



# **The EU and the fight against organised crime**

**Hugo Brady**

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# The EU and the fight against organised crime

## Hugo Brady

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## Foreword



Group 4 Securicor (G4S) is pleased to support this CER working paper, which provides a valuable insight into crime and security in Europe.

G4S is the global leader in providing security solutions, with 470,000 employees in over 100 countries. In many countries in which we operate, we see governments focusing their core resources on the threats posed by international terrorism and organised crime. The private sector is well equipped to support governments by taking on some roles performed traditionally by the public sector, including the management of cash in society, security at major events, protection of critical infrastructure, and an increased role in justice services.

EU co-operation has made a real difference in the fight against international crime. As this report shows, this is being achieved by boosting practical co-operation between law enforcement agencies at ground level, rather than seeking a blanket harmonisation of regulations and criminal justice systems. We support such an approach in the private security industry as well.

One important area of organised criminal activity is against cash-in-transit crews who provide a valuable public service in managing the cash cycle in many countries. Cash remains the most popular form of payment in Europe, and companies such as G4S ensure that it is recycled and redistributed efficiently, contributing to the vitality and liquidity of national economies. We help to fight cash-in-transit crime by investing resources in equipment, technology, training and systems, and by pressing governments and law enforcement agencies for the most effective protection measures. We welcome the support and co-operation we receive from the authorities and police forces in many different countries.

Only a co-ordinated and proactive approach by member-states and EU institutions will tackle organised crime effectively and make Europe a safer place in which to live and do business. For our part, we in the private sector are prepared to take on an ever greater role in this fight.

**Hans Bennetzen**

Regional President, Northern & Western Europe, Group 4 Securicor plc

# Glossary

**CATS:** Article 36 committee (Comité de l'Article Trente-Six)

**CEPOL:** European Police College

**COSI:** EU standing committee on internal security

**COSPOL:** Comprehensive operational strategic planning for the police

**COREPER:** Committee of member-states' permanent representatives to the EU

**ECIM:** European criminal intelligence model

**EURODAC:** EU fingerprint database of asylum applicants

**EUROPOL:** European Police Office

**FBI:** Federal Bureau of Investigation

**INTERPOL:** International Criminal Police Organisation

**JITs:** Joint investigation teams

**NCBs:** National Central Bureaus (Interpol)

**PCTF:** European police chiefs task force

**SCCOPOL:** Section Centrale de Coopération Opérationnelle de Police (France)

**SECI CENTER:** South East European Co-operation Initiative Centre for Combating Transborder Crime

**SIS:** Schengen information system

**SOCA:** Serious and organised crime agency (UK)

**UNODC:** UN drugs and crime agency

**UNTOC:** UN Convention against Transnational Organised Crime

**VIS:** Visa information system

# 1 Introduction

Transnational organised crime is a rising threat in the post-Cold War world. The opportunities for the criminal underworld to operate across borders are multiplying in tandem with the growing availability of communications and information technologies; the increasing mobility of people, goods and services across national boundaries; and the emergence of a globalised economy. Criminal gangs now sell arms, smuggle migrants, traffic people and drugs, and perpetrate fraud across borders.

There is no easy definition for what constitutes organised crime; most criminologists agree that organised gangs differ from petty or predatory criminals, because they are structured, business-minded, use violence systematically and launder their illegal profits. The UNODC, the UN's drugs and crime agency, estimates that such groups cost the global economy up to \$1 trillion a year.<sup>1</sup> In the European Union, the threat from organised crime worries citizens more than either terrorism or illegal immigration. In fact, crime in general is their single biggest concern, after unemployment and economic uncertainty.<sup>2</sup>

<sup>1</sup> *UN office on drugs and crime, global programme against money laundering*, [http://www.unodc.org/unodc/money\\_laundering.html](http://www.unodc.org/unodc/money_laundering.html).

<sup>2</sup> *'Standard Eurobarometer 65', Spring 2006*, [http://ec.europa.eu/public\\_opinion/archives/eb/eb65/eb65\\_en.htm](http://ec.europa.eu/public_opinion/archives/eb/eb65/eb65_en.htm).

Organised gangs pose a threat to the economic basis of European societies and the safety of their citizens. Europe is the world's largest producer of illegal amphetamines, such as 'ecstasy'. Illegal factories produce such drugs in the Baltic states, Belgium, Germany, Poland, the Netherlands and the UK. Currency counterfeiting is also increasing. Police seize nearly a million counterfeit euro banknotes every year, with a value of over €45 million. In Italy, a single mafia

gang in Calabria dominates the region's commercial and political life.<sup>3</sup> Elsewhere, the accession of Bulgaria and Romania to the EU

<sup>3</sup> 'Bullets in the post', *The Economist*, June 17<sup>th</sup> 2006. was over-shadowed by fears of corruption and the threat posed by criminal underworlds to government institutions and the rule of law.

European governments co-operate against organised crime in many forums. In 2000, they signed up to the first set of international standards for dealing with this problem, set out by the UN Convention against Transnational Organised Crime (UNTOC). This convention, the main international agreement against organised crime, focuses particularly on human trafficking, people smuggling and illegal arms dealing.

Four European countries are active in the so-called 'Lyon group' of international crime experts set up by the G8 countries (Britain, Canada, France, Germany, Italy, Japan, Russia and the US). The Lyon group promotes the use of modern crime-fighting tools such as DNA databases and surveillance technology and recommends ways of improving co-operation on extradition and criminal justice issues. The G8 has also set up the financial action task force, an influential anti-money-laundering body, to put pressure on governments and banks around the world to detect and prevent financial transactions involving dirty money. Moreover, European governments use conventions agreed by the Council of Europe, a non-EU body that promotes democracy and human rights in Europe, to spread international good practice against money-laundering and to set down global standards for fighting cyber-crime.

The so-called G6 (Britain, France, Germany, Italy, Poland and Spain) meet twice yearly – without involving EU institutions – to discuss internal security co-operation. The group currently has ten 'work streams' of officials tasked with generating new ideas for fighting organised crime and terrorism and managing immigration. In 2006, they agreed to take on VAT fraud, which cost the British economy

alone £3 billion in 2006, by improving co-operation between financial investigators and revenue services across Europe. The G6 countries also plan to carry out joint operations against drug trafficking off the west coast of Africa and human trafficking on the EU's eastern borders.

In 2004, member-states signed up to a radical expansion of EU powers in crime and policing, issues which cut to the bone of national sovereignty. In negotiations on the ill-fated constitutional treaty, governments agreed to drop national vetoes on EU decisions about crime and policing, though actual law enforcement would remain strictly national. They also agreed to make it easier for the EU to initiate criminal legislation and align national court procedures. Whether governments carry over these reforms into a future institutional deal has huge implications for the development of the EU as a whole and its role in internal security matters.

