One more, hopefully good and fruitful, year ahead of us... How else can we start this January issue of the SGOC newsletter but by wishing you a lot of success and happiness in 2008! Once again we are very pleased to present to you the first issue of this year’s newsletter. As you will notice this time the newsletter does not have a specific theme but includes various organised crime-related articles, news and announcements. We have also changed the newsletter layout with the aim of making it more interesting for the readers. The format of the newsletter, however, remains similar to that used in the previous issues: 1) maintaining an online ‘blog’ that provides you with timely information about new books, news, conferences and calls for papers; and, 2) publishing online a tri-annual newsletter that comes in a PDF-document and contains original contributions. We sincerely hope that you will also help us with our task as editors by occasionally providing us with different materials that we can post in the blog or include in the SGOC newsletter.

In the future issues of the newsletter, we would also like to present some news from other parts of the world and we hope to have contributors from different continents in order to keep us informed about various organised crime-related developments and projects in their countries. Also if you are involved in some organised crime-related project please do send us a word or two about it so we can share this with the broader readership. We, the editors, believe that such up-to-date exchange of information will certainly contribute to the SGOC aims and objectives.

In this issue of the newsletter you will find a few articles covering a broad spectrum of themes. Jana Arsovska briefly presents the recent Macedonian law enforcement fight against organised crime. In the last 2 years Macedonia has had many successful police operations resulting in a drastic statistical increase of organised crime. Then, Mary Alice Lord touches upon another very appealing topic: the money laundering activities in the Caribbean Overseas Territories. She describes the situation in the Turks and Caicos Islands (TCI) with regard to their offshore finance that has swelled the local economies.

Helena Carrapiço, furthermore, describes the organised crime situation at the EU level, focusing particularly on the causes and outcomes of the EU’s presentation of organised crime as an external aggressor. Finally, Louise Deegan raises a very actual and relevant question: Why is the ratification process of the European Council’s Convention Against Trafficking in Human Beings stalling?

This issue contains also a lot of information about conferences to attend, books to read and recent news to be aware of. We hope you will find the themes covered here interesting and useful and we encourage you to keep us posted and updated in this new year. We certainly need your help to keep the newsletter going!

The Editors
Jana Arsovska, Bill Tupman & Helena Carrapiço
**Organised Crime in Macedonia**

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As in the case of most post-communist countries, in Macedonia too, the rapid and multi-dimensional transition from socialist to democratic state opened the ground for many criminal groups to flourish. Soon after, the Kosovo refugee crisis (1998-1999) and the inter-ethnic conflict in Macedonia from 2001 added fuel to the fire. The various circumstances, as well as the link between crime and politics made Macedonia a potential criminal heaven.

However, it was not until the late 1990s that the international community started criticising Macedonia for its high levels of organised crime and corruption, as well as for its lack of commitment to combat these hideous phenomena. Although until 2005, the official crime statistics in the country were very low, particularly with regard to smuggling of drugs, arms, cigarettes and people, this did not convince the international community that Macedonia does not have organised crime problem. Several foreign agencies, monitoring the situation in the country, postulated that Macedonian authorities are aware that organised crime creates a bad image for their country; hence, they have been inclined to deny its existence.

It was not until NATO and EU made it clear that one of the main obstacles for Macedonia’s integration into their structures is precisely the problem of organised crime and corruption that this ‘low-crime’ trend changed significantly. In particular, 2006 and 2007 can be singled out as years in which the Macedonian police, in cooperation with other international actors, had numerous arrests and confiscations of illegal goods contributing greatly to the dismantling of several criminal rings active in Macedonia and abroad.

The question, however, that boggles the minds of many people, is whether the current government is indeed determined to fight organised crime, or whether this is another political show-off performed by ‘political players’, aiming to diminish the opposition in the eyes of its supporters as well as to impress the international community? Although the ulterior motives behind the recent actions remain unknown, the outcomes are, however, visible and promising.

