

Organised Crime, Security and the European Union

Draft Paper for the ESRC Workshop, Grenoble

Dr Wyn Rees, University of Leicester

A Changing View of Security

Security is the absence of threats to core values. During the Cold War, security in Europe was conceived in largely military terms: it was about the threatened use of military power in international relations. Security was usually assessed in negative terms as the absence of conflict between the continent's two military blocs. This traditional understanding of security focused on the threat of military force to sovereign states (national security).

The concept of 'collective security', in which all states guaranteed the security of their neighbours, had been discredited in the inter-war period by the failure of the League of Nations, which sought to embody this principle. The Cold War witnessed the building of alliance 'collective defence' arrangements in which groups of states came together to guarantee each other's security. States within the transatlantic framework developed patterns of economic and political cooperation to such an extent that it became inconceivable to envisage military conflict between them. A 'regional security complex' was formed in western Europe in which states became interdependent in their security.

A more differentiated concept of security began to emerge with the end of the Cold War. Drawing on the work of Buzan and the Copenhagen school, security was viewed as a much more multifaceted concept which was not necessarily linked to territory.¹ According to this approach, security could be measured on a variety of levels, both above and below the state and it could be assessed in relation to political, economic and societal values. Critics argued that this approach risked diluting the concept of security leading to 'the progressive widening of security endanger(ing) its coherence'.² Yet for its advocates, the effect has been to broaden the security agenda. It is thereby possible to conceive of security threats and risks to types of actors other than nation-states.

The 1990s has witnessed the problem of organised crime being elevated to the status of a security threat amidst an environment in which crime has thrived. Freedom of movement among the Fifteen European Union countries has encouraged the spread of drug trafficking, trading in black market goods and money laundering. In the eastern half of Europe, the collapse of the pro-Moscow regimes created instability and vacuums that organised crime groups were able to exploit. Lupsha has identified three stages of TOC

¹ See for example, B. Buzan, *People, States and Fear: The National Security Problem in International Relations*, Wheatsheaf, Brighton, 1983 and O. Waever, B. Buzan, M. Kelstrup and P. Lemaitre, *Identity, Migration and the New Security Agenda in Europe*, Pinter, London and the Centre for Peace and Conflict Research, Copenhagen, 1993.

² A. Politi, 'European Security: The New Transnational Risks', *Chaillot Papers* 29, October 1997, p.13.

activity in relation to target societies. The first is the 'predatory' stage in which the criminal organisation penetrates the society and potentially fights for market share against other criminal competitors. The second is the 'parasitical' stage when the crime group has established its position and begun to infiltrate the legitimate business and political elite. The last is the 'symbiotic' stage by which time the criminal organisation has become fully integrated into the political structure, such as in Italy where the Mafia became closely interlinked with the ruling Christian Democratic Party.³

As these issues have increased in salience, analysts have continued to dispute issues of definition and scale in relation to transnational organised crime (TOC). Disagreements have focused over the number of persons that need to be involved in a criminal activity to justify the label 'organised' and the period of time in which they must work together. Differences have also been in evidence over whether a hierarchical structure needs to be present, whether violence must be employed and whether the motive is to secure profit or to seek power. The UN's Naples Declaration laid emphasis upon the following major characteristics of organized crime and is the most widely accepted guide for arriving at a typology. This identifies the following factors as defining TOC activity: (i) a group structure (ii) hierarchical or kinship links between members of the group (iii) the use of violence (iv) the laundering of profits (v) cooperation between criminal groups.

An alternative school of thought discounts the significance of organised crime and regards it not as organised but as disorganised and opportunistic. This approach would take issue with the entire thesis of a hierarchical crime structure. Estimates about the extent of transnational crime vary considerably. There is a considerable amount of information, which seemingly confirms the rise of a major threat. Interpol figures, for instance, suggest that by the end of the 1990s approximately 1,000 Russian crime groups were operating internationally.⁴ Yet there are also problems attendant upon the data. It is usually collected from a variety of national sources, many of which classify crimes in different ways. Furthermore, there is a tendency to rely upon extrapolations from known crimes to estimates of the extent of the activity that goes undetected. It is also undeniable that crime statistics carry with them political implications; namely, the resources that states will allocate to combat the problem.

'Securitising' Crime and Illegal Immigration

A security discourse

The 'securitising' of an issue is an act whereby a problem is elevated from a level of normal political discussion to special category status. Within this special category, a

³ P. Lupsha, 'Transnational Organized Crime versus the Nation-State', *Transnational Organized Crime*, Vol. 2, No. 1, Spring 1996. In order to understand the spread of TOC, Lupsha advocates the development of 'new theoretical paradigms such as those used in epidemiology and disease theory ...' p.24.

