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**Organised Crime, Trafficking, Drugs:
Selected papers presented
at the Annual Conference of the European
Society of Criminology, Helsinki 2003**

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Foreword

In the 2003 annual conference of the European Society of Criminology (ESC) in Helsinki (27–30 August), quite a large number of papers (21) were presented that focused on issues related to organised crime, including trafficking in human beings and corruption. This collection presents all of these papers to the benefit of those who attended and, in particular, those who did not. During the conference, many colleagues expressed the feeling that such material should be made more widely available than was possible at the conference alone.

One particular feature of interest is the high proportion of colleagues from Eastern European countries in this context—twelve out of twenty-one—which is a lot considering that the vast majority of presenters came from other regions than these. This feature is a special bonus, we hope, for many who are unfamiliar with criminological work in that region. It may be too hasty a conclusion to believe that organised crime issues must be particularly acute and topical in those parts of Europe as the volume of contributions might indicate. The outcome could, however, just as well be a reflection of a peculiar lack of interest and tradition concerning this topic in Western Europe, amazing as this may seem. My observation has been, at any rate, that the European criminological tradition(s) have been oddly disinterested in this matter. This is not to say that a lot of good work had not been done; our concern is just that there might be more of it. The present situation is understandable as organised crime is not among the easiest research topics, in particular if empirical studies are called for. Not so long ago, many European colleagues were expressing serious doubts as to whether such a thing exists at all in reality, it being the kind of social construct as it no doubt also is.

One practical problem became quickly clear when the editing of this volume commenced: the language. Europe speaks and writes mostly languages other than English. For this reason, a project like this one easily becomes relatively expensive and labour-intensive. The language barrier being a major cause of dissemination difficulties, a volume like the present one attempts to overcome some of this European dilemma. Although a British standard of English has been aspired to, this report serves also of an example of how English language is in use way beyond the borders of the Commonwealth, and ways of expression are constantly borrowed from other languages.

This collection is hoped to inspire more serious work in this area. On behalf of HEUNI, I also wish continued success to the ESC in advancing researcher contacts and improved scientific work on issues related to organised crime. For this purpose, we have also included the contact information to the authors (as provided to the ESC conference) as an appendix to this volume.

Kauko Aromaa
Director

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Banking, Fraud and Stock Manipulation: Russian Opportunities and Dilemmas

Alan A. Block
The Pennsylvania State University, United States

Introduction

There are two primary and related issues when it comes to the money that flowed out of the former Soviet Union and the Eastern bloc. How much was more or less traditional capital flight in which rapacious and sometimes frightened business people moved their money to safe havens; how much was the result of organized criminal activities; and how much was clandestinely contributed by politicians and state officers. It certainly is not possible to effectively calculate the real figures of capital flight, although there have been, from time to time, educated guesses, and more importantly, real cases which light a small corner or two of the sums involved in capital flight. The real bottom line, therefore, is not how much was moved nor by whom, but how lucky it was for all those involved that so many Western banks were so anxious to co-operate. And indeed none more so than The Bank of New York.

The Bank of New York: Berlin and Edwards Plead Guilty

On February 16, 2000, forty-one year old Lucy (Ludmilla) Edwards, a Bank of New York (BONY) vice-president working in the newly minted Eastern European Division, and her husband, Peter Berlin, forty-five years old with a degree in physics from the Moscow Physical Technical Institute, pled guilty for participating in a conspiracy to evade income taxes, establishing a branch of a foreign bank in the United States without the approval of the Federal Reserve, operating an illegal money-transmitting business, laundering money and engaging in a wire fraud service scheme to defraud the Russian government of customs duties and tax revenues.¹ There was much more. Edwards and Berlin admitted to making corrupt payments to two Bank of New York employees as well as laundering these payments through offshore accounts. In addition, the pair stashed their illicit earnings in offshore locations, principally the Isle of Man.² Edwards con-

1 See, TRANSCRIPT OF THE ALLOCUTION HEARING PURSUANT TO THE GUILTY PLEA OF LUCY EDWARDS UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK, UNITED STATES OF AMERICA, 99 Cr. 914 (SWK); PETER BERLIN, LUCY EDWARDS, BENEX INTERNATIONAL CO., BECS INTERNATIONAL CO., INC. and LOWLAND, INC., Defendants, February 16, 2000 10:00 a.m., Before: HON. SHIRLEY WOHL KRAM, District Judge.

2 Alan Cowell and Edmund L. Andrews, "The Isle of Man as an Enclave of Intrigue", *New York Times*, September 24, 1999. On the internet check www.globalpolicy.org/nations/isleoman.htm

fessed that she assisted Russian customers of the Bank in obtaining visas to enter the United States for business trips. In order to accomplish this, she prepared false documents for Russian bankers which were sent to various U.S. embassies. In her testimony, she significantly added that this was “*consistent with the practice of the Eastern European Division of the Bank of New York*”. Her intent, it appears, was to raise the issue of collusion with some of the highest officers of the bank.

The judge in the case, the Honorable Shirley Wohl Kram, summarized when and how the Berlin-Edward’s criminal activities were carried out. They began in late 1995 when Edwards was approached by Russians who had control of the Depositarno-Kliringovy Bank (DKB) in Moscow whom she knew from her work in BONY’s Eastern European Division. They wanted BONY’s zippy wire transfer software, Micro/Ca\$h-Register, in order to move money through a new BONY account. Edwards and Berlin, therefore, crafted a criminal agreement with DKB which enabled them to personally receive and keep wire transfer commissions. This enabled the Russians to transfer money in and out of the BONY account with no real-time intervention, oversight, or control by the Bank. Berlin established the DKB account at BONY early in 1996.³ At approximately the same time, Edwards was assigned to the London office of the Bank of New York, and the couple moved to England.

To move the scheme forward, in early 1996 Berlin opened a corporate account at BONY in the name of Benex International Co., Inc., a New Jersey firm of which he had been the president since 1993. In the first few years Benex arranged to ship stereo equipment and some other electronic items to Russia. Unsatisfied, he decided to hustle money instead.⁴ Edwards, as one would expect, also had an unrevealed interest in Benex. In the next phase, Edwards installed Micro/Ca\$h-Register software on a computer located in an office in Forest Hills, Queens, run by individuals from DKB, and Aleksey Volkov who was the putative head of an analogous money-laundering firm named Torfinex. Indeed, the mailing address for Benex’s activities, 118-21 Queens Boulevard, Forest Hills, Queens County, New York, was in the name of Torfinex. Volkov had actually applied for a Torfinex license “to engage in business as a Transmitter of Money” which was received on November 17, 1997, by the New York State Banking Department.⁵ The application was somewhat tardy as Torfinex had been ordered by the New York State Banking Department to cease and desist from transmitting money one month earlier.

In the summer of 1996, the DKB high riders had Berlin open a second account at BONY, called BECS International L.L.C. Berlin became BECS’s president. This maneuver doubled the Russians’ ability to wire transfer huge amounts of money to their pals around the world. Then, in the autumn of 1998, the DKB-ers wanted another BONY account because they had taken control of a Russian bank

3 Berlin and Edwards also set up Benex and BECS’ accounts in Barclays Bank PLC in London in 1996. See, Paul Beckett and Michael Allen, with assistance from Ann Davis, “Two Firms in Money-Laundering Probe Held Accounts at Barclays Bank of U.K.” *The Wall Street Journal*, October 8, 1999, p. A4.

4 Timothy L. O’Brien and Lowell Bergman, “The Money Movers: A Special Report; Tracking How Pair Went From Rags to Riches”, *New York Times*, October 19, 1999.

5 State of New York Banking Department, *Weekly Bulletin*, December 5, 1997, Section 1, code number (TM-LFS).

with a Florida sounding name—Commercial Bank Flamingo. Berlin, ever compliant, dubbed the new account Lowland, became its president, and established a Lowland–Flamingo office in New Jersey.

Berlin was, he said in his testimony, somewhat perplexed that DKB continued to use Benex, BECS and Lowland after it had obtained its own BONY correspondent account in April 1997.⁶ Perhaps DKB preferred the anonymity of Benex and certainly Berlin did not hesitate in aiding the venture. In June 1998, DKB told both Berlin and Edwards that BECS should be deep-sixed because the FBI was sniffing around. The FBI’s activity was centered on a BECS’ account transaction involving an incoming transfer of \$300,000, which represented the payment of ransom money on behalf of a kidnapped Russian businessman, Edouard Olevinskiy.

Around that same time, DKB wanted Berlin to turn over the Benex corporate seal, which he did, knowing they would use it to create a trail of false documents. DKB also established a bank in Nauru which lies 1,200 miles east of New Guinea, just south of the Equator. Nauru is one of those “new opportunity” Pacific Island nations which includes Vanuatu, the Cook Islands, and Samoa.⁷ The Nauru bank was dubbed Sinex and it was used to carry out transfers to the Benex and BECS accounts. Sinex was founded in the early 1990’s by several Russians. Its president was Andrey Mizerov, and one of its directors, not surprisingly, was Aleksey Volkov, Peter Berlin’s compadre.

In an attempt to hide Sinex’s Nauru home, DKB listed Australia as its domicile in the BONY transfer records. In addition, DKB promoted Sinex through the Commercial Bank of San Francisco, another haven for Russian organized crime which will be discussed shortly.⁸ Along with Sinex Bank came Sinex Corp. and Sinex Securities. Supposedly, Sinex’s correspondent account in the Commercial Bank of San Francisco only lasted a few months.

One Ukrainian suspected of participation in the Edwards–Berlin scheme is the organized crime baron, Semion Mogilevich. Thus, it may have been Mogilevich’s underlings that Lucy Edwards had in mind when she commented in her confession that she was “aware that personnel from DKB were on occasion . . . afraid to leave the bank because they said customers with machine guns were waiting for them”.⁹

Although the FBI’s watchful presence was known to the conspirators, it did not stop them from carrying out their plans with only one or two very minor exceptions. Thus in April 1999, Flamingo went into operation, transferring money into the Lowland account and then using Micro/Ca\$h-Register software in Russia to wire transfer money out. Little did the conspirators know that the Flamingo

6 DKB’s BONY correspondent account numbered 890003119259 and its customer ID 5001830017 were opened on April 20, 1997.

7 Anthony van Fossen, “Sovereignty, Security and the Development of Offshore Financial Centres in the Pacific Islands”, in Michael Bowe, Lino Briguglio, and James W. Dean, eds., *Banking and Finance in Islands and Small States*, (London: Pinter), 1998.

8 Knut Royce, “San Francisco Bank Linked to Laundering Probe at Bank of New York”, *The Center for Public Integrity*, November 9, 1999.

9 Jack Hitt, “The Billion-Dollar Shack”, *New York Times Magazine*, December 10, 2000. Hitt noted: “According to the deputy chairman of Russia’s central bank, Viktor Melnikov, in 1998 Russian criminals laundered about \$70 billion through . . . Nauru, draining off precious hard currency and crippling the former superpower.”

deal would not last through the summer. It was, in fact, the last “hurrah” before their roof tumbled down.

Combined, the three conduit companies deposited more than \$7 billion at BONY in a 42-month period and transmitted almost all the funds shortly after receipt to offshore locations. Benex, BECS and Lowland sent nearly 160,000 wire transfers an average of more than 170 transfers each business day. Edwards and Berlin made approximately \$1.8 million from their commissions, paid from BONY accounts, and sent directly to the following offshore companies—Globestar Corporation, Highborough Services and Sandbrook Ltd.

Other Benex Operations

Outside of their BONY activities, Edwards and Berlin also worked their magic at a Fleet Financial bank in upstate New York.¹⁰ There they opened Benex accounts through which they transferred more Russian money. Some of the transfers were in the considerable range of \$200 million. Fleet Financial and BankBoston were in the midst of a merger process at the time, and BankBoston helpfully wired money to Benex accounts at Fleet.¹¹ I would assume, therefore, that BankBoston had its own series of Russian accounts only some of which were destined for Benex.

Another potentially significant line into the Benex-BONY saga, that was left out of Edwards’ and Berlin’s confessions, was developed by Russian reporter Oleg Lurie who followed the affairs of Sergei Victorovich Pugachev, the founder and chairman of the board of the International Industrial Bank, Russia. Pugachev was also a member of the administration of the Russian Union of Industrialists and Entrepreneurs, who first worked for Promstroibank and then, in 1992, joined Meshprombank. Lurie states that these days Pugachev “has actively been cultivating his image in two basic directions: Orthodox religiosity and friendly closeness to Vladimir Putin”. Pugachev’s most important Meshprombank officer was vice-president Eleonora Razdorskaya. She was, Lurie notes, the link between Pugachev and organizers of Russian money that “cascaded into the Bank of New York”. In addition, Razdorskaya had her own joint venture with Peter Berlin’s Benex company, and was a co-manager in an unidentified offshore company belonging to Berlin. This firm dealt exclusively with laundering money through

10 Once a sleepy Rhode Island lender, back in the days before massive consolidation when a bank could stand on its own, there were two separate banks, Fleet Financial Group and BankBoston. In October 1999, that all changed when the two banks decided to merge operations and form the FleetBoston Financial Corp. The combined institution boasts assets of roughly \$185 billion and ranks as the nation’s eighth-largest bank holding company. It became the largest bank in New England and one of the 10 largest banks in the U.S. The company’s aggressive stance emerged during the 1980s, a decade that saw Fleet acquire 46 smaller banks. During the 1990s, however, Fleet went after bigger targets. It purchased the Bank of New England in 1991, bought Boston-based Shawmut National in 1995, and acquired NatWest in 1996. As of early 1999, the bank was the ninth-largest in the U.S., with about \$100 billion in assets, having acquired Advanta Corp’s credit card business for \$500 million, and about half the credit card accounts of the Crestar Financial Corporation for \$48 million in 1998. Also in a busy 1998, Fleet acquired the nation’s third-largest discount brokerage, Quick & Reilly, and the U.S. unit of Japan’s fourth-largest bank, Sanwa Business Credit. The bank has also rapidly built its mutual fund business by waiving its sales charge on its Galaxy mutual funds for retirement accounts (thus making them “no-load” funds). In 1998, the assets in Fleet’s Galaxy accounts shot up more than 100 percent.

11 See, Inner City Press’ Federal Reserve Reporter, September 27–December 31, 1999, Archive # 4.

BONY accounts. An FBI agent, seconded to Russia and involved in the overall investigation of money-laundering through BONY, said that “Mezhprombank of Russia and its head Pugachev are probably directly concerned with the money laundering. We are aware of a whole series of dubious transfers of big amounts of money and quite possibly we may have some questions we would like Pugachev to reply to. The questions will not only be related to BONY, but also with connections to the Russian mafia.”¹² And there the issues lingered and soon passed away.¹³

Reporters seem to have had a better grasp of the situation, from time to time, than did the FBI. James Bone and David Lister, for example, raised important questions about the International Monetary Fund’s loans to Russia in 1998, some of which appear “to have passed through three commercial banks in the U.S. and Europe before ending up in an offshore account in the Channel Islands controlled by a Russian bank”.¹⁴ Czech detectives also discovered a “network of questionable financial transactions between BONY and the Prague affiliates of Komerčni Banka and Invedicni Postovni Banka”, and they were certain these transactions were a part of the money-laundering operation of IMF funds. Komerčni Bank had a long-running correspondent account with BONY which was originally sealed on October 31, 1990.¹⁵

And finally, there was Peter Berlin’s Benex Worldwide Ltd., which first nestled on St. Barnabas Road, London. Supposedly its business was “Commodity Contracts Brokers, Dealers”. It was incorporated on May 18, 1998, and reported no employees, no sales, no profits, and no net worth. On August 24, 1999, just after the New York Times broke the Bank of New York money laundering story, Benex Worldwide Limited moved from St Barnabas Road to 62 Montagu Mansions, London. A careful reading of Benex Worldwide in the British registry showed the only category in which it reported an actual figure was “Issued Capital (Sterling)”. The figure entered was 2 pounds. Benex Worldwide did state it had share capital but again no entry was made in the registry. Nothing else stands out in the registry except the category Latest 10 Transactions, which actually recorded five. They were the following: June 9, 1998—change among the directors of the company; February 15, 2000—new incorporation; March 21, 2000—first dissolution; and July 11, 2000—final dissolution.¹⁶ Whoever the new directors were and whatever was meant by a new incorporation remain a mystery.

Clearly, Edwards and Berlin had come a very long way in a relatively short time. However, they harbored a kind of “grifter” mentality that slid, from time to time, from big-time crime to small and shoddy crime. Edwards, for example, had two encounters with New Jersey law enforcement while employed by BONY, for

12 Oleg Lurie, “Putin Likes Skiing: So What Does Pugachev Have To Do With It?” *Novaya Gazeta*, November 28, 2001. The article can be found on David Johnson’s Russia List Home, davidjohnson@erols.com, #8 November 26–28, 2001.

13 Pugachev also “figured in a string of scandals” as he attempted to take control of the state diamond company, Alrosa, which Pavel Borodin now heads. “Russia: Profile-Part 2: Sergei Pugachev: The ‘Orthodox-Chekist’ Banker”, *Financial Times Information*, April 24, 2002.

14 James Bone and David Lister, “London, New York, and the Channel Islands Implicated in Money Laundering: New York bank linked to IMF’s missing millions”, *The Times*, August 24, 1999.

15 Komerčni Banka Prague’s correspondent account in BONY was CAS 8900053488, and its ID number was 9027710015.

16 See Dialog Web Records, file: [///C:/mail/attachment/Benex Intl corp data.htm](file:///C:/mail/attachment/Benex Intl corp data.htm).

what some call shoplifting and others, theft. She pled guilty to both and paid fines. On the other hand, when Berlin, was arrested for shoplifting he quickly hired a lawyer and the local A & P, in Fairview, New Jersey, magnanimously dropped the charges.¹⁷

Boris Avramovich Goldstein—*Friend of Friends*

The Commercial Bank of San Francisco is a small privately-held bank formed in the mid-1970s. Its primary function was to handle small-business loans. But when Boris Avramovich Goldstein, from Latvia, and his Bulgarian partner, Peter Nenkov came on the scene in 1994, the bank underwent somewhat of a renaissance. A computer whiz in Latvia, Goldstein had first become rich in the software business and then turned to banking. He was a founder of Dalderis Bank in Latvia which merged into another Latvian bank called Sakaru. The business manager at Sakaru Bank was Edmund Johanson, who had retired as the last chairman of the Latvian KGB in 1991, when Latvia achieved independence from the Soviet Union.¹⁸ Sakaru had an intriguing band of shareholders which included at least one gangster, various money-launderers and financial criminals at the center of the infamous Mabatex-Mercata scandal.

The Kremlin and Flight Capital

Mabatex's President was Behgjet Pacolli from Kosovo, in residence in Lugano, Switzerland. Viktor Stolpovskikh, a Russian living in the canton of Ticino, Switzerland, was in charge of the Mabetex Company in Moscow from 1992 through 1994.¹⁹ Mabatex and its sister company Mercata became the centerpiece of a series of long investigations into what was called the Palace project. The issues investigated linked President Boris Yeltsin and members of his staff and family to quite massive corruption. One very small example: Pacolli transferred \$1 million to a Budapest bank account in late 1995 for Yeltsin's benefit. A Pacolli associate stated it was to help Yeltsin's political campaign, while Pacolli held it was used to buy advertising which was handled by Trinlo Investment, supposedly with addresses in both the British Virgin Islands and The Bahamas. No one, as far as I know, has been able to find them or Trinlo's officers. Other key players in the scandal included Pavel Borodin, one of the most powerful persons in the Kremlin. Borodin worked directly under Yeltsin, heading the Office of Presidential Affairs and was in charge of all the State's property—planes, palaces, hospitals and hotels. Andre Silyetsky, Borodin's son-in-law, was the Kremlin's property manager. The Swiss investigation of this case (there were others, particularly in Russia, which did not work nearly so well) established the following.

17 Timothy L. O'Brien and Lowell Bergman, *Ibid.*

18 *Ibid.*

19 "Text of Swiss Magistrate's Investigative Request on 'Mabetex' Case Sent to RF Prosecutor-General", Document ID: CEP20000912000280, Entry Date: 9/12/2000, Version Number: 01, Region: Central Eurasia, West Europe, Sub-Region: Russia, West Europe, Country: Russia, Switzerland, Topic: Crime, Domestic Political, International Political Leader.

In 1995, Stolpovskikh together with Siletskiy, bought out the dormant Swiss joint-stock company Mercata Trading & Engineering SA. Then they cobbled together a finely tuned series of mostly offshore accounts. The movement of money began when Stolpovskikh purchased Lightstar Low Voltage Systems Ltd., registered on the Isle of Man. Lightstar opened a bank account in the Midland Bank branch on the Isle of Man. Next, Mercata and Lightstar concluded a contract for services agreement on May 29, 1996. The agreement's preamble stated the following: "In view of the fact that the Lightstar company, because of its connections and its work in Russia [which were nonexistent], will allow Mercata to conclude and finance two contracts with the Business Administration of the Russian Federation President",²⁰ etc. The initial contract was for renovating the Kremlin Palace in Moscow, the second for renovating the Comptroller's Office in Moscow. The agreement held that Mercata would receive promissory notes for \$492 million guaranteed by Vneshtorgbank. The first part of the payment came to \$150 million and Lightstar received \$21 million to distribute. In the second tranche, Lightstar distributed more than \$41 million.

With whatever commission Lightstar itself received, the rest was passed to at least ten offshore companies and the United Overseas Bank, Nassau, The Bahamas. They were Zofos Enterprises Ltd., and Somos Investment in Cyprus; Winsford Investment Ltd., and the Amati Trading Corporation in The Bahamas; the Thornton Foundation, and Skaurus AG., in Liechtenstein; the ABS Trading Establishment and Bersher Enterprises in the British Virgin Islands; and finally the Amadeus and Carmina Foundations in Panama. There was of course the standard "layering" through these offshore accounts. For example, of the \$9,208,691.45 transferred to the Bersher company, \$5,172,052 was subsequently transferred to Account No 2214 in Bank Hoffman in Guernsey which was the Thornton Foundation account in Liechtenstein. Overall, more than \$62.52 million was paid out to these money-laundering institutions in 1997–1998.

All the commission fees that Mercata paid to the Lightstar company were done at the instructions of Stolpovskikh. They were transferred to the Isle of Man's Midland Bank into the Lightstar account No. 12018701360. Instructions on the distribution of the fees in Midland Bank were provided by attorney Gregory Connor, the Lightstar company's Geneva-based administrator. The putative owners of the offshore accounts were the following: Stolpovskikh, Viktor Bondarenko and his wife Ravida Mingaleyeva, Olga Beltsova, Pavel Borodin and his daughter Yekaterina Siletskaya, Milena Novotorzhina, Vitality Mashitskiy, and Andrey Nerodenkov. The banks that were used to move the money into the offshore accounts were the Swiss Bank Corporation, Geneva; Banco Del Gottardo, Lugano; Bank Adamas, Lugano; UBS, Zürich; and Bank Kamondo, Geneva.

Much of the media attention on the Mabatex-Mercata dynamos centered on Yeltsin's two daughters, Tatyana Dyachenko and Yelena Okulova, who ap-

20 Robert O'Harrow Jr. and Sharon LaFraniere, "Unfolding Bank of N.Y. Probes Have Many Leads", *Washington Post*, October 3, 1999, p. H3.

pear to have had their extremely large credit-card bills paid by Mabatex-Mercata. Tatyana is married to Leonid Dyachenko, “an oil trader who maintained Bank of New York accounts in the Cayman Islands containing more than \$2 million”.²¹ Two of his known companies are East-Coast Petroleum and Belka Energy New York. Tatyana is also famous for having become Yeltsin’s tough right-hand strategist.

Not covered nearly as well, however, was the cunning partnership between Mabatex and a Serbian firm Genex. While the economy of Serbia and Montenegro was consolidating into the hands of perhaps 30 to 40 families, business and politics became indissolubly linked. Genex was the country’s primary import-export firm. In 1990 its capital was valued at more than \$1 billion. Meanwhile, thanks to a network of relations and friendships in Moscow, Slobodan Milosevic’s brother managed to obtain gas supplies from Gazprom on credit, at a cost of \$300 million a year. It was this relationship that brought Genex into contact with Mabatex. Pacolli recently ended up in the Kremlin-Gate inquiry, “the scandal of ‘golden contracts’ in Russia, kickbacks totalling millions of dollars”.²² It was the Geneva daily *Le Temps* that first discovered Genex was a partner in the restoration of the Kremlin.

Goldstein claimed he was only a passive investor in Sakaru and knew none of his partners. In 1996, Sakaru Bank collapsed largely because the First Russian Bank in Moscow had failed. Sakaru had a correspondent account there and was thus unable to meet certain capital requirements. Goldstein was also a fairly important shareholder in First Russian although he described himself as a passive investor “unfamiliar with its day-to-day operations”. The bank failed, quite simply, U.S. Intelligence said, because of embezzlement. For a fellow who sat on both Sakaru’s and First Russian’s Boards, Goldstein seemed to know very little about either. I suppose someone somewhere might believe Goldstein’s claim that he never knew many of his associates were criminals, indeed hardly knew much about them at all. But aside from everything mentioned so far, both the FBI and CIA were certain his partner Nenkov was an associate of criminals in Bulgaria. Goldstein’s endlessly reiterated lack of knowledge about his partners was simply nonsense.²³

Spotty Russian Banks

At the center stage of Berlin and Edwards’ laundering activities would appear to be DKB and Flamingo, but appearances can be deceiving. The principal owners of the Moscow Business World Bank, known as MDM, and Sobinbank were the primary owners of DKB and “helped raise new capital in 1996 for the other conduit bank, Commercial Bank Flamingo”.²⁴ Both MDM and Sobinbank had cor-

21 Ibid.

22 Sandro Orlando, “Banker Sloba is worth \$10 Billion”, *Corriere Economia*, April 26, 1999.

23 Royce, Ibid.

24 Jonathan Fuerbringer, “Russian Banks Hold Enigmas Within Mazes; U.S. Tries to Follow Path of Suspected Wrongdoing”, *New York Times: Business/Financial Desk*, April 21, 2000.

respondent accounts with BONY. MDM's was recorded on the last day of May 1994, and Sobinbank's in August 1996.²⁵

Neither MDM nor Sobinbank was pleased to be in the middle of this mess and Gleb A. Kostin, the young deputy chairman of MDM, stated the real problem was not criminality but the "vast cultural differences between Russia and America, and that American investigators know nothing about the Russian banking process".²⁶ To some extent Kostin was correct. For example, MDM did not pay its workers in a conventional manner nor did it contribute money to the government for its workers' pension benefits. Instead it came up with an ingenious salary substitution scheme. It worked like this: "a company would take a loan from the bank and redeposit the cash from the loan in the bank. It then made interest payments on the loan. MDM paid a higher interest rate on the deposit than the company paid on the loan, and the difference was paid to the company's employees instead of salaries." The companies, never identified, "received compensation for providing this service through other moves".²⁷

MDM and Sobinbank insisted that they did nothing wrong. They argued, rather unconvincingly, that all their actions were premised by what their unidentified clients wanted them to do. And, they insisted that the web of interconnections in Russian banking confused U.S. prosecutors about their role.

Sobinbank was what the Russian's call a "pocket bank". Its origins came from state enterprises which turned their financial departments into co-operative banks which soon became known as "pocket banks".²⁸ To put it as mildly as possible, they were tightly attached to individual enterprises. Sobinbank's 1998 annual report reflects its pocket bank ambience. Eighty percent of its loans that year went to just five borrowers. Its major investors were a space company, a Gazprom affiliate, a large oil producer, and the developer of a Moscow underground shopping mall, strongly desired by Moscow's Mayor, Yury Luzhkov. In addition, Sobinbank moved approximately 40 percent of its assets outside Russia. Its foreign exchange transactions were limited to one unnamed but related company. It seems that what these institutions primarily had in common with foreign banks, was the use of the word *bank*. So when Mikhail Kasyanov, Russia's first deputy prime minister, said the majority of Russian banking institutions "have never been banks in the real sense",²⁹ he knew precisely what he was talking about.

Of course, there were real reasons for Russian "pocket banks" and others to search for unconventional methods of operation. For example, raising capital was a very complicated procedure especially from 1996 on when the Russian Central Bank limited who could invest in a bank and how much could be invested. Therefore, investors searched for a "beard"—a group of companies or banks, or both, who were willing to purchase all or part of the equity in the bank for them. After the sale was approved by the central bank, the "beard" would sell

25 MDM's correspondent account with BONY was numbered 8900106891, its Customer ID was 9203660011; Sobinbank's CAS was 8900261137, its ID was 9312820010.

26 Fuerbringer, *Ibid.*

27 *Ibid.*

28 Juliet Johnson, *Ibid.*, pp. 42–43, 50–55.

29 Fuerbringer, *Ibid.*

the stock to companies chosen by the real investors. This is the role that MDM Bank said it played in raising capital for both DKB and Flamingo Bank.

Gleb Kostin claimed that in 1996, at the direction of yet another unnamed client, MDM Bank bought stock in Flamingo Bank and held it from September 3rd of that year to December 10th. Additionally, MDM owned stock in DKB from June 13th to December 10th. After that, Kostin said, the stock was sold to other companies, also at the client's direction. Kostin would neither name the companies nor the client.³⁰ Sobinbank's chairman, Aleksandr Zanadvorov, echoed MDM's claim.

To the contrary, however, a Russian banker involved in the Bank of New York investigation insisted that Sobinbank was the primary participant in raising capital for DKB and Flamingo Bank, and that both DKB and Flamingo were actually bought for one or both of the DKB bankers, Ivan Bronov and Kiril Gusev. Bronov and Gusev were strongly believed to be co-conspirators with Edwards and Berlin. Bronov also worked at some time in the past with Zanadvorov of Sobinbank.³¹ As if this were not complicated enough, it was discovered in the late 1990s that Sobinbank was a subsidiary of the almost defunct SBS-Agro bank which, it turned out, had held 20 percent of Flamingo's shares.³² It was all so chummy although Sobinbank did have to "renounce" \$11.75 million which it held in its Bank of New York account upon the order of Manhattan federal district judge William K. Casey.³³

And finally, when all else is confusing, one can turn with solace to the straight-forward machinations of the International Cassaf Bank situated in Moscow, headed by Latvian Alexey Ushakov who was accused of money-laundering to the tune of approximately \$500 million in 1997–1998. Though Cassaf was in Moscow, its heart and soul was in the South Pacific. Here was another Nauru episode, which began in 1994 when Cassaf registered in Nauru, with a slight twist. Cassaf ran at least part of its scheme utilizing its correspondent accounts with MDM, Rossiyskiy Kredit, Atlant-Bank, and others. The almost-very-clever Ushakov, who sat in a Moscow lockup as his trial moved forward, took down about \$600,000 a month before being caught. But given the vagaries of Russian justice, none of the perpetrators had much to worry about. In March 2000 the case was turned over to the court. The trial began in the summer of 2001 and ended in January 2002. Over the course of almost nine months, 260 witnesses testified. After some jockeying, and a great deal of foolishness, the prosecutor called for a three-year sentence. The court solemnly announced the sentence and then "amnestied everybody at once". Nonetheless, numerous major foreign banks, including the Bank of New York, served as middlemen in transferring the money abroad. For instance, in the period from October 1997 through March 1998 around \$50 million was transferred from Russia via the Bank of New York. Cassaf's income from this operation alone was \$1.2 million. In all, according to a

30 Richard Hainsworth, "Thompson Bank Watch Report", July 30, 1997

31 Ibid.

32 "Banking Inquiry Retraces a Trail Reaching Lofty Levels in Moscow", *New York Times*, February 18, 2000.

33 See, "Sobinbank signed an agreement on confiscation of \$12 million in connection with the prosecution of laundering of Russian money through The Bank Of New York", Agency WPS—Banking and Stock Exchange, October 24, 2001.

seemingly serious Russian investigation marred by the zany and/or corrupt Judge Z. Zadorozhnikova, Cassaf had at least 1,500 clients, and the bank laundered somewhere around \$500 million. The defendants, on the other hand, had to pony up 17,000 rubles, the equivalent of several parking tickets in Manhattan, as their financial penalty.³⁴

The Life and Times of YBM Magnex

Culled from the work of eleven reporters from the Wall Street Journal, the Philadelphia Inquirer, U.S. News and World Report, and the World Economy Weekly in Budapest, it was determined there were clear ties between Benex and YBM Magnex International Inc., a Newtown, Pennsylvania, maker of industrial magnets. In fact, Benex has been described as a distributor of YBM Magnex magnets. Semion Mogilevich, one of the most feared organized criminals, was the founding shareholder of the company, although in 1994, a Russian emigre scientist, Jacob G. Bogatin, was credited with starting the firm. Under his direction, YBM specialized in manufacturing magnets and bicycles. In less than four years, YBM rose “from an obscure penny stock to a multinational worth nearly \$1 billion”. From 1994 to March 1998, YBM’s “net sales quadrupled, net income jumped ninefold, earnings rose by a factor of five, and the future looked just as promising”. Indeed, YBM boasted of “plans to become the world’s leading producer of high-energy permanent magnets”.³⁵ At any given time, some parts of this YBM yarn might actually have been true, although one must always keep in mind that the intention of those who created YBM was always base, an expanding criminal enterprise in which bicycles played no part.

YBM’s saga is also another example of the complicated mechanisms which organized criminals use, though surely un-organized criminals specializing in fraud follow many of the same patterns. In this case, Canadian stock markets were central. The responsible YBM officers included Bogatin, Harry W. Antes, Igor Fisherman, Daniel E. Gatti, Frank Greenwald, Kenneth E. Davies, James J. Held, R. Owen Mitchell, Michael D. Schmidt, and Lawrence D. Wilder. Two firms that often specialized in pumping near worthless stocks, Griffiths McBurney & Partners, and First Marathon Securities Limited were also hip deep in this case.³⁶

To get the ball rolling YBM Magnex International Inc. was incorporated on March 16, 1994, in Alberta, Canada. It then used a shell company, Pratecs Tech-

34 “Major money laundering trial opens in Moscow”, BBC Monitoring, June, 8, 2001, Source: ‘Kommersant’, Moscow, in Russian, June 7, 2001. See <http://www.russianlaw.org> and “Moscow Court Hearing on Money Laundering Case Against Cassaf Bank’s Head Continues”, *Vremya Novosti*, August 7, 2001. Also see A. Shvarev, “The Court gave and took”, *Vremya Novosti*, January 2, 2002, p. 3; M. Kondratieva, “Money Laundering”, *Gazeta*, January 2, 2002, p. 4; M. Semenova, “The underground banker is out of prison”, *Kommersant*, January 2, 2002, p. 12.

35 “Foreign Loans Diverted in Monster Money Laundering? The Mafia, Oligarchs, and Russia’s Torment”, an article based on the work of reporters Michael Allen, Paul Beckett, Michael Binyon, James Bone, David S. Cloud, Alan S. Cullison, Andrew Higgins, David Lister, Lacy McCrary, Gyorgyi Kocsis, and David Kaplan. See, <http://www.worldbank.org/html/prddr/trans/julaug99/pgs11-13.htm>.

36 See, In the Matter of the Securities Act R.S.O. 1900, c.S.5, as Amended, “Statement of Allegations of Staff of the Ontario Securities Commission”, Toronto, Canada, November 1, 1999. Also, http://www.osc.gov.on.ca/en/Enforcement/Allegations/ybmmagnexinternationalinc_19991101.html.

nologies Inc., as its listed name and in August of that year began trading on the Alberta Stock Exchange as a Junior Capital venture or “blind pool”.

Generically speaking, a blind pool typically stands for a sham corporation which has been created to “merge with other closely-held public companies in order to bypass . . . securities regulation, gain immediate access to the secondary market and serve as a vehicle for market manipulation”.³⁷ Canadian commentator Diane Francis described “blind pools” as “venture capital outfits” that raise money without needing to tell the investors there was a “specific plan” in mind for use of their money.³⁸

In the old days a penny-stock-criminal firm made its money through an initial public offering of some phony and/or overvalued security. Over the course of time, stock swindlers refined the idea and began conning investors to give them money for investments in unspecified companies. They were asking for what came to be known as a “blank check”. A “blank check” when combined with a “blind pool” created the synergy needed to make investors’ money evaporate after the felons made theirs. The secondary market became the arena for making really big criminal money. It works like this: a public offering is made for the stock of a sham company, which is merging with another usually unspecified firm already registered with a securities exchange. Investors are not informed that the bulk of the shares are owned by the swindler’s firm. This practice is known as “scalping”.³⁹ The price is then driven up, made all the easier when the crooked firm is the sole market maker.

“Blank checks” and “blind pools” rely on the most important technical innovation the criminal stock firm has—the telephone, which by the 1980s had evolved to include 800 numbers, call waiting, call screening, the availability of specialized phone lists, and hooked into fax machines and computers. The stock swindlers’ basic tool has become better and better. Their methods reveal the kinship between the penny-stock racket and the classic swindler’s “boiler room” operation resulting in high pressure telephone promotion of a phony commodity by people who usually haven’t the foggiest idea what it is they are promoting.⁴⁰

Pratecs publicly announced it would “acquire Canadian distribution rights for YBM Magnex Inc. products and, further, to acquire all the shares of YBM Magnex”. As stock analyst Adrian Du Plessis noted, both of these represented non-arms length transactions as the president of Pratecs, Robert Ventresca, and a director, Jacob Bogatin, were also principals and/or shareholders of the private entity, YBM Magnex. The rest of this initial scheme included the Canadian distribution rights for “magnetic materials produced by YBM Magnex” which would be bought with four million shares of Pratecs costing 20 cents a share. Of course Pratecs had to wait until it issued its first tranche of shares, which num-

37 North American Securities Administrators Association, “The NASAA Report on Fraud and Abuse in the Penny Stock Industry”, submitted to the Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, U.S. House of Representatives, September 1989, p. 162.

38 Diane Francis, *Bre-X: This Inside Story*, (Toronto: Key Porter Books, 1997), p. 54.

39 David Ratner, *Securities Regulation In a Nutshell*, (St. Paul, Minnesota: West Publishing, 1978), p. 154.

40 Sean Patrick Griffin and Alan A. Block, “Penny Wise: Accounting for Fraud in the Penny-Stock Industry”, in Henry N. Pontell and David Shicor (eds.), *Contemporary Issues in Crime and Criminal Justice: Essays in Honor of Gilbert Geis* (New Jersey: Prentice Hall, 2001), p. 103.

bered 110,000,000, to the always enthusiastic market vendors in league with the company.

Early in 1996, the managers of YBM/Pratecs brought on Robert Owen Mitchell, the Vice President of First Marathon Brokerage, Canada's largest independently-owned brokerage house, and the former Ontario Premier David Peterson whose law firm—Cassels Brock and Blackwell—assisted YBM. There were others who were helpful and past masters at pumping worthless stock. These included money managers such as Connor Clark and Lunn, and Kaan Oran who was formerly with First Marathon and very enthusiastic about YBM.

In the summer of 1995, Pratecs' trading ground to a halt. This was the result of Britain's Operation Sword which targeted several British solicitors for aiding and abetting Mogilevich's money-laundering and other similar matters. The Pratecs' response said the British firms were "in no way related to YBM or its Channel Island subsidiary, Arigon". By the first week in October, 1995, however, Pratecs changed its name to YBM. About four months later, "YBM became a reporting issuer in Ontario." That meant YBM shares would soon be listed on the Toronto Stock Exchange. YBM hit the big time on March 7, 1996.

YBM was, if nothing else, hopelessly dishonest, although that did not seem to bother those key Canadian brokerages that helped to ratchet up its share price from 20 cents to almost \$20 Canadian. Meanwhile, there had been some internal changes. Given the publicity about Arigon, the crooks in charge decided to make a move. They formed a new offshore company named United Trade Limited in the Cayman Islands, and dumped all of Arigon into it. They also slid 99.9 percent of the shares of Magnex RT based in Hungary into the new venture. One other part of this fraudulent clean-up was the allegedly complete separation from YBM's other known subsidiary, Arbat International, Inc. Interestingly, YBM's Chief Operating Officer, Igor Fisherman, was the President of the rather soiled Arigon, but he quickly nestled into the same position with UTL.