**Organised Crime Statistics**

The Macedonian Ministry of Interior reported significant ‘increase’ in organised crime for 2007.
In one of their reports it is mentioned that in comparison to the first half of 2006, organised crime offences in Macedonia have increased by 37.2 per cent during the same period of 2007. Also the number of recorded offenders has increased by 21.5 per cent from 2006 to 2007. If we compare the first nine months of 2007 with those of 2006 we will also observe that organised crime has increased by 21.3 per cent. According to police statistics, 233 (last year 192) organised crime-related offences have been registered in the first nine months of 2007 committed by 330 (last year 310) offenders. Most of the offences are linked to counterfeiting money – 139 (123) cases – committed by 124 (120) offenders; bribes and corruption – 34 (5) cases committed by 77 (7) offenders; as well as smuggling of migrants – 31 (23) criminal offences committed by 75 (55) offenders.

Just in the period from January 2005 to December 2006 in Macedonia there were 61 recorded cases against 178 accused persons involved in human smuggling. In these cases, 87 per cent of the migrants involved had Albanian nationality and were to be transported to Greece via Macedonia. During 2006, the Macedonian authorities closed several of their most important human smuggling cases (South 1 and 2 and Danube cases) and broke down several international criminal rings active in the Balkan region. Moreover, during the first half of 2007 the police registered 17 offences related to drug trafficking and arrested 34 offenders. During these arrested the Macedonian police also managed to confiscate 531kg of cocaine.

In addition to these successful police operations, in the period April to June 2007, there were also 15 police controls of 40 local bars/hotels, during which 110 women involved in prostitution were discovered (57 foreigners and 53 local women). In terms of statistics, human trafficking, mainly of women for sexual exploitation, reached its height in 2003 when the Macedonian Ministry of Interior reported 42 human trafficking cases. Already by 2005 this numbers dropped to two cases for the first nine months of 2005. On the other hand, all other organised crime-related offences seemed almost non-existent before 2005, but have significantly ‘increased’ during the last two to three years.

Analysis

It is indisputable that recently Macedonian authorities have shown higher commitment for combating organised crime and corruption. Statistically, the number of arrests and confiscations within the country and at each border-cross has increased considerably. Also, the government has become fairly more open to international cooperation. It appears that, at least temporarily, the ‘carrot and stick’ policies of NATO and the EU have yielded positive results in Macedonia.

The success of the Macedonian police might be also due to the higher preparedness of the law enforcement officials who received substantial training from international experts. Nowadays, the anti-organised crime departments are also better equipped, the custom administration is strengthened, and the Macedonian criminal code is updated. Nonetheless, due to the transnational and professional character of criminal groups today, one should not ignore the possibility that the increase in organised crime is in fact real and not necessarily due to efficient law enforcement fight. Finally, the regional instability, due to the unresolved Kosovo status, is additional factor that could shed some light on the recent statistical shift.

A Caribbean Jewel for Organised Criminals

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Historical Background of the Turks and Caicos Islands (TCI) TCI

The Caribbean Overseas Territories (COTs) are a collection of United Kingdom dependent countries situated in the Caribbean basin. Nested in among the COTs is the archipelago of islands known as the Turks and Caicos (TCI), where its centre, Providenciales, is the focus for the burgeoning centre for offshore finance that has swelled the economy since the demise of the TCIs indigenous salt industry in 1964 (Smithers1995).

The TCI had previously relied on its ability to exploit the natural resource of salt as a main economy builder. The surviving descendants of slaves who had settled on the uninhabited Caicos Islands in the 18th Century with American Loyalists were accustomed to living off fresh fish from the sea and a limited diet harvested from subsistence farming. While this existence may sound like it had a Crusoe-like idealism attached to it, the TCI was not able to self govern until 1962 when it acquired a Governor and after the Bahamas became independent. Any form of superintendence from another jurisdiction was likely to have had some form of restriction on the TCI as a developing COT with an economy about to crash. Indeed, in 1964 the salt industry was exhausted of its mineral supply and this inevitably led to a substantial loss of jobs and the main pillar of the economy crumbled.

