (EIU/OECD, 1999-2008);
    - 5.3.11. GDP Per Capita in PPS (Eurostat, 1999-2008);
    - 5.3.12. GDP at market prices (Eurostat, 1999-2008).

- 5.4. General Demographics: Population (Eurostat, 1999-2008).
- 5.5. Grey Economy:
  - 5.5.1. Services with undeclared work input (Eurobarometer 2007);
  - 5.5.2. Goods with undeclared work input (Eurobarometer 2007);
  - 5.5.3. Receipt of envelope wages (Eurobarometer 2007);
  - 5.5.4. Share of envelope wages (Eurobarometer 2007);
  - 5.5.5. Performance of undeclared work (Eurobarometer 2007);
  - 5.5.6. Shadow Economy Estimate as Percentage of GDP (Schneider, 1999-2003).



## ANNEX 10: ORGANISED CRIME AND CORRUPTION IN RUSSIA – REVIEW OF LITERATURE

### *Historical roots*

Throughout the 1990s most authors were concerned with the genesis of organised crime. The transformation of the endemic corruption and shadow economy of the Soviet period into the contemporary problems of organised crime and corruption was a major theme. The spectacular rise of Russian organised crime has been attributed not so much to demand for illegal goods or services but to the transition from socialist to capitalist economy, the privatization of state property and the opening of borders – all of which indicate the key role played by corrupt public officials in the process. Dealing in “large amounts of licit commodities in illicit ways (Shelley 2005) required critical collusion by state institutions. Much of the crime committed combines access to information or goods held by government officials backed up by the use or threat of force by crime groups – this “lethal” combination is considered key to understanding the success of Russian organised crime and the “the *sine qua non*” (Rawlinson 2001) of its integration into the legitimate structures of society. The entry on Russian organised crime of the Russian Wikipedia even includes “having corrupt ties with government officials” in its *definition*.

A pithy summary of the origins of the organised crime-corrupt state nexus, which also gives an insight into its current resilience, is provided by Plekhanov (2008, p.77) “A poorly organised, dysfunctional state (formally democratic or authoritarian) stimulates organised crime by tolerating anti-social activities in some areas, while suppressing or discouraging socially necessary activities in others. ...Organised crime emerged as a form of the institutionalization of the shadow economy. From the gangster’s point of view, forming a business partnership with a state store manager who was running an illegal trade operation on state property was a much smarter and more promising type of activity than simply burgling the store (explained in terms of lower transaction costs).”

The overlapping between and transmogrification of business into organised crime and back is another distinct theme in the literature. Galeotti (1999) claims that it is thus often difficult to tell a gangster from a ‘*businessmen*’ – a distinction many within the Russian business class themselves see as irrelevant. Kostjukovskii (1998) speaks of organised crime that has ceased to be simply a confederation of gangsters but has turned into a union of government officials and “criminalised businessmen.” Tille (2003) quotes the former Minister of Interior A. Kulikov that, according to analyses by the Russian Academy of Sciences, 55% of capital and 80% of shares with voting rights have been transferred to local and foreign “criminal capital” during the process of privatization. Nomokonov (2009) in turn quotes Ministry of Interior estimates that in some regions of Russia two-thirds of entrepreneurs are involved in corruption.

The origins of the nexus between organised crime and corrupt public officials is also traced to the period of the early to mid 1990s and the

breakdown of the rule of law and the governability of Russia. As the state abdicated from a number of key public services – notably, the enforcement of contracts – organised crime stepped in to fill the void and thus acquired significant leverage as regards government institutions. Substituting the services of the state with those by crime groups (Lyman and Potter (2006, p.361) quote a Vladivostok businessman saying that “if you pay the mafia, you don’t have to pay the government” indicating that crime services have been perceived as fairer than government ones) has been happening as a result of a collapse of the legitimacy of government. Williams (1997, pp.5-6) even quotes a Russian analyst that the “criminal world has essentially taken on the state functions of legislative and judicial authority.” Baraeva (2000), on the other hand, argues that corrupt interactions between organised crime and government authorities are a form of social exchange of resources, a form of social communication, which are not always destructive for the system as they could represent a method of adaptation.