Although YBM had a mercurial ride, it was destined to slip slide away into a series of hints and allegations and on into numerous civil cases followed by one or two ventures into the criminal side. The slide began in August 1996 when YBM learned there was a "pending investigation" of the company by the U.S. Attorney's office in Philadelphia. On August 29, YBM held an emergency meeting and formed a Special (Independent) Committee to investigate the allegations and innuendos. They retained the Fairfax Group, a U.S. based private detective firm, which is now known as "Decision Strategies". The senior Fairfax investigators working the case included a former Special Prosecutor, a forensic accountant, and a retired U.S. Ambassador and former senior official with the U.S. State Department.

For a company riven through with world renowned mobsters, this was a seemingly odd choice. The initial Fairfax report to YBM took place in Toronto on March 21, 1997, and in Philadelphia the following day. It was an oral report. In sum Fairfax confirmed YBM's original shareholders were organized criminals, that Arbat in Russia, Arigon in the U.K., and Magnex in Hungary, were owned or controlled by the Mogilevich syndicate. Fairfax also went over other areas—"companies with which YBM was doing business, some of these companies were shells, others were shells within shells, others did not exist"—which

added to the grim picture. Moreover, Fairfax had found that Igor Fisherman, YBM's Chief Operating Officer, maintained a long-standing friendship with Mogilevich. Indeed, it seems Mogilevich "had access to bank accounts at a key Eastern European YBM subsidiary run by Fisherman".⁴¹ Despite what would appear to be very bad news, YBM's gallant Special Independent Committee was soon pleased to inform YBM staff that Fairfax looked hard but "could not find any evidence to substantiate the rumours" swirling around YBM.⁴² This, I must add, despite the Special Committee's own notes, actually two versions, which confirmed what Fairfax had actually said.

YBM's slide accelerated in the spring of 1997 when it filed a preliminary prospectus that was to a large extent, misleading. Actually, it was completely misleading. Another supposedly independent committee of the Board of Directors was then set up to "review the Company's operations to ensure that they are consistent with the standards applicable to Canadian public companies".⁴³ The next problem emerged when YBM's auditor, Deloitte & Touche LLP (U.S.), said it was stopping its audit of YBM's 1997 financial statements and would not continue until the firm truly underwent and completed a serious forensic investigation. YBM had not notified D & T about the Fairfax conclusions. YBM held together for another year. In fact, on April 27, 1998, it sent out a glowing news release reporting its net income had increased 94.6% compared to the preceding year, and that sales of shares were up 38.2%. The stock pumpers were giddy. However, this was YBM's last gasp.

On May 13, 1998, the Ontario Securities Commission finished off YBM's ability to sell shares. A few months later, YBM's general counsel, Cassels Brock and Blackwell, represented by YBM board member Lawrence D. Wilder, left the scene. On December 8, 1998, a Receiver was appointed to handle the YBM windup, and First Marathon Securities Limited changed its name to National Bank Financial.⁴⁴ There were several prosecutions of YBM principals.

41 Sandra Rubin, "YBM Linked to Russian Underworld: Headquarters Raided", October 27, 1998, at http://www.nationalpost.com/features/annivgallery/Oct_27_1998.pdf.

42 Ibid.

43 See, "Statement of Allegations of Staff of the Ontario Securities Commission", II. Overview of Staff's Allegations, p. 7.

44 There were a series of court cases that bloomed from the YBM fiasco. I am listing three.

Ontario Superior Court of Justice, Court File No. 01-CV-209418, Between Plaintiff YBM Magnex International, Inc. Through its Independent Litigation Supervisor, Paul Farrar, and Defendants Jacob Bogatin, Igor Fisherman, Harry Antes, Kenneth Davies, Frank Greenwald, R. Owen Mitchell, David Peterson, Michael Schmidt, Cassels, Brock & Blackwell, Parente, Randolph, Orlando, Carey & Associates, Deloitte & Touche LLP, National Bank Financial Corp., formerly First Marathon Securities Limited, Griffiths McBurney & Partners, Scotia-McLeod Inc., Canaccord Capital Corporation and HSBC James Capel Inc., Formerly Gordon Capital Corporation, Defendants, and Third Parties Connor Clark & Lunn Investment Management Ltd., Fogler Rubinoff LLP, Decision Strategies LLC and Pepper Hamilton LLP. Ontario Superior Court of Justice, Commercial List, Court File No. 99-CL-3424, Between Plaintiff YBM Magnex International Inc., by its Receiver and Manager Ernst and Young YBM Inc., and Defendants Jacob Bogatin, Igor Fisherman, Michael Schmidt, Kenneth Davies, Frank Greenwald, Guy Scala, Daniel Gatti, James Held, Robert Ventresca and Harry Antes.

Summary

First and foremost, the Berlin-Edwards finagle proved without a shadow of a doubt that “due diligence”, “know thy customer”, and all the other phrases in the post-modern banking world did not really apply to The Bank of New York. Its Eastern Europe Division had a minimum of 378 correspondent accounts and each transfer through The Bank of New York made money. In fact, the processing fees from wire transfer revenues went from \$530 million in 1994 to more than \$1 billion three years later. Indeed, so profitable was the Electronic Funds Transfer Division that BONY’s senior management called it “the golden child”. Added to this windfall were the extraordinary number of BONY correspondent banks that were very busy transferring money into other banks and/or businesses. A large percentage of these institutions were either absorbed by the felt necessity of engaging in tumultuous capital flight or were little more than criminal organizations.

Research into Organised Crime in the Czech Republic—solved topics, methodology, basic results

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Organised crime appeared in the Czech Republic in a developed form after the year 1990. Though some elements had previously existed in the black and grey economy, and occasional pilfering of the cultural heritage occurred as well, these activities were not developed in any significant form. In totalitarian regime, conditions for organised criminals to attain maximum profits with a minimum risk were far from ideal. Numerous repressive measures, including the almost imperiously closed borders, presented too much of an obstacle. An insolvent population, which could hardly pay for the brokering of illegal goods or services, held no promise of any significant source of income. The risks were too great when compared with the potential profits.

Politicians, the appropriate organs of the state administration and the general public reacted to the threat of organised crime that emerged after 1990. It was paradoxical that the citizens reacted before the politicians. Criminological research also focused on the issue of organised crime right in the early 90s. In the Institute for Criminology and Social Prevention, we first summarised information from specialised literature at the end of 1992, focusing especially on foreign experiences with the possible utilisation of research methods. We attempted to come up with a working definition and to create a probable model of the activities of organised crime which could be taken into consideration. The preliminary information was summarised in a theoretical methodological study. (Cejp 1993)

In 1993 we began with systematic research. We observed both the general characteristics of the structure of groups and of their activities, as well as specific issues. The basic characteristics of the groups and activities were investigated regularly each year. (Cejp 1996) In the framework of specific themes we focused on the detailed research of those activities which were most widespread or typical of the Czech Republic. We inquired into the involvement of organised crime in manufacturing, smuggling and distribution of drugs (Gawlik 1994), in the organisation and operation of prostitution (Trávníčková 1995), in illegal migration (Scheinost 1995), in thefts of artistic monuments (Gawlik 1995), in violent crime (Marešová 1996) and extortion (Cejp 1995).

We gradually attempted to resolve specific themes as well. Since it had been demonstrated that in the Czech Republic, the Czechs participate in almost half of the cases of organised crime, and that 25% of the groups operating are purely Czech, we decided to look in greater detail at organised criminal activities of the

citizens of the Czech Republic (Scheinost 1999). Foreigners were also separately addressed (Scheinost 1996). Later we systematically studied the involvement of organised crime in financial areas (Baloun 1999), inquired into economic crime, especially money laundering (Kadeřábková 1999), and into the issue of the deliberate evasion of taxes (Marešová 1999). Furthermore, we attempted to analyse the flow of funds both inside and outside the world of organised crime. Over the last ten years we have assessed the effect of specific legal measures that were established and applied for the purpose of fighting organised crime. (Karabec 1999) At the end of the 1990s, we analysed the issue of organised crime in a wider social context. We looked for criminological factors in the life of the society that enable organised crime to realise its activities and acquire accomplices or clients for illegal goods and services. (Cejp 1999) In the framework of attempting a prognosis of selected types of criminality, we specified problematic as well as developmental facts that could prove effective when fighting crime in the coming years. (Cejp et al. 2001) In addition to particular reports, we presented research results in comprehensive publications, in which a particular stage was always summarised. (Scheinost et al. 1994, Scheinost et al. 1997, Cejp et al. 1999)

International co-operation is a significant part of the research of organised crime. We have gathered information on the basic characteristics of organised crime and on the possibility of its research from foreign sources (i.e. Fijnaut 1999). We have released several translated proceedings that present documents from the UN, CE, EU, as well as translations of foreign legal norms. Systematic international co-operation began in 1996, when we compiled data for the Council of Europe questionnaire "Groups for criminal law and criminological issues of organised crime". After that the survey was conducted annually, and we directly participated in the work of the groups. Once we also compiled data on organised crime for the European Union, and participated in the preparation of the Pre-entry Pact on the issue of organised crime, ratified in Brussels in May, 1998. We also participated in the preparation of the UN Convention on fighting organised crime, and on the UNICRI pre-research realised in 1997. The Institute for Criminology and Social Prevention co-operated with the Florida University during the organisation of a joint seminar (1995), and in 1999 we organised the "Cross-border crime in Europe" international conference in co-operation with the University in Tilburg.

Methodology

When researching organised crime, we cannot for the most part use research methods and techniques which have a direct link with the criminal environment. Due to the fact that before 1998, there were no cases in which a defendant was prosecuted, charged and convicted of participation in a criminal conspiracy, the analysis of investigation and court files is very limited. In 1998 the first few dozen cases appeared, but the information obtained from such a small sample cannot be generalised, but used only as an example. For the same reasons, we cannot fully utilise police and court statistics. Hitherto we have been largely dependant on indirectly obtained information.

We utilise various methods for gathering information from experts: For the repeated acquisition of basic data on the structure of groups and their activities, we turn to police officers specialised in detecting or investigating organised crime. Anonymous inquiries are realised with questionnaires sent to approximately 30 experts. Attempts to broaden the field to include specialists from state representatives and judges have not proven effective so far. In matters related to specific themes, we give preference to individual interviews. For prognoses we have used the “round-table” method in particular issues, and “focus-groups” for solution proposals. When assessing the effects of developmental and limiting societal factors, the SWOT method is used. In addition, we utilise information from specialised publications and sources as well as comparative analyses of legal means. Statistics are used at least for orientation, and when possible, concrete cases from file materials are analysed. Results from public opinion polls, and more technically oriented newspaper articles can also be utilised to limited extent.

For research purposes we use the following working criminological definition: Organised crime comprises of repeated (systematic) acts of purposefully co-ordinated criminal activities (and activities supporting these acts), where actors are criminal groups or organisations (largely with a multiple-level vertical organisational structure) whose main goal is to attain the maximum illegal profit while minimising the risk (ensured via contacts in decisive social structures). Accidental criminal groups or organisations, the majority of white-collar crime or terrorism are thus excluded from the scope of organised crime.

Basic Information about Groups

We can deduce the main changes occurring between 1993–2002 in the basic indicators from the qualified assessment of the experts. A wide range of data is stable as far as criminal groups are concerned. The age variable is on the whole unchanged: most rank and file members are 20–25-year-olds, bosses 30–35-year-olds. The participation of women (about 15%) is also demonstrated, especially in organised prostitution and drug trafficking. Women also participate to a lesser extent in illegal migration and corruption. They sporadically appear as negotiators of extortionist groups. The ratio of permanent members and outside help (50:50) is also stable. External collaborators are quite often used to provide all sorts of supporting services or information, and to realise contacts or special operations. In more demanding operations they act as advisors. The proportion of international and local elements in criminal groups is also altogether stable. Foreign participants are represented a bit more frequently than Czech citizens. Some 20–30% of the groups are purely local. (See Table 1)

As far as the level of organisation is concerned, a definite increasing tendency can be detected. Highly organised groups usually have a three-level organisation: The highest leadership is on top, managing several independently operating groups known as the middle link. At the lowest level there are the rank and file, and outside help. In the 1990s, about one third of the groups in the Czech Republic were organised in this way. Since the year 2000 we have noted an increase: four out of ten groups are highly organised.

Table 1. Estimate of the ratio of international and domestic groups of organised crime in the Czech Republic

	1993	1994	1996	1997	1998	1999	2000	2001	2002
	N=12	N=17	N=18	N=31	N=20	N=27	N=27	N=31	N=21
International	-	30	20	25	27	31	28	24	28
(Total: international)	(53)	(61)	(47)	(53)	(55)	(60)	(55)	(53)	(54)
Mixed: predominantly international	-	31	27	28	28	29	27	29	26
Mixed: predominantly domestic	-	21	20	24	20	20	21	20	23
(Total: domestic)	(47)	(39)	(53)	(47)	(45)	(40)	(45)	(47)	(46)
Domestic		18	33	23	25	20	24	27	23
Total	100	100	100	100	100	100	100	100	100

Even though we have not detected changes in the ratio of foreign and Czech citizens in groups of organised crime, certain variation has occurred in the level in which individual countries are represented. In the 1990s, organised crime in the Czech Republic involved mostly Ukrainians, Russians, Chinese and Yugoslavians, and often also Vietnamese, Albanians and Bulgarians. At the end of the 1990s, the number of Chinese citizens began to decrease—apparently not sharply, but rather gradually. The decrease in the number of Yugoslavians apparently resulted from the disintegration of the former federative Yugoslavia into a number of smaller states, whose citizens are still represented in organised crime. The share of Bulgarians is also decreasing, and Poles have almost disappeared.

In 2002, Ukrainians and Russians were most conspicuously represented. They were followed at some distance by the Vietnamese, Chinese and Albanians. Arabs, followed by Bulgarians, Byelorussians and Yugoslavians are further down the list. Israelis, Croatians, Romanians, Germans and Afghans appear rarely, and there are isolated cases involving people from Poland, Austria, Italy, Turkey and Dagestan.

Basic Data about Activities

When we first started to examine organised crime in 1993, we chose 35 activities which could be taken into consideration. It was a theoretical, model conception—at the time we did not know the real situation. We started with the criminal law and considered which criminal acts could be practised by organised crime. We also took “supporting activities” into account, such as compromising or suppressing evidence, and organising offenders’ getaway. We were also inspired by foreign experiences, though these were not as extensive as they are at the current time, and could not be applied mechanically.

The 35 activities were then presented to experts, who were asked to judge whether each individual activity was in a developed or embryonic stage in the Czech Republic, or non-existent in the present time. We later submitted the list for examination every year, updated with the results from the preceding survey. Activities which in previous year had been deemed non-existent were discarded. Experts were also allowed to suggest new activities. In this way, the counterfeiting of CDs and videocassettes, the transfer of shares without owner's knowledge, eliciting money with the promise of its great appreciation, trading in radioactive materials, and the illegal import and export of hazardous waste, for example, were added to the list. We discarded usury and activities peculiar to transition periods: fraud connected with the process of privatisation or establishing private enterprises.

The order of the most widespread activities is defined according to the number of experts who estimate the given activity as widespread. We mainly concentrate on those activities which have been marked as widespread by more than half of the experts. This does not mean that the other activities would not be present at all. We can assess the order of the embryonic activities as well. Some activities have been listed as embryonic for ten years now without becoming widespread (i.e. computer crime).

As far as the most widespread activities are concerned, the following are included in the most recent data from 2002: the theft of motor vehicles; organising prostitution and trading in women; the production, smuggling and distribution of drugs; organising illegal migration, receiving stolen goods; tax, loan, insurance and exchange fraud. The order of the other activities is presented in Table 2.

Owing to the fact that the extent of the activities has been monitored annually since 1993, we are able to determine trends and observe changes. Throughout this 10-year time span, organised prostitution and the theft of automobiles have been among the most widespread activities of organised crime in the Czech Republic. Since the middle of the 1990s, a majority of experts have predicted a decrease in the theft of automobiles. So far there is no evidence of such reduction, but other changes have occurred: more expensive automobiles are stolen, and instead of Bulgarians and Poles, more Czechs are involved in organised theft. Since 1995 the production, smuggling and distribution of drugs has persistently belonged to the group of the most widespread activities. Thus the most common activity of organised crime world-wide has gradually taken its place also in the Czech Republic. In 1993, only half of the experts considered organised drug trafficking to be widespread. In 1994, however, it was already ranked among 5 most common activities, and from that year onwards it has remained among the most widespread. This development corresponds to the real situation. In the early 1990s, the Czech Republic was more of a transit country for drug dealers. Since 1995 the local market has proven to be profitable. Another significant change in the group of the most widespread activities is the substantial increase in illegal migration. Since 1999 it has regularly ranked among the most widespread ones. Organised illegal migration has thus become a significant problem.

Until the mid-1990s, the theft of art objects belonged to the most widespread activities. This activity, deriving from the period before the year 1989, and distinctive to Spain and Italy as well as to the Czech Republic, gradually began to

Table 2. Estimate of the occurrence of the most widespread forms of organised crime in the Czech Republic in 2002

		N=21
1.–2.	Theft of motor vehicles	20
	Organised prostitution and trading in women	20
3.–5.	Production, smuggling and distribution of drugs	19
	Organised illegal migration	19
	Receiving stolen goods	19
6.	Tax, credit, insurance and exchange fraud	18
7.–10.	Counterfeiting CDs and illegal copies of videocassettes	16
	Extortion and collecting a fee for “protection”	16
	Founding fraudulent and fictitious companies	16
	Customs fraud	16
11.–13.	Theft of art objects and their export	15
	Hired debt collection	15
	Theft by breaking into apartments, cottages, shops and warehouses	15
14.–15.	Theft from transport trucks and lorries	14
	Bank fraud	14
16.–17.	Money laundering	13
	Eliciting money with the promise of its great appreciation	13
18.	Murder	11
19.	Bribery and corruption	10
20.–21.	Counterfeiting documents, cheques, money, coins	9
	Bank robbery	9
22.	International trade in weapons and explosives	8
23.–25.	Other violence	7
	Gambling	7
	Computer crime	7

lose its importance in the second half of the 90s, probably owing to the many precautions the state had taken: the Ministry of Culture improved its records and the Ministry of the Interior its protection. International police co-operation enabled many illegally exported artefacts to be successfully intercepted and returned. The cultural monuments administered by the church are still, however, in danger due to poor record-keeping.

In addition to the most widespread activities of organised crime, there also exists a whole group of heavily widespread activities, mentioned by 65–85% of the experts. These activities are characterised by fairly strong fluctuations. Tax fraud has belonged to this group since the second half of the 90's, the receiving of stolen goods since 2000, and the counterfeiting of CDs and illegally copied videocassettes since 1999. Customs frauds are also relatively common—though with fluctuations. In 2002, there was a strong increase in the founding of fictitious companies. Extortion and collecting a fee for “protection” also have definite fluctuations, but are usually ranked in top ten. The illegal collection of debts is somewhat more rare, but has had two peak years: in 1994 and 1999 it was among the five most widespread activities of organised crime.

The other activities are relatively widespread. This is especially true for bank fraud; money laundering; forging documents, money and coins; theft after breaking and entering; bank robbery and corruption. The occurrence of violent criminality and murders is average. Organised crime avoids violence if at all possible. If it does occur, it seems to be confined to criminal underworld, since so far there are no other cases recorded. Trading in weapons, explosives and radioactive materials is not very common, either.

Since 1999 we have regularly followed the activities in which foreign groups are involved. It seems that Ukrainian groups focus on extortion, violent crime, robbery, theft, organised prostitution, smuggling weapons and, after 2001, on the theft of automobiles, and more recently also on drugs. Russian groups have similar tendencies. They are involved in extortion, violent crime, organised prostitution, robbery, smuggling weapons and radioactive materials, automobile theft, and, since 2001, in drugs. If compared to Ukrainians, Russians are much more frequently engaged in economic crime, money laundering, bank fraud, corruption, and in founding fictitious companies.

Vietnamese groups focus on the forgery and smuggling of goods, often involving infringement of trademarks and copyrights, as well as customs and tax fraud. The Vietnamese are active in illegal migration, the distribution of drugs, and in organised prostitution. Chinese groups are foremost engaged in illegal migration, but also in smuggling, organised prostitution, drugs, money laundering, and tax and other types of fraud. Albanian groups focus on drugs, illegal trade in weapons, organised prostitution and automobile theft. Arab groups are mostly involved in drugs, illegal migration, money laundering and prostitution. Bulgarians are active in organised prostitution, but relatively seldom in drugs, and to diminishing extent in automobile theft.

Members of other nationalities turn up only sporadically in the Czech Republic, and thus their activities are also less numerous. Byelorussians and Afghans are specialised in extortion, Yugoslavs, Croatians and Turks in drugs. Slovaks have committed criminal acts connected with illegal migration.

Topical themes

In addition to collecting data on the structure of the groups and on their activities, most of our annual surveys cover topical themes to which the experts are asked to respond. We have defined organised crime in greater detail, and characterised its features. We have looked for criteria with which organised crime can be differentiated from regular criminality carried out in an organised form. From time to time we have paid somewhat greater attention to the predictions of future developments. The growth of organised crime is still probable, though at lesser rate since the strongest groups have already made contact and divided the spheres of influence. Drug-related activities will outweigh the others.

In 1999 we focused on the social causes and consequences of organised crime by specifying 150 relevant factors. In 2000 the issue of corruption was probed. We inquired into the extent in which organised crime attempts to use corruption when dealing with individual elements of society. In the same year we also focused more on ascertaining the ethnicity-based co-operation within criminal groups. In 2001 we attempted to pinpoint elements of society into which organised crime is trying to penetrate, and groups against which it uses force. On the basis of the events that transpired on September 11th, 2001 we examined whether any co-operation between organised crime and terrorism existed in Czech conditions, and whether such co-operation could occur in the coming years. In 2002 we, together with the experts, sought the main problems which, when removed, would lead to successful measures against organised crime. This year we also want to assess possible developmental factors.

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Part I

Comparison of estimates of the occurrences of the most widespread forms of organised crime in the Czech Republic in 1993–2002

%	1993 N=12	1994 N=17	1995 N=19	1996 N=18	1997 N=31
100	cars(12) Art(12)	cars(17)	drugs (19) prostitution(19)		drugs (30) cars (30) prostitution(30)
		art(16)	cars(18)	drugs(17) cars(17)	
90	prostitution(10)	prostitution(15) debts(15) drugs (15)		prostitution(16) art(16)	
		burglary(14) Receiving(14)			tax(25)
80	custom(9) burglary(9)		corruption(15) enterpr.fr.(15) art (15)	tax(14)	m.launder.(24) corruption(23) bank.fr.(23) art(23) receiving (23) burgl.into cars(22) privatization fr.(22) debst(22)
		Migration(13) racket.(13)	migration(14)	migration(13) custom(13)	fict.firms(21) enterpr.fraud(21) custom fraud. (21) migration(20) racket.(20)
70	penetration(8) migration(8)	corruption(11) enterpr.fr.(11)	debst(13) fict. firms(13) custom(13) racket.(13)	receiver(12) bank.fr.(12) enterpr.fr.(12) privat.fr.(12) debst(12) racket.(12)	
		m.launder.(10)	m.launder.(12) privat.fr.(12) enterpr.f.(12)		
60	corruption(7) receiver(7) gambling(7)	arms(10) murders(10)	burglary(11) murders(11)	fict.firms(11) counterfeiting(11)	murders(19) burglary(18)
				m.launder(10) murders(10) burglary(10) arms(10)	arms(16)
50	m.laudering(6) racket.(6) drugs(6)	custom.f.(8)	corruption(9)		

Part II

Comparison of estimates of the occurrences of the most widespread forms of organised crime in the Czech Republic in 1993–2002

%	1998 N=20	1999 N=27	2000 N=27	2001 N=31	2002 N=21
100	drugs(20) cars(20) prostitution(20)	drugs(27) cars(27) prostitution(26) migration(26)	drugs(27)	drugs(31) migration(31) cars(30) prostitution(30)	cars(20) prostitution(20)
90	migration(19) art(18)		cars(25) migration(25) prostitution(24) corruption(24)		drugs(19) migration(19) receiving(19)
80		debst(22) custom(21)	receiving(23) m.laundering(23) video/CD(23) murder(23) trucks(22) art(22) burglary(22)	video/CD(25)	tax(18)
70	racket.(14) debst(14)	racket.(19) video/CD(19)	bank robbery(19) counterf.(19) bank.fr.(19) racket.(18)	receiving(22) corruption(21) m.laundering(21)	video/CD(16) racket.(16) fict.firms(16) custom(16)
60	m.launder.(13) video/CD(13) arms(12) fict.firms(12)	trucks(18) corruption(17) burglary(17) murder(17)	custom(17) fict.firms(17)	art(20) trucks(20) debst(20) burglary(19) racket.(19)	art(15) debst(15) burglary(15) trucks(14) banking frauds(14) m.laundering(13) eliciting m.(13)
ntbl	bank fr.(11) tax(11) trucks(11) privatiz.fr.(11) counterfeit.(11)	privat.fr.(15) countref.(15) Receiving(15)	arms(15)	murder(17) violence(16) tax(16)	
50	custom(10) receiving(10) murder(10)	arms(14) eliciting(14)		fict.firms(15) custom(15) arms(15) counterfeiting(14) banking frauds(14) eliciting(14)	murder(11) corruption(10) counterfeiting(9) bank robbery(9)
			gambling(12)		

Mediterranean Sea and the Protection of the Underwater Cultural Heritage

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Thefts and Illicit Trade of Works of Art. An Overview

Theft and illicit trade of stolen works of art surely are not new phenomena: we can think for instance about the precautions and means adopted in Ancient Egypt in order to prevent the pillage of pharaonic tombs. But in spite of the social, religious and legal blame encircling their traffics, the thieves always succeeded in finding purchasers disposed to buy objects with the royal seal, clearly coming from royal tombs.

Since the antiquity, the problem of the thefts of works of art has always been seen to involve two closely connected groups of people: the thieves (commissioners of the thefts) and the receivers of the stolen goods (merchants, collectors or simply incautious purchasers).

This phenomenon has recently reached such proportions and caused so much concern that Interpol, anxious of the amount of international crime connected to the art market, considers this activity one of the main categories of transnational crime (*The Sunday Times*, 8 January 1995).

The rapidity of not only international but also intercontinental movements, the development of new kinds of contacts and communications, a constantly increasing private demand for archaeological goods, the lack of scruples in people connected with the illegal trade of the objects, and the increasing involvement of international organised crime have over the past few years given the market of works and objects of art a new and extremely worrisome dimension and character. The objects are often defended and protected in an inadequate way. Once stolen, they can easily be concealed and transported, and are thus extremely difficult to recover.

In Italy, the situation appears to be particularly difficult, because there is great amount of small works of art, hardly controlled and controllable. The problem is aggravated by undeniable budget limits: only greater museums and galleries can manage the costs of adequate and up-to-date alarm systems, while private galleries, foundations, small civic or ecclesiastical museums are in many cases defenceless in front of professional thieves.

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The frequent lack of means for prevention and preventive co-ordination is underlined in the crucial moments following the theft, when the victim, confused, can waste valuable time before denouncing and describing to the police the objects that have been stolen, thereby preventing any serious investigation co-ordination and allowing the thieves enough time to remove the assets. The *follow-up* phase is always static, and based above all on improvisation, good will and chance, facilitating those who consider trafficking of works of art as a profitable profession.

At world-wide level, we can see, on one hand, a true haemorrhage of objects from archaeological sites (often still unexplored) in Latin America, Africa and Asia, and, on the other hand, an annual increase in thefts from galleries, museums, churches and houses in industrialised countries. In 1994, the Interpol General Secretariat launched a “*call for action*” in order to prevent and fight such types of crime.

It is worth noting that in the trade of stolen works of art, the risks the criminals take are often low: in many countries, there is no specific national legislation on the matter (or the legislation is difficult to apply), crossing national frontiers is easy, and individual works of art are rarely photographed or documented—especially if they are of low economic value—which complicates the identification and recovery of the object. In addition, dealers’ rapidity, lack of scruple, flexibility, and degree of organisation add to the problem, above all in the less industrialised countries.

Another problem is the enormous expansion of the art market over the last two decades; it has become a field for economic investments where several interested parties try to gain high profits in minimum time. This increase in demand has unavoidably facilitated the illegal trade in works of art, owing also to the lack of control on the part of private purchasers, but also of institutional purchasers such as museums and galleries. For example, it seems that in London, art vendors (including major auction galleries like Christie’s or Sotheby’s) exercise the practical “*no questions asked*” policy: when they acquire works of art to put on the market through their normal sales channels, they usually do not verify the real origin of the objects, and whether the supplier has obtained them legally or not. They thus act as “*go-betweens*” with no guarantees or references.

There are many reasons for the enormous increase in the demand for artistic assets: an increasing number of wealthy people need secure investment objects, interest in art in general is greater, and private financing has assumed a bigger role in the world of art collecting, especially in Japan and the United States².

We can point out three indirect consequences of the thefts of works of art, diminishing the effectiveness of the price system in the international *legal* art market:

- often the theft involves damaging the works in order to facilitate the removal (for example, it may be necessary to cut the cloth along the edges of the frame in order to steal a painting) or the transport (for instance, by dividing large

2 These are regarded as countries that *import* stolen works of art. Others, such as Italy, from where a greater part of the stolen works originate, are called *exporting countries*, and countries, like Switzerland, which usually act as temporary storage places, *transit countries*.

sculptures in smaller parts by taking them apart or breaking). This surely can happen when the works are taken from private homes, museums, churches or palaces, but is more frequent and worrisome when occurring at archaeological sites, where the stone sculptures (such as ornaments and statues) are always broken into smaller pieces in order to maximise the profit by selling them separately;

- the increasing risk of thefts forces to take more precautions in order to protect the works of art. This causes nuisance to museum visitors and exhibitors in two ways: due to inflexible timetables and restricted access, it becomes more and more difficult to actually see the works, and the necessary technical systems and security guards incur expenses and eventually result in higher ticket prices;
- thefts have raised the price of works of art, which in turn has stimulated the production of counterfeits, causing uncertainty in art markets.

Thieves prefer objects that are saleable in richer countries: pictures, prints, terra-cottas, china, jewels, sculptures, religious objects (reliquaries, ciboria and so on). According to Interpol database, in 1998 approximately 50% of the stolen objects were either paintings, sculptures or statues.

Thieves favour works which meet the following criteria:

- a) not well-protected or guarded;
- b) situated in a church or similar religious building³, especially if it is small, isolated and abandoned or quite abandoned;
- c) painting, print or sculpture made by a European or other well-known artist;
- d) easy to transport, hide and sell;
- e) piece is well known and valued.

Two additional criteria could be added: piece meets buyer's requirements, as in case of commissioned thefts (frequent with rare, famous works or objects of un-exceptional value), and familiarity with the alarm system. The latter hypothesis mostly concerns thefts carried out in museums, foundations or private homes by own employees or others with access: the thief takes pieces of minor value, often stored in a warehouse and not yet inventoried or protected.

People Involved

Most people involved in the illicit trade of works of art operate in two parallel art markets:

1. criminal groups offer stolen works to legitimate buyers (museums, galleries, merchants, auction galleries, private citizens);
2. independent galleries and small museums are "*resupplied*" by criminal groups.

3 Always deserted at night.

The black art market is also fed by independent professional thieves who often co-operate with organised crime acting as a mediator between the buyer and the thief. We again have to underline the increasingly relevant and active role of organised crime in this field, its means, and economic, human, organisational and, nowadays, also technological resources.

Organised crime operates in several ways in the art market:

- a) it can manage the entire operation, selling objects it has obtained through its own activities;
- b) it can act as an intermediary between the buyer and the professional thief;
- c) it can use works of art that are easily transported, concealed and marketed as payment for drugs;
- d) it can use stolen works to blackmail institutions (as happened in Modena, Italy in 1992, when Felice Maniero's organised crime group stole Velasquez' and Correggio's paintings, and tried to use them for an "*exchange of favours*" with the police enforcement agencies, fortunately not succeeding);
- e) it can use the objects for money laundering.

Archaeological objects and works of art are ideal for money laundering, because they are fungible and easy to sell. Today, the art market is one of the most popular means of money laundering, employing several financial channels; it has been claimed that drug traffickers control the world of art to such an extent that if they suddenly stopped covering their illicit doings by buying works of art, the global art market would collapse. It is obvious that all criminal systems developed by the dealers include some degree of control over art vendors, auction galleries and so on; otherwise it could not exist.

The rare and valuable pieces are removed from the place of theft at a very early stage, or hidden in a safe place until "*things settle down*", sometimes longer. Only professional thieves or ones connected to criminal organisations use international distribution channels for stolen goods. The most famous objects are transported from one country to the next skilfully hidden (if small in size), and the less famous ones by counterfeiting the certificates and documents.

If a purchaser is not found, the thieves sometimes convince an insurance company—same one that has insured the piece—to buy the stolen object back at the price that usually amounts to 10% of its value. However, most stolen objects end up in private collections.

Underwater Cultural Heritage

One of the most interesting (and, unfortunately, also one of the most dangerous) features of modern criminal organisations is their enormous ability to adapt to the environmental, political and social conditions in which they operate, as well as to the requirements and possibilities of the legal or illegal market (it is worth remembering that organised crime organisations profit from both the legal and illegal markets, obviously adapting and modifying their actions case by case).

From the economic point of view, criminal organisations are behaving more and more like multinational companies, differentiating their fields of activity and the range of services being offered to various customers. Thus they are able to obtain high profits also in a case of “*crisis*” in a specific “*economic*” field.

As already mentioned, organised crime is very interested in the market of works of art, a market that holds few risks and enormous profits. Organised crime organisations launder money by feeding the illegal market with stolen works of art or objects recovered from archaeological sites (plundered in a clandestine, non-authorised way), directing them to private collectors (as in commissioned thefts) or through auction galleries to legal market.

For a long time now police enforcement agencies have focused on traditional trafficking in works of art, usually stolen from museums, churches, palaces, public buildings and so on. Only recently they have become aware of the activities of organised crime in this field. It has become evident that criminal organisations are especially interested in several archaeological sites, particularly underwater ones that are rich in artistic and cultural relics, and often unexplored. Oceans, seas, rivers and lakes embed an enormous amount of objects from all periods of human history, from the beginning (prehistoric stilt houses, for example, by now usually submerged) towards the present times (ships sunk during WW II, etc). The difficulty in recovering such objects and the lack of necessary resources has prevented the states, but fortunately, also criminal elements from exploiting these riches. However, the situation has now changed: the states are still unable to organise large-scale recovery expeditions—mostly due to issues concerning territorial waters, jurisdictions and national prerogatives—but criminal organisations (the only ones to have enough men, means and, above all, money to undertake such activity), sometimes disguised as recovery companies only a bit more “*unscrupulous*” than the others, proceed to recover underwater objects with great velocity.

This is why far greater attention must be given to this part of our cultural patrimony, and why current international laws must quickly be adapted to the new situation.

Before proceeding with our analysis, it should be explained what we mean by “*underwater cultural heritage*”. Surely the most applicable definition is the one supplied by UNESCO in “*Convention on the Protection of the Underwater Cultural Heritage*” (Paris, 2 November 2001). According to it, underwater cultural heritage is comprised of

*“All traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years (...)”*⁴

When examining this definition, one can see that the underwater cultural heritage does not only include works of art or valuable objects (like the treasures in Spanish ships that sank during their voyage from Americas to Europe) but all cultural, historical or archaeological relics of human civilisation that have been

4 Convention on the Protection of the Underwater Cultural Heritage (UNESCO, Paris, 2 November 2001), art. 1, par. 1 a.

submerged⁵, totally or in part, periodically (tides, etc.) or continuously for at least 100 years. This limit of 100 years is a compromise, set during the preparation of the Convention, and was chosen to distinguish cultural heritage from the more recent objects and wrecks, which are regulated by the normal international statutes. The time limit was necessary to avoid criticism and disagreement from many countries, most of them concerned with aeroplanes and ships that sank during the World War II. By excluding the most recent wrecks from the protection and “*international competence*” established by the Convention, fulmination was perhaps avoided, but problems were not. In some cases, such as *R.M.S. Titanic*, the time limit has led to total destruction of the wreckage before the effective and actual international protection takes effect.

Protection of Underwater Cultural Heritage

There are various instruments provided by the international legal system for the protection of the underwater cultural heritage:

- General international normative instruments (Conventions)
- Specific international normative instruments (ILA and UNESCO Conventions)
- Bilateral agreements
- Statements
- Diplomatic agreements

We will next examine in detail the most important normative acts concerning this matter. They are as follows:

1. General international normative instruments (Conventions)
 - United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982)
 - Recommendation 848 (1978) of the Parliamentary Assembly of the Council of Europe on the underwater cultural heritage
 - Recommendation 1486 (2000) of the Parliamentary Assembly of the Council of Europe on the maritime and fluvial cultural heritage
 - International Convention on Salvage (London, 28 April 1989)
2. Specific international normative instruments (ILA and UNESCO Conventions)
 - International Law Association - Draft Convention on the Protection of Underwater Cultural Heritage (Buenos Aires, 20 August 1994)

5 In marine and oceanic waters but also in inland waters like lakes, rivers and so on. One would think that inland waters would be less problematic as they usually concern only one state, and territorial limits do not need to be taken into account. However, sometimes the state in question is not equipped with normative instruments and laws necessary to protect the submerged objects. We also need to remember that usually these waters are not very deep, and the recovery of relics is therefore easier, which opens a window of opportunity also for the less well-equipped perpetrators. Inland waters are often rich in testimonies: take for instance the numerous ritual offerings ancient peoples threw into lakes.

- Charte Internationale sur la Protection et la Gestion du Patrimoine Culturel Subaquatique (Sofia, le 9 Octobre 1996)
 - Convention on the Protection of the Underwater Cultural Heritage (UNESCO, Paris, 2 November 2001)
3. Bilateral agreements
 - Exchange of Notes between South Africa and the United Kingdom Concerning the Regulation of the Term of Settlement of the Salvaging of the Wreck of *HMS Birkenhead* (Pretoria, 22 September 1989)⁶
 - Agreement between the Government of the United States of America and the Government of the French Republic Concerning the Wreck of the *CSS Alabama* (Paris, 3 October 1989)⁷
 4. Statements
 - Statement by the President of the United States on U.S. Policy for the Protection of Sunken Warships (19 January 2001)
 - Siracusa Declaration on the Submarine Cultural Heritage of the Mediterranean Sea of 10 March 2001 (adopted during the international conference “*Means for the Protection and Tourist Promotion of the Marine Cultural Heritage in the Mediterranean*”)
 5. Diplomatic agreements
 - In many occasions unofficial and informal, particular, and decided case by case.

Not one of these instruments is by itself sufficient to protect the underwater cultural heritage, especially since most conventions (of more general nature, such as the one on the Right of the Sea) have not been ratified by all countries, and provide no means to enforce their execution. In the case of the more specific conventions, such as the UNESCO Convention on the underwater cultural heritage, the situation is even worse. Bilateral agreements are usually more effective, but they naturally involve only a limited number of countries and usually relate to a single, specific case. As far as the so-called “*declarations*” (or “*statements*”) are concerned, they only apply to the country/countries enforcing them (like in the case of the United States⁸), and thus have very limited effect on the international community.

6 On 26 February 1852, the English warship *HMS Birkenhead*, with 638 passengers, supplies and a great amount of money on board, all destined to the English army engaged in the Kaffir War in South Africa, sank off Cape Danger (Cape Town); there were only 193 survivors. On 22 September, 1989, Great Britain and South Africa signed an agreement for the common “*management*” of the wreckage: South Africa declared *Birkenhead* a “National Monument”, so anyone taking objects from the ship, or parts of the wreckage itself, would be punished with an economic penalty and two years of imprisonment. Recoveries can only be made by qualified persons (the so-called “*salvors*”), with a special permission issued by the South African Council for the Cultural Heritage; all recovery activities are to respect the underwater grave site, and everything that is recovered must be divided equally between the two states.

7 On 19 June, 1864, U.S. corvette *Kearsarge* hit and sank confederate ship *CSS Alabama* just outside the French town of Cherbourg. According to a federal declaration, all the goods of the Confederation were to be considered part of the U.S. patrimony after the Civil War. In 1984, the wreckage of *CSS Alabama* was found in the French territorial waters; to resolve the problems of authority regarding the wreckage, a bilateral agreement was signed between USA and France, stating a common “*management*” of the sunken ship and creation of a “*protection zone*” around the wreckage.