Coinciding with the demise of the salt trade in the TCI, was the decline of the fishing industry in the Cayman Islands, a small parcel of islands situated just off the coast of Miami, USA. The Caymans had begun nurturing two industries concurrently as the old economy had started to wither: these were tourism and offshore financial services. The success of the latter established the Cayman Islands as the fifth biggest financial centre in the world. Until 1970, fishing had generated the lion's share of the income in the Cayman Islands, now financial services and their attendant products became the pillars for a new economy.

Correlating with the first initiatives of Caribbean states to diversify into the financial services sector, is the notable fact that it was the Western industrialised countries who encouraged such economic diversification, pledging such moves as a way to build an economy free from the ties of colonial rule (Mottley 2003).

The TCI as an Offshore Financial Centre (OFC)

The TCI had a number of factors which would have aided its transition in becoming an OFC:

Geographically and simply put, TCI is located between North America and South America. As a regional financial centre, this means the TCI fulfils two roles:

- It is closely located as an OFC to the countries in which many of its customers operate (North America). It therefore fulfils the role of legitimate financial centre.
- Being located between the mainly drug consuming North America and the producing cultivating country of South America means that though the financial pillar in the TCI upholds considerable prosperity, the archipelago is situated along a drug transhipment route and is a target for money launderers. The TCI in this context acts as a lure for organised criminal activity, in particular drugs money laundering.

The TCI when establishing its new economy would have had to explore ways to attract foreign enterprises above and over other jurisdictions that would offer the same financial products in the region.
A smaller regional financial centre like the TCI is constantly competing to a certain degree with an international financial centre, with the TCI having to offer enough legal and locational incentives to attract businesses to its smaller jurisdiction and away from the main financial centres, previously thought of as the only financial hubs (Roberts 1994).

Domestic legislation in the TCI was moulded to the acceptability of the consumer and to widen and develop the appeal of the jurisdiction, but OFCs in their original incarnation were not necessarily structured to fit into the global, regulated financial sector (Bradbury 1999). Such a lack of regulation would have left an OFC with a porous legal framework open to abuse from organised money launderers.

**OFCs, Tax Havens and Money Laundering**

The TCI functions as a tax haven which Gordon cites as being ‘any country having a low or zero rate of tax on all or certain categories of income, and offering a certain amount of banking or commercial secrecy’ (Gordon 1981). The banking secrecy laws and regulations that operate within the Caribbean basin are now largely viewed by the international financial community as conducive to money laundering. Confidentiality laws, zero tax regimes and the free flow of funds unhindered into and out of the TCI have allowed the country to prosper as an OFC; indeed the global cult of OFCs thrive upon such practices. Combine anonymity with tax evasion and destinations in the Western Hemisphere such as the Caymans and the TCI still remain a prosperous and secure destination for the proceeds of transnational organised crime to arrive at. However, in the wake of anti-money laundering/combating the financing of terrorism (AML/CFT) efforts following the terrorist attacks on the USA in 2001, the same countries that encouraged these Caribbean islands to diversify into financial services are threatening to remove the pillar that supports them: banking secrecy.

**A Haven for Money Laundering?**

In August 2004 the International Monetary Fund (IMF) conducted a review of the financial sector in the TCI. The report cited ‘the economic and financial structure of TCI...makes it vulnerable to money laundering’ and that staff shortages, lack of adequate powers, lack of compliance checking and the professional privileges enjoyed by lawyers all adversely impact in the area of AML/CFT (IMF TCI Report). In 2006, the second phase of the OFC IMF program was published, stating the need for more transparency of ‘OFC supervisory systems and activities’ (IMF Progress Report). As a result, an information dissemination and monitoring framework initiative was undertaken to encourage this. However, only 16 countries as of January 2006 had submitted the data required under the initiative and the TCI was not one of them.

