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Report

THE EUROPEAN UNION METHODOLOGY FOR REPORTING ON ORGANISED CRIME

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The European Union methodology for reporting on organised crime

Background

In November 1993, the European Council decided that an annual strategic report on organised crime was to be issued. The aim of this report would be to provide insights into the organised crime phenomenon within the European Union.

In November 1994, the Council accepted that the production of this *Organised Crime Situation Report* (OCSR) was dependent upon the exchange and analysis of information by the member states. It was therefore agreed to set up a common mechanism for the systematic collection and analysis of information. This mechanism was used for the 1994 and 1995 EU situation reports. In 1997, the basic methodology was further developed (ENFOPOL 35) and the new methodology was applied for the first time in the 1997 report.

In the meantime, the European Council in Dublin – 13 and 14 December 1996 – underlined its absolute determination to fight organised crime and stressed the need for a coherent and coordinated approach by the European Union. It decided to create a *High Level Group on Organised Crime* tasked with drawing up a comprehensive Action Plan containing specific recommendations, including realistic timetables. The work of the High Level Group resulted in the *Action Plan of 28 April 1997 to Combat Organised Crime*.

This Action Plan set up a *Multidisciplinary Group* (MDG) on organised crime which was intended especially to comprise judicial authorities and police representatives and to stimulate an integrated approach to combat organised crime.¹ A *Contact and Support Network* (CSN) was established to examine the issue of measuring organised crime. Tasked with the further development of the methodology and involved in producing the annual EU Organised Crime Situation Report, the purpose of the network was to ensure the quality of the reporting process and of the report's content.

In February 1999 – under the German Presidency – discussion resumed on improving the methodology. A document was produced which proposed three steps towards further development of the European OCSR. These steps, which were intended to provide a long-term perspective, were the following:²

- a generally recognised data collection mechanism and a uniform collection of certain basic data in all member states (which would contribute to the harmonisation and standardisation of the reports);
- the collection of qualitative data/material to furnish a more exact and detailed description of organised crime;
- the use of a threat assessment methodology describing the conditions that foster crime, as well as the causes of organised crime.

This document did not initially give rise to specific action on the issues proposed.

In 1999 and 2000, however, the Swedish delegation announced the intention of Europol and the MDG to change the structure and composition of the OCSR. According to the Swedes, the focus of the report should shift from the description of current and past situations to assessment of threats and risks related to future developments in crime and their implications for law enforcement within the EU. Sweden therefore proposed that the organised crime situation report should be an annual strategic report produced for the purpose of planning, within the EU and the member states, by the Police Chiefs Task Force (PCTF) and Europol. The aim of the Swedish proposal was to make the purpose of the report clearer to its users so that it

¹ COUNCIL OF THE EUROPEAN UNION, 14942/00, CRIMORG 173/ CATS 72, Brussels, 22 December 2000.

² COUNCIL OF THE EUROPEAN UNION, 8469/99, CRIMORG 55, Brussels, 19 May 1999.

would facilitate the collection of national contributions and provide a better foundation for the formulating of conclusions in the overall EU report which would result in better and clearer recommendations.³

Based on the Swedish proposal, Europol examined its OCSR and decided to re-orient the report to a *threat assessment* based on OCSR and emerging phenomena. According to Europol, an overview of this kind would be complementary to those produced by the member states. If the Member State report became more threat or future oriented, Europol stated, the two mechanisms would support each other to produce an even better overview of the situation in the EU, and the result would be a vital document for prioritisation, planning and common action within the EU. According to Europol, the current OCSR went beyond the mandate areas of Europol and therefore raised problems in assessing data quality because what member states and Europol perceive as OC priorities might vary. An extension of the mandate to cover all forms of serious crimes would therefore be greatly welcomed by Europol.

On March 13, 2001 the Commission services and Europol issued a Joint Report entitled '*Towards a European Strategy to Prevent Organised Crime*'⁴ which proposed the development of an information collection plan reflecting a knowledge-management process from a multi-disciplinary perspective. In line with the prior Swedish proposal, the Joint Report proposed that explanatory annual reports should be compiled, rather than the traditional descriptive documents.