Another topic in the literature is the genealogy of the criminals which could allow us to draw conclusions about their access to corrupt networks. The transitional origins of organised crime is exemplified by the fact that it consists of much more than the traditional figures of the criminal underworld and involved an amalgam of former apparatchiks, active and demobilized military personnel, members of the law enforcement and security services, etc. Volkov (2002) says that the alliance between the corrupt ex-communist nomenklatura and the Soviet criminal underworld, concluded for the purpose of appropriating former state property, has since coined the “Russian mafiya” (it should be added here that in colloquial Russian “mafiya” is used to denote the whole range of shady activities in society – from high level political conflict of interest to the dealings of neighbourhood bazaar speculators).

An interesting comparison, however, that is not made in the reviewed literature would be to contrast the strategies towards the government authorities of the *vory v zakone* – a much discussed group of criminals who are sworn in non-cooperation (under *any* form) with officialdom (a tradition dating back to the early Soviet years) – and of mainstream organised crime which has been very much entwined with state officials and legitimate and semi-legitimate businesses.

The main premise, therefore, for understanding the role of corruption in the arsenal of Russian organised crime is that in Russia “gangsters are not a marginal phenomenon confined to such areas of the illegal economy as narcotics, prostitution, or gun running. They control large parts of the legitimate economy and neither a powerless public nor law enforcement have the means to bring them under control” (Satter 2003, p.131). The operation of organised crime – as described in the reviewed literature – at all levels of legality (black economy, semi-legal and legitimate) is attributed to a considerable state capture. Another indication of the level of state capture is their visibility – authors provide examples of leading crime figures becoming media personalities. Some authors even refer to Russia as a “criminal-syndicalist state” (CSIS 2000) claiming that more than half of the Russian commercial and

banking sectors remain under the sway of organised crime; or to OC as a “major political force” (Shelley 2005). Radovitskyi (2002) claims that every fifth organised crime group would include among its members officials from government institutions and law enforcement. Therefore, the absence of conceptual separation between organised crime and corruption in the reviewed literature could be attributed to this intensity of state capture.

Furthermore – and this point has significance for most transitional countries – authors emphasize that legislative activity not backed by adequate enforcement of legislation or policy delivery capacity created niches between reality and legality that have been successfully exploited by organised crime and corrupt officials. On the other hand, Firestone (2006) argues that a focus on corruption as a factor inhibiting effectiveness of law enforcement efforts against organised crime overlooks shortcomings of Russian criminal procedure law which hinder the investigation and prosecution of organised crime in Russia.

#### ***Law enforcement corruption***

The main use of corruption by organised crime that emerges from the reviewed literature is as an instrument for decreasing risk of outside involvement and interference. This is then itself broken down into immunity from prosecution and driving out competition (both as regards legal and illegal goods markets). Law enforcement corruption is cited as being “the first project” (Satter 2003) achieved usually by making payments for inexistent services to a firm that the police official had registered in the name of a relative or friend. If this doesn’t work they then resort to blackmail. Another fact pointing to the intensity of the use of law enforcement corruption by Russian organised crime is the almost total impunity for corruption crimes; in the area of organised crime only the very smallest fish ever face prosecution because of the close links between the crime bosses and the law enforcement (Shelley 2005). One way or another, most authors describe a high degree of interdependence between organised crime and law enforcement.

As regards estimating the scope of law enforcement corruption, Handelman (1995, p.287) quotes a Moscow police captain claiming that “about 90% of police officers [militsyia] who operate out of local police stations in this city are on the take.” Kravchenko (2003) quotes a population survey in which 83.5% of citizens believed law enforcement to be the most corrupt public service. In the same survey, 48.6% of Ministry of Interior officials and 51.7% of interior academy cadets agreed with this statement. Evidence of the systematic nature of law enforcement corruptibility by organised crime is also provided by Holmes (2007) who quotes expert estimates that Russian street prostitutes retain 20% of sums they charge, the remaining 80% being *evenly* divided between organised crime and police officers (although he adds that the evidence of collusion is circumstantial).