Banking confidentiality laws in the TCI, including the Confidential Relationships Ordinance 1979, help to sell the country’s financial services, attracting both licit and illicit business. Detrimentally, to the reputation of the financial services industry, organised criminals wishing to launder drugs money will find it much easier to do so, with the high speed switch of funds between banks and jurisdictions carried out literally uninterrupted because of the secrecy afforded to bank customers. Crucially, criminals need to launder their money if they are to use it to invest in purchases such as houses, cars, furniture and to appear to live a normal functional life. They need a tax haven with bank secrecy laws as much as a licit customer. Indeed, legitimate businesses wish to ensure banking confidentiality too, so it is doubtful that governments will ever welcome a tightening of bank secrecy laws with open arms.

The death of banking secrecy in OFCs has not yet been seen even though rumours of its demise persist. Despite recent global events and the furore surrounding secret bank accounts, as long as banking confidentiality can be used as a tool to turn an economy in a once impoverished area, it will flourish in the OFC sector.

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In its current discourse, the European Union depicts organized crime as a growing threat to democracy, to the functioning of markets and to the safety of its citizens. The EU presents this phenomenon, in particular, as a homogeneous external aggressor who is taking advantage of the free circulation and establishment entailed by the Single Market, of the globalization in general and of technological advances. European societies, on the other hand, are seen as helpless victims, as their traditional responses are no longer able to cope with this problem.

Following this reasoning, the EU has been developing protection mechanisms- in order to safeguard the citizens and the society in general against organised crime-, based on a so-called common understanding of this phenomenon. Since 1992, a considerable effort has been put in fostering a consensus among Member States concerning the concept of organized crime and in constructing responses based on the latter. As a consequence of this effort, we have been witnessing the strengthening of police and judicial cooperation, the development of comprehensive strategies and programmes and the creation of new bodies and working groups to face this problem. In global terms, and even though most issues in the field of Justice and Home Affairs are officially inter-governmental, there has been a Europeanisation of national competences in name of a greater efficiency. This trend has gradually been accentuated through the introduction of new legislation and the pressure of particular events such as the terrorist attacks of September 2001, March 2004 and July 2005. The outcome of this process has been the setting up of a complex structure made of numerous repressive and preventive instruments, where law enforcement agencies have gained increased powers and the emphasis has been put on security rather than on the liberty of European citizens.

This evolution, however, comes as a surprise if we consider that, at the beginning of the 1990’s, European Member States did not share, at all, the same conception of organised crime. Countries such as Italy and the Scandinavian States had very different experiences with organised crime and, consequently, dissimilar forms of envisioning it, as well as dealing with it. Italy has had, throughout its History, serious problems with a number of different forms of organised crime and, of course, different forms of envisioning it, as well as dealing with it. Naturally, this does not mean that some form of organised crime did not exist in these countries. European States were not specially privileged in this respect: even if they were not home to the Italian Mafia, the American Cosa Nostra or the Japanese Yakuza, they had criminality problems of their own, both individual and collective types of crime. “Indeed, in some contexts there is no clear break between historical and contemporary manifestations of organised crime (Fijnaut and Paoli 2004).

Nevertheless, the concept of organised crime, as it was understood by the United States for instance, was not part of the European countries’ popular imaginary, nor of their security discourses, let alone their list of existential threats.
According to Woodiwiss, the original concept of organised crime was greatly elaborated in the United States, particularly during the Prohibition period, and only then exported to Europe around the 1970’s (Woodiwiss 2003).