⁴ J. Gilligan 'The Role of Interpol in the Fight against Transnational Organised Crime' (paper presented to the UK ESRC Seminar Series on Policy Responses to Transnational Organised Crime, University of Leicester, September 1999.

higher priority is attached to addressing and remedying this issue. The combating of the attendant risks justifies the allocation of increased resources and unusual measures. The process occurs by which a threat is perceived to exist to an object and a 'security discourse' or language is activated. The issue can only be said to be 'securitised' once this discourse, and its attendant assumptions, has been accepted by an external audience.

Threats cannot be said to objectively exist: rather, they are perceived through the eyes of individuals within a political community. Threats are therefore socially constructed concepts by political actors who possess the power to legitimise a particular security discourse. The 'actors' responsible for generating such a discourse at the national level are bureaucratic and governmental elites. Once they have done so, they can seek to mobilise the awareness and resources of their political community to counter the danger. In the words of Waever, 'By naming a certain development a security problem, the "state" (claims) .. a special right to intervene'.⁵

A European security discourse has been applied to the issue of organised crime, which has convinced publics of a threat both to national and continental political structures. The discourse has been constructed by a variety of actors. Particularly influential in the process have been law enforcement and internal security ministries in the EU Member States. These have been assisted by intelligence agencies, which have sought to re-direct their energies since the end of the Cold War. Such agencies have helped to shape the perceptions of national governments, which have in turn, fed into the generation of perceptions at the level of European decision-makers. The fact that this process of securitisation has taken place with the ending of the Cold War has excited the allegation that a new 'threat' has been identified and shaped in order to replace the position occupied by the former Soviet Union and the Warsaw Pact. Securitising the issue of organised crime through an elite-driven process could be seen as a way of ensuring that the material resources and the political will mobilised against the eastern bloc was not dissipated in the 1990s. Such a process has arguably provided a new rationale for the development of structures of cooperation and integration on the European continent once the unifying threat of communism had disappeared.

The issue of crime ranks amongst the foremost concerns of EU citizens according to opinion polls.⁶ The extent to which the EU is responding to popular threat perceptions, or creating those perceptions, is unclear. Union decision-makers argue that they have been forced to respond to the demands of citizens: to do otherwise would have amounted to a dereliction of duty. However, it should not be overlooked that by addressing the issue of organised crime, the EU has contributed to its own legitimisation.

Writers on the theory of securitisation contend that the longer-term objective of elites should be, where possible, to return an issue to the normal level of political discourse. Securitisation, has been described as representing a 'failure to deal with issues as normal

⁵ B. Buzan in R. Lipschutz (ed) *On Security*, Columbia University Press, New York, 1995, p. 10.

⁶ Evidence for this can be drawn from numerous Eurobarometer surveys.

politics'.⁷ The aim should be to 'desecuritize' issues in order that they can be accorded a normal level of priority. Examples can be found in Europe where countries have been unwilling to treat crime as a security threat. Holland, for instance, has 'desecuritized' the issue of soft drugs, such as cannabis. But the process of desecuritising such issues would be to deprive the EU of part of its legitimacy by signalling that these matters no longer required the attention and cooperation that only such an organisation could provide.

Determining what is being threatened

It would be misguided to expect organised crime and illegal immigration to present the same types of security threats as military threats. The threat of military force was regarded as a threat to the physical survival and sovereignty of the state. Although an assessment had to be made about the apparent intention of an adversary, the military capabilities of an enemy were usually readily apparent, unless its society was extremely secretive. It was thus possible to gauge the level of threat that was presented and take steps to nullify the danger.

Crime and illegal immigration do not resemble military threats in that they are neither orchestrated by another state (they are sub-national in origin), nor do they seek to endanger the physical survival of the targeted state. Crime itself is essentially a profit-driven activity and rarely exhibits a malevolent intent towards the host society. It seeks to profit from the state in which it operates, rather than to pursue the state's destruction. States are poorly equipped to combat TOC. In the first place, transnational crime groups tend to be fluid actors that can move easily across national boundaries and alter their structures to respond to the environment. By contrast states are relatively inflexible agents which must engineer cooperation with other states in order to combat transnational actors. Second, the secretive nature of TOCs makes them difficult for states to concentrate upon. Successful operations against them require states to create dedicated and highly specialised police teams which seek to penetrate and disrupt the criminal organisations over a sustained period. Third, police forces are constrained by the legal process. They must be convinced illegal activity has taken place and have to sufficient evidence to bring criminal charges. There are often limitations placed upon the means the police can employ to obtain evidence, such as through eavesdropping and the use of *agent provocateurs*. In order to effectively combat TOC, many states have been forced to draft special legislation.