European citizens expect better results from international co-operation against organised crime. But do they support giving the EU more powers in the sensitive areas of crime and policing? Two recent surveys published by the European public opinion office found that citizens want the fight against organised crime, terrorism and drugs abuse to be the EU's top three priorities, and would like the EU's decision-making role in these areas to be enhanced.<sup>4</sup> Not everyone is convinced by such linkages. Charlemagne, the Brussels column in *The Economist*, argues: "The claim that public opinion will support 'more Europe' in this area is untested. Asked if they want the EU to do more in almost any area of public concern, people will tend to say yes. Asked if they want, say, their homes searched at the behest of a foreign judge, they will say no. Opinion polls are of little use when the precise phrasing of a question is this sensitive."<sup>5</sup>

<sup>4</sup> *Special Eurobarometers 266 & 264, 'The role of the European Union in fighting against organised crime', November 2006; 'The role of the European Union in justice, freedom and security policy areas', February 2007.*

<sup>5</sup> *Charlemagne, The Economist, 'Justice by majority', June 8<sup>th</sup> 2006.*

Whatever the true views of public opinion, European governments do consider the EU to be an important tool for their efforts to disrupt the worst organised crime and to seize the financial assets of gangs. The EU has no powers to dictate to the member-states how to structure their police forces or go about enhancing internal security. Rather, the governments are using the EU to get police and prosecutors across Europe to think and act together; to agree on common action against drugs and human trafficking in particular; and to bring national criminal laws closer together.

This paper deals chiefly with law enforcement co-operation against organised crime. Although there is a strong correlation between poverty and crime, this paper does not discuss the social causes of crime. Nor does it deal in depth with corruption, small-scale crime or counter-terrorism.<sup>6</sup> Law enforcement co-operation is not the sole response to organised crime. Foreign policy should also play a role: the member-states could help stop criminals and their activities from harming the EU by co-operating more effectively with the right countries and international organisations on crime prevention, institution-building and development issues.

Though initially sceptical, police on the ground throughout Europe have come to view the EU police office, Europol, as an important channel for co-ordinating the fight against organised crime. In a world where crime respects no border, police officers are realising the potential gains from more proactive cross-border co-operation: “By making Europe a safer place, we add to the safety and security of this country”, says one senior police officer at the London metropolitan police. “Our security starts not just at our own borders, but at the Greek islands or the Finnish frontier.” Much remains to be done, but EU co-operation is throwing down the gauntlet to organised crime.

<sup>6</sup> See Daniel Keohane, ‘The EU and counter-terrorism’, CER working paper, May 2005.

## 2 Europe’s Mr Bigs

In 2006, Europol warned governments of serious threats from transnational gangs trafficking arms, drugs and people; and from euro counterfeiting and money laundering.<sup>7</sup> These gangs are exploiting the lowering of national trade and travel barriers to commit crimes, increase their profits and escape punishment. Britain’s serious and organised crime agency estimates that the UK economy alone loses around 3 per cent of its GDP per year to such illegal activities.

<sup>7</sup> Europol, ‘Organised crime threat assessment 2006’, <http://www.europol.eu.int/publications/OCTA/OCTA2006.pdf>.

Four main types of gangs pose the most serious danger. First, there are the big, home-grown gangs, such as the Italian *ndrangheta* or *camorra*. Over the years these groups have developed extensive transnational contacts with old-fashioned crime syndicates in Belgium, Britain, the Netherlands and other countries. Second, Albanian, Chinese, Turkish, Moroccan and Russian-speaking immigrants have formed violent ethnic gangs in several EU member-states. These gangs account for much of the illegal drugs and human trafficking in their host countries and maintain strong links to their home countries. Albanian gangs are particularly widespread, having fanned out across the EU since the 1990s. These gangs are renowned for their extreme violence to maintain obedience amongst members, control their victims and intimidate police and judges.

The third type of group could be more accurately called disorganised crime: networks of perpetrators with little or no fixed organisation, hierarchy or location. These groups may only come together on a crime-by-crime basis. Some may never even meet in person, communicating by phone, or virtually through internet chat rooms or email. Nigerian organised crime tends to follow this pattern with,



for example, so-called 419 scams: spam emails inviting the gullible to commit huge sums of money to specious investments.<sup>8</sup> Amazingly,

<sup>8</sup> *This type of crime derives its name from article 419 of the Nigerian criminal code, outlawing confidence tricks.* these scams can rake in millions. Fourth are the illegal motorcycle gangs. These operate globally through strictly organised chapters.

In Europe, three groups are dominant: the Hells Angels, Bandidos and Outlaws. These gangs combine strict organisation with a large international presence and are involved in crimes ranging from drug smuggling to car theft to human trafficking and contract killings. They are particularly active in Belgium, Germany and the Nordic countries.

The most lucrative gang activity is drug trafficking. Illegal substances enter the EU through several principal routes, each dominated by different gangs. Colombian, Moroccan and Nigerian gangs smuggle cocaine and cannabis through France, Italy, Portugal and Spain for distribution throughout the EU. Most of Europe's heroin is handled by Albanian and Turkish gangs that organise its importation from Afghanistan via the Balkans. Routes through the Nordic and Baltic region are dominated by Russian-speaking gangs, while Europe's Atlantic area is dominated by criminals from Belgium, the Netherlands and the UK. Criminals are constantly trying to tap into new markets and so have adapted drug trafficking networks to facilitate illegal immigration, alcohol and tobacco smuggling and sex slave trafficking into the EU.

Germany is under particular threat. Its geographical centrality, historical links with the Balkans and sheer size mean that almost every kind of organised crime group has a presence there. Aside from domestic criminals, the German underworld is a melting pot of Balkan, Baltic, Polish, Turkish and Ukrainian crime, alongside the Italian mafia, Nigerian groups and motorcycle gangs.

Across Europe, criminal masterminds are facilitating their activities and protecting their illegal profits by penetrating into respectable society, the mainstream economy and, in some cases, politics.

Legitimate shipping agencies and haulage companies have been acquired by gangs seeking to transport drugs and illegal commodities a round the EU with greater ease. Likewise, property agents, casinos and currency exchange offices are often used as fronts to launder dirty money. Europol says the gangs show "remarkable" expertise in manipulating the financial sector.<sup>9</sup>

Finance scams have become the second most common category of cross-border crime after drug trafficking. This is in part due to the internet which has had a profound impact on the underworld. Lucrative crimes are now more often committed remotely, anonymously and far from the reach of the law. Europe's financial businesses are under constant assault from high-tech groups like the 'Yahoo boys' (based in internet cafes in and around Lagos in Nigeria) and technically brilliant Russian cyber criminals.

Aside from 419 scams, these gangs engage in 'e-crimes': new forms of extortion, fraud and identity theft. Gangs can extort huge sums of money from legitimate businesses by threatening to take down or disrupt their IT systems. These are known as DDoS (distributed denial of service) attacks. First, the gang targets a firm, perhaps a large bank or online casino, and infiltrates its computer network using viruses or 'bots', a type of remote control software. They then threaten to launch a cyber attack, which can cost millions in lost transactions and clients. Many companies prove willing to quietly buy the gang off, say with \$40,000 lodged into a secure bank account or cash transfer service, often on another continent.

Widespread internet access also makes it easier for criminals to carry out fraud using stolen identities. Gangs use stolen credit card details to buy and re-sell valuables online or gamble vast amounts in online casinos. Specialist criminals, known as 'carders', supply the gangs with hundreds of valid credit card numbers for this purpose, which they illegally 'harvest' from legitimate internet transactions. The gangs' profits go to multiple private bank accounts for

laundering; the losses to their unwitting victims. Cyber gangs also engage in ‘phishing’, creating replica websites that look identical to the transaction pages of a popular online business or bank.