8 Statement by the President of the United States on U.S. Policy for the Protection of Sunken Warships (19 January 2001).

This overview aims to demonstrate that the international normative legislation is not sufficient to protect the underwater cultural heritage owing to a number of reasons:

- incoherent territorial jurisdictions;
- ineffectiveness of international protection efforts;
- special legislation regarding the sunken military ships and the so-called “*State ships*”⁹

International protection of the underwater cultural heritage is extremely limited by state borders and territorial waters, and usually there is low interest regarding the underwater cultural heritage because the states are more focused on the marine resources that are potentially more remunerative (such as fishing resources or oil). As regards to sunken ships, the problem is reversed: instead of low interest, there is too much interest, because usually both the flag state and the coastal state guard their interests.

All military vehicles are protected by a particular immunity; but the problem is whether such immunity covers also the wrecks. The 2001 USA Declaration¹⁰ speaks about “*immunity that never ends*”. Considering the rapidity of innovations in war industry, especially in recent times, it is difficult to understand the strategic importance of military ships that have sunk more than a hundred years ago. In addition, the norms that concern these wrecks are actually formed by praxis (neither uniform nor coherent) and bilateral specific agreements¹¹, even though the 2001 UNESCO Convention states that if a military vehicle is older than one hundred years, the coastal and the flag state should co-operate¹².

Unfortunately, the situation of undefined norms and international conflicts regarding the protection of underwater cultural heritage is causing a loss (even without the participation of criminal organisations!) of numerous wreckages and extremely precious objects since every one of them is unique and characterised by history and particular vicissitudes. This is undoubtedly the case with *RMS Titanic*, for example, demonstrating one of the greatest failures of international protection of the underwater cultural heritage.

On 14 April 1912, during her maiden voyage from London to New York, the Royal Mail Steamer *Titanic*, owned by the English White Star Line Company, sank off the United States’ coast after a collision with an iceberg. Of the 2227 passengers and crewmen on board, only 705 survived. Owing to the great loss of lives, the famous technical innovations (which, however, did not prevent the shipwreck), and the luxurious furniture and cabins, *Titanic* became a legend, even if a sad one, fascinating people all over the world. On 1 September 1985, a

9 Ships engaged in official government tasks at the time of the sinking, like postal ships.

10 Statement by the President of the United States on U.S. Policy for the Protection of Sunken Warships (19 January 2001).

11 As between USA and France regarding the ship *CSS Alabama*, or in the case of the *HMS Birkenhead*, where Great Britain and South Africa were the contracting parties.

12 The coastal state “... *should inform* the flag State...”, Convention on the Protection of the Underwater Cultural Heritage (UNESCO, Paris, 2 November 2001), art. 7.

scientific expedition led by Robert Ballard, found *Titanic* very deep in the ocean, and in July 1986, the wreckage was explored and photographed for the first time. Ballard proposed that *Titanic* should be considered an international monument, and protected against plundering.

Unfortunately, no such protection has been executed. As a result, the wreckage has been emptied and irremediably damaged by numerous “expeditions”. In 2012, when *Titanic* finally becomes part of the underwater cultural heritage¹³ and gets some protection, there will be nothing left.

The “Siracusa Declaration”

In this general overview regarding this particular kind of cultural heritage, the activities of organised crime are given a new dimension. We have already seen that criminal organisations have money, men and others resources, but often also better technical and scientific possibilities, facilitated not only by money, but also by the lack of scruples and the prevailing legal and territorial indetermination. Criminal organisations are indifferent to territorial waters, competences, rights of the coastal and the flag states, and they surely do not recognise legal, ethical, moral or other types of boundaries. They have only one goal: to obtain maximum profit with minimum risk and economic investment¹⁴.

Consequences are clear: recoveries are directed to only those objects that are economically favourable, and no attention is paid to the possible damaging of the site. The aim is to recover objects as quickly as possible, not to observe the sites, to analyse them, to study the cultural testimonies. Fundamental historical and archaeological items are lost in the process. Cultural heritage is plundered and destroyed, and thus human history abates every day.

If possible, the situation is even worse in the Mediterranean Sea: it is a closed sea, and has been used since prehistoric times by numerous European, African and Asian populations. It is full of wrecks, sunken ships, traces of lost villages and villas, and so on. We have just begun to understand the extent of the threats facing these wonderful things, especially so since the Mediterranean Sea is so shallow that wrecks and objects can be easily recovered.

Many Mediterranean states have approved specific legislation regarding the researches and underwater recoveries (sometimes they use current internal legislation and extend it to submarine heritage¹⁵), and we can see attempts to extend the competence of the Mediterranean coastal states to parts of the international waters, at least as far as the cultural heritage is concerned (although some countries, particularly USA, the United Kingdom and the Low Countries, do not agree with this kind of development¹⁶).

13 According to the Convention on the Protection of the Underwater Cultural Heritage (UNESCO, Paris, 2 November 2001).

14 Unfortunately, often the criminal organisations are not very different from the “legal” ones operating just on the borderline of laws. These types of organisations are interested in locating wreckages and in “*treasure hunting*”, as in the case of *RMS Titanic*.

15 As Morocco did, extending the prerogatives of the exclusive fishing area to archaeological objects.

16 These states are concerned about the right of passage for their ships in the Mediterranean international waters, should the control of the coastal states become stronger.

Italy has no specific legislation regarding the underwater cultural heritage, nor a specifically protected archaeological area around its coast. This is a shame since a large quantity of Roman wrecks is situated just off the Italian coast and isles. Great expectations are thus laid on the Siracusa Declaration on the Submarine Cultural Heritage of the Mediterranean Sea (March 10, 2001), signed by many Mediterranean states in the city of Siracusa, Sicily (Italy).

Indeed, we can say that the future of the protection of the underwater cultural heritage in the Mediterranean area is laid out by the Siracusa Declaration. Even though the Declaration is not an international normative act, all Mediterranean countries are trying to focus on its goals, and work towards transforming it into a formal international Convention.

The Declaration is divided in two main parts:

D) Preservation of the integrity of the submarine sites.

Concerning the preservation of the sites, it is recommended that the submarine heritage is primarily preserved *in situ*¹⁷, with the intention of opening the sites to the public if possible (for instance, by using little submarines or boats with see-through bottoms). The objects are removed only if it is not possible to conserve them on site. The Declaration aims to non-destructive research methods and to the protection of the environment (with specific preliminary studies). Researches are not to damage human remains or religious sites, buildings or objects, and all steps of the research and eventual recovery of the objects need to be described in scientific documents and publications.

II) Strengthening the involvement of concerned states.

In the second part of the Declaration, the Mediterranean nations state that “*without prejudice to the rights of the coastal State*”¹⁸, all countries having a verifiable link with the objects should be informed of, and possibly also involved in an activity concerning the underwater cultural heritage. Furthermore, “*without prejudice to the rights of the coastal State*”, consultations on how to ensure the appropriate investigation, effective protection and, if *in situ* preservation is not possible, final destination of the objects belonging to the Mediterranean submarine cultural heritage should be held among all the countries having a verifiable link with the objects.

As we can see, the goals of the Declaration are ambitious, especially in regard to the preservation of the objects “*in situ*”: that is probably the main cause why the Declaration is still only a statement. We can consider the Declaration as a kind of a *programme*, a *project* for the future. It is partly comprised of general statements and hypothesis that are more wishes than effective intentions. The realisation of the Declaration might prove problematic, most of all due to the opposition of many non-Mediterranean nations and the difficulty to find sufficient funds to realise preliminary studies, adequate researches and innovative submarine “museums”.

17 Where it is: under the water.

18 This is the main condition for the cooperation of all the Mediterranean coastal states.

However, we cannot forget that while we are trying to find the ideal way to recover and preserve the submarine cultural heritage, international organised crime continues to plunder the sites, not caring at all about the rights of the flag or the coastal states, and without any consideration for what is not economically profitable. Unless we understand that time is not a variable to be ignored, we are destined to lose a great part of our history. Heritage is turning into a mere economic commodity.

Map of Corruption in Lithuania: The Residents' View

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Corruption is most frequently defined as “the misuse of entrusted power for private benefit”.¹ According to this definition, the main source of corruption is the conflict of public and private interests. Political power or public authority is intended for managing public affairs. Public authority representatives are not delegated to realise interests of their own or their fellow men, but in the first place to take care of public affairs. This is the mission of public power. If the government does its duties improperly and respects only private interests, thus impairing public interests, one says that such a government is corrupt, as are its respective activities. Uncontrolled “privatisation” of public functions performed by political authority impedes democratic and economic reforms, deepens social differentiation and demoralises society.

Organisation of anticorruption activity is a critical issue not only in Lithuania and the former “communist” Central and East European countries. The United Nations Convention Against Corruption adopted by the United Nations General Assembly in 2003 reads that “corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international co-operation to protect and control it essential”.²

It takes more to curb corruption than merely adopt anticorruption legislation, organise appropriate divisions in law enforcement authorities or make public declarations of good intentions. Anticorruption activity is a sophisticated, complex activity including not only different political, economic and cultural spheres of life, but also envisaging specific control and prevention mechanisms to fight corruption. One of the most effective mechanisms is corruption diagnostics, which helps to identify the most sensitive spheres of life in respect of corruption, and thus contributes to the development of the most effective anti-corruption programmes.

In recent years, quite a number of corruption diagnostic researches have been developed around the world. One of the best-known diagnostics is the Corruption Perceptions Index that is made public annually by the international anticorruption organisation *Transparency International*. The Corruption Perceptions Index is a complex indicator constructed on the basis of surveys of business sector representatives and other expert studies, enabling the grouping of states by corruption proliferation rate. According to the said Index, Lithuania

1 Transparency International Source Book 2000. Berlin: Transparency International. 2000, p. 1

2 United Nations Convention against Corruption. United Nations. 2003.

still does not belong to countries with a low level of perceived corruption, and is rated among the “mediocre” states.³

Another well-known corruption diagnostic tool is presented in “Anticorruption in Transition: A Contribution to the Policy Debate”, a research conducted by the World Bank in 2000.⁴ This study analyses two forms of corruption: state capture and administrative corruption. The former influences “rules of the game” of everyday life, and strives to modify them according to one or another interest group. Administrative corruption, on the other hand, makes no attempt to change these “rules of the game”, but tries to affect those who are responsible for implementing them. According to this research, the state capture index in Lithuania is on the same average level as in such Central and East European countries as the Czech Republic, Poland, Estonia and Hungary. However, by the administrative corruption index, Lithuania “outdistances” the said countries, and its position is closer to that of Kazakhstan, Russia or Albania. Considering that the administrative corruption is most often associated with the bribery of public officials, the results of the World Bank investigation should be seen as a warning, indicating that the rate of bribery is high in Lithuania, which may in turn hamper the restructuring of society in line with western democratic standards.

The above-mentioned and similar researches have a huge impact when denominating common corruption proliferation factors, both globally and within specific regions or states. This is simultaneously an advantage and disadvantage, because such investigations usually fail to represent specific institutional problems of each country. Based on these investigations, one may say that the administrative corruption rate is rather high in Lithuania, but one cannot answer the questions where and how this administrative corruption manifests itself in society.

In 2001–2002 the *Transparency International* Lithuanian Branch—*Transparency International – Lithuanian chapter*—initiated the first national survey in Lithuania: “Map of Corruption in Lithuania”. The survey attempted to monitor the institutional and geographical spread of corruption in Lithuania. The methodology of the project presupposed the use of representative sociological surveys for the evaluation and analysis of:

- attitudes of the general public and entrepreneurs towards corruption, its level and role in society;
- personal experience of the general public and entrepreneurs regarding corruption (bribes);
- sources of information about corruption for the general public and entrepreneurs;
- anti-corruption means proposed by the general public and entrepreneurs.

The Embassies of Finland, Great Britain and the United States of America as well as the World Bank Lithuanian Branch contributed to the project.

3 In 2003 Lithuania’s index was 4.7 out of 10; it ranked 41 among 133 states.

4 Anticorruption in Transition: A Contribution to the Policy Debate. Washington: World Bank. 2000.

Two groups—Lithuanian residents and representatives of the Lithuanian business sector—were involved in the study. This article presents the results of the sociological surveys of Lithuanian residents.

The Joint British–Lithuanian Public Opinion and Market Research Company “Baltijos tyrimai” carried out sociological questionnaire surveys of the Lithuanian general public. The surveys were carried out in July 2001 with 2,028 respondents and in November 2002, when 1,012 residents were interviewed. The statistical error did not exceed 3.1 percent.

Attitude of Lithuanian residents towards the phenomenon of corruption in Lithuania

The respondents were asked: “Which of the following statements corresponds best with your opinion?” The result is presented in Chart 1.

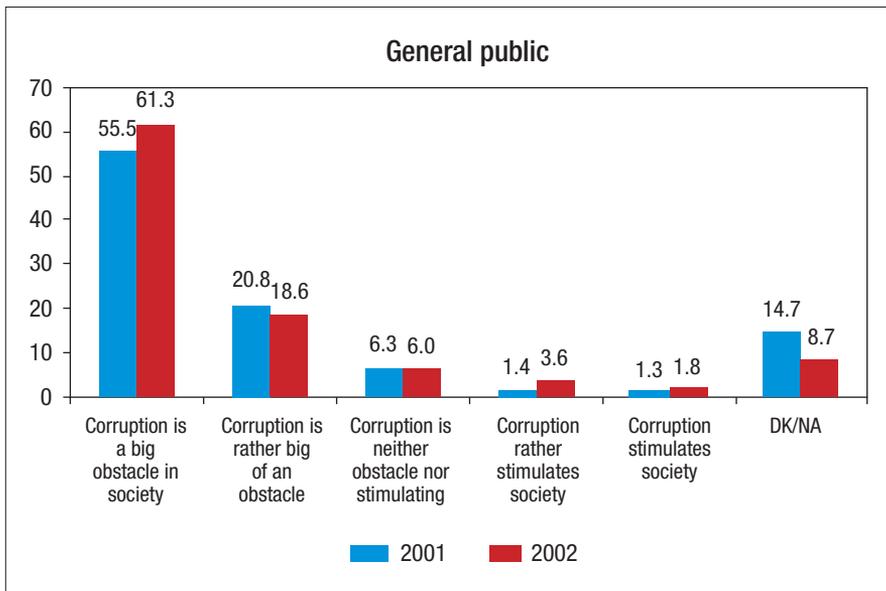


Chart 1. Attitude of Lithuanian residents towards the phenomenon of corruption in 2001-02.

As Chart 1 shows, an absolute majority of residents consider corruption a big obstacle or an impediment to public life. The number of those who considered corruption a big obstacle increased by almost 6 percentage points from 2001 to 2002.

The opinions of the respondents about the corruption growth in Lithuania over the last five years are shown in Chart 2.

More than half of the respondents stated that the corruption rate in Lithuania had increased during the last years. If compared to 2001, the number of those

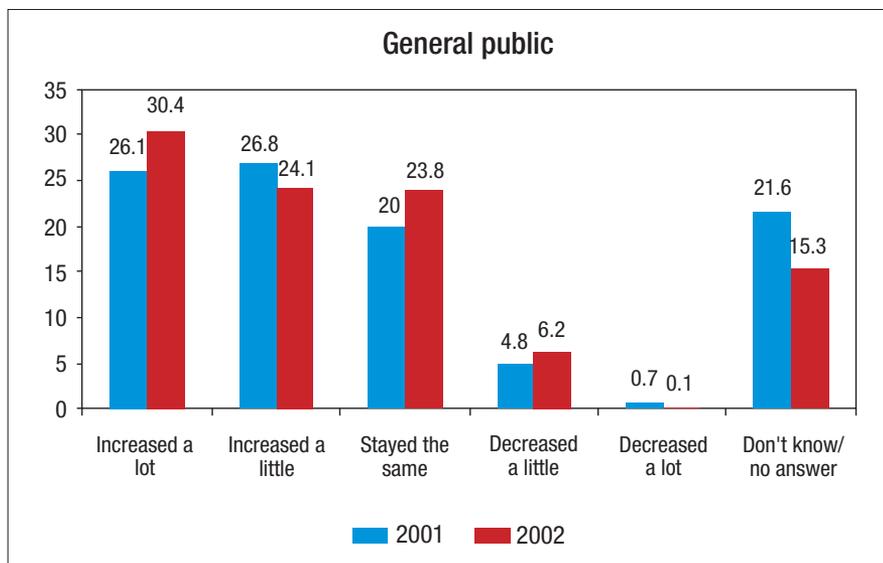


Chart 2. Opinion of Lithuanian residents about the corruption growth in Lithuania over the last five years.

who thought that the corruption rate had grown very much increased in 2002 by 4 percentage points, as did the number of those who said that corruption rate had remained stable (also 4 percentage points).

The respondents were also asked to assess the corruptness of 88 public authorities. Chart 3 represents these assessments (the higher to the top, the more frequent was the assessment “very corrupt”) and the personal experience of the respondents in respect of public authorities (the farther to the right, the greater the number of respondents who had experienced corruption).

When judging by the “institutional experience” and “institutional assessment” criteria, the following three public authorities were considered as being most problematic: the Customs, the Traffic Police and the Tax Inspectorate. The negative assessment of these public authorities was at times based on the respondent’s personal experience. However, in the cases of the Privatisation Agency, the State Medicines Control Agency and the Financial Crime Investigation Service, the negative assessment was hardly ever linked with personal experience. It is noteworthy that respondents frequently expressed their opinion about the level of corruption without referring to their personal experience.

Chart 4 shows the sources from which Lithuanian residents obtain information about corruption.

Both in 2001 and 2002, the main sources of information about corruption were the mass media, personal experience and experience of friends/acquaintances. While in 2001 the difference between the said sources was insignificant, in 2002 television had become an indisputable leader in that field: 33 percent of respondents indicated this to be the main source of information. Experience of friends and acquaintances ranked second (24 percent), and national press and

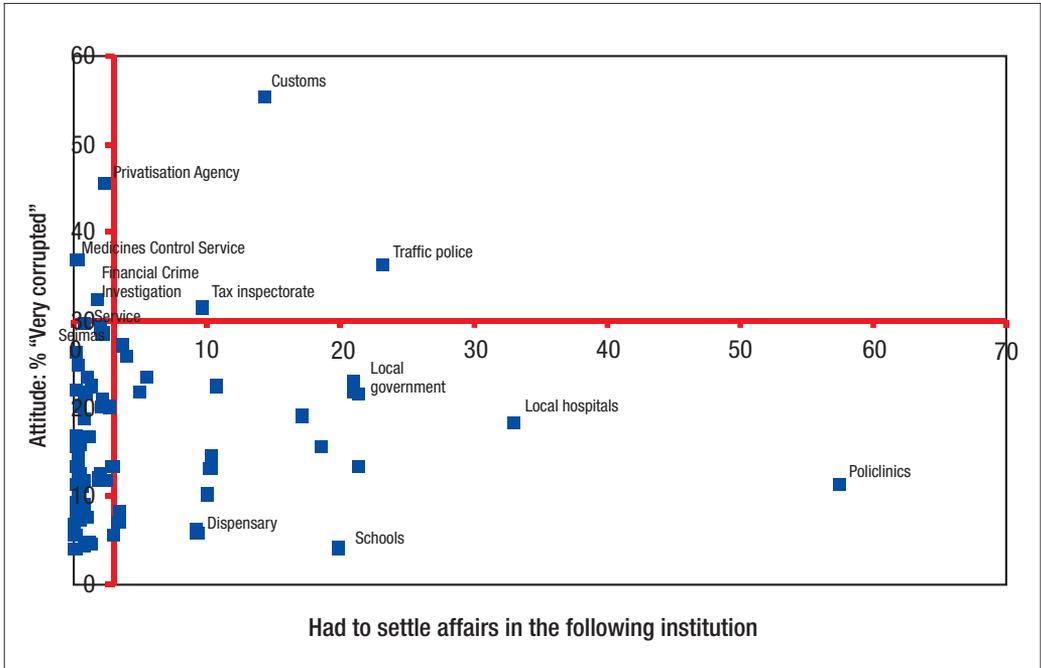


Chart 3. Institutional experience of Lithuanian residents and their assessment of the level of corruption in governmental institutions (2002)

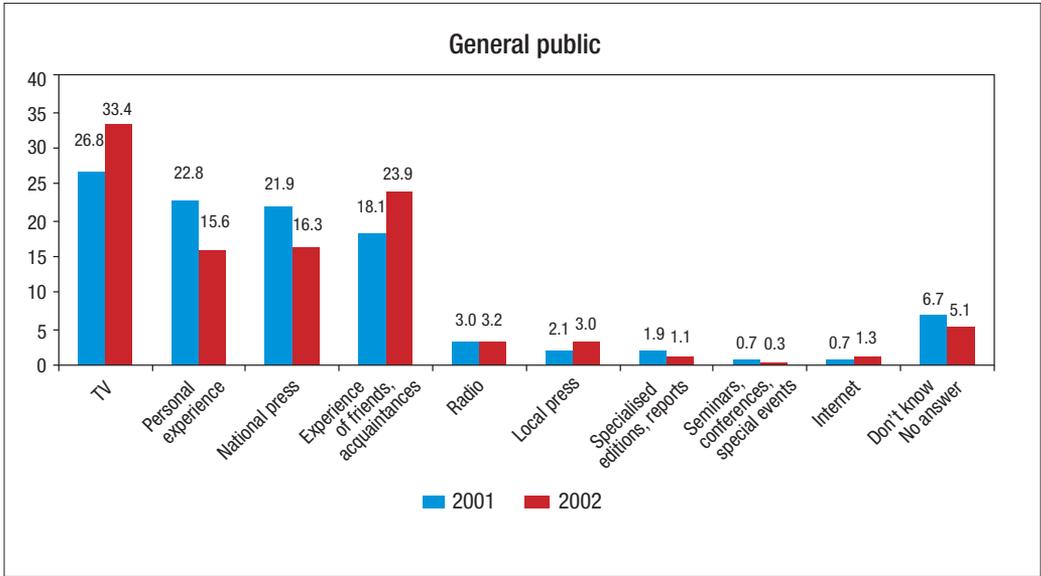


Chart 4. Sources of information for residents to obtain information about corruption in 2001-2002.

personal experience third and fourth respectively (both approximately 16 per cent).

The residents assessed the phenomenon of corruption negatively and estimated that the corruption rate had considerably increased over the last five years. The respondents were frequently inclined to assess the corruptness of the public authorities not by referring to their personal experience, but rather to the mass media, especially television.

The popular assessment of the level of corruption is significant information, although it does not necessarily reflect reality since, as was noticed, mass media affected this assessment. As media researches disclose, the mass media may either underestimate or overestimate the presented social problem⁵. Therefore, the following questions arise: what kind of corruption-related experience do Lithuanian residents really have? How often and in what ways have they become victims/initiators of corruption?

Corruption-related experience of Lithuanian residents

The respondents were asked whether they had given a bribe over the last five years. Chart 5 presents the results of the 2001 and 2002 surveys.

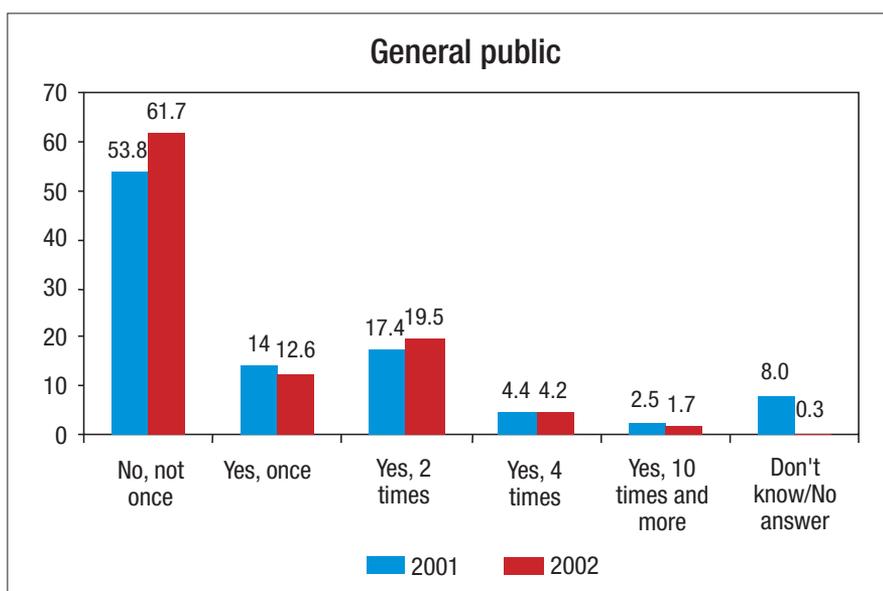


Chart 5. Have you given a bribe over the last five years?

5 A. Dobryninas. *Virtual reality of crime*. Vilnius: Eugrimas. 2001, p. 66–74.

Table 1. Which public officials did you bribe? (2002)

Level of institution	Alytus County	Kaunas County	Klaipėda County	Marijampolė County	Panevėžys County	Šiauliai County	Tauragė County	Telšiai County	Utena County	Vilnius County	Average
National	8.1	10.6	3.8	15.0	8.1	2.3	8.2	3.8	10.5	10.8	8.4
County	14.6	9.6	10.9	8.2	3.6	7.5	25.9	6.8	6.7	8.6	9.2
Municipal	16.8	21.6	28.4	18.5	13.9	18.4	27.9	16.1	27.3	19.6	20.7
No answer	17.3	9.6	6.4	2.0	6.3	12.9	1.2	7.7	7.7	4.1	7.5
Total	5.3	20.6	11.7	4.8	9.2	11.0	3.3	4.4	5.7	23.9	100

Both in 2001 and 2002, about 38 percent of the respondents admitted that they had given a bribe during the past five years. The number of residents who had not given bribes increased from 54 percent in 2001 to 62 percent in 2002. This can be explained by the fact that the number of respondents who had no opinion was reduced by 8 percent over the same period.

Naturally, bribes are not distributed evenly—neither geographically nor institutionally. Certain public authorities and regions can be distinguished for their high bribery rate, others for a smaller one. Which public officials in which regions had the respondents bribed? Table 1 represents the results.

The results reveal that residents most often paid off public officials of the municipal level (20.7 percent), markedly more often than those of the county (9.2 percent) or national level (8.4 percent). Of the ten counties in Lithuania, the worst situation was in Klaipėda, where more than 28 percent of the respondents had “paid off” public authority officials of the municipal level. The best situation was registered in the Panevezys County, where the corresponding figure was about 13 percent.

When analysing the bribery distribution, it is important to establish which public authorities are most corrupt. Chart 6 discloses five most frequently indicated governmental institutions among the analysed 88 Lithuanian public authorities and institutions.

As one can see from the presented results, residents most often bribed the following institutions: local hospitals, policlinics, national level hospitals, the Traffic Police and the Customs.

The so-called bribery indices, i.e. those of extortion, giving, effectiveness and initiative, help to clarify the situation in the said institutions. The first index registers how often one “made somebody understand” that a bribe should be given, the second one how often a bribe was given, the third whether a bribe helped the situation, and the fourth on whose initiative bribery took place—the briber or the receiver of the bribe.

The results presented in Table 2 reveal that the highest bribery indices were established in national level hospitals and the Traffic Police: respectively in 55 and 53 cases one “made somebody understand” that a bribe should be given. And indeed, also the bribery index is the highest in the said institutions: respectively

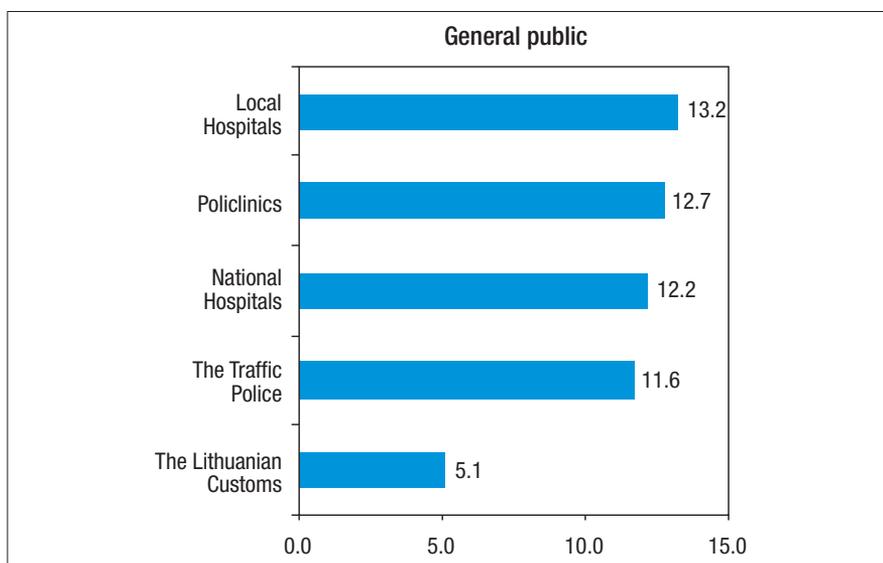


Chart 6. Most frequently indicated governmental institutions in 2002 (based on experience of last five years)

Table 2. Bribery indices (2002)

	Index of extortion	Index of giving	Index of effectiveness	Index of initiative
Local hospitals	0.44	0.40	0.75	-0.04
Policlinics	0.23	0.22	0.82	-0.01
National level hospitals	0.55	0.58	0.78	0.03
Traffic police	0.53	0.50	0.90	-0.03
Customs	0.44	0.36	0.86	-0.08

in 58 and 50 cases bribes were given. The index of effectiveness is the highest with the Traffic Police: bribery helped in 90 out of 100 cases. Only in national level hospitals were the respondents active to take the initiative; in all other institutions, the initiative was more often taken by the representative of the institution than by the client.

The high index of effectiveness supports the respondents' notion that bribes help to resolve "challenging problems". People are prepared to pay considerable amounts for such illegal "decisions". There even exists an unwritten price-list for illegal payments in Lithuania. Chart 7 represents the average "maximum and minimum bribe" in the aforementioned most corrupt institutions.

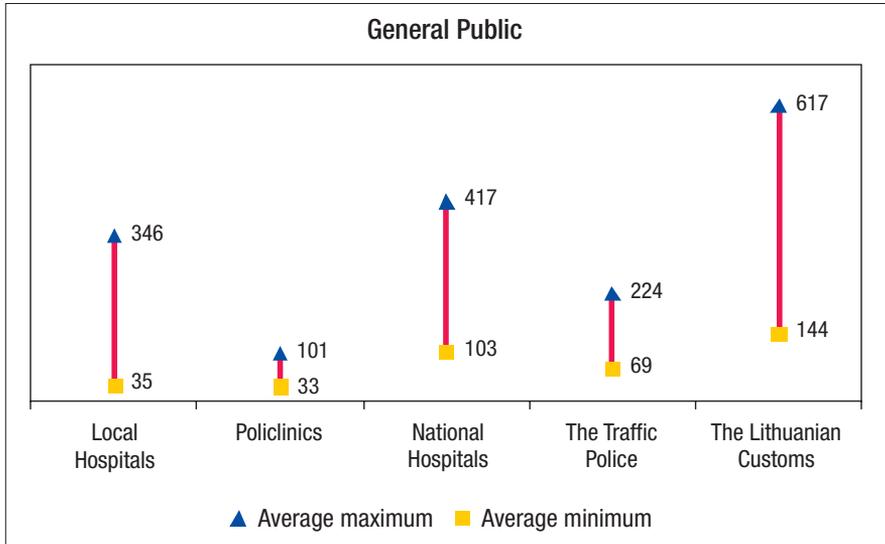


Chart 7. Bribery “price-list” (2002)

Among the five most corrupt institutions, Lithuanian residents paid the most in Customs Houses—the average maximum was as much as 617 LTL⁶, while the average minimum was 144 LTL. The smallest bribes were paid in polyclinics: the average maximum was 101 LTL, the average minimum 33 LTL.

Sociological surveys have shown that about one-third of all corruption cases consist of bribery. In Lithuania, the residents’ attitude towards bribery causes anxiety. An absolute majority of the respondents (75 percent) believed that bribery helps to resolve “problems” in Lithuania, 60 percent were ready to give a bribe “when necessary” and only 21 percent maintained that they would not give a bribe. This reveals a peculiar and prevalent “bribery” mentality in Lithuanian society.

Unfortunately, one has to say that there exists quite a substantial potential “bribery market” in Lithuania. Neither the possible imposition of a punitive sanction (bribing and taking a bribe are both considered a crime), nor the common attitude of residents that corruption does not promote public life have been able to diminish it.

Lithuanian residents’ assessment of anticorruption potential

How do residents, who on one hand condemn corruption as an obstacle for life and society’s development but who, on the other hand, are prepared to settle their affairs by bribery, plan to fight corruption? Chart 8 gives a partial answer to this question:

⁶ 1 € = 3.45 LTL

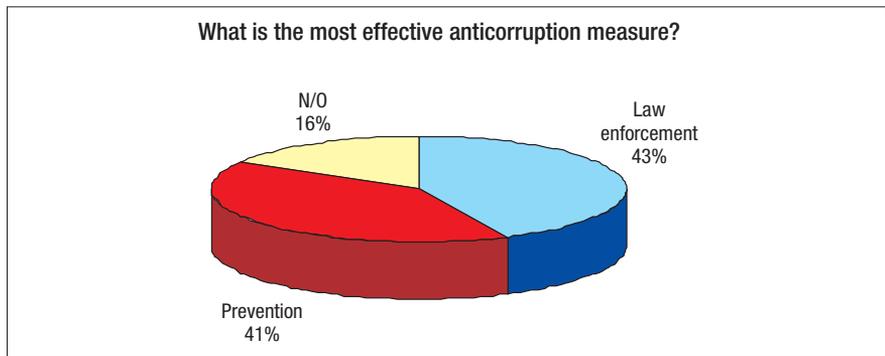


Chart 8. Effectiveness of anti-corruption measures (2002)

As many as 43 percent of residents gave priority to law enforcement or punitive measures. A slightly lower percentage preferred preventive measures, i.e. they wanted to concentrate on the causes rather than the outcome. However, when the respondents were asked whether a National anti-corruption strategy would help to reduce the corruption rate in Lithuania, only 15 percent responded that it would, 45 percent said that it would not and 40 percent gave no answer.

The anti-corruption potential can be assessed from another perspective, too. This is provided by the interesting group of those who responded that they had never given a bribe. Chart 9 illustrates their motivations.

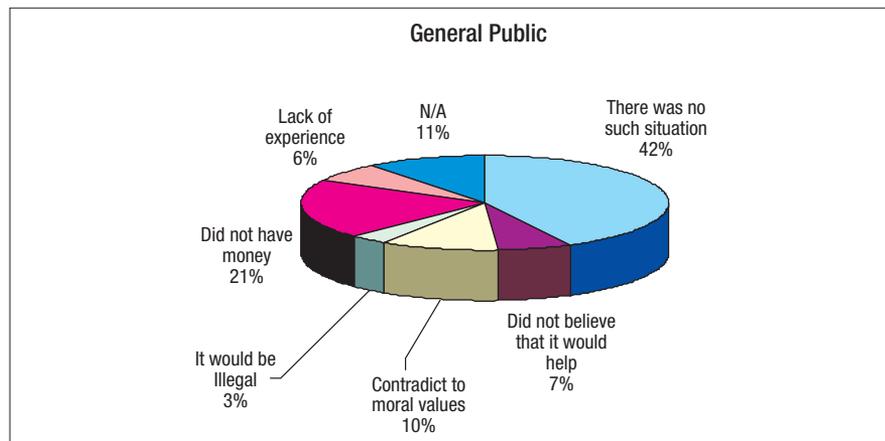


Chart 9. Why did you not give a bribe? (2002)

One should pay attention to the fact that only 13 percent had not given a bribe due to moral conviction or because it is prohibited. One can hardly expect that their share will increase in the near future: attitudes may eventually change provided that there is effective anti-corruption education available. Therefore, if one

wants to prevent corruption, a mere appeal to one's morality and legal principles is not enough. At present, such arguments seem to fall on deaf ears in Lithuania.

On the other hand, 42 percent of the respondents answered that they had never given a bribe because they had not felt the need to do so. This result can be assessed both pessimistically and optimistically: One could say that the absence of bribery depends upon contingency. However, one could also suggest that people live in such an environment where services can be obtained without some extra illegal payment. This would confirm the opinion of anti-corruption experts who say that there lies a huge anti-corruption potential primarily in public administration and new management, where the lack of corruption is ensured by the transparency and openness of governance.⁷

In the process of assessing the provided results, one must emphasise that the "Map of Corruption in Lithuania", like any other diagnostic measurement, is only able to assess those phenomena that can be disclosed by applying research methodology. In this case, we can only hope that the corruption monitoring methodology used to assess the residents' attitudes towards anticorruption and their corruption-related experience, not only enable us to clearly delineate the institutional and geographical corruption map and provide deeper analysis of the corruption rate in Lithuania, but that it also provides public authorities and non-governmental organisations with more precise, more practical and more effective tools with which they can resolve corruption problems in Lithuanian society.

7 Transparency International Source Book 2000. Berlin: Transparency International. 2000, p. 105.

Organized Crime and Corruption in Ukraine as a System Phenomenon

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The history of mankind is not just a story of progressive development and spiritual improvement. It is also a story of terrible violent crimes with millions of victims all over the world. From the beginning of humanity people have been trying to explain the origin and meaning of human life. The history of mankind is a never-ending struggle with nature in order to survive. At the same time humanity has been unable to stop people from killing other people. Many centuries have passed, but people have achieved very little: they have simply invented different types of punishment for different crimes. People have thought of different and complicated ways to commit crimes, while others have elaborated a whole punitive system for serious and minor offences. Today the world is full of prisons. Some of them are modern and comfortable, others simply degrading and barbaric. People use violence as a remedy against violence and murder against murder, which has become an accepted norm and is recognised by the law. Such legalised violence is the prerogative of a state as the main political and social institute. Violence, stipulated by the law, is gradually becoming an essential part of modern civilisation and a crime itself. Modern states have succeeded in developing cruel repressive methods, which do not, however, stop people from breaking the law. Thousands of executed and millions of convicted criminals, kept in prisons, prove that even severe and inhuman punishments cannot change human nature, nor affect the unexplainable and unreasonable desire to kill and hurt other human beings.

The last decade of the 20th century witnessed an unprecedented social experiment, which had a tremendous impact on the fates of nations and individuals. By this we mean the collapse of the communist bloc, the disintegration of the Soviet Union and the emergence of new independent states. All these developments radically changed the world geopolitical situation.

Many politicians assume that the main outcomes of the current reforms in the former Soviet Union republics will be the establishment of free market economy and truly democratic civil society. However, we should expect equally significant criminological consequences from the collapse of the USSR. They are manifested in the penetration of crime and organised crime into economy, politics and culture, embracing all layers of society. Total criminalisation threatens to transform the post-communist society into a criminal society.

Professionals have been given a unique chance to observe and even participate in the global social and criminological experiment, which can significantly

influence the long-lasting debate about the role of social and biological factors in the determination of criminal behaviour. Obviously the genetic nature of human beings has not changed very much during the recent decade while the social conditions of their lives have taken a radical turn. This leads to the conclusion that deterioration of social welfare and other similar factors are the main causes for an extremely high level of crime. However, it would be unfair to say that the reforms alone lead to total criminalisation because also a completely different conclusion can be made: the crime level is constantly increasing in spite of the changing conditions of human life (both for the worse and for the better). Thus probably the main and even the only source of crime is human nature, which has remained more or less the same for many centuries. The law of self-preservation makes human beings react and adjust to the changing environment.

Criminal and anti-social behaviour is one form of such reaction and means of self-preservation, manifested by high level of crime and vivid tendency to grow. Official statistics show that criminal activity has become one of the most widespread types of activity and can be called a criminal practice.

A criminal practice is a widespread type of social practice and specific experience manifested in behaviour forbidden by criminal law. Criminal practice has adopted features of a concrete “focused” activity, competing with other social practices, such as labour, recreation or sports. The contents of this activity is crime. Criminal practice has become an independent phenomenon performing specific functions in society. It is proved by the fact that the words *criminality*, *criminal society*, *criminal activity*, *criminal environment*, *criminal leader*, *criminal way of life*, etc are commonly used in conversational, written and professional language. Criminal jargon is also widely used in everyday speech.