In the case of the European Union Member States, the issue is even more complex for two reasons. First, there is the problem of determining what are the core values of the EU that are being put at risk by crime and whether these values are the sum of the values of the members or whether the EU represents a unique set of values in its own right. Second, is the problem of determining whether the threats impact uniformly across the territories of the Member States. It would not be unreasonable to expect that crime impacts

⁷ B. Buzan, O. Waever and J. de Wilde, *Security: A New Framework for Analysis*, Lynne Reiner, London, 1998, p.29.

unevenly across the EU with states facing different types of problems; some regions experiencing particular difficulties while other areas having little problem at all.

Transnational organised crime poses a threat in a number of ways and needs to be assessed in relation to political, economic and societal categories.

(i) The Political Dimension:

Organised crime presents a political threat at a number of levels. The threat is an indirect one because criminal groups rarely have a political intent to overthrow the state nor do they seek to advance a hostile political ideology. Nevertheless, as a UN report noted in 1996: 'In traditional geopolitics, power was linked to territory and control over critical regions was deemed to be a major strategic asset. In the new geopolitics, the crucial variable is not so much power as authority – or rather, the lack of it'... It is not coincidental that what some observers have termed the era of the failed nation-State is also the era of organized transnational crime'.⁸

Weak or 'failed' states are those that have been unable to meet the needs of their populations or are experiencing a process of political transition. In southern Europe, for example, organised crime groups have flourished where state structures have been incapable of countering them. Allied to ethnic and family loyalties this has provided fertile soil for the development of criminal gangs such as in southern Italy in the early part of the Twentieth century and in Albania in the middle part of the 1990s. The effect has been to undermine the institutional expression of the state, its governmental and administrative structures. Organised crime groups can represent definable communities that reject the values of that country and systematically employ violence to operate outside of the law. In Latin America, Colombia, has been labelled a 'narco-democracy' because of the penetration of drugs money into the fabric of the government and the use of violence by drugs gangs against the state's representatives. Critics of the Russian Federation, Belarus and Ukraine, have warned against their descent towards a criminal-state structure. In these latter examples, former members of the security services and the old political elite are known to act in collusion with criminal groups. In the words of Louise Shelley:

'Organized crime groups often supplant the state in societies undergoing a transition to democracy, as their representatives assume key positions in the incipient legislatures, which are responsible for crafting the new legal framework for the society. Their presence within the legitimate state institutions undermines political stability because their goals are to further their own criminal interests...'⁹

Criminal groups may be able export their activities and corresponding influence across state boundaries. This may facilitate the exercise of political power across a region.

⁸ Implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, Report of the Secretary General, Vienna, 21-31 May 1996, p.4.

⁹ L. Shelley, 'Transnational Organized Crime: An Imminent Threat to the Nation-State?' *Journal of International Affairs*, Winter 1995, Vol. 48, No. 2, p. 468.

Structures such as the European Union can also be undermined by their inability to deliver good governance across the territories in which it has authority. The norms and values of the EU can be subverted by its failure to counter the challenges that it faces and this can lead to its de-legitimation within the international system. TOC can lead to the public withdrawing consent from the state. In the eyes of the population the institutions of the state may appear to be unable to deliver basic common goods such as stable government and law and order. The implicit social contract between the government and the people may be undermined as a result. According to Buzan *et al*, 'political security .. is about threats to the legitimacy or recognition either of political units or of the essential patterns among them'.¹⁰

Organised crime is often linked to political corruption which may exercise a pernicious effect even within relatively stable countries. Large-scale criminal activities provide both a pretext for obtaining the acquiescence of corrupt officials and the financial means to purchase such influence. Corruption may vary widely in the level at which it occurs, from the bribing of customs official right up to the control of senior political or judicial figures. Organised crime groups may influence the political system through their exercise of wealth and patronage, without necessarily seeking to take the reins of power for themselves. The institutions of the state, notably the government, civil service, judiciary and the media can become infected by corruption as a result of bribery and favours handed down from rich and powerful criminal groups. On a local level, a crime group or family can become very influential and may seek to legitimise its social position by securing political office. In the most extreme case, there may become a mixing of a country's political and criminal elites to the point where organised crime groups are able to wield political power at a national level. In Italy, the Sicilian, Camorra and 'Ndrangheta mafias have infiltrated the state and bought political influence at local, regional and even national levels. Even in the 1990s, violence was orchestrated against members of the Italian judiciary who had been given a mandate to reverse the power of organised crime.

(ii) **The Economic Dimension:**

The economic dimension to TOC is varied and complex. It is difficult to obtain a clear picture of what is being threatened in relation to this area because the nature of capitalism is inherently based upon competition and the 'survival of the fittest'. Economic enterprises can thus disappear without the system being put at risk. In the words of Buzan *et al*, 'under liberal logic (the) most distinctive unit, the firm, has a relatively weak claim to status as a security referent object'.¹¹ Instead, one is left with a perception of economic security that is driven from the top down: by governments serving as the securitising actors and assessing the level of risk to abstract concepts, namely national economies. The threats from organised crime and illegal immigration are therefore assessed most frequently in relation to national economies or to regional economic systems such as the European Union.