<sup>10</sup> See Mark Ward, ‘Boom times for hi-tech fraudsters’, *BBC news online*, September 28<sup>th</sup> 2005, <http://news.bbc.co.uk/1/hi/technology/4286276.stm>.

European police forces have uncovered several such gangs in sophisticated office-type environments where cyber-crime specialists work alongside document forgers, rogue accountants and confidence tricksters complete with telephone headsets.<sup>10</sup>

Terrorists often use the profits from such crimes to fund their networks. In 2004, Italian and Spanish investigators revealed the links between the Italian mafia (in this case the Neapolitan *camorra*) and the Islamist terrorists responsible for the Madrid bombings. They worked together to ship illegal drugs from Morocco to Spain. Similarly, Brahim Benmerzouga and Baghdad Meziane, two North African men living in the UK, were convicted in 2003 of helping to fund al-Qaeda through online credit card fraud worth millions of pounds.

However, it is human trafficking that is the fastest growing criminal activity on the planet. This savage form of modern slavery generates massive profits for international criminal gangs. (The crime is related to, but not the same as, people smuggling, which involves gangs smuggling illegal migrants from abroad in often dreadful conditions.) Over 100,000 victims are trafficked into Western Europe every year. Traffickers deceive, pressure or abduct their victims, mainly young girls, in their home countries and sell them on to be sexually exploited or used as slave labour abroad. The most unfortunate are raped, tortured or demeaned by various methods, such as being passed between several ‘owners’, to break their resistance to prostitution.

Albanian, Lithuanian, Romanian and Turkish gangs are amongst the most predatory human traffickers in the EU. These gangs have developed complex networks, often adapted from drug

smuggling or illegal immigration activities. Their networks include home-based recruiters or procurers, passport and ID counterfeiters, corrupt border officials, transport companies, money launderers, pimps and safe house owners. In Europe, most victims are from Albania, Moldova, Romania, Russia and Ukraine. They are placed in bars, nightclubs or locked apartments across Europe. Business is depressingly good: a recent estimate from the UNODC put the annual profit made by people traffickers worldwide at \$7-10 billion.

### **An overview of European police co-operation**

Police and magistrates cannot fully dismantle such cross-border European crime networks by acting only within their own borders. Transnational gangs carry out crimes in one country while their leadership and financial assets remain safely hidden abroad (often under the cover of banking secrecy rules). Law enforcement co-operation across Europe as a whole has yet to match the degree of co-operation achieved by the criminals. Concerns over national sovereignty, as well as cultural and legal differences, constrain the effective cross-border investigation of organised crime.

Europe's 1.2 million police officers operate in very different, and at times, incompatible ways. Denmark, Finland and Ireland each have one single national police service, centralised under a clearly designated ‘chief’. But in the Netherlands and the UK, the police are decentralised – the UK, for example, has 50 separate police forces. In some countries the police have independent powers of investigation while others take their lead from national prosecutors. Police answerable to prosecutors tend to be reactive, acting only after a crime has been committed, and do little preventative work. This difference in roles means that both police officers and prosecutors from different countries divide into two camps – proactive and reactive – when deciding how transnational crime should be tackled.

European police forces started sharing information on crime even before Interpol (the International Criminal Police Organisation) was founded in 1923. Today Interpol has developed into a global body. Based in Lyon, Interpol has 186 members worldwide, sharing information via a network of national central bureaus (NCBs). It maintains databases on known international criminals, lost and stolen passports, fingerprints and DNA profiles. In 2003, Interpol rolled out a global police communications system called 'I-24/7', securely connecting the NCBs to each other and to Interpol databases. The system has been widely praised as a clever solution to the problem of how to share sensitive police data electronically in a multilingual environment. Police used I-24/7 to exchange almost 10 million messages worldwide in 2005.

Aside from raw information available through Interpol, police need to be able to share criminal intelligence with colleagues abroad to help them understand and break up transnational crime operations. (Intelligence is data held by police forces, such as criminal records or the details of a stolen passport). It has always been notoriously difficult to get police forces to share criminal intelligence. Law enforcement bodies are often loath to give precious criminal intelligence to partners in their own countries, let alone to authorities abroad with which they have had little or no previous contact. As a result, transnational criminal patterns can go undiscovered. Police from two countries may even work at cross-purposes, unaware that they are investigating the same criminal with operations in both jurisdictions.

Countries also have different rules for starting investigations and gathering evidence. These different rules make it harder to work together on investigations. In Britain, for example, it is illegal to use phone taps as evidence in court, but police can and do rely on closed circuit television (CCTV) footage. By contrast, France sees phone tapping as legitimate and human rights-compliant, but considers indiscriminate use of CCTV footage to be far more intrusive. In some other European countries, public CCTV

cameras are unknown; in Denmark, for example, they are banned by law.

Police may be able to get around these differences when working informally with their foreign colleagues. But they and the courts still face a range of obstacles to the conduct of cross-border investigations and prosecutions. If they want to summon a witness, acquire evidence, obtain a search warrant or freeze a bank account, they may have to ask a court in another country to issue the respective documents. Their main tool for getting this kind of work done is the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters, under which central judicial authorities approve requests for help with investigations and prosecutions from abroad. In 2000, the Council of Europe updated the convention to include requests for undercover operations abroad, the interception of phone and internet communications across borders, and surveillance operations such as 'controlled deliveries' (where authorities secretly monitor crimes such as drug trafficking to unearth a criminal network).

Even revamped, the Council of Europe convention is too complex and inflexible to provide a good basis for modern crime-fighting: the new changes are taking years to ratify, and requests may take weeks, months, or even years to be answered. The UK, for example, requires too much detail from countries making requests, while the Spanish bureaucracy has at times misplaced requests altogether.<sup>11</sup>

<sup>11</sup> *Eurojust, 'Annual report 2005', p.46, [http://www.eurojust.eu.int/press\\_annual\\_report\\_2005.htm](http://www.eurojust.eu.int/press_annual_report_2005.htm).*

Despite the pitfalls of formal legal co-operation, European governments have made impressive efforts to boost operational co-operation among police. This is especially true between those countries that have abolished border controls within Europe's passport-free zone, the Schengen area. The zone currently consists of 15 countries: the 'old' EU minus Britain and Ireland but including Norway and Iceland (Switzerland decided in a 2005

referendum to join too). By 2008, the countries that joined the EU in 2004 (except Cyprus) will also be members.

Police forces from Schengen countries have extra powers to pursue crimes with a cross-border dimension. For example, Dutch officers can carry out surveillance on suspects in Belgium, with or without prior notification. Italian policemen can follow a suspected drug smuggler in 'hot pursuit' into Austria – until the local police arrive. Officers across the Schengen area also share information on suspects, stolen goods and cars via the Schengen information system (SIS), a multinational police database. Although Britain and Ireland choose to maintain their own border controls, they do use parts of the Schengen agreement. Britain participates in cross-border surveillance operations and has signed up to the SIS system. So too has Ireland.