The EU’s current working definition of organized crime is quite vague and more centred on what a criminal organisation is. The Council of the European Union defined it in 1998 as being “a structured association, established over a period of time, of more than two persons, acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of maximum of at least four years or a more serious penalty” (Commission and Council 1998). This definition was gradually completed over time as the EU policies in this area developed. It was the case for the Commission- Europol joint report, of December 2001, which added that criminal organizations use “some form of discipline or control”, “operate at an international level”, “use commercial or businesslike structures” and “are determined by the pursuit of profit and/or power” (Commission and Europol 2001). Having said this, one can but ask if there is any current criminal activity that does not fit into such a loose interpretation. According to European Union reports, there was an evolution in organised crime to adapt itself to the political, social, economic, legal and technological changes that have been taking place in the European Union. This trend was translated into a widening of the geographical areas of influence of each group, as well as a diversification of their activities. The latter implies, not only a wider range of illegal activities, but also the inclusion of legitimate businesses for money laundering purposes (banks, hotels and transports) (Europol 2006).

These changes can also be seen at the level of the internal organisation of crime groups. According to Europol, the structures have become quite different from the ones described by former theoretical models. They are now less rigid and often resort to external professionals for specialised assistance: “the loose network structured groups are more difficult to disrupt by law enforcement as they are more flexible” (Europol 2004: 7). This does not mean, however, that the traditional Mafia structure (hierarchically shaped pyramid) has disappeared, as it continues to subsist in specific regions of the world (Europol 2006: 1).

It is also worth noting that there is a growing cooperation among organised crime groups - often from different ethnic and national origins - in order to profit the most from the international scenario. To put it in a nutshell, organised crime is currently considered to have maintained an important growth rate - with a higher number of individuals involved and more crimes being committed - and to have become even more professional.

As a consequence, there seems to be a consensus among Member States that organized crime is a phenomenon that affects currently all of them. As mentioned previously, this was not the case some thirty years ago, as the latter was considered to be a problem limited to specific countries such as Italy, the United States, Japan, Colombia and China (Fijnaut and Paoli 2004: 2). If we look at the Central and Eastern European Member States, we do not even need to go back that further. The former Communist States saw organised crime more as petty crime, namely because it had diverse characteristics and a different dimension.
It was not until they began their transition to market economies – with all the subsequent political, social and cultural changes that it entailed – that these countries started to experience the same sort of phenomenon, which was already worrying older Member States.

As a conclusion, we can say that political, economic, social, legal and technological transformations have allowed for a change in the way Europeans perceive organised crime. The latter no longer constitutes, for the European Union, a simple market disruption problem; it has come to be considered as a threat both at national and European level. The structural organisation of crime groups has become so complex and has reached such a degree of influence that it acquired the capacity to destabilize economically, politically and socially the countries where it operates. The popular metaphor that depicts organised crime as slowly eating democratic structures and feeding from corruption-based relationships is no longer sufficient to characterize the European Union’s understanding of this phenomenon: “there is no form of government immune to the development of a transnational criminal organization, no legal system presently capable of fully controlling the growth of transnational organised crime and no economic or financial system able to resist the temptation of profits at levels and ratios disproportionately higher than the licit system offers” (Shelley 1997: 2 and 3).

References

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the collapse of the Soviet Union in 1989 created a societal vacuum in the bordering countries of the EU where organised crime groups and routes were able to flourish; growing economies of the member states created a new disposable income fuelling the demand for illegal activities, the E.U has consistently increased its external borders to immigration, which many argues further feeds human trafficking, as those desperate to travel and migrate will use whatever means necessary, even if that is through organised crime routes.

To that end, European countries and their institutions were amongst the first to recognise the threat that traffickers represented to both individual rights and to the wider public order (Gallagher 2006: 166). The Council felt the need to produce this further document for two significant reasons; firstly, to create a more victim centered approach to combatting human trafficking. It was recognised that while states had taken steps to criminalise human trafficking, more needed to be done to protect the victims. Secondly, the Convention, unlike the Framework Decision is not limited to the sexual exploitation of women; it encompasses all forms of forced labour for men, women and children.