¹⁰ B. Buzan, O. Waever and J. de Wilde, 1998, *op. cit.* p.144.

¹¹ *Ibid*, p.100.

Van Duyne has drawn attention to the important distinction between markets for illegal goods and the illegal trade in legitimate goods.¹² The latter are legitimately produced goods that come to be traded illegally, whether because they have been smuggled across a border or because the required levels of taxes have not been paid. Consideration of this category of products opens up a very broad area of economic activity that often escapes attention. The involvement of organised crime may enable large-scale defrauding of custom services and governments. The open nature of Europe's borders, the density of transnational trade and the diversity of economic regulation render the continent particularly vulnerable.

It is necessary to distinguish between states who suffer severe economic costs from organised crime and those states for whom crime threatens national economic survival. In the latter category are states with low levels of economic development whose entire economy may become the victims of exploitation by organised crime groups. The collapse of the Albanian economy in 1996 as a result of the failed pyramid financial scandal was evidence of this possibility. In lesser cases, the framework that the state creates for the conduct of business is challenged and disrupted. It may be that the chief casualty is the state's reputation for integrity and the rule of law, rather than the economy itself, but this can have a long term damaging effect. Profitable activity will still take place within a state that is heavily penetrated by organised crime groups but much of the activity will be unlawful and unaccountable. The result may be that the reputation of the state suffers abroad as other countries will be reluctant to trade and invest money in the economy because they will have no confidence that their interests will be protected. Taken to its extreme, the inability of a state to function in the global market place presents a very real threat to its prosperity and even its survival.

States in central and eastern Europe that undertook the transition from command to market economic systems have demonstrated their vulnerability. The new governments were encouraged by the west to undertake a process of rapid market-led reform, the privatisation of state controlled enterprises and the convertibility of their currencies. Yet this opened up new opportunities for exploitation by criminals who alone had the ability to access large amounts of capital. Former-communist elites¹³ have been transformed into the *nouveau riche* of these societies. The broader social effects of economic liberalisation resulted in large impoverished sections of the population being willing to engage in criminal activities or susceptible to criminal coercion and inducement. The ability of post-communist states to counter these various activities, meanwhile, has been blunted both by the disruptive effects of restructuring systems of criminal justice and the inadequate resourcing of law enforcement at a time of economic stringency.

Large-scale illegal activity can have the affect of creating an invisible or black market economy. Where organised crime groups have become deeply entrenched this may enable them to establish micro-economies within the boundaries of the state. 'Black markets are both highly sophisticated and interactive. What is at work is no longer

¹² P. van Duyne, 'The Phantom Threat of Organised Crime', *Crime, Law and Social Change*, Vol. 24, 1996.

¹³ The so-called 'nomenklatura'.

individual illegal markets, but a systemic, transnational, multisectoral “parallel economy” comprised of networks of mutually supporting “submarkets”¹⁴. The writ of the government may not run in these submarkets, nor is revenue received for the national exchequer. For example, in the UK, an estimated £2.5 billion in duty is lost to the government by the illegal importation of cigarettes whilst in Germany the figure has been estimated at DM 1 billion.¹⁵ Areas of the economy that are often targeted by criminal groups include the transportation system and the construction industry. Criminal organisations will seek to create monopolies in these sectors which have the long-term risk of undermining the liberal economic system.

The banking sector is particularly vulnerable in this regard. Whilst many criminals would be reluctant to place their profits within the banking system because of the risk of law enforcement authorities tracing the money, it is often the scale of profits which forces organised crime groups to launder their proceeds. Money laundering provides a means to channel large sums of money and remove from it any hint of illegitimacy. The laundering of illegitimate funds is one of the major objectives of large-scale criminal organisations and groups in Russia have been known to establish banks for the purpose of laundering their profits. This has enabled them to avoid financial regulations and has made it more difficult for law enforcement officers to trace the monetary flows that are channelled overseas. The money entering the financial system is inherently volatile and may be removed at short notice, contrary to normal business expectations. The laundering of money through banks may be sufficiently widespread to damage not only the national economies of the states involved but also the entire international banking system. A report for the United Nations suggests that one of the reasons for the large scale debt crisis in Japan may have been the multibillion dollar loans to members of the organised crime group, the Boryokudan. The killing of a leading bank manager in September 1994 may have been a signal from the Boryokudan for the banking community not to seek repayment of these loans.¹⁶ In the case of the European Union, its economic regulations and regimes may be substantially harmed, both in practice and in reputation, by the criminal actions performed within its area of competence. The collapse of the Bank of Credit and Commerce International (BCCI) in 1992 is illustrative of the threat to the integrity of all financial institutions.