Police in parts of the Schengen area co-operate even more intensely thanks to a patchwork of bilateral and multilateral agreements. Co-operation is most sophisticated when countries share land borders, have similar legal systems and face common threats from the same organised gangs or terrorists. Thus police in the Benelux countries assist each other in every day law and order matters and even have common standards for training and equipment. Before the 2006 FIFA World Cup, Germany and Austria signed a treaty placing their police under each others' command when needed, and allowing officers to carry out unrestricted undercover operations in the other's territory. Germany later signed a similar treaty with the Netherlands. The Nordic countries have been running joint patrols and police stations in sparsely populated border regions for years. So too have the French and Spanish along the Pyrenees.

Some countries, like France and Italy, have central offices for international co-operation bringing together national border guards, customs officers, police and judges. These 'common platforms' for co-ordinating investigations with authorities abroad are especially necessary where a country has more than one police force. The

French Section Centrale de Coopération Opérationnelle de Police (SCCOPOL) in Paris, for instance, is staffed by officers from both the French National Police and *gendamerie*; representatives from all six Italian police forces work together in a similar unit in Rome.

In 2006, Britain developed the common platform idea further by establishing the Serious and organised crime agency (SOCA). The new agency integrates several police organisations devoted to gathering criminal intelligence, as well as the law enforcement parts of the UK customs and immigration services. The agency is tasked with taking a new "lawfully audacious" approach to fighting national and international organised crime. SOCA has powers to use phone tapping, undercover officers and new surveillance techniques to make sure that previously convicted criminals do not re-establish their networks. Crucially, SOCA now handles all international co-operation between Britain's assorted police forces and their counterparts abroad. The agency deals directly with Europol and Interpol, and co-operates with Schengen area countries on behalf of all UK police.

SOCA's unified structure means that the 115 police liaison officers working in UK embassies worldwide now form a single international law enforcement network. This makes it easier to gather criminal intelligence and organise joint operations with other forces abroad. Other European countries, such as Denmark and the Netherlands, try to avoid duplicating or inhibiting efforts by ensuring that their police, customs and tax officials work together as single teams when dealing with organised crime. But the integrated SOCA model goes furthest by transferring the most significant functions and powers to a single agency.

EU police chiefs work through the European police chiefs task force (PCTF). The informal body meets four times a year at Europol's offices in The Hague as well as in Brussels. The body plans joint European operations against organised crime networks with Europol and Interpol. At first, these meetings were little more than talking

shops for senior EU law enforcement officers. But the PCTF began proper operations in May 2005 with the Swedish-led Operation Callidus, a successful EU-wide crackdown on child pornographers involving hundreds of police officers from Britain, Denmark, France, Malta, the Netherlands, Norway, Poland and Sweden.

The EU police chiefs organise their work by appointing multi-country policing teams using a planning system called COSPOL (comprehensive operational strategic planning for the police). COSPOL simply refers to how the police chiefs divide responsibility for various investigations. Each COSPOL investigation is led by a ‘driver’, a country directly affected by a particular criminal network and responsible for leading operations against it. (Sweden, for example, was the driver country for Operation Callidus; similarly Poland leads COSPOL operations against East European crime.) Drivers share responsibility with other participating countries or possibly Europol. The police chiefs take stock of the success of COSPOL operations during their meetings at Europol.

European governments have developed some impressive national and international systems for supporting transborder investigations and allowing their police forces to act together. But unless police pool their intelligence on particular criminal organisations, many of them will continue to evade justice. Gang leaders prefer to carry out their lucrative activities remotely and can easily recruit more employees to replace those sent to jail. European police and prosecutors need to collaborate from the very start of the investigative process, especially at the intelligence gathering stage, to fully understand and dismantle criminal networks.

### 3 The EU’s role

The 1992 Maastricht treaty establishing the European Union reorganised previous forms of cross-border co-operation into three main ‘pillars’ or areas of activity, each with its own decision-making rules. The pillars consist of the single market (the old European Communities), foreign and security policy, and justice and home affairs. Then in 1997, member-states agreed to incorporate the Schengen convention on passport-free travel into the EU, promising to make the Union an “area of freedom, security and justice” under the 1997 Treaty of Amsterdam.

In parallel with the Amsterdam negotiations, the member-states came up with the first EU ‘action plan’ to fight organised crime. It recommended the establishment of a proper European police office, Europol, by 1999; EU-level action to fight money laundering; practical steps to improve co-operation between national police, customs and judiciaries; and priority areas for harmonisation of laws to fight organised crime.

These ideas were developed fully in 1999 at a summit in Finland when EU member-states agreed on a set of ten ‘milestones’ to implement the Amsterdam treaty. Known as the ‘Tampere programme’, the list included proposals for a new European arrest warrant for fast-track extradition of suspects; special EU procedures to preserve evidence for trials abroad; and a task force of police chiefs to exchange best practice between EU police forces and plan joint operations. The governments added new goals to this list in 2004, renaming it the ‘Hague programme’. The most important new goal is a promise to revolutionise how European police forces share information across borders by adhering to a ‘principle of availability’ by January 2008. The principle of availability means

that police forces will no longer need to formally request information from each other, or rely on informal ‘old boy’ networks to get information. Police from one EU country will have access to police files in another, unless a good reason is given to the contrary.

Interior and justice ministers now regularly meet in the EU’s Council of Ministers (‘the JHA Council’) and discuss how to implement the Hague programme. They do so by closing legal loopholes between member-states’ criminal laws, and agreeing legislation and practical steps to make cross-border police investigations easier. All 27 member-states must agree unanimously on any new measure. Officials develop new proposals in an enormously complicated web of committees that make up four different levels of decision-making. These include working groups on police, customs and criminal justice co-operation, as well as the ‘multi-disciplinary group on organised crime’. This is a group of national policing experts with powers to evaluate crime-fighting methods throughout the EU. Officials from both the Council and the Commission help governments to draft legislation. They also give views on the effectiveness of previous EU agreements. Two of the most important committees are COREPER, the powerful grouping of member-states’ ambassadors to the EU, and a committee of high-ranking interior and justice ministry officials (called CATS, after its French name Comité de l’Article Trente-Six).

A major part of the JHA Council involves replacing the slow Council of Europe procedures for police and criminal justice co-operation with faster, more efficient EU rules, such as warrants speeding up the extradition of suspects, and the sharing of evidence between the member-states. Eurojust, a unit of senior prosecutors, judges and police officers nominated by the member-states, helps with making these legal agreements work in practice. It also has the day-to-day role of co-ordinating multi-country prosecutions in the EU. Eurojust’s workload has been growing rapidly since it began operating in 2003: in 2005 it reported a 54 per cent increase in cases, with a further rise of 31 per cent in 2006.

While Eurojust mostly deals with prosecutions, Europol is the EU’s main tool for assisting investigations into transnational organised crime. Europol gathers and analyses intelligence on crimes ranging from drug trafficking to counterfeiting and terrorism. Its office is organised in a hub-and-spoke system. All member-states send police officers to its headquarters in The Hague. These officers act as spokes, sharing information directly with each other and a hub of Europol crime analysts. The analysts comb the combined body of European criminal intelligence for transnational trends and links that can be missed by national or regional police forces. Europol officers cannot make arrests or initiate investigations but they can assist during investigations and be present during the questioning of suspects if required by a member-state. Since 1999 Europol has focused mainly on developing the analytical abilities that it needs in order to add value to national investigations. Now the EU governments want to give the office a greater role in supporting member-state investigations aimed at putting top-level criminals behind bars.