The main features of the Convention include:

- Compulsory assistance measures and a recovery and reflection period of at least 30 days for the victims of trafficking and the importance of avoiding the criminalisation of the victims of trafficking.
- The possibility to deliver residence permits to victims not only on the basis of cooperation with the law enforcement authorities, but also on humanitarian grounds
- It calls for better national laws to prosecute the criminal gangs that engage in forced labour.
- The Convention requires states to take steps to guarantee compensation of victims.
- A strengthened international cooperation system and an independent monitoring mechanism, GRETA, which will monitor the proper implementation of the Convention by the Parties.

At this point, only 10 countries have ratified this convention; Albania, Austria, Bulgaria, Croatia, Cyprus, Denmark, Georgia, Moldova, Romania and Slovakia (Singh 2007). There is no end date for when the rest of the Member States must ratify it. We are now in a situation where politicians in most member states pay lip service to the concept of tackling organised crime at an international level, but have yet to put this into practice. The Member States who have signed the Convention, all propose to be in the process of ratifying it, but few have implemented a definitive timetable as to when this will take place. Without ratification by all States, this Convention will not reach its full impact and will eventually fail.

Why are government dragging their feet? Factors often cited by governments as barriers to ratification include; a lack of necessary infrastructure on the domestic level, a high cost to implementing the instruments (this includes not only assistance to be granted to victims, but also compensation), and the national immigration legislation and practice that would have to be brought into line with the Convention. The main reason for the lack of political will can be found in the interaction between the Convention and State’s immigration policies. Specifically, the clause in the Convention requiring signatory countries to let the victims of trafficking stay in the country for 30 days, to recover from their ordeal and decide whether they will help police prosecute offenders (Brady 2007; CoE 2005). Government officials fear that some immigrants will falsely claim to be victims of trafficking so they can stay in the country. They worry this will create an immigration pull factor towards their member state. See for example, comments made by Meg Munn, British Under-Secretary of State at the Foreign and Commonwealth Office. “Our concern is that automatic periods could act as a pull to bogus asylum claims, but we are looking at the experience of other countries” (House of Commons Debate 2006)

CONTRIBUTIONS!

For both the blog and the newsletter we are looking for:

- Book reviews of approximately 500-900 words, original books in language of your choice but reviews should be written in English. Indicate the language of the book.
- Conference reports of about 1000 words in English. Share your experience at conferences with those who are unable to attend them;
- Information on Calls for Papers, coming conferences and any other interesting material for our readers.

SUGGESTIONS!

For the newsletter we are looking for short original articles (1000-2000 words) on different organised crime-related themes.

You are also invited to propose things that could improve the quality of the newsletter.

Please send your suggestions and articles to oceditor@lycos.co.uk
The obligations of the Convention are indeed onerous for nation states and that is why there is such resistance. There appears, within the realities of current migration regimes, a limit to what States are willing to grant victims of trafficking (Gallagher 2006: 188). The changes required to immigration systems appear to be an insurmountable stumbling block.

The Convention suffers from the fact that there is no formal requirement in the Protocol to report on implementation and no mechanism established to monitor such implementation (Staiger 2005: 632). The only potential relevant body is a Conference of Parties established under the Convention on Transnational Organised Crime to promote and review implementation of this instrument as well as to more generally improve the capacity of States to combat transnational Organised Crime.

The response to human trafficking can take many different approaches; a human rights approach (as taken by the European Convention), a criminal, migration, economic response, etc. States have signed this Convention, and must now decide before ratification if they in fact do want to take a human rights based approach. If so, they must speed up the ratification process, if not, they must seek alternative ways, through international cooperation, to tackle this problem.

References


Naughton, D. TD. Speech by Fine Gael Immigration and Integration Spokesman on the Criminal Law (Human Trafficking) Bill 2007 Dail Eireann, 25th October 2007

Congratulations Diana and Thomas!
The SGOC and its executive congratulate you on the birth of your son Johannes born on 5 January 2008 and wish you and your family all the best!

[Disclaimer: While every effort has been made to ensure the accuracy of information contained in this newsletter, neither the Editors nor the ECPR can accept responsibility for any errors.]