Much of the economic impact of organised crime occurs at a sub-state level and is largely invisible as regards the legitimate economy. Activities such as extortion and racketeering are usually conducted on a sub-state basis by local crime groups. At a local level the impact of criminal activity can be considerable, distorting the economy. Because illegal enterprises avoid the overhead costs of legitimate businesses and can draw on financial resources without necessitating borrowing, they can often undercut their competitors and flood the market with products that were generated below cost price. This gives illicit businesses the capability to force legitimate firms out of the market and thereby assert a

¹⁴ Implementation of the Naples Political Declaration, 1996, *op. cit.* p.11.

¹⁵ European Commission, ‘Illicit Trade and Organised Crime: New Threats to Economic Security?’ Report prepared in conjunction with the Stiftung Wissenschaft und Politik, 1998, p.62.

¹⁶ Implementation of the Naples Political Declaration, 1996, *op. cit.* p.8.

monopoly position. Alternatively, they may seek to dominate the market by intimidation and may use the threat of force to assert their control.

Legitimate businesses may be drawn into patterns of cooperation with organised crime groups. This may result purely from greed; the opportunity to maximise profits through working with criminals that may offer access to cheaper financing or product supplies. There have always been members of the professions, such as lawyers and accountants, prepared to work knowingly for criminal organisations. Alternatively, legitimate firms may be forced to work with organised crime groups against their will. This may result from the imposition of protection rackets or the establishment of criminal market dominance through intimidation. In all such ways, the smooth functioning of a local economy can be subverted by the penetration of illegal organisations.

(iii) The Societal Security Dimension:

The societal impact of crime is the last category worthy of consideration. Concepts of 'societal security' have been developed in relation to issues of identity, yet relating these ideas to the topic of organised crime is problematic because there is only an indirect link between crime and identity. It may be more appropriate to interpret societal security in terms of the cohesion of a social group and the perceived freedom from threat for its individual members. Organised crime can contribute to the breakdown of the cohesion of a society by promoting high levels of violence and intimidation. This can increase insecurity on an individual level and can encourage elements of the population to withdraw their support from the legitimate government because of its perceived inability to guarantee freedom from threat. The result is the fracturing of the society and the withdrawal of legitimacy for organs of the state.

In such circumstances, parallel criminal structures may arise that perform duties in the place of the government. If citizens feel that the state cannot provide security then they may turn to other sources to satisfy their need. Ironically, one of the sources to which they may turn is the very criminal organisation that helped to create the original sense of insecurity. Examples of this problem can be seen where local entrepreneurs turn to organised crime groups to ensure the protection of their property and the availability of financial loans.

Domestic societies often associate organised crime with the activities of alien ethnic groups. Sometimes this can be little better than racism as it is more comfortable for a society to blame foreign criminals for their problems rather than face the fact that these difficulties are home grown. On other occasions, however, it can be rooted in reality. When organised crime groups attempt to penetrate a new market they are likely to trust only members of their own ethnic community. Hence, crime can be concentrated within circumscribed kinship groups, such as the prevalence of Turkish crime gangs in the dominance of the heroin trade in western Europe. Ethnic groups that form an identifiable group within a host society are often subject to suspicion, particularly if those groups include criminals who continue their illegal activities. Within western Europe there is a strong perception that the problem from TOC has grown substantially since the end of the

Cold War and has resulted from the inflow of groups from CEECs. The popular focus on Russian and Chechen crime gangs that are believed to have entered western Europe in waves and become the principal agents in organised crime activity is a phenomenon that is hard to dispel.

This emphasis on identity is also applicable to the problem of the illegal smuggling of people. Such activities can put at risk a society's sense of its own collective identity as unaccountable levels of immigration occur and the state authorities are unable to exercise control. The domestic population may grow to fear that the established forms of legal immigration are being by-passed and that successive waves of illegal immigrants will have the effect of 'swamping' their society or even 'diluting' their ethnic homogeneity. The result can be the inflaming of an ugly form of nationalism and racism, the ramifications of which can also be seen on an international as well as a sub-state level.¹⁷ The true scale of the problem is often exaggerated for it is only in extreme circumstances that the identity of the host population is put at risk from losing its identity due to outside influences. But it is the perception that is created in the minds of the population, rather than the objective reality, that is all-important.

Two lessons can be derived from the above analysis. First, that in relation to TOC, the various categories of political, economic and societal security are not mutually exclusive. Rather, there are many overlaps between the various elements. Political-economic and societal-economic categories are often closely interwoven: for example, trafficking in people may generate perceptions of insecurity in a host population from both the feeling of being overwhelmed and from the fear of losing employment. Similarly, organised crime can detract from the local economy and create an underground market and in so doing, it can contribute towards undermining the government's capacity to manage the economy at a macro-economic level.