In 2005 interior ministers agreed on a ‘European criminal intelligence model’ (ECIM), a policing plan for co-ordinating investigations against organised crime throughout the EU, according to a method called intelligence-led policing. This is a school of thought in law enforcement theory that stresses intelligence gathering and the targeting of police resources on the worst criminals. The idea is to get police from different countries to plan investigations together, using the best intelligence available. The ECIM sets out how the EU can achieve this by ensuring that national police forces, Europol’s criminal intelligence analysts, and the police chiefs’ COSPOL operations work together against the same criminal threats.

The model works in a number of steps. First, member-state police forces share intelligence with Europol, which draws up an assessment of the overall threat facing the EU from organised crime. Based on this, the Council of Ministers agrees on the law enforcement priorities that police forces should tackle together. The EU police chiefs then mount joint operations against the criminals

and feed back information and lessons learned into Europol, in time for the next threat assessment to be prepared.

EU member-states tested this new way of working together for the first time in 2006. Based on Europol's first threat assessment, EU governments set four regional priorities in the fight against organised crime in Europe. These were drugs and human trafficking by African gangs operating in the Mediterranean; Albanian gangs trafficking both heroin and women from the Balkans; commodity smuggling in the Baltic Sea region; and illegal factories for synthetic drugs in Belgium, Germany, the Netherlands and the UK. It is too soon to tell if governments or police are taking the ECIM seriously enough. But the adoption of an EU law enforcement model is a significant step forward in co-ordination on internal security. The police model is also a subtle attempt to promote the use of intelligence-led policing methods throughout the EU.

In private, police officers worry that some EU initiatives are poorly suited to meet their needs when co-operating in the field. For example, officers are supposed to organise multi-country COSPOL investigations using EU legislation to set up joint investigation teams (JITs). Under the legislation, police from several different countries have powers to work on the same investigation as a team, almost as if they were all working in a single jurisdiction.

JITs have the potential to be an innovative tool in the fight against cross-border organised crime. But so far police have only set up a handful – mostly on drug trafficking, fraud and terrorism – and none involve more than two countries. Some police officers argue that to set up JITs is overly bureaucratic and that to operate them is complicated. So they prefer to use the old Council of Europe procedures or informal agreements. EU officials counter that JITs will become more common and more ambitious when police and prosecutors get used to the new system. Governments should do more to address practitioners' concerns by training more officers in

how to set up and run multi-lateral JITs. The UK-based EU police college, CEPOL, should be better used to provide intensive training on the issues involved. Where necessary, the JIT procedures should be made simpler and more flexible, based on feedback from police who work regularly on multi-lateral investigations.

### Setbacks in intelligence-sharing

Europol is wholly reliant on criminal intelligence received from the member-states. So it has had to work hard to prove its files can add value to national criminal investigations. Under its tough new director, Max-Peter Ratzel, Europol is starting to convince the member-states of its potential. "Europol has matured", says one senior UK police officer. "Its analysts understand what we need from them and are starting to deliver. We are doing a lot of business through Europol now." Aside from its improved intelligence work, police say the simple fact of having officers from 27 European countries on the same corridor in The Hague is an unparalleled resource in day-to-day police co-operation.

But major challenges remain. Europol cannot function as a proper crime-fighting body without a thorough overhaul of its legal structures. Furthermore, some member-states still do not give Europol sufficient support. In 2006, while one member-state contributed over 500 pages of criminal intelligence to Europol's first organised crime threat assessment, another offered only a single page. Some member-states send police officers to Europol who do not have the necessary authority at home to help other colleagues resolve cross-border issues. This poses real difficulties for co-operating on international investigations, according to the Irish police chief, Noel Conroy: "Because of that type of situation, we don't get to Mr Big and that's what we're all trying to achieve, to take out the individuals who are directing all this [illegal drug] traffic."<sup>12</sup> The same problem inhibits the

<sup>12</sup> 'Conroy bemoans European efforts to catch drug lords', March 10<sup>th</sup> 2006, *BreakingNews.ie*, <http://archives.tcm.ie/breakingnews/2006/03/10/story248734.asp>.

work of Eurojust, where prosecutors do not have the correct powers to work together effectively.

Europol's effectiveness is stymied by its founding convention which makes the body awkward to manage. The director cannot take even minor administrative decisions without the unanimous approval of all 27 EU countries represented on the management board. Moreover, under the convention, Europol analysts and ordinary police officers can only work together via the liaison officers in The Hague, themselves working through special units based in national capitals. The result, according to a senior police officer formerly seconded to Europol, can be "a bloody bureaucratic nightmare".

The member-states have tried to alleviate Europol's bureaucracy by adding new protocols to the convention. These protocols gave Europol officers simpler procedures to work with, as well as more powers to investigate money laundering and assist multinational investigations on the ground. But since such changes needed to be ratified by all EU national parliaments, they have only just entered into force after a delay of several years. Hence the member-states have decided to replace the original convention with a new EU law that can be more easily amended in the future.

Europol will get wider investigative powers covering more crimes, be less bureaucratic, and have more freedom to gather intelligence and information such as DNA data. It will also report yearly to the European Parliament, making it a more accountable body. These changes fall short of turning Europol into a US-style Federal Bureau of Investigation (FBI). FBI officers in the US have full police powers to investigate over 3,000 federal crimes. The EU has no common body of criminal law for Europol to police. Indeed Europol's 'added value' to national police forces would be completely destroyed if the office became a competitor with operational powers.

## A model for EU co-operation against crime?

The EU has struggled to implement the Herculean commitment made by ministers in the 2004 Hague programme to share all information held by national police by 2008. Officials face many serious legal and technical obstacles in making this 'principle of availability' a reality, so they will miss the original deadline. Police cannot always freely share information even within their own countries. In most countries, officers can check, say, the tax records of a known criminal but they need to first get permission from the courts to do so; there is no automatic access to such information. Furthermore, some EU countries simply do not have the data to share (neither Italy nor Poland have working DNA databases yet), or they have incompatible rules on how such information can be gathered. The British police, for example, have the right to take a DNA sample from anyone they arrest, which is permanently recorded on a national database. In Sweden, DNA records can only be kept on criminals who have spent a minimum of two years in jail and only for a certain period of time.

In 2005, Austria, the Benelux countries, France, Germany and Spain formed an information-sharing *avant-garde* outside the EU by signing the Treaty of Prüm.<sup>13</sup> The treaty, amongst other things, lays down procedures for the exchange of DNA, fingerprints and vehicle registration information, crucial data for police working on investigations. Police in these countries now use the access allowed for under Prüm in their day-to-day work. Austrian and German police claim that adopting the Prüm procedures produced over 1,500 new leads in unsolved cases.

Some observers feared the Prüm group would undermine efforts to facilitate information-sharing in the EU as a whole, since it involved only a handful of countries and ignored related initiatives by the European Commission. But it turned out that the Prüm treaty was the best way to encourage wider information-sharing. The seven Prüm countries have acted as a 'laboratory', working

<sup>13</sup> Hugo Brady, 'A new *avant-garde* for internal security', *CER bulletin*, October/November 2005.





anything proposed by others. The final decisions then require transposing in all 27 EU national parliaments. In contrast to other areas of EU law, the European Commission cannot take governments to court over their failure to transpose agreements promptly or implement them properly. At their summit in December 2006, EU leaders admitted that they had made poor progress on crime and policing since they agreed the Hague programme in 2004.