The scope is also evident in statistics provided by Volkov (2002) which show that throughout the 1990s some 25,000 law enforcement employees (approximately one quarter of all discharged) were expelled for

unlawful activities each year, and up to 15,000 each year (62,844 in 1986-90 and 75,168 in 1991-95) were charged with criminal offenses. Topil'skaya (2006) points out that comparing the number of members of the judiciary and police officers convicted for corruption (16 of the former vs. "many thousands" of the latter for the period 2004-2006) shows that law enforcement has been disproportionately affected by corruption. She also provides a non-exhaustive list of the services procured through corruption by organised crime: receipt of information about the actions and intentions of law enforcement towards organised crime groups; design of counteraction tactics against these intentions; influence on the actions of law enforcement officials; influence on political and regulatory decision that could affect the level of criminal profits. In a notorious case, investigators even subpoenaed a building as material evidence in a court case because an organised crime group wanted to take it over. Kuznetsova and Luneeva (2004) claim that organised crime would even pay some government officials regular remuneration (sometimes referred to as *kormlenie*) without specifying any concrete services expected in return.

***Political, administrative, and private sector corruption***

There are a number of attempts at estimating the scope of the corruption employed by organised crime. Finckenauer and Voronin (2001, p.23) quote expert estimates that between 30 and 60 percent of the income of Russian organised crime is spent on bribery and various forms of political lobbying (although they add that because of the latent nature of this corruption, it is difficult to estimate its magnitude or to say much about trends). Nomokonov (2009) claims that organised crime groups spend more than half of their criminal income on bribery. Handelman (2001) writes that organised crime and corruption cost the country an estimated \$15 billion a year.

As regards money laundering, some authors describe how organised crime assist Russian business and government officials in moving their own assets out of Russia evading scrutiny and/or taxation thus affecting other countries. Sukhareno (2004) claims that Russian organised crime is seeking to purchase influence in the political systems of many countries at all levels. In recent years, Russian businessmen, believed by US authorities to have links to Russian organised crime, have turned up at fundraising events and donated funds to political campaigns.

Satter (2003) mentions even the corrupting influence of organised crime on culture – the influence of gangsters being so powerful that their language – *fënya* – is used by government officials, entertainers, media personalities and they are the heroes of numerous novels, films and TV series. The general sense of lawlessness brought about by the nexus of crime and corruption is exemplified by other authors by the popular use of the term "mafia" to refer even to the smallest merchant offering a product that seems overpriced.

***"Globalization of Russian corruption"***

Another major concern in the literature is the "globalization of Russian corruption" (Shelley 2003). Galeotti (1999) discusses three forms

of penetration outside the countries of the former USSR – *hard* (direct intrusion, establishing networks alongside or in competition with indigenous organizations), *soft* (where it shows a more respectable face, and establishing legal or para-legal businesses) and *service* (where it provides various criminal services from contract killings to cybercrime). Some authors (e.g. Sukhareenko 2004) differentiate between organizational types and their use of corrupt influences as regards organised crime outside Russia. One type is the loosely structured crime group with no hierarchical command operating in shifting alliances. Some of these are involved in white-collar crime (e.g. various types of schemes for defrauding public services) which requires specific types of corruption and sophisticated expertise; others are violence-oriented and engage mostly in racketeering, which may only require law enforcement corruption. A second general type would be enterprises representing in other countries the well structured crime groups of Russia proper whose main operation is money laundering, thus requiring financial sector corruption. Generally, however, “nearly 60% of all investigations targeting Russian organised crime involve some type of fraud. These crimes require little or no corruption” (Sukhareenko 2004).

Cautious and tentative hopes are started to be expressed in the literature regarding the attempts of the Putin administration to crack down on organised crime. Galeotti (2004), for example, claims that corruption, although a very serious problem, but it is one which is beginning to be addressed, and that the Russian police and judiciary are still underfunded and thus undertrained and vulnerable to corruption, but this too is beginning to be addressed.