Linked to this is the interaction between different levels of security problems. Many of the security problems can operate on more than one level simultaneously: at the sub-state, state or regional levels. Because of the interdependence of states within the EU area, it is possible for TOC to generate threats at various levels at the same time. Whilst criminal activity in a sector could monopolise and distort an economy at a local level, so these problems can be replicated at a regional level.

The other lesson to draw is the importance of perception in shaping the implications of TOC. Although it is difficult to determine the precise size of these activities, it is the perception of their scale and impact that can be destabilising to both national governments and to structures such as the EU. The impression that organised crime is endemic in a state or a region, that laundered money is awash within the economy and that institutions are tainted by corruption, can have a paralysing effect on the government or union of states.

¹⁷ For a fuller discussion of this issue see, O. Waever, B. Buzan, M. Kelstrup and P. Lemaitre, 1993, *op. cit.* Chapter 8.

The European Union and Security

The securitisation of crime and illegal immigration on the EU's agenda has resulted from two principal pressures. First, Member States have come to recognise that they face common problems. In the words of British Foreign Secretary Robin Cook, '...the threats to Europe today – crime, terrorism, drugs, pollution – can only be addressed through joint action across the continent'.¹⁸ Such problems are beyond the powers of national governments to counteract: TOC disregards national borders. Securing actual prosecutions, when criminal activity may have been perpetrated across several legal jurisdictions, has demanded the admissibility of evidence between national judicial systems as well as the willingness of courts to respect judicial decisions from neighbouring states. It has been widely acknowledged that organised crime has come to operate fluidly across national frontiers and that law enforcement activities have to learn to do the same if it is to keep pace with the problem. The result has been the recognition of a set of 'common security' concerns that necessitate solutions that a community of countries have agreed and can proceed to implement.

Policies have developed from experiences in the late 1980s and early 1990s when the EC was faced with the implications of several changes. Perhaps the most significant of these was the completion of the single market project, with the attendant abolition of internal border controls. Allied to the increase in transnational economic activity it was feared that the dismantlement of internal borders would offer new opportunities for the spread of international crime. Drug trafficking was already known to be on the increase, particularly the importation of heroin from the Far East through the Balkans and via Turkey. Another change was the widespread political turbulence in central and eastern Europe.

The EU has been well placed to address a broader security agenda in which organised crime has been designated as a security threat. The very complexity of the EU, with its capacity for multi-level governance, has enabled it to respond flexibly to challenges that occur internationally as well as transnationally. Its sphere of competence allows it to intervene in a wide range of activities that relate to the interests of its Member States: its Second and Third Pillars facilitate activity in foreign policy, external security and internal security matters. The fact that crime is a multi-level issue has given the EU a particular role in addressing the challenge.

The EU is also an actor that enjoys legitimacy over a broader array of issues than any other comparable organisation. The fact that the EU was not narrowly configured around military security issues during the Cold War reduced its need to find new missions to undertake in post-Cold War Europe. With new 'threats' having risen to prominence, the EU has been well placed to respond to these new demands. It has been able to sketch out a role for itself in relation to security issues that do not involve the use of military force. As well as addressing issues such as environmental security the EU has been able to put itself forward as the legitimate organisation for securitising organised crime. It has

¹⁸ The Right Honourable Robin Cook, Foreign Secretary, Verbatim Speech, Foreign and Commonwealth Office, 25 July 2000.

securitised crime through a complex interplay of perceptions at the national level and responses at the supranational level. The experience of the problem of TOC has occurred principally at the national level where the securitising actors have been political leaders, officials in the ministries of the interior and senior national law enforcement officers. Their experience of the problem has varied according to the geography of the region, its socio-political maturity and its level of economic development. Nevertheless, the problem of TOC has been sufficiently common in nature for national actors to look for cooperation in tackling the issue.

The creation of Europe-wide structures to counter has added a further level of complexity to the issue. There are now dedicated EU agencies that now have a vested interest in drawing attention to the problem and advocating new and innovative solutions. From one perspective these new structures represent an emerging bureaucratic lobby group in favour of EU action against crime. Their range of competence has spread across the entire region of Europe and they possess their own legitimacy to shape the security discourse. From another perspective they represent a set of new interest groups with which national authorities must interact, liaise and define their separate roles.

The EU Model of Internal Security

The EU has realised that it cannot address the problem of TOC simply by centralising power in its institutions. Considerations of national sovereignty and legitimacy make this solution politically unacceptable. Furthermore, the different concepts of permissible state intervention, variations in threat perceptions and the divergences between the administrative and judicial structures of the European countries, all impose major limitations on the development of a uniform and appropriate system of governance and make differentiation inevitable. As a result the EU has embarked on a process of constructing an internal security regime that encapsulates police cooperation, mutual assistance in matters of civil and criminal law and a judicial network.