Later in 2001, and on the basis of the Swedish proposal, the CSN discussed a possible change to the structure of the EU OCSR and recommended to the Multidisciplinary Group that the OCSR should be converted into an annual strategic report. Such a strategic report would be used for planning purposes, and it would focus on assessment of relevant threats and risks as well as on recommendations related to combating and preventing organised crime. As a consequence of the shift to a more future-focused report, it was recommended that the name of the OCSR should be changed. Given that the report took a three-year perspective, had annexes describing new trends and tendencies, and put forward stronger recommendations to its recipients, it could no longer be called a 'situation' report. Consequently, it would simply be called the Organised Crime Report, ORC: in short, the OCSR should become more threat, trend, assessment, and future oriented; it should use appendices so that it became a timely product, and it should become more 'customer' oriented by allowing the Heads of the National Units (HENUs), the PCTF and other decision-makers to have a say in its overall structure and orientation.

In the autumn of 2001, the Belgian Presidency proposed an action plan to convert the OCSR into a annual strategic report for planning purposes with the primary focus on assessment of relevant threats and risks, as well as on recommendations related to combating and preventing organised crime (CRIMORG 133).⁵ The basis was to be a conceptual model, discussed in formal and informal CSN meetings and proposed by the Belgian Presidency, which comprised analysis of traditional and non-traditional elements: environment analysis, organised crime group analysis, analysis of counter measures developed by criminal organisations, as well as scans of the legal and illegal markets.

Annexed to this action plan was a first inventory of the existing approaches and methodological tools, as well as a time schedule for the plan (starting with the organised crime groups). The aim of the action plan was to determine and schedule the various measures required to study all the identified aspects of organised crime. It dealt with the preparation of the OCR and the gradual integration of methodological improvements area by area. As a general rule, the new methodological approach would be adopted in the following stages: identification of

³ COUNCIL OF THE EUROPEAN UNION, 6628/01, CRIMORG 19, Brussels, 13 February 2001.

⁴ COUNCIL OF THE EUROPEAN UNION, 7825/01, CRIMORG 34, Brussels, 20 March 2001.

⁵ COUNCIL OF THE EUROPEAN UNION, 14959/1/01, CRIMORG 133, Brussels, 10 December 2001.

sources by consensus, consideration of a threat and risk assessment model, agreement on a general model, agreement on carrying out analysis of the topic identified, production of a first revised report, feedback from customers on the first report, revision, evaluation and recommendations for future development.

Methodology

Collection of data

-Guidelines are provided on the collection and analysis of data.⁶ These guidelines are focused on three aspects: a list of topics, a methodological annex, and the characteristics of organised crime. Most relevant to present purposes is the methodological annex, which the guidelines state should furnish a thorough description of the methodology used. Therefore, each member state should describe the methodology used to gather and analyse information, addressing the following aspects in particular:

- the sources used for each topic (hard police data, soft police data, data provided by other law enforcement agencies, etc.);
- selection standards, definitions and instructions used in the data collection;
- criteria for the processing and analysing of data;
- changes in the working method – in relation to the previous report;
- methodological problems and the measures taken to deal with them.⁷

Used definition of OC

-The definition of organised crime used in the context of the EU OCSR is based on a list of eleven characteristics. According to the EU, for the definition of organised crime to be fulfilled, at least six of the following characteristics must be present, and four of them must be those numbered 1, 3, 5 and 11.⁸

- 1. Collaboration of more than two people;**
2. each with their own appointed tasks;
- 3. for a prolonged or indefinite period of time** (this criterion refers to the stability and (potential) durability of the group);
4. using some form of discipline and control;
- 5. suspected of the commission of serious criminal offences;**
6. operating on an international level;
7. using violence or other means suitable for intimidation;
8. using commercial or businesslike structures;
9. engaged in money laundering;
10. exerting influence on politics, the media, public administration, judicial authorities or the economy;
- 11. motivated by the pursuit of profit and/or power.**

Interpretation of these eleven criteria has been the subject of much discussion within the EU as it is not always straightforward and may differ from state to state. The criteria most problematic for coherent interpretation by all member states are 1-3-5-11.

Because these are the compulsory criteria, different interpretations of them may have significant consequences for the OCSR. The problem can be solved in two ways:

- flexible interpretation of the criteria based on the definitions set out in the national reports;

⁶ COUNCIL OF THE EUROPEAN UNION, 6204/2/97, ENFOPOL 35, Brussels, 21 April 1997.