### **Conclusion**

Finally, it could be summarised that although most of the reviewed literature discusses – in various degrees of extensiveness – the corrupt methods of organised crime in Russia, it is mostly descriptive and little attempts are made to uncover some underlying patterns or project trends. Another aspect of these problems that is not mentioned in the reviewed literature are the ways in which petty, everyday corruption involving individuals and the general public services (traffic, health, etc) relate to the corruption areas of organised criminality.



## ANNEX 11: ORGANISED CRIME AND CORRUPTION IN THE WESTERN BALKANS – REVIEW OF LITERATURE

While there has been a significant amount of academic and NGO literature on corruption, there is relatively less analysis of organised crime in the Western Balkans. Some attention has nevertheless been devoted to the links between corruption and organised crime in the area. The survey of some of the publications that analyse the inter-linkages between the two phenomena has revealed some common themes.

First of all, some authors discuss the role of the **security sector and its links to organised crime, especially during the Yugoslav wars**. The fact that smuggling of various essential goods, such as oil, was necessary for surviving the UN-imposed embargo, and that money from illegal trade was also necessary for financing the waging of war and other state functions, facilitated the **involvement of the security services in forging links with organised criminals who could supply the badly needed goods and/or funds** (CSD 2004). After the wars these links have endured and are still causing great harm to the quality of governance in the region.

Secondly, and related to this is **the role of customs corruption in the process of smuggling of various goods** during the Yugoslav wars as well as during the international embargo against Serbia and Montenegro, and the role of corruption among border guards in facilitating human smuggling.

Thirdly, the authors surveyed have discussed **the post-communist heritage** (shared by the rest of Eastern Europe), and the role of **informal networks (such as those inherited from the Communist-time *nomenklatura***. In this regard, the links between high-level political leaders and oligarchs throughout the region, who in many cases amassed their wealth during the wars as a result of illegal activities, and often still engage in illegal business practices, are emphasized as one of the most alarming issues facing Western Balkan societies.

This troubling heritage and the current socio-political context in which nation-building and democratic transition processes occur in the Western Balkans are an important explanatory factor for the specific ways in which corruption and organised crime have been interrelated in the region. The common ex-Yugoslav or post-communist legacy accounts for a lot of the similarities, while the historical experiences of the Yugoslav wars – when, how, and whether the countries participated in, or how they were affected by them – accounts for many of the differences, at least between certain *groups* of countries.

In this regard, two of the states most directly affected by the wars and the ensuing international economic embargo on what had at that stage remained of Yugoslavia – Serbia and Montenegro – show important similarities. Thus, the security services of the Milosevic regime maintained

links to organised criminals “initially established during the communist era when organised crime was inextricably enmeshed in the system of power” and were heavily involved in co-opting organised criminals for the procurement of goods which were necessary for the very survival of the state – especially in the conditions of economic blockade (Giatzidis 2007).

Yet it was not only goods (such as oil) that were directly essential to the functioning of the state or the war-time or post-war economy that were of interest to the political leadership and the security services. The Milosevic regime was also interested in the funds that could be supplied from the smuggling of non-essential and even illegal goods (such as drugs) as well. Anything that could bring in extra income was welcome: “as long as the crime groups in Yugoslavia gave the security services their cut of the money, the authorities were willing to turn a blind eye to what they did elsewhere” (Giatzidis 2007). Indeed, cigarette smuggling was an activity in which even Mira and Marko Milosevic (the dictator’s wife and son) had engaged in through an international trading company they controlled (Reuters 2007; Stojanovic 2007). Cigarette smuggling was also widespread in Montenegro, where former Prime Minister Djukanovic himself has been implicated in alleged cigarette smuggling. In fact, Italian prosecutors issued an order for his arrest in 2005 which was dropped when Montenegro became independent and Italian courts granted Djukanovic diplomatic immunity. Prosecutors in Bari have described him as “the head of an international mafia group” (OCCRP 2008).