The Treaty on European Union (TEU) established the concept of cooperation in the field of Justice and Home Affairs, but little in the way of concrete progress was achieved. In a manner similar to foreign policy coordination, the Treaty embraced the cooperation that had evolved between governments in home affairs and brought it within the ambit of the European Union. Yet the cooperation was embodied within a separate intergovernmental 'Third Pillar' (so-called Title VI) which contained weak instruments and possessed no substantial objectives. Thus, only a potential policy area was created in the TEU and it was left undecided what was to be made of this opportunity.

The issue of internal security was recognised by some states as an important part of the integration dynamic. The Treaty of Amsterdam heralded a 'communitarisation' of asylum, immigration and external border control policies. These issues, in old Title VI, TEU, were moved to the European Community pillar, under a new Title IV, with all the implications that this held for using Community instruments in the future. Issues relating to police and judicial cooperation were not communitarised but retained in the Third pillar (new Title VI, TEU) under the Article 36 Committee. A deadline of five years was

imposed upon the Council to implement the Treaty's measures – the setting of such a target reflected a new sense of purpose that had hitherto been lacking.

The Treaty of Amsterdam declared that ‘..the Union’s objective shall be to provide citizens with a high level of safety within an Area of Freedom, Security and Justice (AFSJ) by developing common action among the Member States in the field of police and judicial cooperation in criminal matters..’¹⁹ The subsequent Vienna Action Plan, of December 1998, was drafted in order to elaborate some of these principles that had been raised in the Treaty.²⁰ It sought to build on the concept of freedom of movement within the ‘Area’ and acknowledged that the issues of freedom of movement and a secure and just domestic environment were intertwined. The right to freedom of movement and the well being of citizens within the Member States had to be safeguarded from external threats, such as crime.

The EU’s internal security strategy has possessed two strands. One has been the creation of a hard external border for the Union, built around the Schengen provisions. In the 1980s, the internal borders between Member States were dismantled in favour of a common external frontier in which a rigorous system of checks was imposed on those seeking entry. This system facilitated greater cooperation between the Schengen participants on countering drug trafficking and various forms of crime. The threat that was perceived to emanate from organised crime in neighbouring states increased the desire to make this common Union frontier difficult to breach. The Amsterdam Treaty incorporated the Schengen *acquis* into the Union. The effect of this initiative has been to dramatically expand the competence of the EU in matters relating to border controls. It has also led to the importation of a range of enforcement measures into the EU and common visa arrangements.

The establishment of common and controlled borders and the use of instruments to manage immigration were therefore linked to the internal security of the Member States. The EU’s model of internal security evolved around perceptions of an external threat. Those outside the EU’s borders are perceived to present a threat and justify exclusion from the territory of the Member States. According to this model, the EU’s citizens are deemed to require protection from the aliens beyond the commonly defined external frontier. The EU places emphasis on the impermeability of a common external border but places a premium upon the free movement of persons within the space of the Member States. Considerable effort has been focused on the mechanisms for enforcing this model of internal security. The desire to protect the Union territory and create hard external frontiers led some critics to refer to the creation of a ‘Fortress Europe’. The Tampere meeting announced that the Union needed to provide for ‘..the consistent control of external borders to stop illegal immigration and to combat those who organise it and commit related international crimes’.²¹

¹⁹ Title VI: Article 29, Treaty on European Union.

²⁰ Official Journal of the European Communities, C19, Brussels, 23 January 1999.

²¹ Presidency Conclusions, Tampere European Council, Finland, 15-16 October 1999.

The second strand has been the EU's cooperation in policing and judicial activities. Securitising TOC has helped to justify a new sphere of EU activity and spawned institutions, such as the European Police Office (EUROPOL) and the Drug Monitoring Unit in Lisbon. The remits of these organisations are the monitoring and sharing of intelligence against drug trafficking and organised crime. In addition, the granting of access to the Schengen Information System by Europol offers an insight into how a common system for monitoring internal security is emerging. Consistent with this are ideas for a force of European border police.

The EU's model of internal security has not emerged according to a specific blueprint advanced by the Commission or a particular member state. Rather, it has developed incrementally and in an opportunistic fashion, as the need to cooperate over specific problems has been recognised. Nevertheless, what is presently emerging is a European security regime that will represent a model for the entire continent. This is partly because there exists no organisation in Europe that is capable of constructing an alternative to that of the EU. It is also because the inherent power and influence of the EU acts as a platform for its initiatives towards the rest of the continent.

Enlargement

The system of internal security that has been evolving within the EU is becoming the model for the rest of the European continent. This is partly occurring by default as there is no model of internal security other than that provided by the EU. For example, the Union has been reaching out to states as far to the east as Russia and the Ukraine, trying to draw them into a virtuous pattern of cooperation on issues such drug trafficking and money laundering. In so doing, EU ideas and practices have been disseminated within the wider Europe. But more significantly the EU model has been promulgated as part of a deliberate design. The EU has been insisting that those countries that wish to become members of its organisation must sign up to its strictures on Justice and Home Affairs.