But the mechanics of EU decision-making are only part of the story. Negotiations in the JHA Council are often onerous, but they can and do proceed quickly in emergencies. After the terrorist attacks of September 11<sup>th</sup> 2001, for example, EU member-states rapidly agreed and implemented a new EU arrest warrant. This warrant has reduced extradition times between member-states from an average of nine months to 43 days. However, since then progress on other criminal justice priorities has been slow. For example, in the wake of the 2004 Madrid terrorist bombings, several EU member-states failed to ratify overdue legislation on terrorism, joint investigation

<sup>16</sup> *Eurojust Annual Report 2005*, [http://www.eurojust.eu.int/press\\_annual\\_report\\_2005.htm](http://www.eurojust.eu.int/press_annual_report_2005.htm). teams and money-laundering, despite their renewed promises to do so.<sup>16</sup> The European evidence warrant, designed to speed up the sharing of evidence for prosecutions, took far longer to negotiate than the European arrest warrant, and is less wide-ranging. Officials do not expect the first evidence warrant to be issued until after 2010, due to delays in ratification.

<sup>17</sup> *Hugo Brady and Mónica Roma, 'Let justice be done: Punishing crime in the EU', CER policy brief, April 2006.* The constitutional treaty would have made major improvements, including an overhaul of the EU's entire justice and home affairs rulebook.<sup>17</sup> It would have switched most decisions on crime in the Council of Ministers to qualified majority voting (QMV), and given EU institutions the powers to ensure that agreements on policing and criminal justice co-operation were properly implemented. But these reforms have been stuck since the treaty was rejected in the French and Dutch referendums in 2005. Finland, which held the

EU's rotating presidency in the second half of 2006, proposed reforming the JHA decision-making process by using a special clause in the current treaties. Article 42 of the Treaty on European Union allows the EU to introduce qualified majority voting on questions of criminal justice and policing, provided every government agrees. However, some member-states resisted such a move, arguing that the EU should instead concentrate on reviving the constitutional treaty.

Despite having signed up for major JHA reforms in the constitutional treaty, it is not certain that the member-states will renew the deal in any future treaty. The political will to carry out the reforms has diminished, with some governments fearing a loss of control over their criminal justice systems. Several interior ministries consider the treaty's rejection a narrow escape from changes they were not keen on in the first place. Others, Germany for instance, worry that EU police and criminal justice co-operation cannot continue without greater harmonisation of national criminal laws. These differences are likely to grow more pronounced as the EU continues to enlarge. One option in future negotiations would be for the member-states to include the package of JHA reforms in a new treaty but then give national parliaments the power to block future agreements. In the event of a breakdown in negotiations on a new treaty, or further problems with ratification, EU governments may yet have to return to Article 42 as their only option for improving decision-making.

The constitutional treaty would also have established an internal security committee (known as COSI) to bring together officials from the member-states with the heads of Europol, Eurojust and Frontex, the EU's border agency. The governments should press ahead with COSI, which was intended as a co-ordination body only. COSI would be useful for separating discussions about legislation (which often get blocked due to the need for agreement by unanimity) from operational matters. It would help to ensure the

member-states and EU bodies avoid duplicating each others' work, can exchange information more easily, and elaborate a more strategic approach to fighting cross-border crime.

## 4 European internal security: more to do

The failure of the constitutional treaty, with its planned improvements for JHA decision-making, adversely affects the EU's ability to take action against organised crime. If it remains difficult to get unanimity in the enlarged Council of Ministers, informal groupings like the G6 and *avant-gardes* like the Prüm group will set the agenda for European internal security co-operation.

The member-states considered using existing rules on 'enhanced co-operation' (that allow eight or more member-states to press ahead with specific projects) to incorporate the Prüm treaty into EU law. They should return to this option in the future to make progress on law enforcement co-operation. Take the G6, for example. Its meetings are organised very loosely to encourage frank and practical discussions about internal security problems. But this informality can make it difficult to ensure that projects deliver real results. Countries in the chair tend to concentrate on promoting their own agendas, while their commitment to previously agreed plans can be patchy. Rather than invent a separate secretariat to ensure work gets followed up, the G6 could use the EU's institutions through enhanced co-operation. To do this, the group would need to take in two further members (Austria and the Netherlands are two possible candidates).

Deadlock in the Council of Ministers could be avoided if officials communicated better. Part of the problem is that no two European justice or interior ministries have the same remit or structure. Some countries have a single ministry devoted to domestic law and order issues; others have several ministries, each dealing with different

aspects of internal security. In contrast to foreign ministries, interior and justice ministries are not specifically structured with international co-operation in mind. Meetings of EU foreign ministers are confidentially prepared using a secure computer system called *correspondance européenne* (COREU). The member-states should set up a similar system for interior ministers' meetings to allow them to work through disagreements long before the ministers take their seats. Interior ministry representatives at CATS meetings should be based permanently in Brussels to cope with the increasingly busy JHA agenda. At a minimum, the JHA Council's bewildering array of committees should be reduced to ten large committees.

At operational level, the EU's fledgling committee for internal security (COSI) should start meeting regularly. The member-states could use COSI to co-ordinate the work of Europol, Eurojust, Frontex and the Situation Centre, an intelligence body which mostly analyses external threats. The committee met once in 2005, but only informally due to the uncertainty over the EU constitutional treaty. If the EU manages to agree on a new round of institutional reforms, COSI should

<sup>18</sup> Daniel Keohane and Adam Townsend, 'A joined-up EU security policy', *CER bulletin*, December 2003/January 2004.

develop into a 'European security committee', a cross-institutional body that would help align internal security priorities with foreign policy.<sup>18</sup>

The police chiefs' task force (PCTF) was originally little more than a talking shop for exchanging ideas on crime fighting. But it should develop into the main law enforcement body tasked with breaking up Europe's organised crime networks. The PCTF will need its own funds to achieve this ambition. It is not formally a part of the EU and hence has no budget or resources for fighting crime. Its only support is a small secretariat based at Europol. Instead the body relies on police from the participating countries to cover its costs. For example, the police chiefs developed a manual for conducting counter-terrorism operations after the 2004 terrorist bombing in Madrid. But the manual has not been distributed because of a lack of funds.

Policing is not officially a central part of the EU's remit (the references to crime-fighting in its treaties are sparse and vague) so it would be difficult to make the PCTF a fully-fledged EU body or agency. But member-states already pay contributions to Interpol, the global policing body, which also lacks a formal legal identity. The governments should create a central fund for future COSPOL operations to be managed by the police chiefs under Article 29 of the Treaty on European Union. This is a general clause setting out the need for co-operation between European police forces.

The need to reform Europol is urgent: member-states are replacing its archaic convention to make it easier for the body to work with national police forces and to adapt to future challenges. But national police officers and prosecutors seconded to both Europol and Eurojust need equivalent powers if these organisations are to function properly. For example, all Eurojust prosecutors should be invested with a basic level of powers, including powers to issue formal requests for evidence and authorise controlled deliveries, phone taps and undercover operations. Ideally, Europol, Eurojust and the PCTF secretariat should all be based in the same building.