Even after the end of the Milosevic regime, however, problems have persisted. In Serbia and Montenegro, individuals who made fortunes in the shadow economy during the Milosevic era have used their enormous financial resources to shield their illegally acquired gains, aided “by the fact that the competitiveness of the new political parties depends on securing financing and there are few alternatives to turn to for funding” (Andreas 2004). Moreover, the collusion between the security sector and the political elite on the one hand, and organised criminals on the other, led to the criminalization of state structures as well and created a socio-economic environment that was conducive to corruption in other sectors as well (Andreas 2004). In particular, Velkova and Georgievski find that “customs departments in SEE are more vulnerable to corruption than other law enforcement agencies, because customs officers have direct discretionary access to tangible wealth, while being substantially underpaid” (Velkova and Georgievski 2004). The authors also discuss the embargo (in the case of Serbia and Montenegro) and the resulting economic isolation (in the case of Macedonia and Albania), as well as the discretionary nature of the duties of customs officers inherited from communist times, as contributory factors for the high levels of customs corruption (Velkova and Georgievski 2004).

The Yugoslav wars had their impact on the interaction between the security sector and organised criminals in other countries from the region as well, yet for different reasons. The fact that Serbia inherited most of the weaponry from the JNA (the Yugoslav People’s Army) meant that

the countries it waged war on (in particular Croatia and Bosnia)<sup>172</sup> were at a severe disadvantage, and had to rely on arms smugglers to obtain ammunition in order to defend themselves. The humanitarian crises, in particular in Bosnia, and the economic devastation brought about by the years of fighting and also felt in neighbouring countries, led to large movements of migrants away from countries such as Bosnia, Kosovo, Albania, and Macedonia towards the West. This was facilitated not only by the porous and poorly guarded borders in the region but also by the collusion of border guards and human traffickers. Nevertheless, in other countries besides Serbia and Montenegro, “clearly the serious links between corruption and organised crime are to be found in higher places than the offices of customs and border officials” (Athanasopoulou 2003). In Giatzidis’ words

*“In Croatia and Bosnia-Herzegovina, smuggling (predominantly of weapons) was organised by the republican governments in order to secure their independence and sovereignty. Similar patterns can be observed later also in Kosovo in the organization of Kosovo Albanian political leaders.” (Giatzidis 2007)*

In Croatia, arms smuggling channels “were developed and controlled by numerous former members of YPA [the Yugoslav People’s Army] and the Yugoslav secret services, who were of Croat origin and who decided to side with Croatia when it took the pro-independence course... among them was Martin Spegelj” (CSD Report 10). General Spegelj (the then Croatian Minister of Defence) organised the illegal transportation of huge amounts of arms in preparation for war with Serbia in 1990;<sup>173</sup> he had the “daunting task of turning a civilian police force into a battle-ready army” (Hockenos 2003). The majority of weapons smuggled into Croatia originated in Hungary and Romania. Most of them entered Croatia through Hungary as well as Slovenia (CSD Report 10).

Here it is pertinent to mention the fact that arms dealers in Slovenia were also more than willing to facilitate the illegal trade in arms in the Western Balkans by supplying the arms that the country inherited or misappropriated from YPA to the highest bidder. While Slovenia is not the focus of this specific section, it is important to note that interview sources on Slovenia have emphasized that oligarchs in the country have been implicated in arms trafficking, while at the same time pointing to the links of oligarchs to the political elite. Indeed, one high-ranking Slovenian politician who until recently served as Prime Minister – Janez Jansa – has himself been implicated in arms trafficking scandals.<sup>174</sup> According to Sabrina Ramet, a leading expert on Yugoslav and post-Yugoslav politics, in 1993 and 1994 Jansa, at the time the country’s Defence

<sup>172</sup> Slovenia fared significantly better than other SEE states or regions in that its leadership managed early on to divert a lot of the weapons from the JNA barracks stationed on its territory.

<sup>173</sup> Arms smuggling was soon diverted from its original national security purpose and was transformed into a series of highly profitable business transactions by the new Defence Minister Gojko Susak (CSD Report 10). As Stojarova asserts, the habits of facilitating arms trafficking naturally led to Croatia becoming a transit and origin country in subsequent years.

<sup>174</sup> Both Jansa and former Interior Minister Bavcar were charged with arms smuggling in 1995 (Brown 1995).