Millions of people are involved in criminal activity all over the world. Due to its enormous financial, human and ideological resources, criminal practice greatly influences all legitimate activities and expands the reproduction of crime. Organised crime is the most vivid example of criminal practice since it has all the features of professional activity. As any social practice, criminal practice has a subject, object and content form. Understanding criminal practice as a type of social experience to a great extent clarifies the issue of crime reproduction.

In spite of the fact that the available criminological data on crime expansion in modern world need theoretical analysis, the issue of crime reproduction has not been largely discussed by Ukrainian criminologists. In Russia, this area has been studied for many years by Professor A. Dolgova and her school within the framework of comprehensive analysis of crime [1]. Dolgova regards crime as a system with internal and external links, certain patterns and capacity for self-determination. Such an approach has a well-grounded theoretical basis. But *how did the system become established* and *what are the sources for its existence?* The conclusion about self-determination and the effects on society explains the operational mechanism of the criminal system. These conclusions are confirmed by criminal practice.

The Table below contains statistics on crime in Ukraine for the period 1973–2000. The general trends of crime rates are the following:

Table 1. Crime rate and conviction rate in Ukraine (1973–2000)

Year	Registered crimes	% compared to the previous year	% compared to 1973	Detected offenders	% compared to the previous year	% compared to 1973	Convicted offenders	% compared to 1973	Custodial sentences	% of custodial sentences
1973	128 340	94.6	100	136 752	96.2	100	103 969	100	-	-
1974	144 325	112.5	112.5	142 517	104.2	104.2	110 373	106.2	-	-
1975	145 117	100.5	113.1	152 761	107.2	111.7	110 419	106.2	-	-
1976	148 514	102.3	115.8	153 411	100.4	112.2	113 294	109.0	-	-
1977	141 604	95.3	110.3	138 455	90.3	101.2	104 100	100.1	-	-
1978	155 088	109.5	120.8	145 240	104.9	106.2	113 338	109.0	-	-
1979	178 019	114.8	138.7	153 623	105.8	112.3	123 566	118.8	-	-
1980	196 902	110.6	153.4	175 244	114.1	128.1	138 223	132.9	-	-
1981	209 136	106.2	163.0	189 252	107.8	138.4	151 495	145.7	-	-
1982	212 990	101.8	166.9	196 551	103.9	143.7	162 777	156.6	-	-
1983	236 580	111.1	184.3	209 083	106.4	152.9	167 901	161.5	-	-
1984	229 712	97.1	179.0	203 034	97.1	148.5	169 509	163.0	-	-
1985	249 553	108.7	194.5	226 072	111.3	165.3	173 877	167.2	-	-
1986	248 663	99.6	193.8	230 236	101.8	168.4	167 572	161.2	-	-
1987	237 821	95.6	185.3	204 482	88.8	149.5	124 905	120.1	38 845	31.1
1988	242 974	102.2	189.3	172 703	84.5	126.3	90 987	87.5	29 372	32.3
1989	322 340	132.7	251.2	173 997	100.7	127.2	90 121	86.7	31 197	34.6
1990	369 809	114.7	288.2	186 683	107.3	136.5	104 199	100.2	35 947	34.5
1991	405 516	109.7	316.0	187 468	100.4	137.1	108 555	104.4	35 045	32.3
1992	480 478	118.5	374.4	207 326	110.6	151.6	115 260	110.9	38 740	33.7
1993	539 299	112.2	420.2	242 363	116.9	177.2	152 878	147.0	54 019	35.3
1994	571 891	106.0	445.6	269 061	111.0	196.8	174 959	168.3	63 572	36.3
1995	641 860	112.2	500.1	340 421	126.5	248.9	212 915	204.8	74 689	35.1
1996	617 262	96.2	481.0	339 530	99.7	248.3	242 124	232.9	85 824	35.4
1997	589 208	95.5	459.1	337 908	99.5	247.1	234 613	225.7	83 396	35.1
1998	575 982	97.8	448.8	330 067	97.7	241.4	232 598	223.7	86 437	37.2
1999	545 416	94.7	425.0	309 808	93.9	226.5	222 239	213.8	83 339	37.5
2000	553 594	101.5	431.4	309 057	99.8	226.0	230 903	222.1	82 869	35.9
Total	9 317 993	-	-	6 063 105	-	-	4 247 669	-	-	-

From the Table it is evident that the years when Ukrainian independence was built were marked by the highest level of crime.

From 1986 (the beginning of democratic reforms in the USSR) to 1997 (the following year was the starting point for the slump in crime rates) the number of crimes per 100,000 population were the following: 488 crimes in 1986; 484 in 1987; 473 in 1988; 623 in 1989; 718 in 1990; 921 in 1992; 1,033 in 1993; 1,096 in 1994; 1,241 in 1995; 1,202 in 1996; 1,159 in 1997.

For the purpose of criminological analysis we subdivide the outlined period into three phases, distinguished by the economic and political situation, peculiarities of legal regulation and dynamics of crime rate.

The first period (1973–1981), known as the stagnation period or Brezhnev’s epoch, was marked by the authoritarian system of government. The second period (1982–1990) is known as *perestroyka*, used in different languages without translation. This period began under Yu. Andropov and continued under the government of M. Gorbachev. The third period (1991–2000) was marked by the collapse of the Soviet Union and the emergence of new independent states. Each period is characterised by specific peculiarities reflected, among other things, in the crime statistics.

In 1973–1981, the total number of registered crimes was 1,447,045; in 1982–1990 2,350,442 crimes; and in 1991–2000 their number was 5,520,506. Compared to 1973, the growth in the crime rate was 184% in 1983; 500% in 1995, and 431% in the year 2000.

The rate of crime detection corresponds to the above figures. Statistics for the detected offenders are the following:

Year	1973	1983	1995	2000
Detected offenders	196 551	209 083	340 421	309 057
Growth rate compared to 1973	-	153 %	249 %	226 %

When the high level of latency is taken into account, we can assume that in reality the crime rate is perhaps four or five times higher than the official statistics.

Judicial practice within the same period reveals a different tendency. In 1973, the number of convicted offenders was 103,969; in 1983 and 1995 it was 167,901 and 212,915 respectively (162% and 205% compared to 1973). When compared to 1973, the number of registered crimes and people charged with offence increased in 1995 500% and 249% respectively. However, the number of offenders convicted by the Court increased only by 205%. Naturally, one needs to bear in mind repeated crime, which affects the figure of convicted offenders.

However, it is quite evident that the dynamic growth in registered crime does not correspond to the dynamic growth in convictions. Some years are characterised by the growth in crime and dramatic fall in convictions (the most vivid examples being 1987–1989). These data should be analysed separately. The analysed period is generally marked by the large growth of crime.

The social status of the offenders does not reflect the social stratification of the population in general. For example, in 1996 the social status of convicted offenders was the following:

- industrial workers: 22%
- agricultural workers approx. 7%

- employees approx. 7%
- students approx. 5%
- other categories (pensioners, disabled people, housewives) 10,8%
- unemployed approx. 42% (57% in 1997)

About half of all offenders were unemployed when they committed the offence. These facts prove the direct link between economic crisis and the rate of crime.

The classification of crimes reflects the whole spectre of motivation for offensive behaviour. The public is most concerned about the steady growth in serious violent crimes, such as intentional murder and serious bodily harm. In 1993–1997, the share of intentional murders increased from 16 to 21%, and serious bodily harm from 27 to 37%. The following table illustrates the dynamics of intentional murder within this period.

Year	1993	1994	1995	1996	1997
Number of crimes	4 008	4 571	4 783	4 896	4 529

In 1993, juvenile offenders committed 159 intentional murders, in 1997 this figure increased to 232 intentional murders.

Both intentional murder and serious bodily harm are often committed under such circumstances where many people are exposed to danger, and where explosions, arson, and firearms are involved. The criminals try to intimidate the public by using terrorist methods. In 1991, 70 crimes were committed using terrorist methods, while in 1995 such methods were applied in more than 180 cases. A similar situation applies to mercenary killings: 1993 – 87 registered crimes; 1994 – 198; 1995 – 210; 1996 – 157 [2].

During 9 months of 2002, the gangs and criminal organisations throughout Ukraine committed 5,298 crimes, of which 4,340 belonged to the category of common criminal offences.

The Table below lists the main types of offences committed by these criminal groups, and their share in the total amount of common criminal offences [3].

Type of offence	Detected offences	Share of all offences
Common criminal offence	4 340	100 %
Theft	1 707	39 %
Major theft	500	0.01% (29% of total theft)
Brigandage	588	14 %
Illegal dealing in drugs, psychotropic substances and precursors	450	10 %
Illegal dealing in weapons	215	5 %
Robbery	187	4 %
Extortion	108	2.50 %
Intentional murder (including attempts)	80	2 %
Gangsterism	66	2 %
Human trafficking	26	0.60 %
Taking of hostages	2	0.05 %

The figures prove that common criminal offences like thefts, robberies and illegal drug dealing constitute the biggest share of all offences (63%).

The Ministry of the Interior reports that 1987–1997 were marked by an intensive growth in armed robberies: in ten years their number multiplied by a factor of nine.

In spite of the undeniable growth in violent crimes, there is evidence that the most pressing problem in Ukraine is the growth in economic crime. Between 1987 and 1997 their number doubled to 62,400 crimes, although this type of crime as well as tax evasion, corruption, financial fraud, etc is marked by a high level of latency.

The above-mentioned types of offence are mostly committed in connection with banking and crediting, foreign economic activity, privatisation and energy supply. According to the official statistics of the Ministry of Internal Affairs, in 1997, 3,600 offences were detected in the sphere of energy supply. They involved 1,855 offences in oil industry, 278 offences dealing with natural gas, and 805 offences related to electricity supply. In addition, the law enforcement bodies detected 1,102 crimes in enterprises manufacturing and selling alcoholic beverages [4]. Offences in this sphere have acquired the form of organised crime. In 1997, the Fraud department detected 1,079 criminal gangs with a total of 4,393 members. They committed 7,434 crimes, including 361 violations in banking and crediting, and 184 violations in the sphere of foreign economic activity. There is evidence that the members of these gangs were involved in 112 murders and 530 armed robberies. According to V. Skribets, organised crime is becoming more influential due to the accumulated financial resources and connections in the government bodies. Organised criminal groups try to establish control over commercial banks, foreign economic activity, exportation of goods and raw materials, and privatisation of state property [5].

The transition period with its economic reforms brought about new types of economic crimes and mechanisms, new methods of planning illegal transactions and taking advantage of corruption. Criminal conduct is particularly common in the sphere of finance because it is very difficult to exercise legal control over financial transactions.

This is demonstrated by the dynamic growth in financial crimes. Over the last years, their number has tripled to 9,000 crimes of which 4,100 occur in the sphere of banking. For comparison, corresponding figures from preceding years:

Year	1995	1996	1997	1998	1999
Number of financial crimes	362	533	5 400	7 800	8 200

In 2000, 6,200 banking violations were investigated and charges were brought against 1,500 persons. The growing number of offences in this sphere results in bigger damages to the country's economy amounting to 75% of losses in the sphere of finance.

There is no doubt that shadow economy is a crucial factor contributing to the growth of organised crime. According to the Ukrainian Ministry of Statistics and

some expert assessments, shadow economy amounts to 40 percent of the gross domestic product. In one way or another, the entire population of Ukraine is involved in the shadow economy. The forms of this involvement vary from getting payment in cash in so-called “envelopes” to tax evasion, corruption, etc. According to some estimates, capital kept abroad amounts to \$15–20 billion [6]. Thus, organised crime is closely related to the shadow economy, which emerges and flourishes due to the loopholes in legislation, and to the merger of criminal world and different branches of government with the purpose of gaining power and profit [7].

The shadow economy in modern Ukraine has been shaped over the past two decades on the basis of two main components: corrupt representatives of state power and matured criminal “businessmen”. The share of criminalised business clans is constantly increasing [8].

Corruption plays a very special role in the reproduction of crime. In Ukraine, the level of corruption is so high that foreign experts place it among the most corrupt states in the world. Corruption of the law enforcement bodies and of the judiciary system presents the biggest threat to society. In 1997, the Institute of Economic Development at the World Bank investigated corruption among Ukrainian judges. According to this research, more than 20 percent of the citizens whose cases had been tried in the Courts of first instance (District Courts) had bribed judges either by cash or commodities. More than 30 percent of the respondents complained about unjustified delays and 15 percent about inappropriate behaviour of the judges [9].

According to a research conducted in Odessa in 2003, 80% of the 400 respondents believed that corruption flourishes among the judges and the staff of the law enforcement bodies, such as militia, the prosecutor’s office, taxation agency and the National Security service. 68% knew cases of corruption in the local courts, 63% in administrative courts, and 56% in the Court of Appeal. 47% of the respondents were certain that the judges of the Supreme Court are also corrupt.

The interrelationship between organised crime and corruption has become a cliché. Corruption of the law enforcement officers is one of the means with which they are forced to co-operate with the criminal world. To a great extent, corruption is caused by low salaries, which do not ensure a decent lifestyle for the law enforcers.

Assessment of the current situation of corruption leads to the conclusion that corruption is an integral part of Ukrainian society and an independent system of social relations. At the same time it is closely linked with other spheres of social relations. There is an intricate system of corrupt relationships on different levels of government and law enforcement, making corruption a constituent element of the whole system.

Due to huge investments of funds, corruption is capable of reproduction. People view corruption as an independent source of income that is much higher than the official salary. Corruption has become one of the strongest elements of the shadow economy, inseparable from legitimate economy. There are justified opinions that at the moment, the state is not interested in eliminating corruption because it could lead to social, economic and political crisis.

One of the crucial issues is to identify the causes of such rapid growth of organised crime and corruption in Ukraine. In the author's opinion it is the result of several factors.

The rapid growth of organised crime in Ukraine was largely affected by the destabilisation of state power as a result of the collapse of the USSR. Political, economic and legal reforms led to social instability, and the criminally-minded part of the population took advantage of this situation. The unjustified redistribution of national income, abusive privatisation, deceit of the population due to financial fraud and other similar activities led to the unprecedented growth in the criminal potential used for the expansion of criminal activity and its influence in society.

The participants of the Round table, dedicated to the prevention of economic crime, came to the conclusion that the causes of economic crime and its growth include ineffective management, shortcomings in the new laws and narrowing of governmental control over economic activities [10].

It is widely known that the USSR was an authoritarian state based on Communist ideology. From the official standpoint, there was no criminality in the Soviet state. In order to conceal the actual situation, the communist party did not publish official crime statistics. Yet during the years of Soviet power at least 80–90 million people served sentences in prison or exile. They acquired certain criminal experience, which they passed on to the next generation. In the Soviet Union, there were basically two categories of crime: common criminal offences, such as murder, theft, armed robbery, etc) and political crimes, such as espionage, treason, etc. Naturally the first category was the prevailing one. Low living standards led to the emergence of specific criminal groups with their own jargon and criminal traditions. After the collapse of the Soviet Union, Ukrainian *nouveau riches* privatised properties and accumulated huge fortunes with fraudulent transactions on the security market. Very soon the public discovered that the capital and properties had been captured by the former communist party and Comsomol bosses who had been in power when the Soviet Union collapsed. They had held auctions and carried out the privatisation according to an old familiar custom: power outweighs the law.

Organised crime emerged in Ukraine and in other post-Soviet states due to the merger of political and economic opportunities of the former party and Comsomol *apparatchiks* with recidivist criminals, known today as the Godfathers. This relationship which might at first seem strange, is actually quite natural and logical, and based on a common style of management where violence, suppression, deceit and fear are the key factors.

As their fortunes accumulated, the new capitalists realised the need to protect and increase their property acquired through crime. They tried to penetrate into the private sector and government in order to acquire political influence and affect decision-making on the highest level. At the same time they were keen on expanding illegal business that would enable them to gain maximum profit in minimum time. As it was a dangerous occupation, they had to think about their personal security. To meet these objectives they started forming criminal organi-

sations, similar to the gangs of some Western countries. Thus, as strange as it might seem, the communist ideology was easily replaced by a criminal one, and the former party leaders eagerly entered into co-operation with the criminal world.

Presently large criminal organisations and small gangs possess whole arsenals of firearms and explosive substances. With weapons the criminals are able to demonstrate to the public their real strength and power [11]. In 1997, the law enforcement bodies confiscated 892 pistols, 205 automatic guns, 1,090 units of custom-made pistols, 613 carabines, 960 sports guns, 430.3 kg of explosive substances, 835 grenades, and 298.5 thousand cartridges. Statistics on intentional murder with the use of firearms demonstrate the following dynamics:

Year	1993	1994	1995	1996	1997
Number of intentional murders with the use of firearms	194	296	254	300	300

Analysts of the Ministry of the Interior have noted that modern criminal organisations utilise a mixed type of economic and violent crime, combining methods of criminal business with violent methods of terror against business rivals, legitimate businessmen and officials [12].

Criminal terror as a feature of organised crime is essential for the reproduction and self-determination of crime.

Criminal leaders often act as arbitrators who solve both disputes of the criminal world and ordinary business disputes. Thus they have become an important part of economic and political life, and decision-making instruments on the level of national and local governments. By using terrorist methods the criminals force government officials and businessmen to undertake actions for their benefit. The impunity of criminal leaders and gang members creates an impression of the unlimited power of the Mafia. It inspires respect among some parts of the population, particularly the young, and under certain circumstances they may be willing to join up.

We believe that the path the organised crime in Ukraine has chosen is particularly dangerous for society. The merger of the former communist party *apparatchiks* and the new criminal leaders makes it easier for organised crime to penetrate into all spheres of public life. The interrelation of legal and criminal business creates a basis and source of reproduction for organised crime. Criminal traditions and sub-culture have a strong influence also on the cultural sphere.

The mass media and modern show business facilitate the matter by propagating violence, terror and force. All these factors change the traditional moral values and attitudes.

Hundreds of domestic and imported movies show that violence is the main tool for managing peoples' behaviour. Films portray criminal leaders and ordinary gangsters as attractive characters worthy of the spectator's sympathy (a vivid example being the "Brigade" TV serial). The Internet and numerous violent computer games make matters worse. Young people get used to violence and start to believe that it is an acceptable method to solve problems.

The mass media lavishes the public with information about terrorist acts, “resonance” crimes, murders, mercenary killings, robberies, etc. Attitude studies show that criminal news are among the most popular topics in newspapers and on TV.

Using the method of content analysis the author of the present paper studied about 500 publications on legal topics in several central and local newspapers. The author discovered that about 80 percent of these publications deal with crime. A vast majority of articles (58 percent) describe in detail serious violent crimes, such as terrorist acts, gangster attacks, extremely violent murders, rapes, torture, racket, etc. The press and TV indulge in the description of crime and the victims’ sufferings. Numerous publications about serial killers are often based on interviews with the criminals, their friends and relatives. Each resonant crime is reproduced in numerous editions and cycles of TV programmes, etc. The public gets an impression that such crimes are very common and widespread. The image of criminals, created by the media, is often far from reality. Some criminals are misjudged by the audience due to the “nimbus effect”. The people attribute qualities to criminals which they do not possess in real life.

Hence we are actually dealing with two types of crime: the actual crime existing in reality, and the informational crime reproduced by the mass media (“infocrime”). Our perceptions and ideas about crime are shaped by both reality and media depiction. It is evident that these two phenomena are not identical in form or content: in real life profitable non-violent crimes and fraud predominate (more than 60 percent), but in infocrime, the share of serious violent crimes is approximately 70 percent.

Both the reality and the mass media have added to a specific social and psychological atmosphere in society, characterised by such attitudes and ideas that contribute to the neutralisation and justification of criminal behaviour.

The comprehensive approach to crime as a type of social practice will shift the focus from “combating” crime to bringing positive changes to this behaviour. It is hardly possible to “combat” the entire population. Moreover, the enemies in this fight have similar moral values and psychology, and often change place with each other. However, the notion of social and anti-social behaviour gives us hope that the level of crime and the number of people involved in criminal activity can be reduced. In this respect the only alternative is to increase financial motivation. It is vitally important to create conditions under which criminal activity will not be profitable. This can be achieved by introducing corporate criminal liability and other measures.

Presently, Ukraine does not have a comprehensive public policy for combating organised crime on different levels. To elaborate such a policy it would be necessary to work out a state policy concept against crime in general, and measures against organised crime should be an integral part of such comprehensive strategies. The policy should be based on the realisation that organised crime is a complex social phenomenon, capable of self-determination and reproduction. The primary goal of such a policy should be public security as an essential element of national security. However, it is quite obvious that such objectives are

not achievable without political will to reform the judicial system, the law-enforcement bodies and the system of government.

On the other hand, the government should undertake the responsibility to provide employment for those who change their anti-social attitudes and stop offending. In this respect the past experience of the Soviet Union and international practices can be useful. It involves governmental funding for new enterprises and new jobs (Japan, Sweden, etc.). The growth in crime during the transition period in Ukraine shows that the state should maintain some control over national economy. There is no doubt that eventually Ukraine, a new independent state will become stronger. To resist crime, the government will elaborate and implement sound state policy, based on moral values and ideology and adequate financial support.

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Contemporary Russian Corruption

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*All social reality is precarious.
All societies are constructions
in the face of chaos.*

P. Berger, T. Luckmann

*Do ut facias*¹.

What is corruption?

There are too many *definitions* of corruption (Friedrich, 1972; Heidenheimer, Johnston, Le Vine, 1989; Meny, 1996; Nye, 1967; Palmier, 1985; Rose-Ackerman, 1978; Wewer, 1994; and others). Perhaps the shortest (and the most precise) of them is: “*the abuse of public power for private profit*” (Joseph Senturia/ see: Wewer, 1994: 481). The UN offers an analogous definition (Resolution 34/169 of the UN General Assembly, 12.17.1979).

There are too many *forms* (manifestations) of corruption: bribery, favouritism, nepotism, protectionism, lobbying, illegal distribution and redistribution of public resources and funds, theft of treasury, illegal privatisation, illegal financing of political structures, extortion, allowance of favourable credit (contracts), buying votes, the famous Russian “*blat*” (different services for relatives, friends, acquaintances /Ledeneva, 1998/), etc.

There are three main *sociological models* of corruption: “nomenclative” (infringement of official norms for the sake of private relations), “market” (business activities for maximisation of income) and “public interest” (corrupt practices as threat to public interest).

Heidenheimer distinguishes “routine” (presents, bribery) and “aggravating” corruption (extortion and organised crime relations); and “white” (when public opinion does not regard corrupt action as reprehensible), “grey” (when there is no public consensus) and “black” (general disapproval of corrupt action) corruption (Heidenheimer, Johnston, Le Vine, 1989).

Corruption is a complicated *social phenomenon*. It is intertwined with the relations of economic exchange (brokers). It is a type (manifestation) of venality just as marriage swindling or prostitution (the venality of spirit or body...), and it exists in societies of commodity and pecuniary circulation.

1 I give that you make (Latin)

Corruption is a *social construction* (Berger, Luckmann, 1967). Society determines (“constructs”) what, where, when, and under which conditions is considered as “corruption”, “crime”, “prostitution” and so forth. How is corruption constructed? This process includes numerous bribes of different State employees; the consciousness of these facts as social phenomenon, as corruption, as social problem; the criminalisation of some forms of corruption (for example, bribery, extortion, theft of treasury, etc.), and so on.

Corruption is a *social institution* (Kuznetsov, 2000; Timofeev, 2000). *It is a part, an element of the system of management and government*; it consists of some elements, ways, methods, means of the process of managing and governing. It is a pity, but it is a fact. Corruption is a social institution because:

- Corruption carries out certain social *functions*: simplifying administrative relations; accelerating administrative decisions; consolidating and restructuring relations between social classes, strata; adding to economic development by decreasing government regulation; optimising economy when there is a deficit of resources; etc. (Leff, 1964; Scott, 1972; and others).
- The process of corruption involves actions of *certain persons*: bribe-takers, bribers, mediators. They are in “patron–client” relationship with each other. They play certain *social roles*.
- There are certain *rules (norms)*, and participants know them.
- Certain *slang* and *symbols* exist.
- There are certain *fixed prices* (“tariffs”). In Russia, some of these prices have been made public by the press. The newspaper “Signal” (1996, N1) published tariffs for the illegal services of GAI—State Transport Inspection; the newspaper “Vash Tain’y Sovetnik” (“Your Secret Counselor”) tariffs for “free” education in different universities of St. Petersburg (including faculties of law and Police Academy...). Perhaps the most interesting data were published in the book “*Corruption and Combat Corruption*” (2000: 62–63): there are fixed prices for bribery when obstructing an investigation (bringing an action) in criminal cases - \$1,000–10,000; for substitution of arrest for obligation to give a written statement agreeing not to leave a place—\$20,000–25,000; for reducing punishment—\$5,000–15,000; for “ignorance” in customs infringement—\$10,000–20,000 or 20–25% of customs duty. Moreover there are data on tariffs for bribing high State officials: the head of Duma’s (Russian parliament) committee—\$30,000, assistant of the deputy—\$4,000–5,000, a presentation of law project—\$250,000 (Sungurov, 2000: 41). These prices are undoubtedly subject to inflation adjustment, and will, therefore, rise.

Brief summary of Russian corruption

It is a pity, but corruption is a Russian tradition (see: Kabanov, 1995; Kirpichnikov, 1997). “Legal” corruption began already in the IX–X centuries, when an institute called “*kormlenie*” (“nourishment”, “feeding”) was formed. The Russian head of State (prince, tsar) sent his representative to a province without salary, but for “*kormlenie*”: the people of the province were to provide for the representative, who had a lot of power. Local people started to bring

“presents” for favourable decisions. The institute was officially abolished in 1556, but the habit of bribing survived (and still does...).

Later “kormlenie” was transformed to “*lichoinstvo*” (bribe with infringement of law) and “*mzdoimstvo*” (bribe without infringement of law), which in turn were (in ca. XV century) replaced by “*vzjatotchničestvo*” (taking a bribe, corruption). The first law to stipulate a punishment for judges who took bribes was “Sudebnik” (Law for Court, “sud” = court) of 1497. In the 16th century, “*Vymogatel’stvo*” (extortion) was acknowledged as a form of corruption. Corruption turned into an epidemic in Russia in the XVIII century. The Tsar (emperor) Peter I (“Peter the Great”, 1672–1725) was very concerned of mass corruption, and attempted to restrict it even by the death penalty (Edicts 23 August 1713, 24 December 1714, 5 February 1724), but in vain. Even his best friend, Prince Men’shikov, was corrupt! All future legislation (1845, 1866, 1916) included statutes on the different forms of corruption. But “Corruption is immortal!”... Or as P. Berlin wrote about Russia: “Taking bribes is indissolubly interlaced with the whole system and political life” (Berlin, 1910: 48).

The Soviet State fought corruption, too (also by death penalty since 1922), but nothing worked. It is known that corruption existed even during Stalin’s totalitarian regime, although in complete secrecy. In the 1960s and 1970s, the leaders of the Communist Party and the Soviet State (the so-called “nomenclature”) and Soviet bureaucrats were absolutely corrupt.

How widespread is Russian corruption?

There is corruption in all countries. It is a world-wide problem. But the dimensions of corruption vary. In Russia, corruption is common in all organs of power and establishments. The Corruption Perception Index 2002 (published by Transparency International) for Russia is 2.7; it is on the 74th place among 102 countries (least corruption: Finland, Index—9.7, most corruption: Bangladesh, Index—1.2).

The damage caused by corruption is estimated at \$20–25 milliard per year. Every year \$15–25 milliard of Russian capital is exported abroad. Between 1988–1999, the corresponding figure was \$300–350 milliard in all (Corruption and Combat Corruption: Role of Civil Society, 2000: 18–21; 72–73).

Every day Russian and foreign mass media reveal more facts about Russian corruption and corrupt activities. Every day Russian newspapers and journals publish names of people who have taken bribes, and describe the amounts of money or types of services exchanged, but the authorities do not react. In July 2003 (N49), “*New newspaper*” published the price of education in St. Petersburg’s universities: from \$2500 to \$4000. In December 2002 (N93), it cited a booklet of Duma’s deputy Professor G. Kostin, where prices for buying off the highest State officials were stipulated: head of department of the Supreme Court of Justice—\$400,000; deputy of head of Moscow’s Arbitration Tribunal—\$1.3 million; deputy of Ministry of Power Engineering—\$10 million. The newspaper hoped to get some reaction from state officials (excuse, refutation, inquiry) but got nothing! Most of the highest officials enjoy inviolability *de jure* (deputies, judges, etc) or *de facto*.

Konstantinov's "Corrupt Petersburg" contains a great number of facts about corruption (Konstantinov, 1997). The USA Congress report "Russia's Road to Corruption" (September, 2000) is interesting, too.

There are extensive *corruption networks* including ministries, police, FSB (former KGB) (Satarov, 2002; Sungurov, 2000: 72–82). *Corruption in contemporary Russia is an element of the political system, a mechanism of the political regime*. There are two levels of corruption: "lower" ("face-to-face") and "higher" (corruption networks). The study of Fond INDEM (head Dr. G. Satarov, former assistant of ex-president Boris Yeltsin) shows that there are extensive corruption networks in the Ministry of Internal Affairs, the Federal Service of Security, and the State Committee of Customs Service. The Military Government is also very corrupt. Each corruption network contains three structures: commercial or financial, state officials and "group of defence"—police, FSB, prosecutors office (Satarov, 2000: 8).

On the "lower" level, an average bribe (for policeman, doctor, teacher and so on) ranges from \$20–\$120 to \$1000–\$5000 (Arguments and facts, 2002:4) per occasion. The dimensions of bribes on corruption networks are greater. There is also an other system for calculating the bribe, "*otkat*" ("recoil", "delivery", "return"): the official gets 3–10% (Satarov, 2000: 8) or 40–60% of the sum of an agreement (New Newspaper, 2003: 12).

Corruption paralyses all positive, creative activities. It is virtually impossible to develop production, market economy or social reforms when everything depends on corrupt officials. Corruption of police, the prosecutor's office and judges is particularly dangerous. "Corruption of judges is one of the most powerful corruption markets in Russia... Corruption of judges penetrates the different corruption networks at different levels of power" (Satarov, 2003). Arbitration courts are particularly corrupt.

The Center of Deviantology (Sociology of Deviance and Social Control) of the St. Petersburg Sociological Institute of Russian Academy of Sciences (head Prof. Y. Gilinskiy) studies organised crime and corruption in Russia, especially in St. Petersburg. Our respondents (informants) have commented as follows on the contemporary situation: "The average businessman is extremely involved in crime... One has to bribe for everything... one cannot deal with taxation inspection without a bribe... A bribe is an inevitability in the sphere of business... Tax inspection is highly corrupt". One has to bribe when registering a business, when renting premises from state bodies, when acquiring licenses for their utilisation, when obtaining low-interest bank credits, when reporting to tax inspectors, when completing customs formalities, etc. The "tariff" for fire inspection is higher than for sanitary inspection, but lower than what is paid to the custom house... However, business people are not the only ones who suffer from corruption. *Everybody* must offer bribes, in educational institutions, in medical institutions, in different administrations, in the police, and so on.

There are various forms of taking bribes. One of our respondents (interviewer Dr. Y. Kostjukovsky) mentioned an interesting method: "I can invite somebody to the casino and he will win. He can win as much as I want. This situation is pure and perfect—no bribes, no corruption. The person is lucky, no problems".

Official data on bribes and corruption are presented in Table 1. But corruption, including taking bribes, is a very latent phenomenon. Official, registered data portray the results of police action rather than the reality: Firstly, these figures are only “a drop in the ocean”. Secondly, the number of registered crimes (bribes) is two times higher than the number of revealed persons, and the number of revealed persons two times higher than the number of convicted persons (Table 2). Thirdly, these revealed and convicted persons are “small fish”, including workers, students, the unemployed (Table 3). Furthermore, the rates of “corrupt crimes” (bribes, embezzlement, appropriation) in 1999 were the following: Moscow 11.8, St. Petersburg 11.2, Komi Republic 78.7, Kurgansky region 75.6, Kostromskaja region 70.9 (Luneev, 2000). This is a sheer impossibility: corruption in Moscow and St. Petersburg is far greater than in other Russian regions.

Corruption is a “normal” way of solving different problems in contemporary Russia. Results from various questionnaire studies provide interesting information. For example, although 56% of our respondents (St. Petersburg, 1993) regarded corruption as a negative phenomenon, 45% of them were ready to take or give bribes (Afanasjev, Gilinskiy, 1995: 94). 37% of respondents (Russian representative interrogation, 1999) had witnessed (participated in) corrupt activities (of business people 65%); 50% had given “presents” to medical institutions (of business people 62%) (Kljamkin, Timofeev, 2000: 11,14). In a survey examining the regional elites of Russia’s Northwest, 94.4% of the respondents confirmed that “corruption and taking bribes are widespread in Russia” (Duka, 2001: 162).

It is known that there is “white”, “grey” and “black” corruption (Heidenheimer, Johnston, Le Vine, 1989). Russian corruption is becoming more and more “white”, because the tolerance of corruption is growing. It is a shame that young Russians have learnt in childhood, at school and university (including the faculty of law) that in Russia, *anything* can be bought and sold.

Old Russian tradition (and *ethics!*) of corruption is reflected in local proverbs and sayings: “Let’s put a candle in front of God, let’s put a sack (with a present in it—Y.G.) in front of a judge”, “Hands exist in order to take”, “What you do for me, I do for you”, and so on (see: Kuznetchov, 2000: 67). Russian ethics tolerate bribery. It is a custom, habit—a way to “thank” for “a service”.

What are the causes of contemporary corruption in Russia? There are countless factors (“causes”), but I believe the following to be the primary ones:

- Old Russian traditions;
- The corrupt “nomenclature” of the former Soviet system has maintained its position and power, and brought its corrupt habits to the “new” system;
- The privatisation by the “nomenclature” created an economic basis for corruption;
- Powerful Russian organised crime uses bribery as its main means of defence;
- Since the highest strata of power are corrupt, it is clear that lower and ordinary officials will take bribes, too (or as a Russian proverb puts it: “a fish starts to rot from its head”).

I think corruption is the most serious problem in Russia, because all other problems remain unsolved when anything can be bought and sold.

Is it possible to fight corruption in Russia?

I think it is impossible (as it is impossible in any country). Corruption is an eternal social problem. It is impossible “to gain victory over corruption” in Russia, or the world.

In today’s Russia, *legal* reaction to corruption poses a very complicated problem. On one hand, the Criminal Code of the Russian Federation (CC RF) stipulates stern punishments: for taking a bribe a maximum of 12 years of imprisonment (Art. 290, CC RF), for giving or offering a bribe up to 8 years of imprisonment (Art. 291, CC RF), for abuse of power up to 8 years of imprisonment (Art. 285 CC RF) and so forth. On the other hand, a “Law of Corruption” has not yet been passed (although it has been prepared for a number of years), and in practice, convictions of high officials are rare.

There are no *real organisational mechanisms* for counteracting corruption, but too many institutions which “combat corruption”: the prosecutor’s office, FSB (former KGB), the Ministry of Internal Affairs (MVD), different commissions and committees.

In reality, any attempts to reduce the scale of corruption must be made step by step. It is a long and hard process involving social, political, economic and juridical means (not only juridical!). I believe that the primary means are:

- A drastic reduction of the plenary powers of bureaucrats.
- A drastic reduction of the right of bureaucrats to “regulate” economics, education, science, medicine and so on.
- Decreasing the number of bureaucrats (in 1990s, there were 15 million bureaucrats in Russia; in 1991, the “State machinery” employed 715,900 officials and in 1993, already 926,600; in 1996, the personnel of the Ministry of Internal Affairs—MVD—comprised 1.5 million people, or 1,200 per 100,000 population, which is more than in any other country /Corruption and Combat Corruption, 2000: 29; Newman, 1999: 124/).
- Increasing the independence of businesses and citizens.
- Increasing the independence and prestige of courts (judges).
- Developing civil society.
- Increasing the salary of officials.
- Forming corresponding social consciousness (by Mass Media, by actual attempts to fight corruption, etc).
- Forming political will to decrease corruption; etc.

Unfortunately, I think this is impossible in contemporary Russia. Police and prosecutor’s office are very corrupt (Corruption and combat corruption, 2000: 86–112), as are all strata of power. “We can talk about a new model of government, where the corruption of the government staff is a way of maintaining power. Corruption... is a part of commanding policy” (Brovkin, 2000: 70). Who will fight corruption? That is the question!

Table 1. Bribery in Russia (1986–2002)

Year	Registered cases	Rate (per 100,000 population of 16-year-olds or older)
1986	6 562	5.9
1987	4 155	3.8
1988	2 462	2.2
1989	2 195	2.0
1990	2 691	2.4
1991	2 534	2.3
1992	3 331	2.9
1993	4 497	3.9
1994	4 921	4.3
1995	4 889	4.3
1996	5 453	4.8
1997	5 608	4.9
1998	5 804	5.0
1999	6 871	5.9
2000	7 047	6.0
2001	7 909	6.8
2002	7 311	5.1

Source: Crime and Delinquency in the USSR (1991: 83,84); Crime and Delinquency (1995: 116, 121); Crime and Delinquency (2002: 117, 122);

Table 2. Some data on bribery in Russia (1987–2001)

Year	Registered cases	Revealed persons	Convictions
1987	4 155	2 836	2 008
1988	2 462	1 994	812
1989	2 195	1 306	451
1990	2 691	1 510	649
1991	2 534	1 266	612
1992	3 331	1 537	686
1993	4 497	2 279	843
1994	4 921	2 727	1 114
1995	4 889	2 342	1 071
1996	5 453	2 692	1 243
1997	5 608	2 320	1 381
1998	5 804	2 803	1 314
1999	6 823	2 921	1 515
2000	7 047	3 481	1 529
2001	7 909	3 696	2 084

Source: Crime and Delinquency (1992: 97, 146); Crime and Delinquency (1995: 117, 154); Crime and Delinquency (2002: 118, 171)

Table 3. Bribery: Data on revealed persons in Russia, % (1987–2001)

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Total	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Gender:															
– male	58.7	48.7	59.7	69.0	66.3	70.1	75.2	77.3	77.5	77.4	73.7	75.4	70.1	74.2	73.4
– female	41.3	51.3	40.3	31.0	33.7	29.9	24.8	22.7	22.5	22.6	26.3	24.6	29.9	25.8	26.6
Age:															
– 16–17	0.3	0.4	0.1	0.0	0.2	0.2	0.3	0.1	*	*	*	*	*	*	*
– 18–29	17.8	19.3	20.5	25.4	19.6	28.6	27.2	30.7	29.8	28.8	27.1	26.4	8.9	26.9	26.2
– 30 or older	81.9	80.3	79.4	74.6	80.2	71.2	72.2	69.2	70.2	71.2	72.9	73.4	91.0	73.1	72.9
Social status:															
– workers	33.2	38.4	37.7	37.9	34.0	33.8	16.4	18.5	19.3	21.3	13.7	15.0	13.2	14.1	16.8
– employees	58.3	50.8	51.2	50.0	53.9	51.3	43.9	46.4	50.9	48.8	46.3	48.6	50.7	46.8	43.2
– farmers	1.7	1.8	1.8	1.2	0.6	1.1	1.5	1.4	0.2	0.3	0.6	0.5	0.5	0.4	0.6
– students	0.7	1.4	0.6	2.9	0.7	0.2	2.2	0.3	0.5	0.6	1.7	0.8	1.3	2.7	4.0
– without work or study place (unemployed)	1.7	2.0	3.1	3.0	3.9	6.5	6.8	3.6	12.6	13.1	14.2	12.9	9.8	13.9	15.1

* No data

Source: Crime and Delinquency (1992: 97); Crime and Delinquency (1995: 117); Crime and Delinquency (2002: 118).

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Human Trafficking: Concept, Classification, and Questions of Legislative Regulation

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Human Trafficking has become a global business bringing huge profits to organised criminal syndicates. Studies show that the overall annual profit in this sector is 5–7 billion dollars, in some years 9.5 billion dollars. An increasing number of criminal communities are moving from drug trafficking to human trafficking and trade, which is characterised by high profits, small expenditures and minimal risk of punishment. It is also worth noting that the exploitation of people is often long-term, and unlike drug trafficking, it does not require preparation, processing and realisation of the initial goods.