Although international co-operation is crucial, the fight against transnational organised crime takes place primarily at national and local level where police need a mix of the right crime strategies and legislative powers to tackle it. (Law enforcement is only one part of the solution: the business sector, NGOs and community groups need to get involved too.) Police and judges sometimes lack the necessary powers to strike at criminals' finances, which may be the best way to undermine the gangs. Under new legislation introduced in 2006, Britain's SOCA can seize money and property from gang members, as well as their spouses, and require prisoners to account for any income earned, even up to 15 years after being released.

Member-states also need to put more resources into the investigation of financial crime and money laundering. Financial

firms operating in Europe are usually required to report suspicious money movements to the authorities. But police often do not have the resources and specialist skills necessary to sift through this invaluable source of information.

Any reform of national policing structures must be based on the country's constitutional order and its specific traditions. Not all countries will want to follow Britain in setting up a powerful separate agency, such as SOCA. But all member-states should at least have 'common platforms' like the French SCCOPOL where representatives from the different law enforcement agencies work together and are on hand to co-ordinate investigations with colleagues abroad.

One of the most useful things the EU does for improving co-operation against organised crime is also one of the most basic: it helps the member-states to copy each others' best practice. EU officials carry out 'peer evaluations' of police methods in each member-state and draw up recommendations for improving their law enforcement systems based on best practice. If member-states aligned their investigation methods, technology and training, they would benefit far more from cross-border co-operation. The JHA Council should give more weight to these evaluations. It should agree on 'headline' goals for the use of information technology and modern police equipment, as well as for the adoption of modern policing methods, including procedures for seizing criminal assets and conducting financial investigations.

## 5 Foreign policy against organised crime

More often than not, organised crime originates outside the EU's borders. It is rife in the regions bordering the EU – the Balkans, North Africa and the former Soviet area – as well as further afield. Even more worrying, criminal gangs from all over the world are increasingly working with gangs in or near the EU. Human traffickers from China, Nigeria and Thailand work with Albanian or Lithuanian gangs to find buyers for their victims in Europe. Japanese *Yakuza* gangs sub-contract Western Balkan criminals to plan and execute robberies in London and Paris.

Member-states try to co-operate with local police in problem regions, for example by posting their own liaison officers to embassies. They also maintain worldwide contacts with other forces fighting the same gangs. Such contacts are often based on historical links: the French have good connections in North Africa, the Dutch in the Caribbean and the British in many Commonwealth countries. Proximity is an obvious factor too: the Austrians and Germans work closely with Balkan countries while the Italians have good relations with police in Albania.

Officers benefit from each others' global connections, by working through Europol and other EU bodies. Even under-resourced European police forces can gain a worldwide reach in this way. This leads to the creation of networks that can help hugely in countering and even preventing crime. For example, the British police are concerned about the rise of Albanian organised crime in the UK. They work together with their Italian colleagues in the PCTF, to learn more about the criminal underworld there.

EU member-states are responding to the rise of organised crime by adapting their foreign policies to meet internal security concerns. The EU proffers aid to countries to strengthen border controls, trains police officers and judges, and links deals on trade and visas to commitments to tackle local crime and law enforcement reform. The EU deployed over 100 officials in 2005 under its 'neighbourhood policy' to help

<sup>19</sup> 'EU targets Moldova smugglers', *BBC News Online*, April 7<sup>th</sup> 2006, <http://news.bbc.co.uk/1/hi/world/europe/4888860.stm>.

police the border between Ukraine and the breakaway Transdnister region of Moldova, a haven for human trafficking, people smuggling and gun running.<sup>19</sup>

But different EU policies and the bilateral efforts of member-states need to be more joined up and complementary. This is particularly true for the Western Balkans. This region is one of the main gateways into Europe for drugs, sex trafficking and illicit arms. By some estimates, 90 per cent of the heroin that reaches Europe from Afghanistan comes through Kosovo.

Since the countries of the Western Balkans wish to join the EU, the Union has considerable influence over them, which it could use in the fight against organised crime. The European Commission guides these countries' police and justice reforms through the 'stabilisation and association process'. EU police missions help fight organised crime directly in Bosnia and Macedonia, and are about to do so in Kosovo. Several member-states have police

<sup>20</sup> JHA Council, 'Action oriented paper on improving co-operation on organised crime, corruption, illegal immigration and counter-terrorism, between the EU, Western Balkans and relevant ENP countries', May 2006.

officers working throughout the region. Nonetheless, a 2004 report from the then Dutch EU presidency concluded that member-state efforts lacked any strategic thought and were "uncoordinated and compartmentalised".<sup>20</sup>

The EU countries and Europol should work more closely with the South East European Co-operation Initiative Center for Combating Transborder Crime (SECI Center), a US-funded focal point for police co-operation in the region. Based in Bucharest, the centre is under-

developed and needs a firmer legal footing to ensure it can work with Europol. The EU should follow through on promises to take over funding of the centre from the US. As in the Baltic region, where member-states fight crime alongside Russia, Interpol and the World Customs Organisation, the EU should use SECI to co-ordinate an 'Aegean Sea task force' involving the most affected EU members, countries in the region and Turkey.

Europol and Interpol stand to gain much more from co-operation than competition, and member governments have urged both to build closer links. In 2005, departing from years of rhetorical partnership but mutual distrust, Europol's director Max-Peter Ratzel and Interpol's secretary general, Ronald Noble, agreed on a roadmap for much closer collaboration, particularly on human trafficking, child abuse, terrorism and euro counterfeiting. Practical co-operation needs to be improved most in information exchange: Europol needs access to data held in Interpol's files, while both would benefit greatly if Interpol were able to feed into Europol's intelligence gathering process. Equally, Interpol has developed a 24-hour command and co-ordination centre, a facility that could be a useful asset to Europol in the future.

The EU has dense transatlantic links with the US, in terms of travel, migration, trade, investment and communication. International crime follows these patterns. Accordingly, the US and EU see close law enforcement co-operation as "a precondition for achieving security for both sides".<sup>21</sup> The violent Albanian gangs that plague Europe are very active on the eastern coast of the United States; motorcycle gangs on both continents have intimate links; and organised credit card fraud is a problem common to both sides of the Atlantic.

<sup>21</sup> Council of the European Union, 'Mutual evaluation of the co-operation agreements Europol - United States', July 2005, <http://www.statewatch.org/news/2006/jun/europol-usa-11502-05.pdf>.

The US has well-established bilateral links with law enforcement agencies in almost every EU country. Seven member-states (Belgium,

France, Germany, Italy, the Netherlands, Spain and the UK) have their own officers based in Washington. The US would like, where possible, to use the EU as a ‘one-stop shop’ for co-operation on terrorism and organised crime. In 2005 and 2006 alone, the US had to negotiate over 20 separate instruments with EU member-states on criminal justice co-operation and extradition. Conversely, EU countries find it difficult to co-ordinate with over 50 US federal

<sup>22</sup> *The US Secret Service is a US government law enforcement agency that investigates currency counterfeiting, financial fraud, cyber-crime and identity theft.* agencies dealing in criminal intelligence. The FBI and US Secret Service have sent officers to The Hague, and Europol has its own office in Washington to liaise with the US federal agencies.<sup>22</sup> The US

Department of Justice and Eurojust have only recently begun formal co-operation.