Minister, was “using his position...to engage in arms trafficking... [and thus] strengthen his position and that of his party” (1999).

Nevertheless, the situation with respect to corruption and organised crime in Croatia has somewhat improved since the death of Franjo Tudjman, and the war on organised criminal gangs launched by PM Djindjic culminating in Operation “Sword” in response to his assassination has led to some improvements in Serbia. Bosnia has however seen little improvement since the end of hostilities. There, war-time underground networks have been transformed into political criminal networks involved in massive smuggling, tax evasion, and human trafficking, while war profiteers, protected by amnesty laws, have engaged in shady privatisation deals (Andreas 2004).

In other countries – such as Macedonia and Albania – “smuggling and cross-border crime were not a part of the hidden agenda of the governments, but were organised and conducted by individuals and groups within or closely connected to the ruling elites” (Giatzidis 2007). Thus, Albania – once an extremely isolated state and economy – found itself under a totally different environment with the collapse of the Stalinist regime and the opening of its borders, which, combined with the wars in neighbouring countries “allowed Albania to become a primary alternative to traditional Balkan smuggling routes” (Giatzidis 2007). As for Macedonia, Stojarova compares the overall levels of organised criminal activity to those in Croatia, though it is necessary to make a distinction between the majority Macedonian and Albanian areas. Namely, “unlike in the other states in the region, on the Macedonian side there were no (para) military forces with a majority membership from the criminal population... However, the same may not be said about the Albanian side, where the National Liberation Army (NLA, Albanian acronym U K) was living off the profits of OC activities” (Stojarova). There, as well as in Albania itself or in Kosovo, the clan-based culture is particularly conducive to corruption, and organised criminals with the right connections can easily avoid prosecution, so that organised criminality “lives symbiotically with society” (Stojarova).

While there are differences – there are also similarities in that in all countries criminal elements have used the opportunities created by war and privatisation to amass enormous wealth. Another similarity – the communist heritage and the spread of informal networks designed to overcome blockages in the planned economies of the communist era stimulated habits of social interaction which have continued to this day (Karklins 2005). In the context of planned economies it was necessary to know who to call in order to obtain specific goods which were in short supply – and those were usually high-ranking managers in state-owned and directed companies and members of the nomenklatura class. Dobovsek in this context emphasises the common social origin of this group of people and the leaders of the former communist as well as other political parties, who in the process of transition to market economy retained and utilized their informal and corrupt networks in order to privatize these same state companies in an illegal fashion. He explains:

*“Economic liberalisation and political decentralisation in countries in emerging democracies have had disappointing results. The process needs years, even decades, to cause significant reductions in crime and corruption. Economic liberalisation is only effective if accompanied by a strong state, which is able to implement reforms. Instead, informal rules and norms have guided the illicit behaviour of both of officials and citizens, these rules and norms being stimulated by networks that also link criminals to these groups” (Dobovsek 2008).*

At the same time, whereas during the transition period high-level political corruption facilitated organised criminality in the sense of illegal privatisation and/or turning a blind eye to illegal trade, tax evasion, etc, in the context of greater stability and fully developed market economy and at least superficially functioning democracy with regular election cycles, the same political class needs the support of oligarchs in order to retain their power – so politicians make use of the same informal links forged in communist times to solicit campaign funds. Thus, the capturing of government through systemic corruption in most SEE countries endangers the functioning of democratic institutions (CSD 2003).

In conclusion, it is in these three sectors – the security services, the customs, and high-level politics – that the biggest problems in terms of the organised crime – corruption nexus are encountered in SEE. Nevertheless, the culture of cynicism created by the collusion particularly of high-ranking officials and the security services with oligarchs and other criminals have allowed and to some extent have led to a permeation of all state structures by organised criminality. To varying degrees, in most Western Balkan countries “the state was ‘captured’ with the aim of distorting its functions in order to serve the interests of criminal groups...[while] weak states in combination with strong oligarchs and organised crime meant that the main prize of political competition was control over state-owned resources” (Giatzidis 2007).



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