The reasons for the growth of trafficking are the following:

- On one hand, the liberal legislation of many advanced countries does not enforce a strict policy against slave labour, especially in sex and porno businesses. They fear that stricter policies would harm the economy and the growth of tourism, and hence decrease tax revenues.
- On the other hand, economic reasons and poor living conditions result in mass emigration. Some countries cannot ensure appropriate conditions for their citizens or control demographic processes.

The said circumstances guarantee the satisfaction of the modern slave market, reflected in a balance of demand and supply of illegal human resources.

The situation in Georgia

After the breakdown of the USSR, negative political, economic and demographic processes have led to a complete social disorganisation, economic collapse, ethnic conflicts and civil wars, and have radically changed the public life in the Republic.

Numerous researches have shown that the annual “Human Trafficking” cases for sexual exploitation in the countries of the Central Caucasus involve more than 10,000–15,000 people. As for the quantity of cases concerning other forms of exploitation of human beings (trafficking in migrants for sweatshops, domestic or agricultural labour, and other forms of involuntary servitude), there are no accurate statistical data available.¹

1 G. Glonti – Trafficking in Human Beings in Georgia and the CIS

The fall of the “iron curtain” and removal of barriers between the East and the West freed the people of the USSR from totalitarianism, but the social changes occurring in the countries of the former Soviet Union gave rise to a whole new set of difficulties: interethnic conflicts, unemployment and other economic problems, increased illegal migration, terrorism, organised crime and corruption. Criminal groups took advantage of the situation and became more involved in drug dealing and prostitution. Human trafficking, a new crime in the former Soviet Union, also grew into a highly attractive and lucrative business. In the Soviet era, borders were tightly controlled and movement limited. Therefore, human trafficking, or transporting people across borders for financial gain, did not occur before 1991. When the Soviet Union collapsed, law enforcement agencies and border control troops were unprepared for the massive migration flows and the rise in criminality that quickly took root. New criminal structures created expanding transnational networks for prostitution and exporting young people abroad for various forms of labour exploitation.

The author’s research has shown that in Georgia, negative tendencies in the migratory processes emerged at the beginning of the 1990s. This marked the beginning of organised commercial export of people with the purpose of exploitation, i.e. so-called “human trafficking” or “white slavery”. Trafficking has become a very lucrative business in Georgia, involving both professional criminals and high-level state officials.

As the analysis of the data from the Ministry of Internal Affairs has shown, Georgian criminal clans, headed by the so-called “Thieves-in-Law”², are actively expanding their transnational connections, participating in the organisation of the trafficking throughout the former Soviet Union, especially in Russia and Ukraine.³ They are striving for gaining more influence in other countries as well, the richest western states in particular. Recently, a whole network of criminal organisations has established a foothold in USA and some other countries. The said organisation is involved in trafficking from Georgia, and consists of some recent Georgian immigrants as well as professional criminals. Organisations interact with criminal groups of the former USSR, creating a so-called transnational network of trafficking that recruits, transports and exploits people for the purpose of obtaining material profit. According to a non-governmental agency, in recent years, more than 160 cases of sexual exploitation of Georgian women have been reported in Western Europe, Israel and USA.⁴ According to expert data, more than 5,000 Georgian women have been forced into prostitution through the trafficking network, and even more people have been subjected to exploitation as cheap manpower or victims of deception.⁵

2 More information – J. Finckenauer, E. Waring - Russian Mafia in America. Immigration, Culture and Crime Boston 1998, pp 107–110; J. Serio and V. Radzinkin “Thieves Professing the Code: The Traditional Role of Vory v Zakone in Russia’s Criminal World and Adaptations in New Social Reality,” CJ Europe Online. Web.doc www.acsp.uic.edu

3 G. Glonti – Problems Associated with Organised Crime in Georgia, Researches project. Tbilisi, 2000

4 V. Sulashvili – Materials of International Conference April 2001

5 I. Tchovrebashvili – Researches Proposal 2000, The Institute of legal reform of Georgia

We can name the main reasons for trafficking in Georgia:

Political destabilisation and massive migration of population from Georgia

Migration processes have occurred in waves in several stages:

1. In the beginning of the 1990s, emigration of the Russian population began. Since then more than 200,000 citizens have left for permanent residence in Russia. Within a few years, Georgia lost a significant part of its technical and qualified labour force traditionally belonging to the Russian Diaspora.
2. In 1992–1993, ethnic conflicts in South Ossetia and Abkhazia led to internal migratory processes. As a result, more than 300,000 people were forced to leave their homes and become refugees in various regions of Georgia.
3. From 1995 to the present, economic crisis, unemployment, and the resulting migration have affected not only national minorities, but also ethnic Georgians.

According to the census data from 1987 to 2003, the population of Georgia has reduced from 5.6 million to 4.3 million.⁶ The number of inhabitants has thus decreased by 1.3 million or nearly 25%, but if parameters of natural population growth are taken into account, the reduction is close to 30%. Researchers unequivocally regard this as a demographic disaster. It is worth noting that demographic losses have to a great extent concerned the young, able-bodied population which can emigrate and adjust to other countries.

Poverty

UN data on Georgia shows that between 1990 and 1995, the standard of living decreased to almost one-seventh: from 2,250 dollars per capita per year to 370 dollars.⁷ As a result, in 2002, about 80% of the population lived below the poverty line, making less than the living wage of approximately 50 dollars a month.

Prostitution

In Georgia, especially in Tbilisi and the cities near the Turkish border, prostitution has quickly developed into a form of organised criminal business. The number of brothels has increased, and there is also a significant number of street prostitutes. These facts are indirectly confirmed by data on the growth of venereal diseases: from 1990 to 1997, the number of venereal diseases nearly quintupled.

According to Interpol data, in 1997, 98 Georgian citizens were detained for prostitution by the Turkish police, and 4 by the Greek police. According to the Institute of legal reforms, up to 5,000 Georgians are engaged in this activity in the specified countries.

6 Materials of State Statistical Department, Tbilisi, Georgia 2003

7 UN Report Committee of the elimination of discrimination against women, Georgia, 55. 10/030/1998.

Children's homelessness

Neglected and homeless children have turned out to be the primary victims of the situation. Many have become street children, spending most of their time on the streets and earning money by begging and stealing. A private voluntary organisation, Child and Environment, noted a dramatic rise in homeless children following the collapse of the Soviet Union. It estimates that there are now more than 2,500 street children in Tbilisi due to the inability of orphanages and other social service institutions to provide with adequate care. Many homeless children survive by turning to criminal activity, narcotics, and prostitution.⁸ In 1997, internal affairs agencies registered 50 underage girls found guilty of prostitution.⁹

Imperfection of legal mechanisms in protecting victims of trafficking.

Georgian legislation needs complex anti-trafficking laws which should include:

1. The organisational basis for fighting trafficking (list of organisations responsible for combating trafficking; rights and responsibilities)
2. The legal basis
 - amendments and changes to Criminal, criminal-procedural, civil and administrative Codes and the legislation on the control of immigration, necessary for preventing and fighting human trafficking.
 - Special instructions for Georgian Consular services abroad on rendering assistance to the victims of “human trafficking”
 - harmonisation of Georgian legislation with international standards
3. Measures of rehabilitation. The organisation of special centres providing assistance to victims
4. Preventive measures: plans how to work with the potential victims of human trafficking, how to decrease professional prostitution, vagrancy and drug addiction in the country
5. Measures for international co-operation with receiving (recipient) countries
6. Sources of financing anti-trafficking law and prevention programmes

The high level of illegal migration and trafficking has drawn sharp criticism against Georgian government from many international organisations and local NGOs. However, up to the middle of 2003, authorities did not pay due attention to these phenomena and failed to carry out the necessary legal reforms.

It is particularly regrettable that the Parliament of Georgia has not yet ratified the United Nations Convention against transnational organised crime, signed by the Minister of Justice of Georgia in Palermo, Italy, on 15 December 2000.

The situation has triggered negative consequences: In the report on human trafficking prepared for the U.S. Congress in June 2003, Georgia was categorised as a “Tier 3” country under the provisions of the U.S. government’s Trafficking Victims Protection Act of 2000”, i.e. as a country that fails to meet the

8 US Dept of State, Country Reports on Human Rights Practices – 2000, February 2001, citing Child and Environment report

9 UN CEDAW/C/GEO/1 March 1998 <http://www.un.org/womenwatch/daw/cedaw/cedaw21/georgia.htm>

minimum standards of combating human trafficking.¹⁰ In the previous report of 2002, Georgia was among “Tier 2” countries. The bases for categorising are not very clear, because in many countries, especially those of the former Soviet Union, the conditions of trafficking are the same or even worse.

The U.S. Congress has threatened to take severe measures against the countries that do not fight trafficking, and to deny governmental credits and grants. This would cause serious problems for Georgia, because about 1/4 of its budget comes from the U.S. (over the past 10 years, US financial support has amounted to more than 1 billion). US sanctions would undoubtedly result in a collapse of Georgian economy and in political destabilisation. The threat has, however, provided an effective stimulus for Georgian authorities to improve the situation with trafficking. It forced the Parliament of Georgia to show activity and hastily ratify several anti-trafficking laws, including additions and amendments to criminal and criminal-procedural codes.

After the said changes, the U.S. Congress decided to reverse its decision, and on 11 June 2003, Georgia was returned to “Tier 2”.¹¹

Unfortunately, it seems that changes to anti-trafficking laws that are made under the pressure of the international community are not enough to promote fundamental improvements in the situation.

Criminal Characteristics of Trafficking in Georgia

Research has shown that it is possible to name three basic stages *of trafficking from Georgia*:

1. Recruitment of the victim;
2. Transit of the victim (crossing international borders);
3. Exploitation (illegal use of the physical abilities of a person with the purpose of gaining profit).

The first two stages of trafficking are carried out in Georgian territory, while exploitation usually occurs in some third country, beyond the jurisdiction of Georgia.

1. Recruitment

It is a fact that a majority of Georgians aspire to go abroad. They do so on their own initiative and voluntarily, driven by the difficult economic situation in the country. However, the realisation of the plan is often difficult, because western consulates impose restrictive visa policies to reduce the number of illegal labour migrants. People then turn to agents, middlemen or agencies who are specialised in getting visas, and who promise to solve the problem. Such individuals and

10 Trafficking in Persons Report, June 2003 US - www.state.gov/g/tip/rls/tiprpt/2003/

11 United States Recognizes Georgia's Progress against Human Trafficking Public Affair Section / Embassy of US in Georgia http://georgia.usembassy.gov/releases/Sept11_03.htm

agencies actively advertise their services in mass media, but also resort to more veiled forms of labour recruitment.

The criminal activity starts with the registration of travel documents.

According to IOM International, a majority of the victims of trafficking (84.5%) request help from travel agents and visa brokers to depart from the country, and pay directly for the intermediary services. 13% of the victims refrain from saying how they obtained visas, and only 2.5% receive visas without go-betweens.¹²

On the grounds of the kinds of services offered we can distinguish different types of agencies:

1. agencies providing legal tourist visas, insurances and other required travel documents.
2. agencies providing legal visas and organising illegal jobs abroad.
3. agencies providing false documents or organising illegal entry to a country.
4. agencies specialised in trafficking young women and providing travel documents, transportation, and employment abroad.
5. agencies specialised in frauds, promising to provide travel documents and highly paid work abroad, but not fulfilling their obligations.

As research has shown, there are no firms in Georgia which would have the right and possibility to organise legal employment for citizens abroad, which would meet all the necessary requirements, and would have a universal (uniform, standard, approved by state) form of contract with the client.

A majority of the illegitimate firms have a “roof”, meaning that they are controlled by organised crime. The organisations, especially those that provide clients with legal documents, have close contacts with officials, sometimes with the highest echelons of power. For example, there is evidence that governmental delegations have been used to smuggle people abroad.

A more widespread method of smuggling people is to give them so-called artistic or sports visas, and to include them in a well-known arts group, ensemble or sports team that frequently travels abroad. In some cases, officials have connived to form fictitious groups for the sole purpose of obtaining legal visas. Such frauds are usually executed by highly organised groups of criminals, controlled by “thieves in the law” or other criminal authorities. The cost of such services varies from \$1,500 to \$10,000 depending on the country of destination.

Some agencies are specialised in smuggling people to specific countries, such as Greece. The standard price—\$1,500. The Bulgarian/Greek border, the so-called “green corridor”, is usually crossed with the assistance of local smugglers.¹³

Some agencies and individuals are specialised in manufacturing false passports and other documents. Normally the following procedure is used: criminals acquire a passport of a person who has a valid visa for a western country, and re-

12 International Organization for Migration (IOM), 2001 report on trafficking titled “Hardship Abroad or Hunger at Home,” 14

13 International Organization for Migration (IOM), 2001 report on trafficking entitled “Hardship Abroad or Hunger at Home,” 23

place the photo in the passport with that of another person. Such falsification is easily feasible since the photographs in Georgian passports issued for travelling abroad are not affixed by seal or other means of protection. As a result of this negligence, hundreds or even thousands of people have migrated illegally. It is also quite common that passport service officers help people who have been refused a visa to acquire a new passport with a different surname.

In my opinion, there is no clear-cut distinction between human trafficking and other forms of illegal migration from Georgia. Frequently the same firms are engaged in the organisation of trafficking and illegal migration, using the same methods of recruitment and transportation, and the same intermediaries for getting visas.

However, the victims of trafficking are somewhat different from other illegal migrants:

1. Victims of trafficking are more often women.
2. Victims of trafficking are usually younger than other migrants.
3. Victims of trafficking are more often unmarried, divorced or live alone.
4. Victims of trafficking more often have no prior experience of staying abroad.
5. Victims of trafficking more willingly entrust themselves to dishonest middlemen.
6. Victims of trafficking more often come from rural areas.
7. Victims of trafficking more often have a lower level of education, and are less familiar with their rights.

Practice has shown that middlemen tend to give preference to the organisation of trafficking in women over illegal migration, because it is more profitable.

There are different ways of recruiting girls with the purpose of involving them in sex business:

1. Recruiters contact professional prostitutes working in brothels, and suggest they continue their business abroad.
2. Recruiters invite girls to work as models, waitresses, dancers or maids, and then voluntarily or violently engage them in prostitution.
3. Recruiters blackmail girls who owe to commercial organisations or private persons, and force them to be engaged in prostitution to pay their debts.
4. Recruiters addict girls to drugs, take them abroad and then force them to be engaged in prostitution in exchange for drugs.

The commission per girl is \$2,000–5,000 depending on her age and physical appearance.

2. Transit

A majority of illegal migrants go to the country of destination in the company of other migrants. In 61% of the cases, the group is accompanied by its “enlister” or an assistant to the agent.

Transit is carried out in different ways, depending on the legality of the migrants’ transportation. Studies show that approximately 72% of the migrants

cross the border legally and by using an optimum means of transport in terms of cost and time. In other cases, the migrants are treated as “contraband”.

Firms that are specialised in smuggling people organise the manufacturing of false documents, develop complex routes of transit, and have close ties with international organised crime.

For example, in 2001, a criminal group recruited five Georgians (women) to work in the USA, took them first to Russia, where they were given Russian international passports, then moved them to the port of Kaliningrad, and onward to the USA by ship. Not one of the five women would have received American visa through official channels, and one of them had already been deported from the country.¹⁴

In recent years the amount of illicit human smuggling organised by travel agencies has increased in Georgia. This owes to the fact that many consulates have tightened their visa requirements, but also to the increasing number of Georgians who have become *personae non grata* in different countries for different offences.

One of the most popular illicit routes runs from Georgia via Turkey and Bulgaria to Greece. Usually Georgian migrant groups use Bulgarian smugglers to get across the Bulgarian-Greek border, also known as the “green corridor”. In 2001 a tragic incident occurred when four Georgians were found frozen to death at the mountains after attempting to cross the border in winter.

The international ties of traffickers are impressive, and over the last five years new routes of trafficking have been established, including:

- Georgia–Turkey–Bulgaria–Macedonia–Greece
- Georgia–Latvia–Poland–Germany
- Georgia–Czech Republic–Germany
- Georgia–Russia–Mexico–the USA¹⁵

Sometimes air routes from Europe to Central American countries are used. The flights transit through the USA (Miami), where migrants disembark the plane and stay illegally in the country.

In 2001, a group of Georgian citizens travelled via Armenia and Amsterdam to Panama, and from there to Mexico. When they tried to enter the USA, they were, however, apprehended by customs authorities and returned to Mexico with no means.

In practice, many illegal migrants manage to reach the desired country safely through the ramified network of transnational organised crime to which Georgian criminal organisations also belong. Trade in people has become such a lucrative business that criminal organisations take pains to perfect the chain from recruitment and transportation to safe exploitation of potential slaves in host countries.

14 Information collected by NGO “FCRS”

15 Researches carried out by the Institute of Legal Reform Tbilisi 2002

3. Exploitation

A majority of migrants who become victims of trafficking are employed abroad through intermediary travel companies and agencies which operate legally in Georgia.

Usually migrants are accompanied by traffickers all the way to their final destination, i.e. place of work. Transit routes to the USA and Greece are especially closely monitored since traffickers tend to have close connections to Georgian Diasporas and emigrants.

As a rule, conditions which migrants meet in the country of destination do not correspond to the promises given by the travel agency in Georgia.

Research has shown that trafficking from Georgia is carried out for the purpose of:

1. acquiring slave labour
2. sexual exploitation (prostitution and porno business)
3. adoption (trade in minors)
4. trafficking in organs (obtaining transplants).
5. using women as substitute mothers ¹⁶

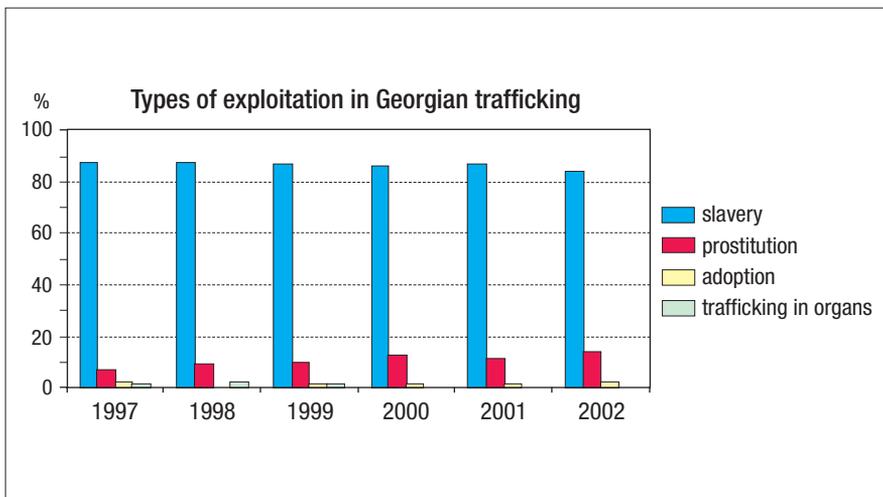


Figure 1. Types of exploitation to which Georgian victims of trafficking have been subjected.

As the Figure 1 above indicates, most Georgian victims of exploitation (approx. 90% of all cases) are engaged in slave or forced labour. The second largest group (8–10%) is formed by victims of sexual exploitation including porno business. Although a majority of them are engaged in regular prostitution, some are periodically exposed to sexual exploitation in their primary work of serving,

16 Glonti G. – Trafficking in Georgia Tbilisi, 2003 newspaper “Criminal Chronic”

cleaning, waiting tables, etc. Over the last few years there have been some reported cases of child trafficking, and one case of using a woman as a substitute mother.

It is worth noting that not all Georgians who go abroad to earn a living fall into the hands of criminals and are exposed to slave-like exploitation. Many of our fellow citizens find well-paid (especially by Georgian standards) work in the European Community or North America as maids, nurses, cooks, construction workers, unskilled workers, seasonal workers, etc. They are even able to help their families and relatives in Georgia. However, if the job, any kind of job, has been obtained illegally, our compatriots abroad are regarded as offenders, and cannot usually expect to be protected by labour and basic human rights. They can be left to do dirty and harmful work for employers who disregard safety precautions and responsibility in case of an occupational accident or even death. Practically none of the Georgian workers have a medical insurance policy or means to get by in case of a trauma or illness.

Any illegal work abroad is, therefore, coupled with major, and frequently unjustified, risks.

In spite of the fact that sexual exploitation constitutes only 1/10 of all trafficking cases, as a phenomenon, it is regarded as the most scandalous and unacceptable by the international community.

As the pie chart (Figure 2) shows, about 69% of sexual exploitation falls into the category of regular professional prostitution, while 22% of the victims are exposed to periodic sexual exploitation. Strip dancing is significantly more rare (7%), probably owing to the fact that dancers must have special skills and certain type of physical appearance. Only 2% of the victims are engaged in porno busi-

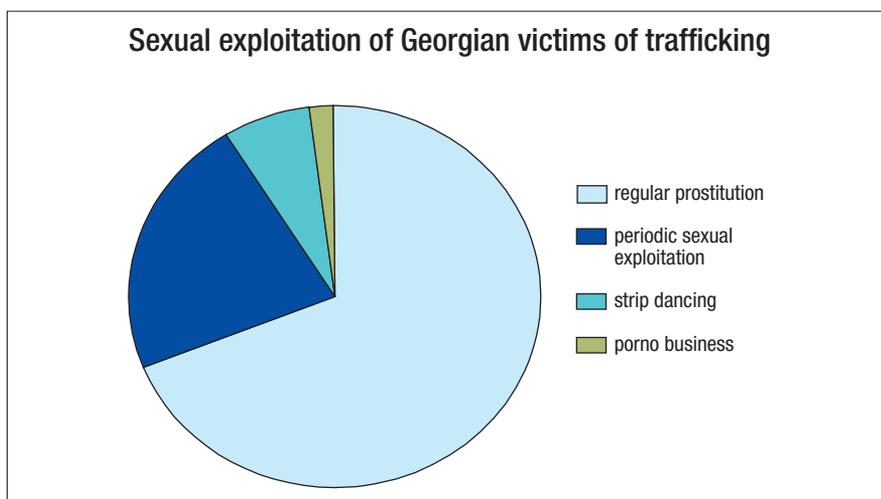


Figure 2. Types of sexual exploitation.

ness. Porno business is particularly difficult to measure and prevent also in Georgia since it spreads through the Internet, as well as the film and photo industry.

Studies show that about 60% of the young women working illegally abroad in sectors not connected with prostitution, have been subjected to sexual violence or serious harassment by their employers.

As far as trafficking in organs is concerned, scandalous stories connected to this phenomenon are frequently published in the press. On the other hand, representatives of law enforcement bodies claim that no such cases have been recorded in Georgia. However, V. Tsurkanu, Minister of Internal Affairs of the Republic of Moldova, has stated that certain organised Georgian groups participate in the international trade of human organs. In his opinion, there is an established international network through which healthy young Moldavian men (as a rule unemployed or earning minimum wage) between the ages of twenty-five and thirty, sell their organs either voluntarily or by force. The said network allegedly operates in the following way: Donors are recruited (mostly from the poor Southern Moldova) and transported to Istanbul by minibuses. There they are monitored for a week, and if their health is in order, they are taken to Georgia. In Tbilisi, they are usually accommodated in a hotel called "Ajara". After additional medical inspection they are operated in a nearby hospital. From Tbilisi, the donors return home to Moldova USD 3,000 richer, while their kidneys go to Turkey. The organs, kidneys in particular, are later sold in Germany for USD 30,000. The Ministry of Internal Affairs of Georgia has conducted an official investigation into this matter, but found no proof of the existence of such a network.¹⁷

Although we do not know whether this information is true or not, we do know that there are well-equipped clinics in Tbilisi where the removal and preservation of human organs would be technically possible.

A majority of the crimes connected with trafficking in Georgia, especially those of a sexual nature, are marked by high latency, i.e. victims seldom report them to law enforcement bodies. It is hardly surprising that victims refuse to describe how they worked abroad as prostitutes and had sexual contacts with a number of men every day. In Georgia, latency in all sexual crimes is common, more than 95%. This means that of every 100 crimes of sexual violence, only five are reported.

It is also worth mentioning that even if the victim of trafficking decides to come forward, lack of appropriate experience and legislative tools prevents the police and the Public Prosecutor's Office from providing qualified help.

In conclusion, I would like to express my opinion: the problem of human trafficking cannot be solved with a single campaign in a single country. Combating this negative phenomenon should become a part of international policy, constructed on a complex programme including organisational, legislative, administrative, financial, scientific, propagandistic and other measures.

¹⁷ Analytical materials Ministry of internal affairs of Georgia 1998–1999

Social Co-ordinates of the Use of and Experimentation with Drugs among Young People in the European Part of Russia—the Example of Tatarstan

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The use of illegal drugs by some Russian youths has become a relatively widespread and statistically stable phenomenon. The social co-ordinates of the use of and experimentation with narcotic substances among young people in the European part of Russia can be assessed by the results of a research carried out in Tatarstan under the supervision of the author of the present article. Tatarstan and the other regions of the Volga-Basin (Ulyanovsk, Samara areas) are situated on a drug trafficking route from Central Asia to the central part of Russia and to Western Europe. The use of and experimentation with narcotic substances among young people was studied with a formalised interview method at homes and in the streets in November 2002. The sample of 1,100 units of analysis adequately represents the youth community between the ages 14 to 29. The sample is characterised by the following values: sex—52.2 per cent men and 47.8 per cent women; age—41.3 per cent in age group 14–19-year-olds; 23.6 per cent in age group 20–23-year-olds; 35 per cent 24–29-year-olds; ethnicity—50 per cent Tatars, 45.6 per cent Russian, and 4.7 per cent representatives of other ethnic groups. The methods of respondent selection and research technique have been described in detail in earlier literature (Komlev 2003, 28–33). The present article is devoted to the description and comparison of levels, degree of activity, and other social parameters of the use of and experimentation with narcotic substances among young people in Tatarstan, also typical of other areas of Russia.

According to the study, the level of drug experiences among young people (all forms of experiences) in the region is 25.6 per cent. This number characterises the external diameter of a ‘drug funnel’. More detailed study reveals that 19.3 per cent of respondents have used drugs once or several times. 1.6 per cent have been actively using drugs earlier, but have stopped. At present, 4.7 per cent of the youth are using drugs actively and on a regular basis, including hard drugs. This population of active drug addicts represents the internal diameter of the youth ‘drug funnel’, and can form a reliable empirical basis for an estimation of the quantity of drug addicts among young people between 14 and 29 years of age.

The regional centre, Kazan, shows a general level of youth drug use of 25.8 per cent. 19.0 per cent of young Kazanians have experimented with drugs once or several times. 1.6 per cent have been using drugs actively earlier, but stopped. At present, 5.2 per cent of the youth are active drug addicts. The situation in other

cities is more complicated. As the received data show, the general rate of drug use there is 28.1 per cent. 21.5 per cent of urban youth have experimented with drugs once or several times. 1.7 per cent of young men have used drugs actively earlier, but stopped. At the moment, 4.8 per cent of respondents are actively using drugs, including hard drugs.

The level of drug use in rural areas is considerably lower at 19.8 per cent. There, 14.9 per cent of respondents have experimented with drugs at least once. 1.2 per cent of rural youths have been actively using drugs earlier, but stopped. At the moment, 3.7 per cent of respondents are using drugs actively, including hard drugs.

A comparison of the Tatarstan data with the results of Keselman's research of Samara area reveals many similarities. For example, the vox pop survey shows that in Samara, the general level of drug use among urban youths is 30 per cent (same as in Tatarstan).

What is surprising is the uneven distribution of youth drug use in the urban environment. The research data show that the general drug use level in Naberezhnye Chelny, the second largest city of Tatarstan, is 27.3 per cent, and thus higher than in Kazan. The highest level of general drug use in Tatarstan is registered in Bugulma, where 58.7 percent of all youths have used drugs in one way or the other. Most have experimented with cannabinoids once or several times instead of using drugs systematically. The situation in this small city in the southeast of Tatarstan results from its proximity to the borders of three large regions (Bashkiria, Samara area, and Orenburg area), where one of the drug traffic routes runs. According to research data, this city is also distinguished by a relatively high crime rate and corruption of law enforcement bodies. As a result, there is not enough formal and informal social control to prevent the expansion of drug use.

The research data show that of those who have tried drugs at least once, 76.1 per cent are young people. The Samara area data show that 97.1 per cent of drug users used cannabinoids (Keselman 1998, 45).

The situation among the young is characterised by a spread of 'light' drugs, which are more available due to their low price. Young people as a rule do not consider 'grass' to be a drug, and do not define themselves as drug addicts. The notion that marijuana is not dangerous, and that one can easily stop using it at will is widespread among the youth. Law enforcement agencies counteract mainly the expansion of heroin and other 'hard' drugs, and underestimate the danger of cannabinoid proliferation.

All other drugs are much less known by the youth. 14 per cent of respondents with drug use experience have tested various opiates, 5.8 per cent heroin, 3.7 per cent 'poppy straw' (an opiate derivative), and 2.9 per cent opium. In the Samara area, the rate of opium and opiates users among all drug users is considerably higher at 21.8 per cent (Keselman 1998, 45). Only 1.4 per cent of Tatarstan youths have tested cocaine and coca derivatives. 9.8 per cent of respondents with drug use experience have used phenylalkylamines (amphetamine, metamphetamine, methadone, ephedrine, 'ecstasy', and other central nervous system stimulants). The most popular of these substances is amphetamine. Its use is reported by 4.7 per cent of respondents with drug use experience. In addition, some

have experienced the euphoria effect by inhaling acetone fumes, 'Moment' glue (universal glue made of acetone) or different aerosols. This is reported by 4.7 per cent of respondents. Barbiturates and hallucinogens are not widespread in the region.

Drug use among the young is clearly gender-, socio-professional status- and age-dependent: The general drug use level among young males below the age of 30 is 37 per cent, but considerably lower among young females—13.1 per cent. The Samara data show somewhat higher levels of drug use among the latter (males—34 per cent, females—16.6 per cent). A similar pattern has also been observed by other Russian researchers (Gilinsky and Afanasiev 1993, 78).

According to the 2002 census data, the Tatarstan youth community is bi-ethnic, with approximately an equal number of Tatars and Russians. Tatars dominate in rural areas and small towns. The youth community also includes other ethnic groups: chuvash, mari, udmurt, as well as representatives of other ethnic regions of Russia. The present research was conducted by dividing the young into three groups: Russians, Tatars, and other. It was found that curves of drug use activity distribution are identical, but the levels of drug use differ. The general drug use level among Tatars is 23.9 per cent (3.9 per cent active drug users). Russian youth show a somewhat higher drug use level—25.7 per cent (5.3 per cent active users). The research indicates that the situation in large cities where there are no noticeable ethnic-cultural differences between Tatars and Russians (same language, similar values, identical forms of recreation, same interests) is characterised by equal drug use levels, e.g. in Kazan they are practically the same. What is surprising is the dynamics of drug use among the other ethnic groups. Calculations show that these youth are more involved in drug use, the general level being 39.3 per cent. This phenomenon needs more profound research.

Our attention was drawn to the relatively high proportion of young males among drug users (27.3 per cent), and also to the frequency of their drug use (7.3 per cent active users). Another important observation is that males in both rural and urban areas have approximately identical drug use levels regardless of their ethnic background. The situation in Tatarstan indicates a masculinisation of youth drug use that is typical also of the other regions in central Russia.

Drug use is not generally typical for females from rural areas. This may be caused by the ethnic-confessional specific features of young Tatar females which in rural areas prevail over females of other ethnic origins. Provincial Tatar females are more oriented towards the norms of traditionally male-oriented behaviour.

At age 20–21, the involvement in drug use slightly increases to the rate of 30 per cent. This figure is the highest in the Samara region—38 per cent (Keselman 1998, 50). This group also uses more drugs than the others, since 10 per cent of its drug users use drugs actively. In the age group of 22–23-year-olds, the general level of drug use reaches its maximum—33.3 per cent. This group shows a lesser number of active drug users (3.8 per cent) and an increasing number of those who refer to drug use at an earlier period of life (4.5 per cent). In sum, the general drug use level increases rapidly between the ages 14 to 23.

Analysis of gender and age features can lead us to the conclusion that young men between 14 and 16 years of age, irrespectively of their family status and other characteristics, belong to the group with the highest risk of contact with narcotic substances. According to the received data, the level of the use of and experimentation with narcotic substances among 16–17-year-olds is twice that of 14–15-year-olds, and continues to increase.

The survey shows that the socially disadvantaged, often unemployed, demonstrate rather a high level of drug use. Most of them are people whose social and professional position is weak, and who are perceived as outsiders by the general public. 35.5 per cent of the jobless youth are addicted to drugs. 10.5 per cent of them are active drug users.

The involvement in drug use is high also among the students of vocational schools (35.5 per cent) and the working-class youth engaged in manual labour (34.1 per cent). However, these two groups differ in the rate of active drug users (4 per cent and 7.2 per cent respectively). The situation among college students is not much better: 31.1 per cent of them are involved in drug use, 8.1 per cent actively. The general drug use level in this category in Kazan is extremely high, reaching 44.5 per cent. The working and studying youth rank high in the level of criminalisation, too. Young people are responsible for most registered offences which also adds to the increase in the number of drug distributors and users.

The use of and experimentation with narcotic substances is also rather widespread in universities. 29 per cent of university students are involved in drug use, and 8.3 per cent are active users. Young qualified professionals and ‘white collar’ workers also show high levels of involvement in drug use (26.8 and 21 per cent respectively).

The survey data show that school students have a relatively low drug use level (9.7 per cent) because they are only in the beginning of their drug addiction route.

The survey data show that the use of and experimentation with narcotic substances is widespread in many social groups of Russian society. It would be quite logical to think that the higher the level of education (and culture), the lower the level of drug use. In practice the correlation between these two factors is not so simple, and depends on the indirect influence of many other socio-cultural and socio-structural indices. According to the Samara area survey data, ‘educational type influence on the level of use of and experimentation with narcotic substances can be characterized as weak and contradictory’ (Keselman 1998, 56). The Tatarstan survey shows that there is some correlation between education and the use of and experimentation with narcotic substances, but that it is very specific, and can be observed only at the level of definite socio-territorial communities. The level of the use of and experimentation with narcotic substances is the highest among the youth with only secondary education (30.7 per cent, with 7.9 per cent active drug users). They are over 17 years old and have graduated from a secondary school. The youth graduated from or attending a university show a drug use level of 26.7 per cent (with 3.7 per cent active drug users).

The first possible conclusion is that people with no higher education are more involved in drug use than those who have graduated from or are presently studying in a university. However, analysis of the Kazan city data makes it possible to draw an opposite conclusion.

Young Kazanians with higher education show a drug use level of 34.9 per cent (with 7 per cent active users). For those whose educational level is lower, the same figure is 29.3 per cent (8.6 per cent active users). This phenomenon can perhaps be understood by examining some social and socio-cultural factors that are more dominant in the regional centre than in peripheral territories. In provincial communities, the social and demographic structure and mentality are somewhat different than in urban environments. Empirically defined differences can be explained by the influence of the following factors, including (1) relatively high proportion of Kazanians under the age of 30 with higher education; (2) prevalence of 'major' drug use among well-to-do youth; (3) higher anonymity of drug use and better availability; (4) growing prevalence of double standards among the youth. Provincial and rural uneducated youths are to a lesser extent drug-addicted than their educated peers. This dependency provides a more general picture of drug use in the region.

One of the research objectives was to test the hypothesis about the correlation between the general drug use level of the youth, and the average per capita family income. It was discovered that these two factors are indeed interrelated, but not as straightforwardly as it was assumed. Drugs are expensive in Russia, and available only for those whose economic status is high enough, or who can get money illegally.

The received data show that the proportion of young people involved in drug use grows with the increase in average per capita income and economic status of families. Among those respondents whose average per capita family income is less than 1,500 rubles (about \$50 in 2000), the general drug use level is 23.7 per cent (with 3.8 per cent active drug users). If the average per capita income exceeds 4,500 rubles (\$150), the drug use level is 33–37 per cent (11 per cent active drug users).

The higher economic status to some extent adds to drug usage. Although this relation is very complex and mediated by other social factors, the milieu of well-to-do young people shows many examples of the so-called 'major' drug usage.

The use of and experimentation with narcotic substances among young people has rather complicated social co-ordinates. This is evident not only among those young people whose social position is less favourable, but also in case of economically advantaged families. However, the prevalence of drug-addiction is higher among the socially disadvantaged youth than those from well-to-do families.

Under the conditions of market economy, all employers need qualified professionals, and sustainable future is guaranteed only to those who can be successful in professional competition. The transition towards market economy has changed the youth's values, and stimulated their economic aspirations. Realisation of ambiguous plans and orientation towards economically successful life strategies is not unproblematic for the majority of young people. This is mainly caused by the fact that economic transformation processes have deprived many youths of the available channels of vertical social mobility needed for the development of socially favoured careers. Most professional activities are not profitable or attractive enough for the youth. Social experience of the disadvantaged

parents has stopped being a guiding line for them. Their own choice of profession is very often unsuccessful. As a result they are faced with diminishing life prospects, disappointment in life, lack of faith in their own vigour. Often such a situation leads young people to the use of and experimentation with narcotic substances and illegal activities.

Failure of socialisation, broken families and the consequent lack of social control are the main reasons for the increase in the use of and experimentation with narcotic substances among young people. It is not surprising that the lowest drug use level is registered in extended families (19.8 per cent). In single-parent families (father or mother with children) the general drug use level does not exceed 30 per cent. The figure climbs to 35.7 per cent if children are brought up by grandparents. If the youngster lives outside any kind of family structure, the drug use level reaches its maximum—38.2 per cent. The disintegration of family structure leads to decreasing parental influence and diminished ability to prevent youth's or teenagers' drug use.

In conclusion, the social research of the use of and experimentation with narcotic substances among young people in Tatarstan allowed the description of the main social co-ordinates of the phenomenon typical of the central Russia. Its results prove that actual drug usage is approximately 11 times more common than what official statistics indicate. The use of and experimentation with narcotic substances spreads rather quickly but irregularly in the youth milieu affecting those parts of society where socialisation and social control have weakened, employment is replaced by unemployment and crime, and where social consciousness is experiencing a prolonged normative anomie and deprivation of values.

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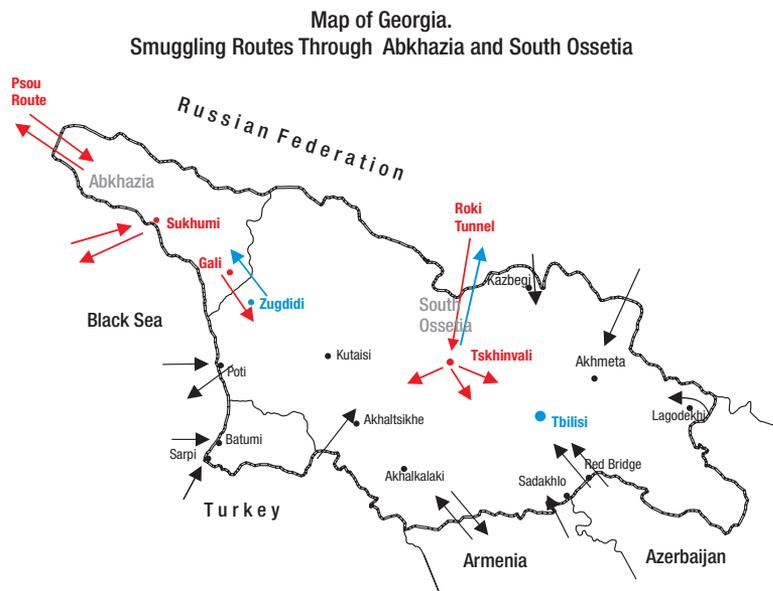
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Organized Crime and Smuggling Through Abkhazia and South Ossetia

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General Description of the Situation

Georgia is located in the Caucasus on the eastern coast of the Black Sea. The length of its total land border is 1,461 km, and the coastline—310 km. Its border countries are: Russia in the North (723 km), Azerbaijan in the East (322 km), Armenia in the south-east (164 km), and Turkey in the south-west (252 km).¹ Due to armed civil conflicts at the beginning of the 1990s, two of its secessionist regions—Abkhazia and South Ossetia—are outside the jurisdiction of the Government of Georgia, and parts of Georgian border are thus uncontrolled and transparent. Both Abkhazia and South Ossetia border on Russia. The Abkhaz part of the Georgian-Russian border is 197 km long, and its sea border 200 km. The South Ossetian part of the Georgian border with Russia is only 66 km long (see Map of Georgia below).²



1 Georgia. *The World Factbook*, August 1, 2003; <http://www.odci.gov/cia/publications/factbook/geos/gg.html>
2 Interview with representatives of State Border Guards of Georgia, October 2003.