⁷ COUNCIL OF THE EUROPEAN UNION, 6204/2/97, ENFOPOL 35, Brussels, 21 April 1997.

⁸ COUNCIL OF THE EUROPEAN UNION, 6204/2/97, ENFOPOL 35, Brussels, 21 April 1997.

- discussion among the member states in order to find a common interpretation.⁹

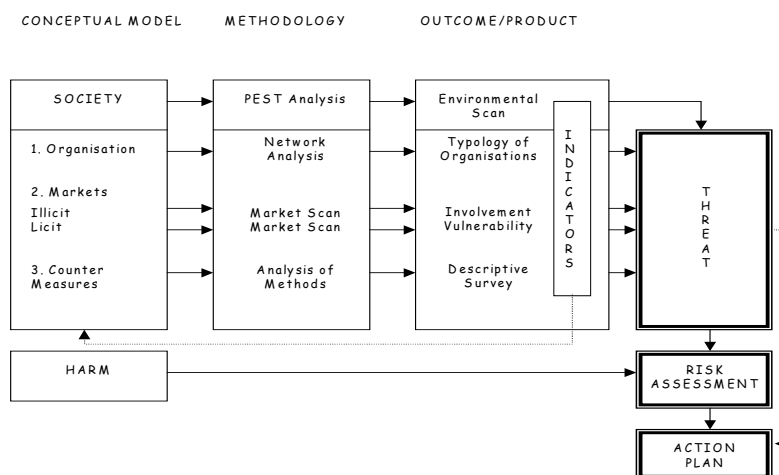
Spain¹⁰ opted for the second of the above solutions, as it feels that the mechanism should be improved for a methodological perspective, which means that it is necessary to adopt a serious and responsible approach to harmonising the interpretation of the eleven criteria defining organised crime.

In the meanwhile however, a few steps are taken to optimize the harmonisation of the interpretation of the criteria by elucidating the compulsory criteria 3, 5 and 11.¹¹ E.g. criteria 11 'determined by the pursuit of profit and/or power' states that politically motivated crime do not fall into this category.

The Spanish Presidency also proposed a further development of the action plan mooted during the Belgian Presidency and which concerned *inter alia* harmonization of the interpretations of the eleven indicators constituting the EU's definition of organised crime. Regarding this last point, the proposal introduced a list of topics, to each of which a score was to be assigned in order to yield a measure of *criminal potential*. The results obtained from this parameter could be used to establish a weighted average with which to assess the threat posed by organised crime in the member state concerned.

E.g. the topic 'period of activity', which is directly related to criteria 3, could be measured as: <1 year = 1 (criminal potential); between 1 and 2 years = 2 (criminal potential); > 3 years = 3 (criminal potential).

Crimorg 133



The above scheme is the visualisation of the conceptual model proposed and discussed in the Action plan 1459/1/01 Rev 1 Crimorg 133.

The methodology of the model focuses on the constituent structural elements and the interdependencies between these various aspects to provide the fullest understanding of the phenomenon of organised crime and its influence.

⁹ COUNCIL OF THE EUROPEAN UNION, 12669/99, CRIMORG 166, Brussels, 8 November 1999.

¹⁰ COUNCIL OF THE EUROPEAN UNION, 15463/01, CRIMORG 139, Brussels, 19 December 2001.

¹¹ COUNCIL OF THE EUROPEAN UNION, 10415/00, CRIMORG 111 ENFOPOL 54, Brussels, 3 Augustus 2000.

However, the focus on constitutive elements and the system itself is not enough. From a policy perspective and based on the new approach of the OCR, it is arguably more useful to understand why something does or does not occur and what the implications of such outcomes are.

It is for this reason a long-term methodology is recommended, using certain structural elements and encapsulating them in a risk-based methodology.

For organised crime measurement purposes, risk assessment can be seen as providing a systematic way of analysing socio-economic and political variables and their potential impact on organised criminality.¹²

The framework of Crimorg 133 consists of two main parts: the *criminal player* and the *environment* in which he operates.

The first part describes the ‘registered criminality’ (who, what, where, how much), whereas the second part focuses on the criminal opportunities which can be created by the environment. Regardless of the calls for focus to be turned towards the processes and situational factors involved in organised crime activity (environment), the criminal player remains the central unit of analysis from law enforcement point of view and is therefore also inserted in the framework.