In 2006 the US noted that its law enforcement agencies sometimes view Europol with “uncertainty and even distrust”. The US liaison officers in The Hague are denied access to Europol intelligence and cannot share information on specific cases with its analysts. Since Europol cannot share information about transnational cases that impact on its jurisdiction, the US does not take Europol very seriously and prefers to stick to its bilateral channels. Europol also complains that member-state liaison officers based in Washington seldom consult its office in the same city. Some of these problems are the fault of Europol’s unworkable convention and will be resolved once this has been replaced with EU legislation. But there are also differences over data protection: the US has no legal regime for protecting personal data held on non-US citizens.

Russia is another key partner for the EU’s crime-fighting efforts. Moscow’s Interpol bureau handles 4,000 cases a year, the vast majority of which concern Europe. Europol signed a strategic agreement with the Russian interior ministry (MVD) in 2003. But the relationship is tentative: the agreement does not cover the exchange of data on criminals, and Russia has not even sent a liaison officer to The Hague. (Eurojust maintains a ‘contact’ with

the Russian General Prosecutor’s Office.) Instead, serious law enforcement co-operation gets done bilaterally between member-state police liaison officers posted to Moscow and the Russian MVD, Federal Security Service, and the state customs and anti-drug committees. Corruption and obstructive bureaucracy are endemic in Russia and pose serious barriers to co-operation. That is one reason why EU member-state police officers (there are over 30) have formed an official network.<sup>23</sup>

<sup>23</sup> See Ludo Block, *International policing in Russia: Police co-operation between the European Union member-states and the Russian Federation*, Policing and Society, forthcoming 2007.

Some EU member-states work closely with Russia through the ‘Baltic Sea task force’. Here the Baltic countries and Russia share intelligence and co-ordinate the operations of their police, customs and border guards. But the Russian gangs engaged in human trafficking and smuggling contraband goods do not limit themselves to the Baltic area. In 2005, as part of the EU-Russia ‘four spaces’ agreement, the two sides promised to step up their joint efforts against drug trafficking, people smuggling and money laundering. They want to build on the co-operation achieved in the Baltic Sea task force and use the EU police officers based in Moscow to pass information to Europol.

EU governments need to align their foreign policy goals with their law enforcement priorities if they wish to combat the spread of organised crime groups from outside the EU. Some EU countries prioritise building relationships with local law enforcement in the host countries. They, and the European Commission, provide training and support to strengthen local police forces and judiciaries. But the most powerful foreign policy tool for fighting crime externally remains EU enlargement. Membership of the EU requires sweeping reforms to police force structures, border security, and the training of judges. New member-states send senior police officers and magistrates to work at Europol, Eurojust and the PCTF (Romania was a ‘co-driver’ of COSPOL operations against human trafficking even before it joined the EU). The EU’s demands

are so stringent that justice and home affairs issues are routinely the most difficult to conclude in any accession negotiation. Even after accession, safeguards, such as the potential suspension of that co-operation may remain in place for years, while EU officials ensure that the reform process has been successful. Desire for EU membership is currently driving vital policing reforms and institution-building in the Western Balkans and Turkey.

The EU also promotes police and justice reform in countries that are not candidates, in the Mediterranean and the former Soviet area, under its neighbourhood policy. The EU wants to develop this policy further to foster 'security partnerships' to fight organised crime, terrorism and illegal immigration, particularly with its Arab neighbours. The plan is that these should involve EU assistance for training police, judges and prosecutors; better links between such countries and Europol and Eurojust; and practical assistance to fight drug smuggling and human trafficking. The EU is also active further afield. For example in Central Asia, member-state police forces are training local law enforcement agencies to set up intelligence units to help deal with drug trafficking.

The EU still faces a challenge to ensure coherence between diplomats working on foreign policy and interior ministry officials dealing with internal security concerns. There is little co-ordination between the two, except in the area of counter-terrorism. Policemen working in EU missions abroad cannot formally share information with their military counterparts working in the same country or region, partly because of legal 'Chinese walls' separating military and justice activities. For example, police from the EU's peacekeeping mission to Macedonia, which ended in 2005, were unable to share valuable information on Balkan human trafficking with Europol, due to restrictions in the mission's legal mandate.

One idea would be to widen the brief of the EU office for co-ordinating national counter-terrorism efforts to cover organised crime. The office could be responsible for liaising between

diplomats and interior ministry officials, to ensure more joined up policy planning. At ministerial level, the politicians in the EU's foreign affairs and JHA councils should hold more joint meetings so that their efforts against organised crime, terrorism and illegal immigration match their foreign policy priorities.



## 6 Conclusion

European governments do not need to create an EU police force or take part in constant cross-border police incursions to fight transnational gangs effectively. But to make the EU a less friendly environment for crime, they need to reinforce cross-border co-operation between police forces and judges. The EU has done well to develop some innovative ideas, such as its own model for using criminal intelligence to plan operations. More remains to be done, however.

To focus only on the cross-border aspects of organised crime can detract from bottom-up solutions. Effective action against crime needs local policing, and the involvement of businesses, NGOs and community groups. The private sector will become an increasingly important partner in law enforcement and crime prevention, especially in monitoring financial transactions and the use of communications technology. Governments should take full advantage of all available channels to protect citizens from crime, while safeguarding their freedoms. If giving the EU a greater role in crime and policing satisfies this test, then it is the correct action to take.

The aim of EU co-operation against organised crime should not be to centralise law enforcement co-operation in bodies like Europol and Eurojust. Nor should all forms of European police co-operation be subject to formal procedures. A mixture of formal and informal channels guarantees the best results. The EU should become a focal point for the emergence of a new pan-European community of police officers. In this respect, law enforcement officials have much to learn from their counterparts in customs. Due to the international nature of their work, co-operation

between European customs officials is highly sophisticated, particularly in the areas of information-sharing, joint threat assessments and co-ordinated seizures of illegal goods.

As police co-operate and share information across borders more frequently, the misuse of personal data by police abroad or the abuse of the rights of defendants in foreign courts becomes a greater risk. EU member-states have not yet taken a common view on how to guard against such abuses. They are split, for example, over whether the EU should have a role in safeguarding defendants' rights and in monitoring the use of personal data by police forces. These questions will only be resolved when negotiations over the fate of the constitutional treaty conclude.

Only a few years ago, the notion that 'Brussels' would one day develop a military dimension was risible. Yet the EU has since deployed peacekeeping and monitoring missions to Africa, Asia and the Middle East. A similar revolution is occurring in law enforcement, where governments have given the EU institutions and bodies like Europol a serious role to play in countering organised crime networks. The EU countries have, for the first time, developed an ability to think together about how criminal networks should be tackled, and what decision-making structures are needed for joint action against them. The onus is now on the national authorities to make full use of the new structures and develop them further.

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**Even the most hardened eurosceptic admits the need for closer EU co-operation to fight organised crime. While criminals can move easily between EU countries, national policemen cannot.**

**Hugo Brady examines what the EU's role is in helping member-states to tackle this threat, and whether police forces are working together closely enough to break up organised criminal networks.**

**Hugo Brady is a research fellow at the Centre for European Reform.**



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