By 2003, contraband trade had become a severe problem in Georgia. Its catastrophic growth started in 1998, and in five years time it began to threaten the very national security of the country. It stimulated corruption, creation of powerful criminal clans, and association of the criminal world with political groupings, representatives of central, regional and local authorities, and law enforcement structures of the country. It also led to the involvement of the poor part of the population in criminal activities.

The problem of contraband trade through Abkhazia and South Ossetia is worsened by the fact that it is closely connected to the problem of separatism, unresolved armed conflicts, violence in these regions, and transparency of borders.

As it is known, there were armed conflicts in South Ossetia in 1991–1992, and in Abkhazia in 1992–1993. They led to heavy casualties (one thousand and ten thousand lives respectively) on both sides. With Russia's military support, separatists of both regions won their wars, and declared *de facto* independence, while remaining *de jure* part of Georgia. In Abkhazia, more than two hundred thousand refugees and internally displaced persons (IDPs) (mostly of Georgian ethnicity) have been expelled from their homes, and those who have stayed are living in beggary and nakedness.³ Most refugees and IDPs living outside Abkhazia have it even worse.

Self-proclaimed republics increased the concentration of weapons among the population, especially in the criminal world.

Sanctions Against Secessionist Government of Abkhazia

Three years after the end of the war in Abkhazia, a decision taken by the Council of the Heads of States of the Commonwealth of Independent States **on Measures for Settlement of the Conflict in Abkhazia, Georgia** (19 January, 1996), declared, that:

“6. Confirming, that Abkhazia is an integral part of Georgia, the member-states of the Commonwealth of Independent States, without consent of the government of Georgia:

a) will not exercise trade-economic, financial, transport or other operations with the authorities of the Abkhaz side;

7. Member-states of the Commonwealth of Independent States will not permit the functioning of representations of the authorities of neither the Abkhaz side in their territories, nor the persons in a capacity of official representative of those authorities.”⁴

According to this statement, all import-export operations, which are not agreed upon or approved by the Georgian government, are illegal and contraband trade. This seriously hinders the ability of the secessionist government to develop offi-

3 UN: *Abkhazia Within Georgia Still The Basis of Talks, Says Envoy*. By Robert McMahon; <http://www.rferl.org/nca/features/2002/12/11122002222246.asp>; Radio Free Europe / Radio Liberty, Inc.

4 Regional Conflicts in Georgia—the Autonomous Oblast of South Ossetia, the Autonomous Republic of Abkhazia (1989–2002). The Collection of Political-Legal Acts. Tbilisi 2003, p.170.

cial foreign economic relations. As a result, instead of respectable international companies, shadow businesses with possible money laundering schemes have established links with the territory of Abkhazia. In addition, Russian state and private companies are often directly involved in business operations in Abkhazia. This is in violation of the Russian government's own obligations based on the 19 January agreement. On November 7, 1997 Mr. Chernomyrdin, the Russian Prime Minister, signed a Decree issued by the Government of the Russian Federation **on Importing of Citrus Fruits and Some Other Agricultural Products to the Russian Federation**, and on June 24, 1998 the State Duma issued a Decree of the Federal Assembly of the Russian Federation **on Normalization of Border and Customs Regimes along the Abkhazion of the Border of the Russian Federation**. This marked a new strategy on the part of the government of Russia, aiming at the economic integration of Abkhazia into the Russian Federation. It consisted in the development of economic relations with the secessionist regime, the introduction of a non-visa system for the secessionist territories of Abkhazia and South Ossetia, granting Russian citizenship to population in the secessionist parts of Abkhazia and South Ossetia, and opening a railway connection between Sochi and Sukhumi. All this was done without consulting the Government of Georgia, which caused the aggravation of Georgian-Russian relations, and gave an incentive to the secessionist government of Abkhazia to proclaim independence in 1999 after a referendum on independence in which the Abkhazian exiles (mostly ethnically Georgian) did not participate. Further negotiations with the government of Georgia on the political status of Abkhazia were effectively blocked.

The Impact of Sanctions

Some Western experts argue that any sanction imposed on the secessionist government of Abkhazia contribute to the development of smuggling. Such sanctions only help the local authorities in Abkhazia to make money, and hurt the population. On the one hand, due to these sanctions, various political-criminal groups are able to make illegal trade and profit, and on the other hand, such sanctions help the regime in Abkhazia increase its power and legitimacy as a result of the "Georgian blockade."⁵

Sanctions have created an extremely favourable setting for smuggling through Abkhazia, especially when there are almost no relations and agreements between the secessionist Abkhaz government and the Government of Georgia, or the Abkhaz government in exile. Poverty and personal relations between ethnic Abkhazians and Georgians, who wish to establish economic relations and improve their lives, have led many of them to pursue the only means of co-operation left by their governments—participation in the smuggling network. It is the only way of survival. This has created a broad social base for the smuggling network, which stretches far beyond the border of the demilitarisation zone in Gali

5 Interview with Western representative of an international organization working in Abkhazia and based in Tbilisi.

and Zugdidi districts from Gagra to Tbilisi. People who live in Gagra and Sukhumi often visit the biggest market in Tbilisi–Lilo—another trans-shipment point of smuggled goods which mostly come from Azerbaijan, and take them to Abkhazia for sale. In turn, ethnic Georgians visit Abkhazia for commercial purposes.

Uncontrolled territories as crime zones

The current situation demonstrates that the conflicts in Abkhazia and South Ossetia are not simply in deadlock. They have gradually transformed into crime zones that nobody is able to fully control—not the Government of Georgia, the Abkhaz and South Ossetian governments, or the international community.

On the one hand, Georgian authorities declare that they cannot establish Border Guard and Customs Service checkpoints on the Inguri River and the Roki tunnel because secessionists would immediately interpret it as an attempt to establish a new border. The border remains open for smuggling into Georgia and for the movement of criminal groups from one side of the conflict zone to another.

On the other hand, *de facto* governments in Sukhumi and Tskhinvali are not able to control their territories and prevent activities of the different (Abkhaz and Georgian) crime groups. Frequent assassinations and kidnappings have become usual practice in these regions.

As in many other conflict situations, the criminal world always fills the vacuum in official and legal relations. Crime groups are flexible and quickly-built criminal networks that are often international, and which bring in representatives from both sides of the conflict. The examination of the situation in Abkhazia and South Ossetia confirms this general trend, and any observer can easily see how successfully the Georgian, Abkhaz, and Ossetian crime groups and law enforcement bodies co-operate in smuggling through secessionist territories.

In Abkhazia, crime groups operate in Gali and Kodori Gorge, and in Zugdidi district of Samegrelo, while in South Ossetia—mostly in Tskhinvali and Gori districts. They collaborate with each other regardless of their ethnic origins and political orientation. They have different, sometimes paradoxical partnerships with other crime groups, law enforcement bodies and governmental structures (or individual government officials) in other parts of Abkhazia and Georgia. If one link of this “smuggling chain” is broken, the whole chain falls apart. Goods, which flow from Russia, Turkey or any other country through the territory of Abkhazia to Georgia, or in the opposite direction, are protected through a system of bribes, mutual sharing and “roofs” of influential government officials outside and inside Abkhazia.⁶ The main actors (law enforcement bodies, crime groups, and Russian peacekeepers) in the Gali, Zugdidi, Tskhinvali, and Gori districts, along with the co-operative groups or individuals, compose a smuggling network which successfully operates and expands its influence, involving more and more poor people in contraband trade.

6 A “roof” is a personal patron or clan—usually identified with a state organization—which protects criminal activity.

There are many questions, which arise in such circumstances. How dangerous is the criminal situation and smuggling for the population living on both sides of the Inguri river, and for the international community? What kind of impact does it have on the economic, political and military situation? What forms of contraband trade and mechanisms exist, and which are the dominant contraband goods? Which political actors benefit from the situation, and—most importantly—are there any possible solutions to the problem?

Routes and Types of smuggling: potential and real threats

During the Soviet period, Georgia was adjacent to NATO (Turkey), and armed troops with sophisticated weapons—including strategic and tactical nuclear weapons—were maintained on the entire Georgian territory. After the Soviet collapse and the withdrawal of nuclear weapons and a major part of these troops, there have been 197 discoveries of radioactive materials abandoned by Russian troops on Georgian territory. They include both weak and strong sources of radiation.⁷ Experts have concluded that the international community is exposed to real danger if such radioactive materials are smuggled abroad, making it possible to use “dirty bombs” in potential terrorist attacks against the West and Russia. Uncontrolled territories are the best places for smuggling such materials.⁸

The smuggling of nuclear materials through the territory of Abkhazia is a real possibility, but smuggling in weapons and drugs is already a reality. The scale of illegal trade in weapons dropped dramatically after the end of military action in 1993, but demand from criminal groups inside and outside the region has continued to stimulate supply.

In 1997, the criminal police department in Moscow discovered an extensive crime network which for two years had supplied illegal weapons (pistols, machine guns, grenades, and grenade-guns) from Abkhazia to organised crime groups in Moscow.⁹

In the summer of 2002, a Russian criminal leader, Artur Liudkov (nickname—Iasha Astrakhanskyi) and Mchelidze, a major in the Georgian Ministry of State Security, were arrested by Georgian law enforcement representatives for transporting anti-tank rocket launchers (“Fagot”), hollow-charge shells and other weapons. They claimed that they had been bought in South Ossetia from Russian peacekeepers. There were strong suspicions that these weapons were intended to be transported from South Ossetia to Chechen separatists in the Pankisi Gorge. David Shengelia, leader of a Georgian partisan group, the “Forest Brothers,” declared that he had asked for these weapons to defend the Georgian population in the Gali district of Abkhazia. Despite a significant controversy, the investigation was unsuccessful. Arthur Liudkov insisted that he was just an “accidental traveller” in the Land Cruiser carrying the weapons, and was released

7 George Kolbin, *Environmental Aspects of Former Soviet Military Sites in Georgia*. NATO CCMS Workshop on Reuse and Cleaning of Former Military Sites, Bishkek, May 27–29 2002.

8 Ken Stier. *Missing Radioactive Generators in Georgia Raise “Dirty Bomb” Concerns*. 6/28/02, <http://www.eurasianet.org>

9 Alexander Strogin. *Banditam privezli iz Abkhazii tselyi arsenal*. Kommersant-daily, Moscow, September 30, 1997.

after three month's detention. The Land Cruiser belonged to a well-known professional criminal called Shakro Kalashov. In April 2003, Liudkov was killed in Moscow under suspicious circumstances¹⁰.

Until a political resolution to the conflict in Abkhazia and South Ossetia is reached, local crime groups and their political allies will have an ongoing excuse for illicit trade in weapons under the pretext of either "struggle against separatists" or "struggle against terrorist groups." Assassinations, kidnappings, taking hostages, and abuse of human rights will also continue.

Another form of smuggling through Abkhazia and South Ossetia is the illicit trade in drugs. Smuggling in either direction, i.e. to or from Georgia, manifests itself in a variety of ways. Much depends on who is smuggling, where it takes place, on the type of drug, and how much is being transported. Some narcotics are grown for domestic consumption. Any country in decline, with a very high unemployment rate and deep poverty among young people, usually faces explosion in drug consumption. Some smuggling routes cross the North Caucasus through mountain passes or across the Psou or Inguri rivers. Marijuana and hashish are produced locally, while such drugs as cocaine and heroin are imported from Turkey for transit either to Russia, or by Turkish boats to Spain and other European countries. New drug routes are concentrated around major drug trafficking centres such as Sukhumi, a major seaport, and Gudauta, a former Russian military base.¹¹ Russian army and navy, which use the airdrome and port in Gudauta, are useful conduits for drugs. Russian air force can easily transport drugs from Central Asia to the Gudauta airdrome. After that, the drug route continues to Europe. Neither the Abkhaz nor Georgian customs officers or law enforcement bodies are allowed to check Russian military cargoes.¹² Other parts of Georgia are also used for trafficking in drugs, especially South Ossetia and the Pankisi Gorge. The latter has decreased in influence due to the introduction of the Train and Equip programme and anti-terrorist operations there. It has become too risky for drug smugglers to use the Pankisi Gorge.

Abkhazia has become one of the routes for trafficking local and Russian women to Turkey. Usually they are transported by Turkish boats in groups of 5–6.¹³ There are also recorded cases of people being smuggled in the opposite direction, i.e. from Turkey to Abkhazia. For example, the Georgian Coast Guard once stopped a boat carrying 4 persons who had escaped from a coal mine in Tkvarcheli district of Abkhazia. Turkish smugglers had promised them well-paid jobs in Russian coal mines, but had transported them to Abkhazia instead, where they had been forced to work in poor conditions with no pay. After a month they had escaped. The Kutaisi City Court investigated the case.¹⁴

All of the above-mentioned types of smuggling are illegal anywhere in the world, including Abkhazia. Unfortunately, the political resistance in the region

10 *Gangstera rasstreliali za svias s lesnymi bratiami?* Newspaper Moskovskiy Komsomolets, April 22, 2003.

11 Georgian sources claim there is still a Russian military presence there.

12 Interview with officers of the Department of Intelligence of Georgia.

13 Ibid.

14 Based on materials from the Department of the Border Guard of Georgia.

creates uncontrolled zones that jeopardise the security of the international community, and leaves few chances for a successful struggle against them.

There are also other types of smuggling through Abkhazia and South Ossetia which are economically damaging for Georgia.

Smuggled goods are mainly imported from Russia, while most exported goods go to Turkey. There are also other countries, from or to which smuggling takes place—notably Ukraine, Rumania, Bulgaria, Italy, and Spain. Most active are the private boats and ships under the Turkish flag—approximately 40 vessels in all—which handle up to 80 percent of all maritime smuggling, and up to 60 percent of all smuggling through Abkhazia. Every day 3–4 ships participate in smuggling to and from Sukhumi and Ochamchire, while smaller boats operate to and from Pitsunda and other towns. Most boats carry timber directed above all to the Spanish shadow market. State-of-the-art equipment situated in Abkhazia manufacture parquets that are then exported by Turkish boats to Spain. Expensive timber, such as box-tree, is used, which was not allowed in the Soviet period. Timber smuggling is one of the main sources of income for the Abkhaz secessionist government and local clans.¹⁵ According to Abkhazian sources, in 2002 the production value of the Abkhazian timber industry was \$1,723 million, of which logs constituted 82 percent.¹⁶

Another smuggled commodity is fuel. Its extent depends on world prices, but there is not enough reliable information and no reliable statistics to give exact estimates. For example, according to Georgian sources, the total population of Abkhazia is currently approximately 170,000, while secessionist sources claim that the correct figure is 320,000. This makes it difficult to calculate the average level of fuel consumption in Abkhazia. However, it is generally believed that there is a very small quantity of diesel fuel and gasoline imported to Georgia through Abkhazia—mostly for local consumption in the Samegrelo region, sometimes to Kutaisi and other regions of western Georgia. Smuggling from Azerbaijan and South Ossetia, however, is more significant. Of these, Azerbaijan is the primary source, because there is no railroad or sea connection from South Ossetia. Smuggling between Russia (North Ossetia) and South Ossetia is limited in wintertime because traffic for heavy trucks is difficult due to snowfalls and slippery roads in the mountains.

Changes in the taxation system of Georgia after 1998 aggravated the local business environment, and the difference between world prices and fixed Russian fuel prices on the domestic market increased after 1999. The resulting economic conditions boosted fuel smuggling through Abkhazia and South Ossetia. In 1998, world prices were very low and smuggling not so profitable. The following year prices started to climb, and with them smuggling from Russia.

Nowadays Russians can no longer compete with Azerbaijan fuel. Although the Azeri fuel is poor in quality, it is cheap and close to the Georgian market. Rail transport is cheaper and allows larger quantities than transportation from Russia. In addition, psychologically, the business climate between Azeris and Georgians

15 This information is based on interviews with officers of the Department of Border Guard, Department of Intelligence, and Ministry of State Security of Georgia.

16 Source: ИА REGNUM, <http://www.abkhazia.com/news/>.

is better—Georgian–Russian relations are extremely tense whereas there are friendly relations between the two South Caucasian countries that share similar geopolitical goals. Even if the railway through Abkhazia is opened, hostile post-conflict relations and the high level of crime in the region will complicate commerce.¹⁷

Cigarettes are smuggled mostly from Russia (“Donskoi Tabak”) and Turkey (“Parliament” etc.). Earlier “Vice Roy” was the most commonly smuggled cigarette through Abkhazia, but when a Georgian tobacco factory started to manufacture “Vice Roy” in Tbilisi, its smuggling practically stopped. There are two factories in Gudauta and Sukhumi which produce low-quality “Marlboro” cigarettes. Some are smuggled to Turkey, a small quantity to Russia, and the rest to Georgia. The *de facto* authorities in Abkhazia have an excise license (issued in Russia) for domestic trade, but it is not valid in any foreign country.

The exportation of non-ferrous and ferrous scrap metal through Abkhazia peaked in 1999 (40,000 tons of non-ferrous metal, and 32 tons of ferrous metal), after which the activity largely exhausted. One of the smuggling routes ran from Zugdidi through the Gali district to ports in Abkhazia.

Coal from Tkvarcheli in Abkhazia is imported mostly to Turkey. Some foreign firms have even signed agreements for coal supply with the *de facto* government of Abkhazia. There are plans to produce up to 100,000 tons of Abkhazian coal per year. Today, three to four freight cars arrive daily from Tkvarcheli to Abkhazian ports.

Some foreign companies have also signed agreements with the *de facto* government in Abkhazia for fishing rights. The boats which participate in illegal fishing in Abkhazian waters are mostly Turkish. Both the secessionist Abkhaz authorities and the Georgian Border Guards have made some arrests.¹⁸ The Georgian border Guard started regular coastal patrolling in 1999, and has since then apprehended 42 boats engaged in some type of smuggling.¹⁹

There is also seasonal trade in hazelnuts and citrus fruits from the Zugdidi and Gali districts to Russia or Turkey. These products, together with smuggling in cigarettes, scrap metal, timber, and fuel are the main activities connected with criminal disagreements, assassinations, kidnappings, and the taking of hostages.

Who benefits from unresolved conflicts?

Despite the extremely violent environment related to smuggling through Abkhazia, its negative impact on the Georgian economy is insignificant in comparison to the volume of smuggling through the Red Bridge (from Azerbaijan), the port of Poti (Black Sea), the Autonomous Republic of Ajara (from Turkey and the Black Sea), Kazbegi (from Russia) and Akhaltsikhe (from Turkey). According to expert assessments, of the total volume of smuggling to and from

17 Interview with Vano Nakaidze, Energy Committee Chairman, Member of the Board of Directors, American Chamber of Commerce in Georgia.

18 Сотрудники прокуратуры экологического надзора конфисковали 300 кг. камбалы и 130 кг. белуги. <http://www.abkhazia.com/news/>.

19 Information is based on materials submitted by the Department of the Border Guard of Georgia.

Georgia, smuggling through Abkhazia and South Ossetia constitute 15–20 %, of which Abkhazia's share is perhaps only 3–5 %.²⁰

It is of much more importance that the smuggling networks in Abkhazia increase the crime rate, create corrupt economic interests among powerful political groups, and contribute to the existing political status quo. Groups in power benefit from the situation both financially and politically. Smuggling and frozen conflicts are the two pillars which help political clans inside and outside Abkhazia to control material and coercive resources, limit democracy, and maintain political power for an indefinite time. There have been no elections for the head of the Government-of-Abkhazia-in-Exile for over ten years. In the meantime, the secessionist President of Abkhazia has held Soviet-type elections, receiving a fantastic 98 percent of the votes in the absence of rival candidates. While the leaders are hostile to each other, their grassroots level supporters and state organisations successfully co-operate through smuggling networks. Sometimes the situation is tensed by political orders from patrons, but the rest of the time people are occupied with making money by co-operation. It is not surprising that many people in Georgia wonder if the “Forest Brothers” are partisans or smugglers. There are similar concerns about the secession-supporting Abkhazian paramilitary detachments which frequently organise “cleansings” against Georgians in the Gali district but then continue their co-operation with Georgian smugglers.²¹

The government of Georgia has also benefited from the existing status quo. The constitution of Georgia does not regulate the administrative-territorial divisions within Georgia until the conflict in Abkhazia is concluded and the final status of Abkhazia determined. Instead of holding democratic elections for regional governments, governors and local government administrators, the President of Georgia appoints them, justifying these undemocratic measures by pleading to concerns about aggression from the separatist regimes. Gerrymandering and the interference of local and regional authorities in presidential, parliamentary and local elections has become an integral part of the electoral process in Georgia.

The limitation of democratic freedoms, especially at the grassroots level, leads to the formation of political clans which dispose of public property in their own interests and keep their citizens in abject poverty. They use militant ideologies, and corrupt coercive and criminal structures to keep citizens terrorised (for example, through a permanent irrational fear of war) or fill their minds with revengeful thoughts. Ordinary ethnic Abkhazians and Georgians are manipulated and victimised by these clans. Any democratic change is a serious threat to the power of the ruling groups. Democratic change can initiate conflict resolution and facilitate the transformation of smuggling activities into legal businesses. The deep political crisis of November 2003, and the consequent changes in political power give some hope that the situation in Georgia will eventually improve.

Georgian law enforcement bodies benefit from smuggling. Administrative enforcement is not effective in the current disastrous economic situation. Ac-

20 Interviews with experts of the American Chamber of Commerce in Georgia and officers from the Ministry of State Security.

21 The last time such “cleansing” took place was in the second part of May with the participation of 500 gunmen from the so-called “spetsnaz”. <http://www.abkhazya.org/server/-docs/news/>.

ording to statistics from the Ministry of Internal Affairs of Georgia (the Department of Struggle Against Corruption and Economic Crimes), in 2000, there were 22 recorded cases of customs violation, in 2001: 23 cases, in 2002: 35 cases, and in the first quarter of 2003: 17 cases. In comparison to the volume of contraband trade, and the thousands of transport units which every day cross the borders of Georgia, this is a drop in the ocean. In the Samegrelo region, which borders Abkhazia, the corresponding figures are: 2000—0; 2001—0; 2002—2; 2003—12.²² The General Prosecutor's Office very seldom conducts thorough investigations, and even if it does, only few cases are prosecuted.²³ In effort to justify the situation, high-ranking officials from law enforcement bodies say that since Abkhazia and South Ossetia de jure are Georgian territories, they cannot find legal evidence of smuggling from abroad because Georgian smugglers usually buy their goods from Abkhazian or Ossetian smugglers on territories which are Georgian, but outside Georgian control. Decree of the President of Georgia No. 434 permits law enforcement organisations to monitor transportation of goods inside Georgia, but in practice, rampant corruption foils any such efforts. Given the current situation, combating the problem of smuggling by administrative methods is almost futile. The monthly salary of law enforcement officials is only \$25–50, but by taking bribes up to \$100 per truck, they can increase their monthly income up to \$1,000–5,000. In 2002, “Rustavi-2”, an independent Georgian television programme investigated the connection between smuggling and the corruption of the customs and law enforcement agencies. Video records proved that administrative corruption is one of the main reasons for the failure to control smuggling.

There is also a broad social base for the smuggling networks: they involve many poor people and give them a chance to survive. Attempts by the “Extraordinary Legion” (an agency of the Georgian Ministry of Finance) to confiscate contraband cigarettes in Tbilisi from street vendors and kiosks caused massive protests and clashes.²⁴ In the present situation of continual political tension and very little support for the government of Georgia, authorities are not willing to use radical administrative methods and interfere in the operations of local clans in conflict zones, where smuggling has become one of the main sources of income. Despite its general destructive impact on attempts on conflict resolution, smuggling may, however, have one positive outcome: unlike Abkhazia, where a strong, hostile post-conflict atmosphere still prevails, the Ergneti contraband market in South Ossetia has played a positive role in creating economic co-operation between Ossetians and Georgians despite their participation in smuggling. This co-operation has resulted in hundreds of new jobs, and given parts of the local population a chance to survive. “Ossetians are smarter than Abkhazians,” said one expert from the American Chamber of Commerce in Georgia, “because they understood to use the Roki tunnel to fulfil their economic goals, and now both Georgians and Ossetians can freely go to Tbilisi and Tskhinvali, have din-

22 Source: Ministry of Internal Affairs of Georgia.

23 Interview with Michael Machavariani, the former Minister of Tax Revenues of Georgia.

24 “Extraordinary Legion” is an armed unit which was specially created for combating smuggling. It is subordinated to the Ministry of Finance of Georgia.

ner in restaurants there, and more or less safely return to their homes. It is difficult even to imagine the same in any part of Abkhazia”.²⁵ Any attempt to eliminate the market through administrative measures may cause a new conflict, and is pointless, because other markets will be created elsewhere.

Conclusions

The negative impact of smuggling through Abkhazia and South Ossetia on the Georgian economy is insignificant in comparison to the volume of smuggling through other parts of Georgia.

It is of much more importance that the smuggling networks in Abkhazia and South Ossetia increase the crime rate, create corrupt economic interests among powerful political groups, and contribute to the existing political status quo and “frozen conflicts”.

The main reasons for smuggling through Abkhazia and South Ossetia are not transparent borders or secessionism, but institutional weakness and corruption in law enforcement bodies, and the absence of initiative among previous leaders of the supreme executive branch of the Government of Georgia to change the situation in the country.

Sanctions against Abkhazia only contribute to the development of smuggling and shadow businesses on its territory.

Recommendations

What to do in the current situation? In theory, there are several possible ways to solve the problem of smuggling through Abkhazia and South Ossetia:

Sanctions against the secessionist regime in Abkhazia should be lifted regardless of the conditions the Georgian side has thus far insisted on. This would reduce the level of mistrust towards Georgians among ordinary Abkhazians, and deprive Abkhaz secessionists of the possibility to use the sanctions for fuelling anti-Georgian ethnic hostility.

Attempts to forcefully destroy contraband markets may cause a renewal of armed conflicts or even social disorder in Georgia.

Ineffective Steps

Legal enforcement (1) against socially vulnerable people is dangerous in the current tense political situation in Georgia.

Legal enforcement (2) against local secessionist clans in conflict zones, where smuggling has become one of the main sources of income, is impossible due to danger of renewal of conflicts.

25 Interview with experts from the American Chamber of Commerce in Georgia.

Effective Steps

Legal enforcement (3) against Georgian wholesale smugglers;

Legal enforcement (4) against corrupt law enforcement and government officials.

Most Effective Steps

Under the current conditions of tense relations with Russia and the “frozen conflicts” in Abkhazia and South Ossetia, economic incentives would offer the most appropriate and effective unilateral means for Georgia to minimise the level of smuggling through Abkhazia and other territories. Smuggling can most effectively be prevented by either economic measures or strong state and border control, but due to the uncontrolled borders in Abkhazia and South Ossetia, the latter is not at present a viable option for Georgia.

Economic steps could effectively minimise smuggling. It is necessary to rationalise the wage level of border officials, and to co-ordinate excise and other tax policy with neighbouring countries. Borders are porous, and they can always be used for smuggling if there are no economic incentives to promote the control of smuggling.

According to Mr. Michael Machavariani, former Minister of Tax Revenues, Georgia’s current tax rates are the highest when compared to all its four neighbouring countries, i.e. Russia, Azerbaijan, Armenia and Turkey, with the exception of taxes on oil products where Armenia’s taxes are higher. This makes smuggling from neighbouring countries a profitable business.

Acting legislation, such as the Tax Code and Law on Consumer’s Goods, in fact promotes smuggling. Georgian legislation has created an environment where legal businesses cannot function and are squeezed out of the market. Smuggled goods cost less than those that have been legally taxed and imported. Legal importation makes no sense in such an inequitable competitive environment. Legal businessmen either switch to illegal operations or stay out of the market.

In most areas of trade, Western democracies have a much more effective control of smuggling than countries such as Georgia. In countries like Georgia, authorities know about the ongoing smuggling and often punish only those who fail to co-operate with corrupt officials. Usually those punished are petty individual smugglers.²⁶

Additional measures that could also improve the situation would be to optimise the socio-economic conditions of the customs employees and to modernise customs infrastructure by, for example, implementing a programme for the computerisation of customs offices.

26 Interview with Fady O. Asly, the President of the American Chamber of Commerce of Georgia.

Reform of the Border Guard from military unit into Border Police

The old philosophy of border control sees it as a defence of the State border-line—the Soviet type “Iron Curtain” defence. New philosophy regards it as an instance that controls borders of the whole territory of Georgia, including regions neighbouring to Abkhazia and South Ossetia. Mobile Border Patrol in the regions of Samegrelo and Shida Kartli would be a significant step towards more effective control of smuggling through transparent borders in Abkhazia and South Ossetia even in conditions of unresolved conflicts.

Main Problem

Before November 2003, authorities headed by Eduard Shevardnadze, the President of Georgia, demonstrated a lack of initiative and will to institute any of these steps in an effective manner.

Example:

Pressure of the International Monetary Fund and anti-smuggling campaign in Georgia in August 2003.

Fair elections of new Parliament and President of Georgia, and political leaders in Abkhazia and South Ossetia

Democratic change poses a serious threat to the power of the ruling groups both in Georgia and in its secessionist zones. It can initiate conflict resolution and facilitate the transformation of smuggling activities into legal businesses.

There are expectations among the Georgian public that the newly elected President of Georgia, Chairman of the Parliament, and State Minister will essentially improve the situation in 2004.

Long term perspective

Political resolution of the conflicts, and comprehensive co-operation among all interested parties. This would require the resolution of many highly complex problems such as: the relations between Russia and Western countries concerning the Caucasus region; relations between Georgia and Russia; relations between the Government of Georgia and the secessionist governments in Abkhazia and South Ossetia; relations between the government of Abkhazia-in-exile and the secessionist government of Abkhazia; and (most importantly) relations between ordinary ethnic Abkhazians, Ossetians, and Georgians through diplomacy and civic initiatives.

Despite the fact that the current “frozen” situation greatly diminishes the possibility that problems of smuggling and crime can be solved through political agreements and co-operation, they are in a key position if results are to be achieved.

Reassessment of the existing strategy on conflict resolution is necessary for breaking the deadlock.

Existing strategy:

Conflicting sides and mediators try to define political status of secessionist territories, but Georgian, Abkhaz, and Ossetian politicians are hostages of the existing situation. They are not able to satisfy each other's political claims connected to the definition of the political status. For example, if the president of Georgia agrees to recognise the independence of Abkhazia, he or she will immediately be impeached. The same happens if the de facto president of Abkhazia agrees to recognise Abkhazia as part of Georgia.

Result:

Both conflicts are in a deadlock with little prospect of resolution in the foreseeable future.

Proposed strategy:

1. Postponing the definition of political status to the indefinite future (probably to the future generation of politicians)—conflicting sides should announce a moratorium which means that secessionist governments would not declare independence while the Government of Georgia would not declare that Abkhazia and South Ossetia are parts of Georgia, until a formal procedure of unification with the European Union is topical. This will take several decades;
2. Following the strategy of Europeanisation. Both Abkhaz and Georgian politicians have already declared Europeanisation as their objective, and this is significant when a new strategy of conflict resolution is implemented. The European Union could elaborate a special programme of standardisation for further integration (as one of the means of conflict resolution) of those territories which have territorial disputes but wish to join the EU in future. Europeanisation is understood here as a long term process of meeting EU standards, which in the long run may lead to a formal procedure of unification with the EU, provided that there are grounds to expect that future politicians from all conflicting sides will be able to reach a compromise solution to resolve the conflict.

Expected results:

1. Based on European norms, immediate initiation of the processes of standardising legislation, customs and tax policy in Abkhazia and South Ossetia as well as in Georgia as a whole. Immediate elimination of any sanctions against secessionist regime in Abkhazia, and initiation of a repatriation of IDPs and refugees in Abkhazia, South Ossetia, and other regions of Georgia. Development of democracy and market economy within the context of policies aiming at eventual integration with the EU;

2. Defined political status by the time of formal procedure of unification with the European Union (either as one territory or two territories). New generations of Abkhaz, Ossetian, and Georgian politicians will define how they want to join the EU—as separate territories or as one territory. If today Georgian, Abkhaz, and Ossetian politicians are hostages of the situation, it is expected that by the formal unification with the EU (which definitely will take several decades) new generations of politicians will act in a better political, economic, and social environment—favourable to compromises and consensus on the definition of the political status of Abkhazia and South Ossetia. It is expected that the incentive of joining the EU will play a positive role in resolving this dispute.

Criminal Networks and Trust.

On the importance of expectations of loyal behaviour in criminal relations

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It has become a truism to say that what holds organised crime together are bonds of trust. At the same time there is no clear understanding of the meaning of trust in the context of organised crime and how it affects the emergence and continued existence of criminal structures. And there is only little if any empirical research which specifically explores the presence or absence of trust in criminal relations.

The purpose of this paper is, first of all, to provide a tentative conceptualisation of trust in the context of organised crime. Starting with a brief review on the general sociological literature on trust we propose a typology of different types of trust in criminal relations, and, drawing from our own research on two illegal markets, the alcohol black market in Norway (Johansen 1994; 1998; forthcoming) and the cigarette black market in Germany (von Lampe 2002; 2003b), we present some anecdotal evidence on the empirical importance of trust when establishing and maintaining criminal relations. Finally, we consider constellations of criminal co-operation where trust is violated or absent in the first place.

With our discussion we try to emphasise that in the analysis of organised crime, different types of trust and different consequences of the violation of trust need to be taken into consideration, not to mention the possibility that there are criminal relations which are not based on trust at all.

Trust and Organised Crime

The issue of trust has been growing in popularity in the sociological and economic literature over the past 25 years. Trust has variously been identified as a prerequisite for economic development, as a necessary component of civil society or, more generally, of the continued operation of any social order (Fukuyama 1995; Gambetta 1988; Huemer 1998; Laucken 2001; Luhmann 1979; Misztal 1996; Seligman 1997). In a similar vein, the notion of trust is used in the organised crime literature to explain the willingness and capability of “organised criminals” to co-operate. Here, the need for trust appears to be even more pressing. On the one hand, many of the institutional safeguards designed to compensate for the consequences of deceit and betrayal, such as courts and insurance, are unavailable for illegal actors. On the other hand, with the threat of law enforcement

intervention and criminal sanctions, the consequences of disloyal behaviour are far greater than those to be expected in the legal sphere of society. Accordingly, trust is treated as an essential feature of organised crime, and organised crime, in turn, is placed in an inherent relationship with bonding ties of kinship, ethnicity, or ritual kinship within mafia-like fraternal organisations (Black *et al.* 2001: 58; Bovenkerk 1998: 122; von Lampe 1999: 220–1; 2001; Lupsha 1983: 65, 1986: 33–4; Paoli 2002: 84; Pearson and Hobbs 2001: 27–32; Reuter 1983: 116).

This conventional view has not remained unchallenged. Organised crime, it has been argued, is better characterised by a lack of trust (van Duyne *et al.* 2001: 99, 127), as people who tend towards criminality are unlikely, in the words of Gottfredson and Hirschi (1990: 213), “to be reliable, trustworthy, or co-operative”. Even life in the Mafia, as Diego Gambetta (1996: 152) has stressed, is fraught with uncertainty, distrust, suspicion, paranoid anxiety and misunderstanding.

Conceptualisations of Trust

Trust has to do with how people cope with risk and uncertainty in interactions with others (Fukuyama 1995; Gambetta 1988; Huemer 1998; Laucken 2001; Misztal 1996; Seligman 1997). Trust implies reliance on another person’s integrity in the absence of sufficient means to control this other person’s behaviour.

There are at least two dimensions along which conceptualisations of trust vary. One dimension refers to the level of rationality or irrationality when a trusting person decides to trust. The other dimension, ranging from micro to macro level, refers to diverging views on the allocation of trust in society. In the spectrum from rationality to irrationality, trust takes up a space somewhere between purely rational calculation of probabilities and irrational blind faith (Coleman 1990: 99; Giddens 1990: 33). The micro-macro dimension ranges from trust placed in individuals to trust in abstract systems where individuals are recognised only as agents who perform certain institutionally prescribed roles (Misztal 1996: 72; Seligman 1997: 18).

Our conceptualisation of trust is based on the notion that the most appropriate frame of reference for discussing trust in the context of organised crime is a network approach. We view trust as a property of dyadic relations that form the basic elements of criminal networks. In turn, we regard criminal networks, defined as webs of criminally exploitable social ties, as “the least common denominator of organised crime” (McIllwain 1999: 304).

For reasons of simplicity we focus on dyadic relations between a trusting Person P, the trustor, and a trusted other person O, the trustee (Fig. 1). We specifically focus on the perspective of the trusting person, leaving aside the question of how the trusted person perceives and copes with the situation. Within this narrow framework, we define trust as the expectation of P, under conditions of uncertainty, that (1) O will not harm P, even though (2) O could harm P (see also Dunn 1988: 74; Gambetta 1988: 219).

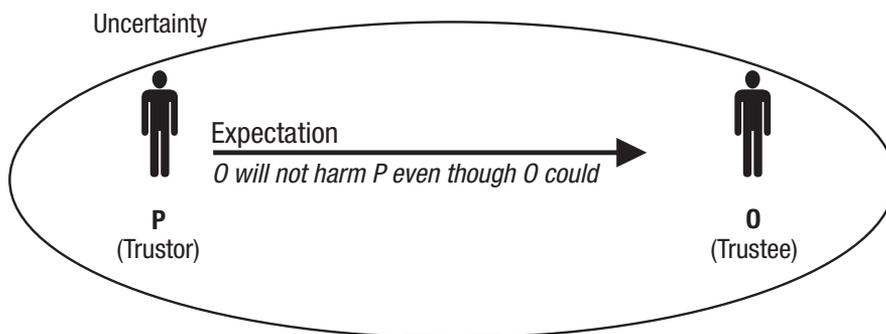


Figure 1. Basic Trust Relation.

The quintessential situation in which trust is an issue is that of a cooperative venture involving P and O. In this case trust means the expectation that O will stick to implicit and explicit agreements and will protect the secrecy of the venture vis-à-vis other criminals, the public and of course the police.

But there are other constellations where the notion of trust may come into play, even cases where O is a mere bystander who observes a criminal act committed by P. Here trust means P's expectation that O will not interfere or alert others, especially the police.

A Typology of Trust under Conditions of Illegality

In the analysis of a given criminal relation, the first question to be addressed would be: Is there trust at all? If not, the alternatives are either lack of trust or outright mistrust.

If there is trust, the crucial question becomes: On what basis does P expect O to be trustworthy? We believe that this question is heuristically of tremendous value because it opens the door to a systematic exploration of the myriad factors that may contribute to the emergence and continued existence of criminal networks.

In order to systematise the various potential constellations, we go back to the two dimensions of rationality-irrationality and micro-macro referred to above. We propose a typology of trust under conditions of illegality that rests on a distinction of different bases on which P expects that O will be trustworthy. In essence we define four categories of trust along the micro-macro dimension (individualised trust, trust based on reputation, generalised trust, trust in abstract systems) and within each category we emphasise variations in the rationality of the decision to trust. (Tab. 1).

Table 1. A Typology of Trust.

Micro – Macro	Level of Abstraction of Basis of Trust	Level of Rationality of Decision to Trust
		rational ↔ irrational
	Trust in Abstract Systems	
	Generalised Trust	
	Trust Based on Reputation	
Individualised Trust		

Individualised Trust

The first category involves individualised trust. The expectation of agreeable behaviour relates specifically to the trustee as an individual. The motivation for trusting a particular individual can be rational. It may lie in previous observations of the trustee’s behaviour and dispositions (Misztal 1996: 76), or in expectations of how the trustee will react to sanctions (Coleman 1990: 115). Or the motivation to trust may be irrational, resting on affections the trustor feels for the trustee (Gambetta 1998: 232; Huemer 1998: 121; Misztal 1996: 21).

Individualised trust can primarily be expected to emerge among criminal actors from continuous interaction in delinquent peer groups or in a prison setting, where affectionate bonds and a sense of predictability may develop.