From the documents of the European Union, it appears that the member states are currently focusing their OCR on the aspect ‘market player’.

The data which are collected and analysed in response to the set up of the OCR, are all focused on criminal groups and their activities. The list of topics to be examined is totally related to the definition of OC and thus directly linked to the aspect of criminal groups, their *modi operandi* and the used counter-strategies.

As mentioned above, the final purpose of collecting and analysing data is to assess the threat which organised crime poses to the society. Within Europe some research is already conducted concerning the identification of attributes of criminal groups which could be placed against the functions of threat. (e.g. Klerks and Sleipnir)¹³

But also within the Council of the European Union one already proposed some methodology based on a criminal potential parameter in order to assess the threat which organised criminal groups pose in the country concerned. (see above). So for this first part of the framework a methodology already exists although some fine-tuning is still necessary.

The aspect ‘criminal player’ is further subdivided into the elements ‘*organisation*’ and ‘*counter strategies*’.

This subdivision is made as the conceptualisation of organised crime requires, besides the analysis of organisations, the consideration of counter-strategies as they relate directly to both our understanding of how organised crime groups interact with the external environment, and to the ways in which law enforcement regulatory efforts impact upon organised crime activities, although the analysis of counter strategies is strongly related to the analysis of criminal organisations.

The aspects *Illicit and licit markets* on the other hand aim to focus on the environment. In relation with the overall marketplace, it is clear that the features of the environment that facilitate or restrict the successful operation of organised crime should be determined.

For the illicit market, the aim is to determine the level of involvement of organised crime. Once the level of involvement has been determined, it should be possible to apply the

¹² COUNCIL OF THE EUROPEAN UNION, 11689/99, CRIMORG 145 ENFOPOL 66, Brussels, 8 October 1999.

¹³ P. KLERKS, *Groot in Hasj: Theorie en Praktijk van de Georganiseerde Criminaliteit*, Erasmus Universiteit Rotterdam, 2000 and ROYAL CANADIAN MOUNTED POLICE, ‘Sleipnir: The long Matrix for Organised Crime, an analytical technique for determining relative levels of threat posed by organised crime groups’, Criminal Analysis Branch, Criminal Intelligence Directorate, 2000.

risk/threat method. Within Europe, lots of research is already performed about various illegal markets, but the EU has not yet created a concrete methodology which can be applied to the OCR.

For the legal markets very few information is available yet. The only data which are currently used on European level are these extracted from the vulnerability studies performed by the University of Ghent. Further research is needed here too.

Next to the before mentioned parts, *an environmental scan*, should also be performed. This scan seeks to identify the major relevant trends in the external environment and the overall objectives of the actors involved. If successfully performed, the environmental scan should contribute to a forward-looking assessment, capable of identifying future trends and thus accommodating the normal lag between problem recognition and policy implementation. Environmental scanning is a term which is commonly found in management texts and the wider organisational literature. When combined with an internal analysis of organisational strengths and weaknesses, this process is geared towards identifying the ways in which their posture can be expected to intersect with, and subsequently interact with or respond to, changes in the external environment. The University of Ghent is currently performing research in this area, but also this part of the methodology is not yet implemented in the OCR.

EU-methodology and AOC

Hereafter we shortly explain our proposal on how to link the EU-methodology with AOC. Perhaps this can function as a starting point for our discussion about the new methodology.

-First of all, we will have to decide if we continue to use the concept 'organised crime'. Based on the research we have already performed on the conceptualisation of the aspect 'organised crime', we must be able to take a decision. We think however, if we conclude not to proceed with this concept, this will not necessarily mean we have to give up the current EU-definition on organised crime. Instead we can fine-tune the definition, maybe based on the evaluation Petrus did before in WP7.

-Irrespective of what the outcome of this first exercise will be, we believe that the four aspects 'criminal groups', 'contra-strategies', 'legal markets' and 'illegal markets' could be the elements under which we can place all the characteristics of 'organised crime'. Based on the outcomes of the previous WP's, we can select the elements which are needed to be collected in order to be able to fill in the four aspects and operationalise the methodology.

-Finally the proposed methodology will then be tested in the pilot study of the cigarette black market.