Internal security matters have figured prominently in the process of EU enlargement. The Vienna Action Plan declared there to be a specific linkage between the enlargement of the Union and this area of policy, '...the Action Plan will ...set out for the benefit of the applicant countries a clear and comprehensive statement of the Union's priorities in this area'.²² For the existing Member States the fear has grown that admitting new entrants will result in the importing of additional crime and illegal immigration problems. Not only will the EU have to deal with some of the domestic crime and corruption problems of the aspirant countries, it will also have to come to terms with the fact that the eastern boundaries of these countries will become the frontiers of the Union. Prospects such as these have stimulated some EU states to press for more demanding entry criteria for new members and for a speeding up of the cooperative efforts within the existing Member States.

²² Presidency Conclusions, 'The Vienna Action Plan', Vienna European Council, December 1999, para 21.

For their part, many of the aspirant states have become worried by the ambitious hurdles that they are expected to jump on JHA issues before being granted entry. The CEECs are effectively being presented with an EU internal security model that they must swallow in its entirety – no meaningful input into this model, to reflect their particular concerns, is being proffered. In addition, the aspirant states are aware that this area of the EU *acquis* is especially dynamic and growing all the time. Those countries currently involved in entry negotiations with the Union will probably have to sign up to a range of legal commitments that will be bigger than currently exists.

The implications for aspirant states will be considerable. Accepting the JHA and Schengen *acquis* will necessitate considerable changes for the CEECs. It will involve changes to their domestic legislation, the altering of administrative and judicial structures, the training of personnel in the police and customs services and the purchase of new equipment. All of this will be very expensive for countries that are comparatively poor. They have also been expected to prepare for membership of the Europol Convention and have been encouraged to appoint liaison officers with the organisation. Such commitments are on top of obligations to implement international agreements such as the Council of Europe Convention on Money Laundering.

The EU will expect more than just declarations of intent on these issues; it will want to monitor each state's compliance with its legal commitments. A Pre-Accession Pact on issues relating to organised crime was set up in May 1998 between the EU and the aspirant states for the very purpose of ensuring that they were conforming to the standards of the Union in combating crime. The Pact linked the accession states with the EU's own Action Plan on organised crime which had drawn up a set of targets and timetables. In return for limited rights of consultation, the applicant states were expected to join the judicial network and play a full part in the information exchange process. In June 1998, the EU Commission enacted a Collective Evaluation Group to measure compliance and implementation of the *acquis* in applicant states and this will be used as an important instrument for gauging the sincerity of the applicant countries towards the EU regime in JHA matters.

Conclusion

Amidst a security environment that has been transformed by the end of the Cold War, the EU has proved to be the only organisation with the legitimacy and the range of competencies to respond to a broadened array of security demands. The EU's more holistic approach to security is one that has involved its elevation to the position of provider of order within Europe. The development of this EU-led order brings in its wake, however, a central paradox. The language of the organisation has since the end of the Cold War been that of inclusion and this has also been true of many of its practices. The clear intention to enlarge along with policies of association (with CEECs) and partnership (with former Soviet states such as Russia and Ukraine) clearly reflect this. However, these practices result in an unavoidable exclusion. Enlargement, for instance,

has developed as a differentiated process and it is clear that there are favoured candidates among the CEECs.

When the EU's first enlargement into post-communist Europe takes place, this exclusion will be further entrenched and will bring with it an obvious implication in the field of security and TOC. The implementation of Schengen provisions among the aspirant states has already created a 'lace curtain' between the 'pre-ins' and adjacent states. As enlargement proceeds, the border between the EU and its former communist neighbours will increasingly take on the character of a crime frontier as the states with little chance of entry to the Union (Albania, Yugoslavia, Ukraine, Russia) are at one and the same time also those states deemed to be among the main sources of its external destabilisation.

There is no easy way of blurring this border. However, a major challenge for the EU will be that of meeting its own internal preoccupations – not least, the consolidation of the security space among its own Member States – while at the same time recognising that the wider European setting in which this occurs is not something that is simply a source of threat or instability. A threat mentality is present in the EU and the retreat into a fortress impulse is possible under the Schengen regime and other forms of EU cooperation on crime. If this were to become a dominant trend then the comprehensive model of security offered by the EU would clearly be compromised. It would be relevant to its Member States and those with a realistic possibility of membership, but of increasing irrelevance to the rest of Europe. The alternative is the extension and continuation of cooperation across the border – a trend also in evidence and one which is ultimately compatible with any realisation of the EU's vision of peace, prosperity and stability in Europe.