It needs to be taken into account that trust—and especially individualised trust—can be mediated. In this case, P and O are connected through a chain involving one or more intermediaries who advise P on O’s trustworthiness or even vouch for it (Coleman 1990: 180–182).

Trust Based on Reputation

The second category pertains to trust based on reputation. Here P places trust in O as a particular person but relies on publicly formed and held opinions about this person’s trustworthiness (Dasgupta 1988: 54). Relying on reputation can be irrational considering the weak basis reputations may have. On the other hand, a reputation of trustworthiness can be a valuable asset that creates a strong incentive to actually be trustworthy. Thus, speculating on this mechanism can be quite rational.

Generalised Trust

The third category, generalised trust, comprises constellations in which trust is linked to social groups rather than to a particular individual. The trustor P places trust in the trustee O on the basis of the presumption that the trustee conforms to some more general norms or patterns of behaviour, for example codes of mutual support and non-cooperation with law enforcement that are internalised by members of a deviant subculture or a mafia-like fraternal association.

On a more mundane level, but perhaps with the most rational justification to it, a trust producing a sense of predictability may arise in routine situations. Harold Garfinkel (1963) has stressed the relevance of unspoken rules in daily life. This may be valid for conditions of illegality as well.

Trust in Abstract Systems

The fourth category refers to trust that is placed in abstract systems that set and maintain certain basic conditions. Of course, there are no direct counterparts in the sphere of illegality to abstract systems in legal society like government, the monetary system or the medical system (see Giddens 1990; Luhmann 1979; 1988). Still, where criminal groups manage to establish some level of control over a territory or market, and to set and enforce certain rules, as for example the Mafia in Palermo with regard to ordinary criminals (Gambetta 1993), then it can be assumed that such a framework will influence the behaviour of criminal actors and thus contribute to a sense of predictability and the emergence of trust.

Trust Producing Social Settings

It should be noted that the four categories are not mutually exclusive. On the contrary, it can be expected that a given trust relation rests on different bases of trust, and conversely, that there are social settings within which various trust building factors take effect.

In the following section, we briefly discuss four of these settings (family, local community, ethnic community and business) with reference to our empirical research on the alcohol and cigarette black markets to further illustrate the categories we have defined in our typology and to provide some insight into the actual relevance of different types of trust.

Family

According to conventional wisdom, there is a direct link between family and trust. Anthony Giddens (1990: 101), for example, suggests that “kinspeople can usually be relied upon to meet a range of obligations more or less regardless of whether they feel personally sympathetic towards specific individuals involved”. Trust in family members, it is argued, rests on familiarity and conformity, i.e. on individualised trust growing out of continuous interaction, and on generalised trust based on a sense of similarity and shared norms and values (Misztal 1996: 39, 157, 171). However, the link between kinship ties and criminal relations may not be as straightforward. There is, first of all, the aspect of inner family conflicts. Secondly, the question of “borrowed loyalty” arises: It is not clear under what circumstances the relations with no illegal connotation, such as kinship ties, can become the basis of trust for criminal co-operation.

In fact, our findings do not indicate a dominant role of family structures in the black markets we study. Among alcohol smugglers in Norway, the most common kinship-based patterns of co-operation are father and son relations, sometimes on equal terms. One interviewed Norwegian bootlegger explained: “Dad, who used to be a workingman, did start on his own in the 50s with tobacco and fruits, mostly black. Later on he went on with booze, and asked me to drive. He

had no driver's license. Here you see the coincidence of life." In some instances, bootleggers have been found to receive moral and logistical support from their wives and families. Another Norwegian bootlegger recollected in an interview: "My wife and I, we have always been together. I go nowhere or do nothing without her. We did our first deals in the 50s—went to the loan shark with our wedding rings to raise money for our first investment in cigarettes and booze... But my son, by the way, is a doctor." In other instances, family ties have turned out to be a source of risk when abused wives and disgruntled relatives have volunteered information to the authorities.

Local Community

Local communities and other homogeneous face-to-face groups, like family, can be expected to produce trust through familiarity and conformity (Giddens 1990: 101; Luhmann 1988: 94).

In the case of the illegal alcohol market in Norway, close-knit rural communities appear to be a more significant trust factor than the immediate family. In these communities, moonshining is widespread, and disloyal behaviour would be directed not only against a business partner but against the entire community. Similar mechanisms could be observed in the context of legal associations such as athletic clubs. One informant reported that his soccer coach used to sell liquor to his team on a regular basis. Another informant recalled: "We used to buy booze from a guy who was a member of our athletic club. Nobody grassed on him. That would be unthinkable"

Under such conditions, we hypothesise, family ties, to the extent they are criminally relevant at all, provide no added value.

Ethnicity

Ethnicity, probably more than anything else, has been assumed to provide a basis of trust for organised criminals (see Bovenkerk 1998). And indeed, the link between ethnicity and trust is fairly easy to establish where close-knit ethnic communities exist, because here the same notion of trust created by familiarity and conformity would seem to apply as in the case of family and local community. Moreover, marginalisation and discrimination tend to increase internal cohesion while self-chosen isolation may block alternatives.

Where intra-ethnic relations are not embedded in close-knit communities, however, the link between ethnicity and trust is less clear. What would have to be assumed is that a sense of similarity is generally present in the interaction between people of the same ethnic background, and that their behaviour will therefore be predicted with greater confidence (Hardin, quoted in Misztal 1996: 134).

In our research we have found a significant difference in the importance of ethnicity between the bootleg liquor market in Norway and the cigarette black market in Germany. In Norway, members of ethnic minorities play a marginal role at best in the black market. In contrast, in the cigarette black market in Germany, the procurement and wholesale levels tend to be occupied by Polish smugglers and dealers whereas the street sale is dominated by the Vietnamese. It ap-

pears that illegal entrepreneurs can operate within their respective ethnic networks with ease and without fear of being reported to the authorities.

The most striking aspect of the dominating role of certain ethnic groups in the cigarette black market is not, however, that they facilitate criminal co-operation, but that there is an apparent ease with which the ethnic cleavages between these groups are bridged, namely in the relation between Polish whole-sale suppliers and Vietnamese dealers, and between Vietnamese dealers and German customers.

This is remarkable because in legal business, ethnic and language barriers are generally believed to hamper the establishment and maintenance of business contacts due to the great potential of misunderstanding and conflict when members with different languages, cultural backgrounds and belief systems meet (Good 1988: 45–46; Neubauer 1997).

In the illegal cigarette market in Germany (see Fig. 2) quite the opposite might be true. From the available evidence it seems that Polish smugglers initially took the risk of directly approaching potential Vietnamese customers without any prior connection. The cigarettes were randomly solicited in front of housing projects known to be occupied by the Vietnamese. We can hypothesise that the equivalent status of a foreigner, minimising the possibility of co-operation with the authorities, provided sufficient grounds for co-operation.

The same may be true for the relation between German customers and Vietnamese street vendors. But yet another trust building factor may be at work as well: the routinisation of the street sale of contraband cigarettes. These exchanges are publicly repeated in the same fashion over and over again so that a given customer will most likely not anticipate any deviation from this norm when he or she approaches a vendor.

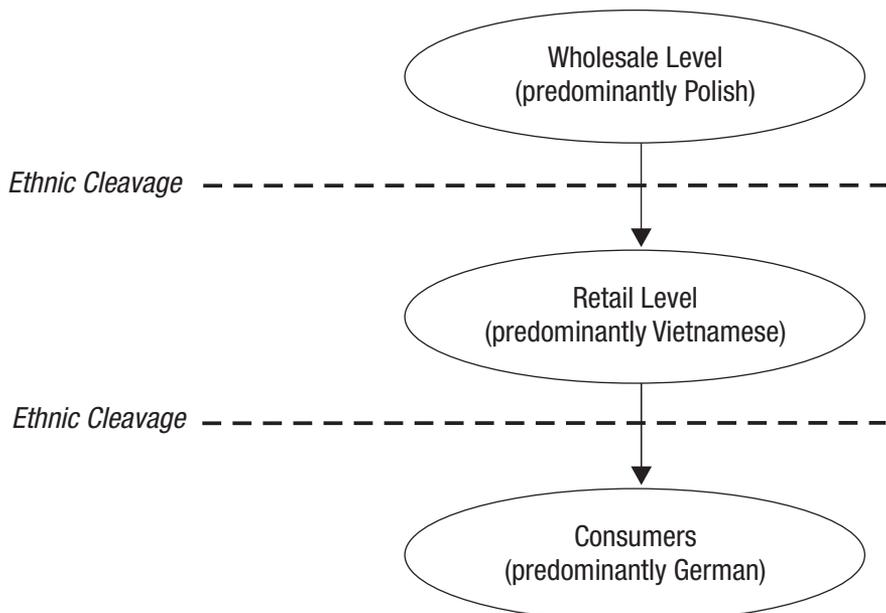


Figure 2. The Ethnic Factor in the Cigarette Black Market in Germany.

Legal Business

While ethnicity cannot be ruled out as a trust building factor, at least in the case of the cigarette market in Germany, there is one social setting that appears to have a much greater significance for the emergence of criminally relevant trust: legal business.

The issue of criminogenic business cultures and criminal relations growing out of business relations has been raised in the literature on white-collar crime (see e.g. Coleman 1987; 1989; Waring 1993), but it has received little attention so far in the literature on criminal networks. Like the other settings, networks of legal business relations and relations within a firm tend to be characterised by a high level of cultural cohesion, patterns of repeated interaction, and transparency through social and geographical proximity. In such an environment, trust can be expected to be the result of a combination of factors like affectionate bonds, observations of personal conduct, reputation, and the reliance on shared norms and values.

Our findings suggest that this kind of trust can facilitate criminal co-operation. Both bootlegging in Norway and the trafficking in untaxed cigarettes in Germany are closely linked to legal business, namely the transportation sector. In our research we have found criminal relations growing out of existing or previous employer/employee relations, relations between employees of the same firm, and between independent business partners. One Norwegian alcohol smuggler stated that when obtaining credit in the bootlegging business, he was able to take advantage of the reputation he had gained as a legal entrepreneur who pays his debts on time.

Violation of Trust

It is a matter of further research to explore how the different social arenas relate to the emergence of trust relations and different levels of trust. What seems clear, however, is that no basis of trust is strong enough to rule out the possibility of betrayal. That is why the analysis of trust would be incomplete without a look at the consequences of a violation of trust. Our research suggests that the violation of trust can have very different consequences.

No Consequences

In some instances, the violation of trust may not entail any consequences, for example, because the trusting person remains unaware of the disloyalty. In one illustrative case, the members of the network of one of the big-shots of Norway's bootleg business continued to cooperate despite poor results. They failed to realise that the reason for their failures was that the big-shot himself occasionally informed on accomplices to fend off criminal investigations directed against him.

In some instances no consequences will follow because the trusting person has no motivation or resources for retribution. Several instances have been documented where participants of the bootleg business in Norway remained untouched although they had been known grasses for years.

Responses

When the trusting person does react to disloyal behaviour, the response needs not be drastic. Instead of using violence, the cooperation may be continued on a lower level. Overall, neither the bootleg liquor market in Norway nor the illegal cigarette market in Germany is marked by widespread violence.

Just as there are patterns of criminal co-operation that endure violations of trust, we also find co-operative relations among criminals that either seem to lack an initial basis of trust or appear to be characterised by outright mistrust.

At this point it must be stressed, however, that the presence or absence of trust is a matter of the subjective perspective of the trusting person. Trust may exist even though a rational objective observer would feel that there is no sufficient basis. One has to take into account that decisions under uncertainty, such as the decision to trust, are prone to be influenced by biases and misleading intuitions (Tversky and Kahnemann 1982). Therefore, trust-based co-operation may occur on a very precarious basis and without much of a past history (Gambetta 1988: 232; Good 1988: 45).

This may explain, for example, the on-the spot recruitments on the wholesale level of the cigarette black market in Germany. In several cases, persons have been recruited in the course of chance meetings in bars to transport considerable amounts of contraband cigarettes (von Lampe 2003b). It can be hypothesised that these encounters have been sufficient for both sides to form an opinion about the other's trustworthiness.

Co-operation Without a Basis of Trust

These constellations notwithstanding, there seem to be instances where co-operation occurs without a basis of trust. Four types of cases in particular can be distinguished:

- (1) Cases where trust is placed to explore the other's trustworthiness, typically beginning with an initial co-operative move on a low level of risk which is gradually increased to develop individualised trust;
- (2) Cases of adverse conditions where the trustor has no choice but to place trust in another because not to trust would lead to greater harm (see Coleman 1990: 107–108; Gambetta 1988: 223–224; McCarthy et al. 1998: 174);
- (3) Cases where the risks of co-operation are simply ignored, fatalistically accepted as a fact of life, or even welcomed to thrill gambler's adventurous mind (Adler 1985: 85).
- (4) Cases where the risks of co-operation are minimised by functional alternatives to trust in the form of precautionary measures such as anonymity and segmentation.

Conclusion

In conclusion we would like to argue that trust is an empirically and theoretically significant variable but it provides no exhaustive explanation for the emergence and continued existence of criminal networks. To fully understand the importance of trust it is necessary to acknowledge its many forms and micro- and macro-social contexts within which it is rooted. Kinship and ethnicity are just some, and not necessarily the most important trust variables that need to be taken into consideration. It may well be that criminal co-operation is not founded on trust at all: empirical evidence suggests that under certain circumstances, criminal relations can exist in the absence of trust and even despite mistrust.

Analysing organised crime with regard to the presence or absence of trust promises new insights from a combination of psychological and sociological perspectives.

Numerous questions remain to be answered through future research, including:

- how trust developed in legal contexts can be used for criminal purposes,
- to what extent the strength of trust-relations varies with different types of trust,
- to what extent the need for trust in criminal relations varies with the hostility of the environment and the general levels of trust in society.

It needs to be stressed that the illegal markets we are studying exist in relatively non-hostile environments and in societies that are characterised as “high-trust cultures” (Fukuyama 1995). It can be hypothesised that the picture is different in illegal markets in hostile environments and/or embedded in “low-trust societies”.

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Trafficking in Women and Children in Europe

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Concerning trafficking in women and children, Europe is divided into two parts: the member countries of the European Union serve as a destination area, and Eastern Central Europe, the Balkans and the CIS-countries as source and transit areas. Illegal immigration as a whole has six main routes to and inside Europe: 1) from Moscow through Lithuania, Poland and/or the Czech Republic to Germany and Austria; 2) from Ukraine through Slovakia, Hungary, the Czech Republic and/or Poland to Austria and Germany; 3) from the Middle East and Turkey to Greece and Italy; 4) from North Africa to Spain and Italy; 5) from Turkey through the Balkans to Italy and Austria, and 6) from South and Central America to Portugal and Spain. These routes also serve as the main routes of trafficking in human beings (NCIS UK, 34).

A. Trafficking in women and children for sexual exploitation

1 Overview

In Europe, the trafficking in women and children is dominated by trafficking connected with prostitution and other forms of sexual exploitation. A recent study shows that more than 80 percent of the victims from south-eastern Europe (one of the main source areas) end up as prostitutes, and about 10 percent as suppliers of other erotic services. Approximately 10 to 30 percent of the victims are under 18 years of age; mostly 15–18-year-old girls, but also younger children are involved (Hajdinjak 2002, 51; Omelaniuk 2002).

Precise information on the volume and turnover of the crime is not available. This is mainly due to the following:

- 1) The absence of comparable statistics on reported crimes, indictments and court cases, as well as on the number of victims involved (on the whole, national statistics indicating the number of victims in reported crimes are available only in a few European countries);
- 2) The heterogeneous criminalisation of the crime of trafficking in women in the national legislation of European countries;
- 3) The characteristics of trafficking (as organised transnational crime), which result in a high dark figure and make trafficking hard to control and to prevent;

- 4) The poor legal status of the victims in the legislation of the European countries, which makes them unwilling to report the crimes or to co-operate with the authorities during investigation and court proceedings;
- 5) The heterogeneous use of the concept of trafficking in women in both international and national contexts.¹ This is partly due to the heterogeneous national legislation in Europe, and partly to the different ideological and moral attitudes to prostitution. At its largest, trafficking in women is understood to include all (international) female prostitution, and at most limited, only certain crimes against personal freedom criminalised in national legislation.

Hence the current extent of trafficking in women in Europe is subject to rough estimates, and in most cases it is unclear how these estimates have been reached. Furthermore, due to some of the definitional grey areas involved, very accurate estimates would be impossible to make even in theory.

As far as the whole continent is concerned, the Swedish NGO Kvinna till kvinna estimates that every year approximately 500,000 women and children are trafficked for sexual exploitation to the European Union member countries. According to the latest estimate of IOM, the volume of trafficking to the European Union from and through the Balkans is 120,000 women and children a year, and from the whole of Eastern Europe about 200,000 women and children. In addition to the trafficking directed at the European Union, trafficking in women and children for sexual exploitation is common also to, in and between the countries outside the EU, as well as from Europe to other continents (North America, the Middle East, Japan and Southeast Asia). Estimates of the extent of this activity are even more vague than those of trafficking to the EU, but the volume is probably smaller. According to the latest estimate by the US Drug Enforcement Administration (DEA), the annual volume of all forms of trafficking in women and children all over the world is 500,000 victims, of whom 200,000 go through the Balkans. According to the US State Department, the corresponding figure is 700,000. All the above mentioned estimates must be considered as indicative only, for there are no exact data (and, for definitional problems, it is doubtful if such data will ever exist) on the actual volume of trafficking in women either in Europe or on other continents (Hajdinjak 2002, 51; Laczko etc. 2002, 4; Organised crime situation report 2001, 41; fpmail.friends-partners.org; www.janes.com; www1.umn.edu/humanrts/usdocs).

It is, however, evident that in Europe, the volume of trafficking has increased rapidly over the last ten years. Two plausible explanations are to be found: Firstly, the demand for prostitution and other sexual services has increased in Western Europe. Secondly, the former Socialist countries in Eastern Europe with their current economic and social problems form a source area from which traf-

1 The term trafficking is used in this report as defined in the UN Palermo Protocol on Trafficking in 2000: "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

ficking in humans to Western Europe can be organised far more easily and more economically than from the old source areas (Southeast Asia, West Africa and Latin America). Estimates of the yearly turn-over of the crime vary from 100 million Euros to several billion euros (Hajdinjak 2002, 51; Organised crime situation report 2001, 41; fpmail.friends-partners.org).

The majority of the victims of trafficking come from Albania, Lithuania, Moldavia, Romania, Russia and Ukraine. Of the victims of coerced prostitution assisted by IOM over the last few years, about half have been Moldavians, one-fourth Romanians, and one-tenth Ukrainians. Trafficking in women to Europe from other continents is most common in the Mediterranean countries and in Western Europe. The main source areas are Southeast Asia (Thailand), Latin America (Columbia, Brazil, and the Dominican Republic) and North and West Africa (Morocco, Nigeria and Sierra Leone). According to Europol, the extent of this trade has remained about the same over the last decade. The increase in the total volume of trafficking in women in Europe thus originates from Eastern Europe (Organised crime situation report 2001, 41; fpmail.friends-partners.org).

2 The characteristics of trafficking in women and children for prostitution in Europe

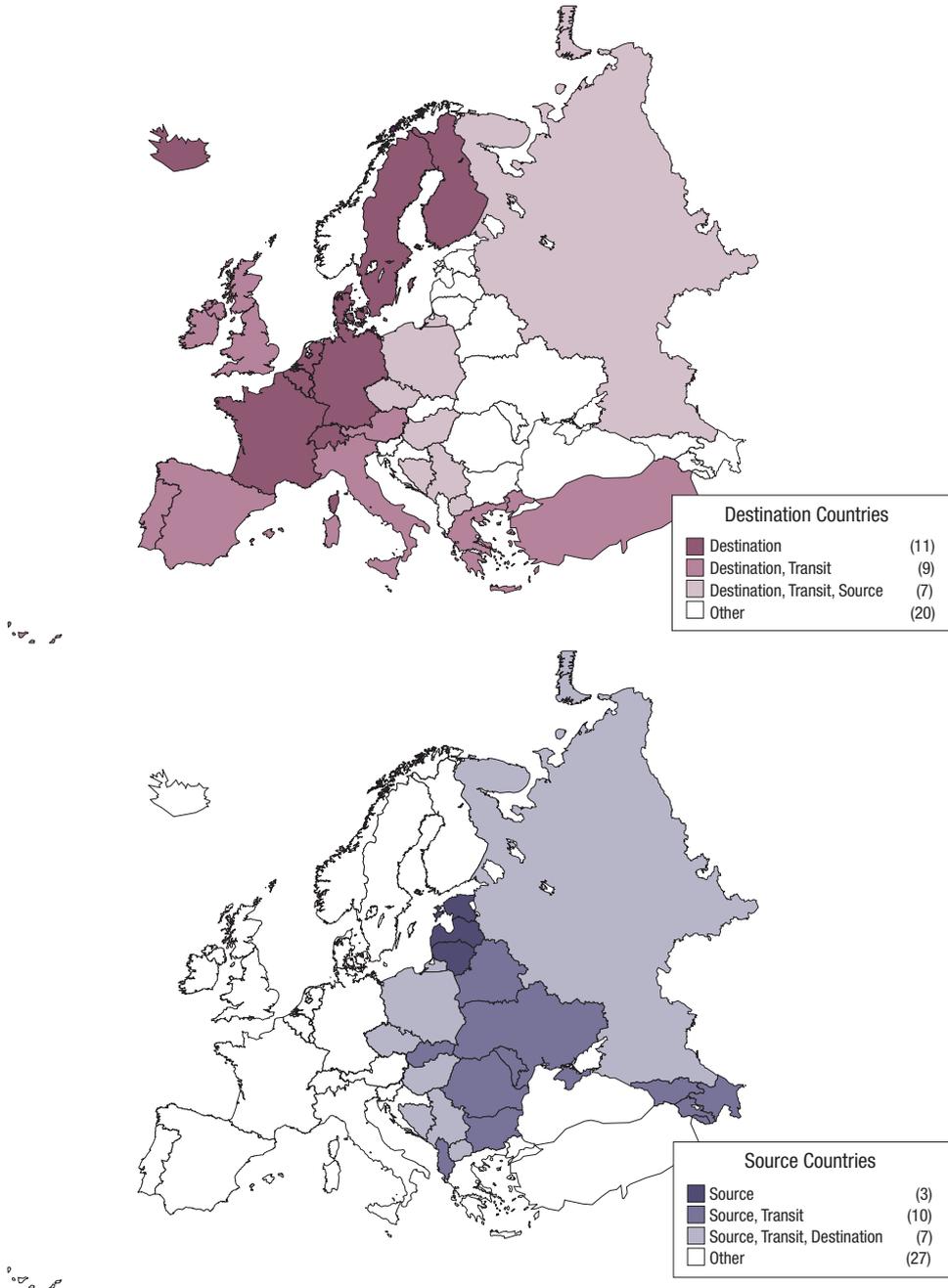
On average, the victims of trafficking for prostitution in Europe are not only from the economically most depressed, and socially and politically most unstable areas of the continent, but also belong to the most disadvantaged social and ethnic groups of those areas. They are usually also very young: teenagers, or in their early twenties. When seeking better opportunities in life, they fall easy prey to criminals promising good jobs and high wages abroad. For the criminals and organised crime groups, trafficking offers an opportunity to make very high profits with minimal risk and low capital requirements.

Trafficking operations are usually carried out in co-operation by several, relatively small local criminal groups. This makes the activity both flexible and difficult to prevent, since the elimination of one group does not usually affect the activity of the whole network: the missing link will only be replaced by another (NCIS UK, 34–36).

The relations between the groups are normally pure business relations, and each groups can act in several networks simultaneously. The women are transported either directly to the ultimate destination country, and engaged in prostitution after arrival, or they are moved in stages, in which case they are exploited at each stage. The first method is common in trafficking from the Baltic countries and Russia to Western Europe, and the co-operation between the recruiters, transporters and exploiters is usually close. The latter method, on the other hand, is frequently used in the trafficking through and from the Balkans; the co-operation networks are loose and change from operation to operation (NCIS UK, 34–36).

The victims are recruited in the source countries through newspaper and Internet advertisements, by individual recruiters (often female), or by front agencies offering legal or illegal employment opportunities in the EU member countries as, for example, maids, nannies, waitresses, models, striptease-dancers or cleaning women. Some of the women are recruited knowingly into prostitution,

but even in their case the conditions of their employment often differ from what has been agreed. In the actual trafficking, the recent trend, at least in the Baltic countries, has been towards personal recruiting instead of general advertising. In some countries, women are also recruited by abduction; from Albania and Kosovo, there are even reports on families selling their daughters to traffickers (Hajdinjak 2002, 51; NCIS UK, 35; Sipaviciene 2002, 14).



Once recruited, the victims are controlled during the transport and in the destination countries by a variety of means, but violence (implied and actual) is common and ever-present. There are more and more reported cases of extreme forms of coercion, assaults, rapes and even homicides. Especially the trafficking from and through the Balkans is reported to be exceptionally violent by nature, and the invasion of the Balkan groups on the West European prostitution market has had a brutalising effect on the working methods also outside the Balkans. A common trend of the last few years has been the increasing use of forced addiction of women to hard drugs, which ties the victims to the traffickers in a very effective manner. This method is especially popular among those traffickers who are also involved in the drug trade, and in Finland, for example, where foreign prostitution is mainly mobile, prostitutes are regularly used as drug smugglers/couriers and dealers. In most European countries, the groups trafficking women are usually also involved in other forms of trafficking and smuggling (Laczko etc. 2002, 15; Lehti & Aromaa 2002, 87–92; NCIS UK, 35, 38–39).

The traffickers also exploit the economic, social and cultural vulnerabilities of the victims. Debt is one of the most common means of control. The women usually agree to pay their travelling and recruiting expenses from the future earnings. This debt is passed from one trafficker to the next until it ends up in the hands of the exploiter in the destination country. Together with the inflated housing and living expenses charged from the victims, the debt soon becomes impossible to handle. The earnings of the victims are then directed at the pockets of the exploiters, and the women become totally dependent on their abusers because they have no financial means to escape. It is also normal to confiscate the passports and other identity documents of the victims, and to threaten them with local authorities, deportation and detention. The effectiveness of the threats is increased by the fact that they are often at least partly real: in most European countries, it is almost impossible for the victims to avoid immediate deportation, and that effectively prevents the women from approaching the authorities even in the most aggravated cases of abuse (NCIS UK, 36).

B. Other forms of trafficking in women and children

As mentioned above, presently 80–90 percent of the trafficking in women and children in and to Europe is serving organised prostitution and other forms of sexual exploitation. As far as the other forms of trafficking in human beings is concerned, the lack of information, and the confusion of concepts are even greater than in the case of trafficking for sexual exploitation (Forced Labour 2002; Omelaniuk 2002).

Trafficking in women and children for forced or slave labour seems to be fairly rare in the EU member countries, even if the recruiting of employees for, for example, hotel and catering business and of domestic servants and nannies from the Balkans and the Baltic countries sometimes meets the criteria. In several European countries, the staff of a few African and Asian embassies have caused problems by trafficking domestic servants from their home countries to work for their employees in conditions resembling slave labour. Trafficking for industrial work is found in Italy, for example, where 30,000 foreign children

(mostly from China) are estimated to work in small-scale clothing and other industry in conditions similar to slave labour. In Greece, some 3,000 children, mostly Albanians, are estimated to work in corresponding conditions as window cleaners and in other similar occupations. On a larger scale, children are trafficked and made to work for organised crime in begging rings, or as pickpockets and thieves. This practice is exercised in the whole of Europe; the victims usually come from Eastern Europe, and the proportion of Roma is considerable (www.globalmarch.org).

The evidence of trafficking connected with the international trade in human organs is almost non-existent in Europe. It is true that in Russia, for example, there are rumours and allegations of kidnapping street and orphanage children for this purpose. However, the only known case is from the year 2000, when a Muscovite grandmother sold her grandchild for 90,000 USD to police officers, acting as traffickers, to be used in organ trade. Since the events of this case were triggered by a trap laid by undercover police, its value as evidence is questionable. As far as is known, other cases with concrete evidence of this kind of trade have not been reported from Europe in the last few years (www.globalmarch.org).

Apart from trafficking for prostitution, the most important forms of trafficking in humans in Europe are at present the illegal trade of children for adoption, and the trafficking in workers for the shadow labour market existing between the legal market and slave labour.

The source areas of trafficking in children for illegal adoption to Western Europe are the Eastern European countries and the third world countries. In addition, children are trafficked from Eastern Europe to industrial countries outside Europe, especially to North America. There are no estimates available on the extent of the trade (www.globalmarch.org).

Trafficking in workers for the shadow labour market serves mainly the recruiting of seasonal labour force for agriculture. In addition, there is demand for such labour force in the construction industry and other business sectors where large numbers of unskilled workers are employed, the turnover of labour is high, and the official control weak. The destination for grey labour in Europe are the EU member countries, whereas the Balkans and the Eastern European countries serve as source areas. Workforce is smuggled into the European Union also from outside Europe, especially from North Africa as well as East and South Asia; one of the primary individual source countries is China. If the smuggled employees are minors, this kind of activity must always be regarded as trafficking. The Palermo Protocol on Trafficking states quite explicitly that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is to be considered as trafficking in persons, regardless of whether coercion and deception are involved. In the case of adults, it is somewhat more difficult to determine if the terms of recruitment, employment and working meet the criteria of trafficking in humans. When compared with the legal labour market, the terms and conditions employed on the shadow market are generally considerably worse, and various malpractices are common. On the other hand, the workers usually know this already when they are recruited and make the contract with the traffickers more or less voluntarily; it seems that in many cases, the immigrants rather tolerate working conditions that resemble forced labour, than the

impoverished freedom in their home countries. In spite of this, there can be no justification for any forms of forced labour, and both the governments and civil society groups should show more political will in order to tackle the problem. The majority of the grey labour force smuggled into Europe are men; women are mostly recruited to the hotel and catering sector, or work as domestic servants. There are no estimates available on the volume of the trade (Forced Labour 2002, 5; Plant 2002).

C. Prevention, crime control, and witness protection legislation

The main reason behind the rapid increase in trafficking in women and children in Europe after the collapse of the Iron Curtain at the beginning of the 1990s is the deep difference in the standard of living between the Western European countries and the former Socialist countries. It is not a coincidence that four of the most important source countries for the trafficking (Albania, Moldavia, Romania and Ukraine) are also the poorest countries in the continent, one (Lithuania) is the poorest country in the Baltic Sea area, and that in Russia (sixth most important source country), there are large areas where the standard of living is exceptionally low and the social problems enormous. Thus, it is improbable that any fundamental positive changes in the situation can be achieved before the internal differences in the standards of living have been levelled down throughout the continent. The point is illustrated by the recent development in Poland, Hungary and the Czech Republic, where the positive social and economic development has significantly and rapidly reduced trafficking.

The most effective means to improve the situation and to prevent trafficking is to support and facilitate the social and economic development in the Eastern European countries. In this respect, the enlargement of the European Union can be expected to produce significant positive results. However, the most problematic countries will be disregarded at least in the first phase of the enlargement, and especially Moldavia and Ukraine have been left to play second fiddle in EU-Eastern European relations.

In the actual crime control policies concerning trafficking in women, the most crucial questions are presently:

- 1) creating extensive and reliable systems for collecting comparative data on the whole continent;
- 2) criminalising the trafficking in women in all European countries with relatively uniform criteria and sanctions;
- 3) developing and increasing the co-operation in crime prevention both internationally and between the European countries;
- 4) improving the status and rights of the victims in the legislation of the European countries, and
- 5) creating efficient witness protection legislation and programmes applicable to the victims of trafficking.

For the time being, there is no reliable, comparative information available on the extent of trafficking in women in Europe, or on the numbers and the nationalities of the victims; not even concerning the reported and prosecuted crimes. In order

to improve the situation, the European countries should invest in gathering national statistics on reported trafficking crimes which would employ relatively uniform criteria and comparable standards. In addition to the relevant authorities, important sources of information are NGOs that assist and provide support for prostitutes and the victims of trafficking. Means should also be created in order to make an efficient and extensive collection of their information possible in each country as well as all over the continent. Mere statistics would, however, produce only indicative information at best. In order to obtain better knowledge of the situation, and to create a basis for more efficient data collection systems, it is of utmost importance to increase basic research concerning trafficking and organised prostitution in Europe and in each European country. Much valuable knowledge has already been produced within the STOP and STOP II programmes, the IOM research projects, and some national research programmes. The need for additional research is, however, urgent.

The legislation concerning trafficking in women is still fairly heterogeneous in the European countries, but in recent years, harmonisation in regard to the criteria of the crime, sanctions, and the status and rights of the victims has been achieved. Activities of the Council of Europe (COE), the Organisation on Security and Co-operation in Europe (OSCE), and the European Union have been crucial.

Several conventions of *the Council of Europe* are relevant to combating trafficking in women (for example, the Conventions on Human Rights; on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; on the Compensation of Victims of Violent Crimes; and on Extradition). However, so far all the special COE regulations concerning the trafficking in women are mere recommendations. The most important of these is the R (2000) 11 (Recommendation on Action against Trafficking in Human Beings for the purpose of Sexual Exploitation) which proposes that:

- 1) trafficking should be made a special offence;
- 2) courts of law should have the right to seize assets belonging to convicted traffickers, and
- 3) victims of trafficking should receive help and protection; governments should set up agreements to facilitate the victims' return to their native countries if they so wish, and victims should be granted, if necessary, temporary residence status on humanitarian grounds.

Other relevant COE recommendations include: R (91) 11, R (96) 8, R (97) 13, R (80) 10, R (85) 11 and R (87) 21. Their objective, at least indirectly, is to harmonise the legislation of the member countries, and to improve the legal status of the victims of trafficking.

According to the 2002 data, in 28 of the 52 European countries and other de facto independent jurisdictional areas, the trafficking in women is criminalised as a separate crime, and in at least three others an amendment for this purpose is being drafted. Not a single European country has at the moment specific legislative witness protection programmes designated specifically for the victims of trafficking. Of the EU member countries, Belgium, Denmark, Finland, France, Luxembourg and Sweden do not have any formal witness protection programmes; in the remaining member countries, witness protection for victims

of trafficking is provided on the basis of either general legislative witness protection provisions or non-legislative protection programmes, and the entry criteria are by default so strict that they are not attainable by standard victims of trafficking. Of the Central and Eastern European countries, at least the Czech Republic and Hungary have general witness protection programmes applicable to the victims of trafficking (Holmes & Berta 2002).

As mentioned, there currently is no special European Convention on trafficking. There is, however, a convention under discussion which aims at a binding regulation concerning the legal status and protection of the victims of trafficking in humans. The convention would focus specifically on minors, and include an efficient monitoring system (CM (2002) 129; Trafficking in Women, 42).

The Organisation for Security and Co-operation in Europe is a regional organisation, and another source of non-binding regulations on trafficking. The OSCE and especially its Office for Democratic Institutions and Human Rights (ODIHR) have become increasingly involved in the issue over the last ten years. In 1999, the OSCE Parliamentary Assembly adopted a Resolution on Trafficking in Women and Children, in which the member countries were called upon to make sure that they have the necessary legislation and enforcement mechanisms to punish traffickers. Country reports requested from the member countries presently form the most extensive source of information on the extent of trafficking, and on the existing legislation concerning trafficking in the European countries (Trafficking in Women, 42–43).

The European Union legislation concerning trafficking in women and children is variable and constantly developing. The three most important pieces of special legislation with regard to combating trafficking in women and children are the *Council framework decision on combating trafficking in human beings* (2002/629/JAI), the proposed *Council framework decision on combating the sexual exploitation of children and child pornography*, and the proposed *Council directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who co-operate with the competent authorities* (COM (2002) 71). The framework decision on combating trafficking in human beings obligates the member countries to ensure that trafficking in humans for forced labour as well as for sexual exploitation are criminalised, as are the instigation, aiding, abetting and attempt of such activity. The decision also includes stipulations on the maximum penalty (six years of imprisonment) and on aggravating circumstances. The criminal liability of corporate actors is addressed, as well as issues of jurisdiction and co-operation between the member states. The proposed framework decision on combating the sexual exploitation of children is intrinsically linked with trafficking in children because at the moment, prostitution and other forms of sexual exploitation dominate trafficking in children in Europe. The proposed decision defines a child as a person under 18 years of age.

The proposed directive on short-term residence permits includes regulations on the conditions and procedures for issuing short-term residence permits for victims of trafficking in human beings. The objective is that the victims who in

the course of a certain reflection period consent to assist the authorities in the investigation and prosecution of the crime, would on certain conditions have the right to a temporary residence permit in the EU member countries. At request, the permit could be renewed according to the needs of the investigation and the court proceedings, but it could not be renewed after the proceedings have been concluded. The conditions for the permit are strict, and the whole procedure is always dependent on the victim's willingness to co-operate. Nonetheless, the directive would improve the present situation in which the victims are as a rule deported from most EU member countries (similarly to the other European countries) immediately and without exception. If the changes brought about by the directive are able to make the victims more co-operative towards the investigation and prosecution of the crimes, there are hopes that the clearance and conviction rates will improve, which in turn would have a significant invigorating effect on the prevention of trafficking. This is not, however, self-evident, for even if the stipulations of the directive are implemented, the factual position of the victims still remains rather insecure.

At present, the day-to-day protection and support of the victims of trafficking in Europe depend mostly on the activity of various NGOs. The European Union has supported and supports their work within the STOP, STOP II and Daphne programmes. However, the main responsibility as well as the financing of the activity are shouldered by voluntary citizens' organisations and volunteer workers.

At the moment, only the Netherlands, Belgium, Spain, Italy and the Czech Republic have promulgated special witness protection legislation applicable to the victims of trafficking. In some countries, such legislation is under preparation. All of the above mentioned laws are relatively new, and there is not yet much experience on how they work in practice. They all include the possibility of issuing temporary residence permits for victims of trafficking; in Belgium and the Netherlands, the consent of the victim to co-operate in the investigation and prosecution is required, in Italy all victims have similar rights whether they co-operate or not. In Spain, the stipulations of the general witness protection law apply also to the victims of trafficking. Presently, only Italy and Spain offer the victims actual, active police protection that continues also after the court proceedings have ended (by establishing a new identity, for example), but even here the right for this kind of protection is to a large extent only theoretical. It is questionable how effectively the victims' willingness to co-operate with the authorities (which is crucial to combating trafficking in humans) can be improved by granting mere temporary residence permits; on the other hand, a great many European countries do not presently have any kind of efficient witness protection programmes, and the population in many countries is so small that it would be virtually impossible to create such programmes without some kind of common programme covering the whole of Europe (Pearson 2001, 10–13).

Since trafficking in humans is a transnational crime, it is necessary to have effective international police co-operation to combat and prevent it. In Europe, the co-operation is both bilateral and international (Europol). In addition to the everyday co-operation, several large-scale special operations have been conducted

in the last few years, usually with good results. For example, during the Sunflower operation in 2002, more than 80 suspects were arrested in an operation carried out by the Europol and nine national police forces (news.bbc.co.uk).

The routes of trafficking in Europe are so manifold, and the organisation of the crime so flexible that it is not possible to close all the routes and eliminate all the trafficking networks. It is more practicable to concentrate the crime prevention efforts and combating operations on the main source countries and the most important junctions of the trafficking routes. When the Eastern Central European countries join the European Union, the possibilities to control the transit trafficking carried out via them will improve significantly; but there is still a need for a more efficient police and intelligence co-operation both inside the EU, and in particular between the EU member countries and the non-members. It is also crucial for the effective prevention of trafficking in women and children to continue and invigorate the combat against corruption in border controls, police forces, and on all levels of government which is rampant not only in many source countries but also in many of the main destination countries of trafficking in Europe, both inside and outside the European Union (NCIS UK, 34–36).

D. Conclusions

Exact information about the volume, characteristics and organisation of trafficking in women and children in Europe is still so scarce, and most of the programmes and legislative changes aimed at combating the crime so new that it is hard to say how they work in every-day crime prevention, and what practises of countering are the best and most effective. On the whole, it seems that the measures taken should be many and varied, comprised of legislative measures, police operations as well as different awareness campaigns, support programmes and media actions.

In several European countries, the implementation of even the basic legislative and other recommendations of the COE, OSCE, EU and UN concerning trafficking in women and children is still deficient. Thus, the most urgent short-term task in Europe should be the adoption and implementation of compatible and appropriate legislation concerning the crimes of trafficking, as well as the developing and strengthening of effective protection and assistance mechanisms for victims of trafficking in all European countries. This should be combined with the strengthening of socio-economic support programmes and awareness-raising activities in both the source and the destination countries. The urgent need to collect and exchange comparative information on trafficking throughout the continent, and to allocate sufficient funds to monitor trafficking, create databases and carry out further research on this issue should also be underlined.

In the long run, the best and most effective way to prevent trafficking is to support and facilitate the general social and economic development in the Eastern European and third world countries.

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* To access information on a specific country, replace the word COUNTRY in the URL with the name of that country.

Развитие межнациональной экономики и углубление интеграционных процессов как криминогенные факторы и пути их минимизации

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1. Постановка проблемы.

Объединение экономик различных государств Европы, усиление процессов интеграции на территории последней, как правило, оценивается в мире, в целом, позитивно. Но эти процессы, затрагивающие любое государство, объективно влияют и на все присущие ему явления. С высокой степенью вероятности, поэтому, можно прогнозировать существование точно таких же интеграционных тенденций внутри преступности разных стран. В частности, этот прогноз отчасти оправдался при анализе результатов проведенного нами совместного российско-грузинского исследования по контрабанде и приграничной торговле¹ Межнациональная экономика и разные виды благоприятной интеграции выступают, таким образом, в качестве факторов, порождающих транснациональную преступность и ее новые, не известные ранее отдельным государствам, виды преступности, т.е., в качестве криминогенных факторов. Очевидно, исключить полностью подобное крайне негативное явление, - невозможно, следовательно, задача состоит в том, чтобы минимизировать его. Обо всем сказанном, а также о некоторых возможных путях уменьшения побочных следствий позитивных процессов интеграции и пойдет речь ниже.

1 Исследование проводилось совместно Саратовским Центром по исследованию проблем организованной преступности и коррупции (Россия, TRACCC), созданным по договору между Саратовской государственной академией права и Американским (Вашингтонским) университетом, с подобным же Тбилисским Центром (Грузия) в апреле – сентябре 2003 г.

2. Развитие межнациональной экономики и углубление интеграционных процессов – современные позитивные реалии.

А. Почему это реалии?

Собственно, этот вопрос особых аргументов не требует. Вот только некоторые наиболее зримые свидетельства развития межнациональной экономики и интеграции: 1) широкое присутствие иностранного капитала в любом государстве мира, вне зависимости от того, относится ли оно к развитым или развивающимся, в виде иностранных инвестиций в промышленность; предприятий с иностранным капиталом, или принадлежащих собственникам других государств; и т.д.; 2) введение единой валюты для разных государств (евро, или рубль, который, по прогнозам, станет единой валютой для государств СНГ, начиная с Республики Беларусь)²; 3) создание международных организаций для решения сообща различных проблем (экономических, экологических, проблем безопасности, борьбы с преступностью, культурных, медицинских, и др.); 4) установление полной прозрачности границ, вплоть до полностью беспрепятственного и безвизового их пересечения в отдельных регионах (например, в государствах Западной Европы); 5) стирание языковых барьеров (знание английского языка становится международной нормой, равно, как знание русского – для большой территории стран СНГ); 6) развитие телекоммуникационных связей, Всемирной сети Интернет, дающей великолепную возможность международного общения; и т.д.

Другое дело – что здесь первично: развитие ли экономики, или углубление иных – неэкономических – процессов. Однако решение этой проблемы не входит в мою задачу; впрочем, едва ли в принципе возможен однозначный ответ на этот вопрос. Он - из разряда вечных.

Б. Почему это неизбежно?

Стремление различных государств к интеграции – процесс неизбежный и закономерный. При этом для государств с разным уровнем экономического и политического развития причины этого стремления, в

2 Следует отметить, что процессы перехода на единую валюту успешно решают для себя как жители приграничных районов различных государств, так и лица, совершающие в этих районах межгосударственные преступления, например, контрабанду. В процессе упомянутого выше российско-грузинского исследования нами было установлено, что названные лица используют валюту США и России; валюта Грузии успехом не пользуется. Больше того, валюта является приоритетным контрабандным товаром. Так, например, в марте 2003 г. на таможенном посту МАПП Адлер, при осуществлении таможенного контроля, у гр-ки России З., следовавшей из России в Грузию, изъято незадекларированных письменно и сокрытых от таможенного контроля в белье \$ 6323 на сумму 200422 рубля и 224.000 рублей. Возбуждено уголовное дело по признакам ч. 1 ст. 188 УК (контрабанда), которое впоследствии было прекращено, «поскольку виновная пересекла белую линию по неосторожности». В 2002 г. там же, при осуществлении личного досмотра, у гр-ки Грузии М., следовавшей из России в Грузию, изъято незадекларированных письменно и сокрытых от таможенного контроля \$ 10800 на сумму 343707 рублей. Возбуждено уголовное дело по признакам ч. 1 ст. 188 УК. Всего же за период 2000 – 4 месяца 2003 г. на российско-грузинской границе (абхазский участок) было изъято 125,8 тысяч долларов США.

общем, совпадают, хотя порядок приоритетов, безусловно, отличается. Так, для экономически сильного, развитого государства, по мере его развития, все острее и острее встает вопрос о рынках сбыта, поскольку возможности собственного государства исчерпаны. Точно также, и в связи со сказанным, значительно ограничиваются объективно возможности для развития и увеличения капиталов, как государственных, так и частных. Поэтому выход на межгосударственный уровень здесь становится жизненно необходимым.

Для развивающихся государств, напротив, от прихода в них иностранного капитала в значительной, а иногда – и в определяющей – степени зависит их выживание и сохранение себя как государства.

Развитие экономики, между тем, неизбежно приводит к эпохе глобализации. И хотя бы они того, или нет, все государства оказываются существующими в ней, а, следовательно, опять-таки, вне зависимости от их желания, вынуждены жить по новым правилам, для того, чтобы жить. Поэтому, со временем встает вопрос о межгосударственном управлении. Он решается постепенно, медленными шагами, начиная, например, с локальных межгосударственных организаций и межгосударственных, международных соглашений в одной, отдельно взятой, области.

В. Почему это хорошо?

Процесс межгосударственной, в том числе, экономической, интеграции – это, конечно, позитивный процесс. Очевидные преимущества интеграции: 1) усиление экономического развития всех государств, вовлеченных этот процесс; 2) соответственно, повышение уровня жизни государств и населяющих его граждан; 3) появление возможности, решать те проблемы, которые не под силу одному, или даже нескольким государствам (например, освоение космического пространства, создание новых прогрессивных технологий, или лекарств от ранее неизлечимых болезней, преодоление последствий экологических бедствий, и т.д.); 4) международная интеграция дает много шансов для того, чтобы избежать по спорным позициям не только открытого противостояния, локальных и масштабных конфликтов, но и войны, так называемой, «холодной». Вырабатываются навыки межнационального и международного компромисса; и т.д.

3. Обратная сторона медали. Плата за сближение.

А. Подводные камни: маленькие и большие.

К сожалению, не все так безоблачно, как хотелось бы. Позитивное и негативное составляют собой диалектическое единство, и присутствуют в каждом явлении. Об этом, на примере свободы и несвободы, пишет известный не только в России, но и во всем мире российский криминолог В.В. Лунеев: «Свобода не может быть позитивно избирательной. Будучи непреходящей ценностью человечества, она

может одинаково служить не только добру. С не меньшим успехом она может быть использована во зло, в нашем случае – для совершения преступлений. И в этом узком понимании ... вполне допустим вывод: свобода более криминогенна, чем несвобода, если только не принимать во внимание накопительный криминогенный процесс последней...»³.

Явление, тем более, такое сложное и объемное, как межнациональная и межгосударственная интеграция, тоже не может быть выражено одной краской, и не может нести одно только благо. При общей положительной характеристике и, безусловно, прогрессивных, результатах, интеграция и экономическое развитие влекут за собой массу побочных негативных последствий, отличающихся различной степенью вредности и совершенно разным характером.

Прежде всего, эти последствия носят экономическую окраску. Злоупотребление одними государствами преимуществами своего экономического развития, или даже просто, игнорирование экономической слабости международного партнера, приводит к тому, что сильные экономически государства становятся еще сильнее, а слабые – еще слабее. Таким образом, вместо того, чтобы получить обоюдную пользу от сотрудничества и интеграции, одни из участников интеграционного (в этом случае, в кавычках) процесса подвергаются разрушительному иностранному влиянию, фактически, порабощению. Разумеется, это – крайняя ситуация, но она, к великому сожалению, существует, и примеры подобного рода дает и демократическая Америка, и стремящаяся к демократичности Россия.

От экономики – один шаг, или даже, меньше, до политики. Кроме описанного выше порабощения, теперь уже политического, развивающегося государства более сильным, появляются возможности, путем международной интеграции, нескольким развитым государствам диктовать свою волю всем остальным государствам мира, и в том числе, навязывать определенный политический режим. Думаю, нет нужды объяснять, что даже благие намерения (например, превратить какое-то государство из оплота зла в демократическое) не могут оправдать насилия над волей проживающих в государстве людей. И опять-таки, я говорю здесь о России (политика в Чечне) и об Америке, Великобритании и других сильных государствах (политика в отношении Югославии, и в отношении Ирака).

Отсюда напрашивается единственный вывод: правила игры (международной интеграции) – еще не сложились, и нет действенного механизма (применение военной силы, конечно, не может быть отнесено к нему), гарантировать их соблюдение участниками.

Разумеется, в рамках этой статьи все негативные последствия развития международной экономики и интеграционных процессов не могут быть названы, да это и не является моей целью, более того, анализ

3 См.: Лунеев В.В. Рыночная экономика и экономическая преступность в России. – Экономическая преступность / Под ред. В.В. Лунеева, В.И. Борисова. – М.: Юристъ, 2002. – С. 15.

большинства этих последствий и поиск выходов из них – прерогатива специалистов – политиков, социологов, экономистов, юристов, занимающихся позитивным правом, и т.д.

Есть, однако, в числе негативных последствий такие, которые могут и должны быть оценены, в первую очередь, криминологами. Речь идет, конечно же, о преступности. И здесь принципиальны два момента: 1) межнациональная экономика и межгосударственная интеграция обладают криминогенными свойствами: они продуцируют преступность, порождают ее, причем, в том числе, такие ее виды, которые ранее человечеству были неизвестны, или неизвестны в столь крупном масштабе; 2) преступность как относительно массовое и присущее всем государствам явление, также подвержена тем переменам, которые происходят на межнациональном уровне; она неизбежно стремится к интеграции.

Б. Криминогенные свойства межнациональной экономики и интеграции: почему они существуют и в чем проявляются?

Прежде всего, следует напомнить, что криминогенными свойствами обладает любая экономика, а рыночная – в особенности. В.В. Лунеев справедливо отмечает, что рыночная экономика, как всякое сложное явление, «социально противоречива, а следовательно, и криминогенна»⁴. Ему вторит директор Санкт-Петербургского Центра по изучению организованной преступности и коррупции Б.В. Волженкин: «Рыночная экономика с ее беспощадной конкурентной борьбой подчас за выживание, погоней за прибылью и сверхприбылью неизбежно порождает преступность»⁵.

Зарождающаяся межнациональная экономика, или экономика в условиях глобализации, тоже, разумеется, не безупречна в этом отношении и не может быть безупречна. Нил Шовер и Эндрю Хохстетлер (Университет Теннесси, Ноксвилл) пишут: «Рост мировой экономической системы открывает новые возможности для совершения преступлений. Простое мошенничество, основанное на завоевании доверия жертвы, или коммерческое мошенничество могут пересекать границы государств, благодаря широкому распространению новых средств связи»⁶. И далее: «Торговые соглашения, заключаемые между различными государствами, порождают новые производственные и торговые предприятия, растущий свободный поток товаров и услуг, также открывают новые криминальные возможности»⁷.

4 См.: Лунеев В.В. Рыночная экономика и экономическая преступность в России. – Экономическая преступность / Под ред. В.В. Лунеева, В.И. Борисова. – М.: Юристъ, 2002. – С. 14.

5 См.: Криминология / Под ред. д.ю.н. В.Н. Бурлакова, д.ю.н. Н.М. Кропачева. – СПб.: Питер, 2003. – С. 255. Автор главы – Б.В. Волженкин.

6 См.: Криминология / Под ред. Дж. Ф. Шелли / Пер. с англ. – СПб.: Питер, 2003. – С. 372. Авторы главы – Нил Шовер и Эндрю Хохстетлер (Университет Теннесси, Ноксвилл).

7 Там же. – С. 373.

Следует иметь в виду и то, что межгосударственные интеграционные процессы не просто порождают отдельные преступления, они воспроизводят преступность как некую систему криминальных массовых явлений. Точно об этом пишут питерские криминологи и экономисты В.М. Егоршин и В.М. Колесников: «...Если экономически современное рыночное хозяйство и доказало свою эффективность, то криминологически оно остается крайне далеким от совершенства – ему изначально присущи противоречия, предопределяющие наличие и воспроизводство экономической преступности как масштабного асоциального явления»⁸.

В основе криминогенных свойств межнациональных экономики и интеграции лежат, например, следующие их признаки и характеристики:

1) *конфликт интересов, и, прежде всего, экономических, участников этих процессов.* Даже при наличии общих целей деятельности сохраняется, на мой взгляд, всегда ряд противоречий, более или менее выраженных: между разными участниками деятельности; между общей целью и конкретным интересом отдельного участника; между ожидаемыми результатами деятельности и прогнозируемыми, но побочными результатами, и т.д. Существующий конфликт провоцирует участников отношений на поиски путей его разрешения с получением, разумеется, своекорыстной выгоды. Один из криминальных примеров разрешения подобного конфликта приводят уже упоминавшиеся Нил Шовер и Эндрю Хохстетлер: «...Сельскохозяйственные субсидии в Европейском Союзе были призваны обеспечить качество и достаточное количество продукции, а также стабильные доходы фермеров. Однако на практике это привело к тому, что искажение данных о качестве, происхождении и назначении товара стало прибыльным предприятием. В рамках самой простой схемы виноделы используют субсидии, выплачиваемые для изъятия избытков вина с рынка. Они закупают дешевое вино за рубежом, обозначают его как свою продукцию и получают субсидии как за то, так и за другое. Криминальные возможности открываются и для поставщиков мяса, с которых взимается меньший налог, если они экспортируют продукцию, а не продают ее на внутреннем рынке. Одним росчерком пера на упаковочном листе мясо, произведенное и проданное внутри страны, как бы пересекает границу и приносит незаконную прибыль»⁹. Последние схемы сегодня прекрасно знакомы и России, и другим государствам. В ходе проведения российско-грузинского исследования нами было установлено, например, что для периода до 2000 г. для российско-грузинской контрабанды было

8 См.: Егоршин В.М., Колесников В.В. Преступность в сфере экономической деятельности. – СПб: Фонд «Университет», 2000. – С. 190.

9 См.: Криминология / Под ред. Дж. Ф. Шелли / Пер. с англ. – СПб: Питер, 2003. – С. 373. Авторы главы – Нил Шовер и Эндрю Хохстетлер (Университет Теннеси, Ноксвилл).

характерно использование способа «перегона воздуха». В соответствии с ним, коррумпированные работники таможенных, пограничных и иных органов, действуя в сговоре с преступниками, желающими уйти от налогообложения, «помогали» им оформить документы, якобы, на вывоз товаров из России, или, наоборот, на ввоз. Таким образом, документально подтверждался лжеэкспорт или лжеимпорт товара, позволяющий уходить от налогообложения государства. Однако, в связи, во-первых, с ужесточением контроля за подобными операциями, и, во-вторых, благодаря положительным тенденциям в налоговом законодательстве России, описанный способ потерял в последние годы свою былую актуальность. Однако, приведенные выше схемы, действительно, относятся к числу простейших и далеко не исчерпывают используемых для совершения преступлений, ставших возможными, только благодаря развитию межнациональной экономики и углублению межгосударственной интеграции;

2) *правовая неурегулированность развивающейся межнациональной экономики и иных интеграционных процессов.* Несомненно, что названные новые позитивные процессы требуют нормативного регулирования по каким-то общим правилам, признанным всеми без исключения участниками международных отношений. На сегодня их нет;

3) *разница в законодательном урегулировании экономических, налоговых, таможенных и иных правовых позитивных отношений в разных государствах, участниках интеграционных процессов.* Одни и те же отношения по-разному, иногда кардинально, регулируются в праве государств, участников интеграционных и межнациональных экономических процессов. Очевиднее всего указанное положение демонстрирует налоговое законодательство: ставки налогов бывают принципиально различными, а иногда налоговое законодательство одного государства предусматривает ряд налоговых послаблений и льгот, неизвестных другому государству. Само собой разумеется, государство с мягкой налоговой системой более притягательно, нежели то, в котором установлены строгие налоговые нормы. Кроме того, вполне реальна не очень добросовестная игра крупных участников межнациональных экономических отношений на разнице законодательных норм. Верно отмечают Н. Шовер и Э. Хохстетлер: «Владельцы и менеджеры корпорации могут пригрозить перевести свою компанию в страну с более мягким нормативным климатом, тем самым лишив страну, в которой компания расположена в настоящее время, рабочих мест и налоговых поступлений. ... Желание привлечь промышленность в свою страну является мощной побудительной причиной для развития физической и правовой инфраструктуры, благоприятной для деятельности корпораций. Наиболее привлекательными ресурсами являются дешевый труд и мягкие административно-законодательные нормы»¹⁰. Указанная разница в законодательном регулировании усиливается многократно еще и

отмеченным С.П. Глинкиной нарастанием «противоречий между глобальным характером производства и сохраняющимися национальными формами его регулирования, в частности, налоговым законодательством»¹¹;

4) *разница в криминализации и пенализации стран – участников интеграционных процессов*. Другими словами, уголовно-правовая политика разных государств не совпадает, иногда – принципиально. Разница обусловлена существующими различиями в экономических и политических системах, историческими традициями, разницей в менталитетах, и т.д. Соответственно, одно и то же деяние, чаще – экономического характера, в одном государстве может считаться преступным и влечь строгое наказание, в другом – признаваться преступным, но наказываться гораздо менее строго, в третьем – быть административным деликтом, в четвертом – вообще не наказываться, а то и расцениваться как позитивное явление. В качестве примера можно привести спекуляцию, которая до сих пор преступна по законодательству Республики Беларусь, и считается нормой экономического поведения в других государствах. Кардинально по-разному также оценивается и совершение некоторых валютных операций гражданами или частными организациями разных стран. Разную оценку дают незаконному перемещению товаров и иных ценностей через таможенную и государственную границу российский и грузинский уголовные кодексы. В последнем, например, отсутствует само понятие контрабанды (хотя незаконное перемещение товаров, разумеется, наказуемо); в российском оно есть. Примеры подобного рода можно продолжать до бесконечности. Коль скоро они существуют, есть и примеры злонамеренного использования законодательных межгосударственных коллизий. Поэтому совсем не случайны вопросы, которыми задаются те же Нил Шовер и Эндрю Хохстетлер: «... Какие законы и нормы следует применять при установлении стандартов поведения... Может ли считаться преступлением нарушение международных соглашений, если оно не нарушает уголовного закона всех государств? Если экономическая деятельность проводится в странах с несопоставимыми законами и нормами, в соответствии с каким стандартом следует определять криминальное поведение? К производителям или к импортерам должны относиться нормы регулирующих органов? ...»¹².

Разумеется, выше перечислены только самые очевидные причины криминогенных свойств развития международной экономики и интеграционных процессов. На деле их гораздо больше, при этом

10 См.: Криминология / Под ред. Дж. Ф. Шелли / Пер. с англ. – СПб: Питер, 2003. – С. 374. Авторы главы – Нил Шовер и Эндрю Хохстетлер (Университет Теннесси, Ноксвилл).

11 См.: Россия в фокусе криминальной глобализации. – Владивосток, 2002. – С. 59. Автор главы – С.П. Глинка.

12 См.: Криминология / Под ред. Дж. Ф. Шелли / Пер. с англ. – СПб: Питер, 2003. – С. 374. Авторы главы – Нил Шовер и Эндрю Хохстетлер (Университет Теннесси, Ноксвилл).

конкретное отклоняющееся поведение определяют обычно сразу несколько причин, вступающих между собой во взаимодействие. Еще на Всемирной конференции по организованной транснациональной преступности на уровне министров (Неаполь, Италия, 21-23 ноября 1994 г.), в справочном документе к п. 4 повестки дня, были приведены факторы развития мировой экономики и политики, обусловившие возникновение транснациональной преступности:

- увеличение взаимозависимости государств;
- формирование мирового рынка, для которого характерны тесные экономические связи, взаимные инвестиции;
- формирование международных финансовых сетей, систем международных расчетов, позволяющих быстро осуществлять сложные финансовые операции, с задействованием банковских учреждений нескольких государств;
- развитие мировых систем коммуникаций;
- развитие международной торговли, чему особо способствовало введение системы свободной торговли в послевоенный период;
- широкое развитие технологии контейнерных перевозок;
- увеличение масштабов миграции, образование многонациональных мегаполисов (это, например, характерно, для России и Грузии. В Россию из Абхазии и Южной Осетии (Грузия) въехало большое количество людей, и поток беженцев от бедности и тяжелых условий жизни, к сожалению, не иссяк, хотя и стал меньше);
- «прозрачность границ» между государствами, входящими в Европейский союз и Содружество Независимых Государств¹³. Мы имели возможность убедиться в достаточной прозрачности границ между Россией и Грузией, проводя собственное исследование по контрабанде. Не смотря на то, что между государствами ныне введен визовый режим, он, фактически, не действует для жителей приграничных районов – Краснодарского края и Северной Осетии (Россия) и Абхазии и Южной Осетии (Грузия). Больше того, этот визовый режим не сильно применяется в России и для жителей из других грузинских районов (мы видели в России свободно перемещающиеся автомобили с тбилискими номерами); свободно, без всяких виз, побывали на территории Абхазии и мы, проживающие далеко за пределами Краснодарского края.

Как видим, и сегодня указанные факторы активно действуют, вызывая к жизни преступность различных видов.

13 Цитируется по: Меркушин В.В. Борьба с транснациональной организованной преступностью. – Минск, 2003. – С. 18.

В. Межнациональная интеграция преступности.

Процесс объединения характеризует не только позитивные межнациональные отношения; он, безусловно, затрагивает и преступность. Последняя тоже организуется и интегрируется, и происходит это часто по тем же самым причинам, по которым осуществляются и позитивные процессы, выше они назывались. Консолидация преступности дает новые возможности для получения криминальных прибылей и сверхприбылей, и это, пожалуй, главное в интеграционных процессах, характерных для преступности. Преступность разных государств удивительно легко находит общий язык, даже, не смотря на сложные политические отношения государств. Это стало нам очевидным в процессе российско-грузинского исследования по проблемам контрабанды. Прекрасно известно, что Россия и Грузия переживают не лучшие времена в своих взаимоотношениях, обоюдно нарушая межгосударственные договоренности. Однако политическая напряженность совсем не мешает договариваться российской и грузинской преступности и даже грузинской преступности из разных регионов. Сложные, проблемные для Грузии ее регионы Южная Осетия и Абхазия, которые не контролируются из Тбилиси, совсем не оторваны от остальной Грузии, если посмотреть на интеграцию преступности. Так, прекрасно договариваются между собой, по нашим данным, российские, южно осетинские и грузинские преступные группировки. Контрабандный российский груз беспрепятственно, через всю Южную Осетию, идет в центральные районы Грузии, растворяясь там на всевозможных рынках.

Межнациональная интеграция преступности – самая опасная, на мой взгляд, тенденция современной преступности. Прежде всего, она касается наиболее опасной, вредоносной разновидности преступности, а именно – преступности организованной, поскольку само понятие интеграции предполагает наличие системы управления, системы организации объединительного процесса. Ее в полной мере имеет только организованная преступность.

Помимо сказанного, интеграция преступности приводит к возникновению новых качественных ее характеристик, затрудняющих борьбу с ней. Появляются, например, не существовавшие ранее возможности, спрятать «грязные» деньги в том уголке земного шара, где менее всего есть опасность их обнаружения. Сверхлегким, благодаря новейшим технологиям, становится и мировое управление отдельными, наиболее экономически эффективными, разновидностями преступности – наркобизнесом, торговлей людьми, торговлей оружием, и др. Преступность достигает высокой мобильности, позволяющей в считанные часы использовать для совершения преступления образовавшийся в любом конце Земли повод.

Парадоксально, но факт: преступность проще и быстрее организуется в рамках интеграционных процессов, поскольку она – вне закона, и процессу интеграции законодательные коллизии не мешают.

4. Разновидности порождаемой межнациональной преступности. Степени риска.

Говоря о криминогенных свойствах межгосударственной экономики и интеграции, нельзя, в то же время, их преувеличивать. Прежде всего, они порождают далеко не все разновидности преступности. Думаю, понятно, что, например, так называемая, семейная преступность или преступность неосторожная, хотя и могут испытывать на себе влияние объединенной экономики и интеграции, в то же время продуцируются иными причинами. В отношении других видов преступности криминогенность межгосударственной экономики и интеграции различна – от минимальной до сверхмаксимальной.

Следует, на мой взгляд, выделять *шкалу рисков криминогенности межгосударственной экономики и интеграции*, которые олицетворяют средние показатели степени риска обозначенных позитивных процессов. Она может иметь не только, и даже, - не столько научное, сколько практическое значение. Показатели криминогенности должны приниматься во внимание при создании нормативной базы межгосударственной экономики и интеграции; они же должны учитываться при планировании и реализации мер противодействия транснациональной преступности.

Шкала выглядит следующим образом:

1. Посягательства на личность – риск минимален.
При этом, по бытовой преступности против личности, включая половые преступления, посягательства на честь и достоинство, на семью, на конституционные права граждан, риск криминогенности практически отсутствует, сведен к нулю. Однако, например, по таким видам типично организованной преступности против личности, как заказные убийства, или похищения людей, торговля людьми, он достаточно высок.
2. Экологические преступления – риск существует.
Поскольку природная среда – межнациональна и принадлежит всему человечеству, постольку интеграционные процессы могут оказывать негативное воздействие на нее, которое, в том числе, выражается и в экологической преступности. Внутри экологической преступности межнациональная интеграция приоритетно, с повышенной степенью риска, провоцирует совершение таких преступлений, как международное браконьерство, уничтожение природных богатств ради преследования каких-либо целей (например, строительства каких-либо объектов). Думаю, что межнациональная экологическая преступность сейчас находится на минимальных показателях, но у нее, к сожалению, большое будущее.
3. Политические преступления – новые возможности.
Собственно, выше об этом уже шла речь. Объединение преступного капитала, рано или поздно, но всегда, приводит к стремлению получить доступ к политике, к власти на территории какого-либо региона, государства или нескольких государств. Возможно, поэтому участие

международной организованной преступности в национальных избирательных кампаниях, да и просто, применение силы для захвата власти.

4. Коррупция – риск высок.

Коррупционные преступления тоже относятся, на мой взгляд, к числу политических. Можно воздействовать на власть в своих интересах, не применяя силы, используя различные виды подкупа. Именно поэтому степень риска в отношении коррупции достаточно высока.

Интеграционные процессы, с одной стороны, дают новые возможности для коррупции, поскольку появляется новый – межнациональный – вид управленцев. С другой стороны, интегрированная преступность обладает повышенными экономическими возможностями для оказания воздействия на коррупционеров разных государств, так называемых, национальных коррупционеров.

5. Экономические преступления, преступный бизнес¹⁴, терроризм – высочайшая степень риска.

Об этом пишут В.М. Егоршин и В.М. Колесников: «Наблюдаемое в современном мире умножение хозяйственных связей и усложнение социально-экономических отношений, наряду с развитием новейших информационных технологий, а также усилением позиций организованной преступности, обуславливают потенциальную возможность совершения в сфере хозяйствования все большего числа правонарушений и опасность появления новых разновидностей делинквентного (преступного) экономического поведения»¹⁵.

Однако, следует признать, что экономический хаос в соседствующих государствах тоже влечет резкое усиление межгосударственной экономической преступности. Примеры дает проведенное нами российско-грузинское исследование. В конце 90-х годов большой проблемой для России была контрабанда спирта из Грузии, который тек к нам непрекращающимися потоками. На российско-грузинской границе (осетинский участок) скапливались километровые очереди большегрузных автомобилей, ввозящих спирт в Россию. Имели место прорывы границ. В настоящее время все изменилось с точностью до наоборот. Контрабанда этого товара занимает достаточно скромное место среди прочих предметов контрабанды; и скорее, вскрываются факты контрабанды спирта с территории России на территорию Грузии. Этому есть простое объяснение: в Северной Осетии в настоящее время – переизбыток производства спиртных напитков; этим бизнесом официально занимаются не менее 20 фирм.

Повышенная экономическая криминогенность межнациональной экономики и интеграции еще более усиливается криминогенными свойствами самой экономической преступности (она, как известна,

14 Имеется в виду наркобизнес, преступный бизнес оружия, и т.п.

15 См.: Егоршин В.М., Колесников В.В. Преступность в сфере экономической деятельности. – СПб: Фонд «Университет», 2000. – С. 189-190.

способна порождать саму себя), развитием высоких технологий и телекоммуникационных связей (соответственно, риск в отношении компьютерной преступности тоже велик), и очевидной неспособностью национальных правоохранительных систем справиться с нею (экономической преступностью). Н. Шовер и Э. Хохстетлер пишут по этому поводу: «Полиция и следственные органы в регионах и в развивающихся странах не имеют средств, экспертов и других ресурсов, необходимых для расследования подобных дел. Даже богатые страны вынуждены производить выборочное расследование преступлений. ...Вероятность привлечь к ответственности мошенников, орудующих в Нигерии или в одной из стран – «изгоев», весьма мала. Еще меньше шансов вернуть деньги, которые беспрепятственно утекли на счет «беловоротничкового» преступника через один из многочисленных банков развивающихся стран. Война против торговцев наркотиками увеличила возможности прокуроров вести расследование дел и проследивать путь международных денежных переводов, однако небольшие группы работников прокуратуры не в силах на равных тягаться с международными финансовыми экспертами созданными ими сетями), которых нанимают инвесторы, банкиры, бухгалтеры и коррумпированные чиновники в ходе своей деятельности в сфере международного бизнеса»¹⁶.

5. Пути противодействия: существуют ли они?

Нарисованная выше картина довольно, если не сказать жестче, пессимистична. Однако уже тот факт, что мы эту картину полностью осознаем – является необходимым звеном или шагом для того, чтобы двигаться дальше и искать пути по ее изменению.

Возможны ли и существуют ли они? Другими словами, возможно ли влияние на криминогенные свойства межнациональной экономики и интеграции, при этом, влияние позитивное (здесь, как в медицине, главное – не навредить), и каковы его пределы?

1. Искоренение - борьба – противодействие – минимизация.

Прежде всего, определимся в терминах. Очевидно, совершенно нереально вести речь об *искоренении* криминогенных свойств межнациональной экономики и интеграции. Точно так же, как нельзя – невозможно – говорить об искоренении самой преступности. Это сверх желаемый, но совершенно недостижимый результат. Криминогенность экономики – ее неотъемлемое свойство в связи с присущими ей генетически внутренними глубокими противоречиями (частично о них было сказано выше).

16 См.: Криминология / Под ред. Дж. Ф. Шелли / Пер. с англ. – СПб: Питер, 2003. – С. 372. Авторы главы – Нил Шовер и Эндрю Хохстетлер (Университет Теннесси, Ноксвилл).

Борьба и противодействие – это термины, которые используются в отношении преступности. При этом, в последнее время стал больше применяться термин «противодействие», его считают более корректным¹⁷. Думаю, что противодействие преступности, порождаемой позитивными интеграционными процессами, в том числе, экономическими, должно обладать некоторой спецификой, обуславливаемой спецификой причин преступности.

В отношении же последних (причин преступности), видимо, речь должна идти о *минимизации*, т.е. об уменьшении выраженности, сведении к возможному минимуму криминогенных свойств межнациональной экономики и интеграции.

2. Национальные возможности минимизации – эффективность со знаком минус.

Полагаю, что минимизация названных криминогенных свойств на уровне национальном, или на уровне отдельного государства, практически не возможна, поскольку: 1) условно говоря, нельзя обезвредить яд, растворенный в одном сосуде, только с одной стороны, в одной части напитка. Для того, чтобы пить его, не опасаясь за свое здоровье, нужно предпринять меры по обеззараживанию всего содержимого сосуда. Можно в этой же связи вспомнить известную басню И. Крылова про слона и москью. Точно также, принятие национальных мер к криминогенным свойствам межнационального явления, т.е. явления совсем другого уровня, с другими отличительными чертами и системными проявлениями, едва ли может быть эффективным в деле их минимизации; 2) больше того, к сожалению, это может привести к совершенно противоположным результатам, в связи с неприятием осуществленных мер другими сторонами межнациональных процессов (в России говорят: «то, что русскому хорошо, немцу – смерть»).

3. Межнациональная интеграция в деле минимизации криминогенности объединительных процессов: перспективы отдаленные и ближайшие.

Соответственно, остается только один путь – путь межнациональной, межгосударственной интеграции в деле минимизации криминогенных свойств межнациональной экономики и иных разновидностей мировой интеграции. Уменьшить, ослабить криминогенность позитивных

17 Следует согласиться с С.С. Босхоловым, что парадигма «борьба с преступностью» имеет существенные дефекты. – См.: Босхолов С.С. Основы уголовной политики. – М., 1999. – С. 38 – 41. Правильнее поэтому говорить о политике противодействия преступности. Это понятие – понятие противодействия преступности – включает в себя как пресечение подготавливаемых и совершаемых преступлений, так и адекватные меры реагирования на совершенные преступления, а также и меры по предупреждению преступности.

объединительных процессов можно, действуя в отношении всего этого явления сразу, по договоренности и сообщая со всеми его участниками.

Это, в свою очередь, можно сделать, через новую – *межнациональную или мировую - систему управления*, о которой любят рассуждать писатели -фантасты и создатели фантастических фильмов. Впрочем, все мы знаем, что многие их находки и предсказания со временем претворяются в действительность. Сразу хотела бы оговориться, что речь не идет о современных международных организациях; они являются лишь прообразом, и далеко не всегда, совершенным (вспомним многочисленные нарушения норм, принятых ООН, ее же участниками) будущей и уже реально необходимой сегодня мировой системы управления. Именно ей должен быть передан отдельными государствами целый ряд типично государственных функций, в том числе, по управлению мировой экономикой, по сохранению природной среды для всего человечества, по противодействию транснациональной преступности, и некоторые другие.

Сегодня все сказанное выше кажется совершенно нереальным, в связи с теми процессами, которые происходят в мире, наряду с интеграцией и развитием международного сотрудничества (повсеместное обострение национальных и межгосударственных конфликтов, распространение международного терроризма, усиление позиций преступности, и т.д.). Думаю, однако, что уже сейчас все цивилизованные государства должны задуматься над тем, как может быть претворено в действительность мировое управление. Путь к цели – далек, но «дорогу осилит идущий».

Что можно сделать уже сегодня?

Во-первых, известные межгосударственные законодательные коллизии должны быть преодолены. Верно пишет С.П. Глинкина: «На повестку дня встает вопрос о выработке единых международных норм регулирования экономической деятельности...»¹⁸. И хотя далее она, опять-таки, совершенно справедливо, отмечает, что это, «однако, будет иметь принципиально разные последствия для различных групп стран и будет сопряжено с нарастанием противоречий между ними, а также в рамках отдельных групп»¹⁹, создание единых – и не только экономических – регулирующих норм – необходимый этап и в процессе минимизации криминогенных свойств объединительных процессов, и в процессе создания системы мирового управления.

Во-вторых, необходимо усиление координации межведомственной деятельности всех государств и правительств²⁰. Проводя исследование приграничной российско-грузинской контрабанды, мы убедились, например, в том, что взаимодействия таможенных, пограничных или правоохранительных служб России и Грузии практически не существует.

18 См.: Россия в фокусе криминальной глобализации. – Владивосток, 2002. – С. 59. Автор главы – С.П. Глинкина.

19 См.: Россия в фокусе криминальной глобализации. – Владивосток, 2002. – С. 59. Автор главы – С.П. Глинкина.

20 Об этом же пишут Нил Шовер и Эндрю Хохстетлер (Университет Теннесси, Ноксвилл). См.: Криминология / Под ред. Дж. Ф. Шелли / Пер. с англ. – СПб: Питер, 2003. – С. 372.

Более того, даже если случается обращение каких-либо органов одной страны к подобным же из другой страны, оно выполняется очень медленно, долго, что практически сводит на «нет» смысл такого обращения.

В-третьих, для противодействия новым негативным межнациональным явлениям нужно принимать те меры, о которых говорит Ю.В. Голик: «Мы вплотную приближаемся к моменту создания международно-правового акта прямого действия, не требующего инкорпорации в национальное законодательство. ... Речь сегодня идет о создании системы наднациональной юстиции»²¹.

Роль международного права, часто находящегося сегодня на задворках у национальных правовых систем, должна быть переосмыслена²².

6. Некоторые выводы.

1. Развитие межнациональной экономики и международной интеграции – естественный, неизбежный и, в целом, позитивный процесс на пути развития мировой системы цивилизации.
2. Вместе с тем, его характеризуют и некоторые негативные моменты, одним из которых, едва ли, не самым серьезным, является наличие криминогенных свойств, т.е. таких качеств, которые порождают новые разновидности преступности или увеличивают вероятность появления уже известных.
3. Криминогенность межнациональной экономики и интеграции – неизбежна и присуща им имманентно в силу существующих внутри позитивных процессов глубоких противоречий.
4. Криминогенные свойства межнациональной экономики и интеграции различны в отношении разных видов преступности. Степень криминогенности может быть выражена соответствующей Шкалой рисков, имеющей следующие усредненные значения: 1. Преступления против личности – риск минимален. 2. Экологические преступления – риск существует. 3. Политические преступления – новые возможности. 4. Коррупция – риск высок. 5. Экономические преступления, преступный бизнес, терроризм – высочайшая степень риска. В любом случае, речь идет, в основном, об организованной преступности.

21 См.: Россия в фокусе криминальной глобализации. – Владивосток, 2002. – С. 23. Автор главы – Ю.В. Голик.

22 Интересно, что даже современные криминологи, осознавая нарастание интеграционных процессов и необходимость интеграции и на нормативном уровне, тем не менее, сомневаются в легитимности международных договоренностей. Так, Нил ШOVER и Эндрю Хохстетлер пишут: «Ясно, что государства движутся в сторону установления кооперации между контролирующими органами. Это отражается в международных правилах и договоренностях, основной целью которых является защита транснационального рынка. Вопрос, который вызывают такие инициативы, а также все усиливающееся доминирующее положение крупных организаций, можно поставить так: а не находятся ли они «по ту сторону закона?» См.: Криминология / Под ред. Дж. Ф. Шелли / Пер. с англ. – СПб: Питер, 2003. – С. 374-375.

5. Криминогенные свойства межнациональной экономики и интеграции должны быть минимизированы. Минимизация, в свою очередь, неэффективна на национальном уровне, и должна осуществляться на межнациональном и межгосударственном уровнях.
6. Одним из самых действенных путей минимизации криминогенности межнациональной экономики и интеграции является создание новой мировой системы управления, аккумулирующей переданные ей отдельные государственные управленческие функции. Это, однако, дело ближайшего будущего, к которому нужно готовиться уже сейчас.

К числу возможных сегодня путей минимизации криминогенности межнациональной экономики и интеграции следует отнести: 1) преодоление межгосударственных законодательных коллизий; 2) усиление координации межведомственной деятельности всех государств и правительств; 3) переосмысление роли международного права путем создания международно-правовых актов прямого действия и межнациональной юстиции.

English summary

The Intensification of Inter-State Integration and the Rise of Inter-State Economic Integration as Factors Enabling Criminalization, and Methods of Minimizing this Criminalization

The development of the international economy and the integration of states is a natural, unavoidable, and—as whole—a positive process in the development of world civilization. The evident advantages of such integration include: 1) rise in the economic development of the states involved; 2) as a result, a rise in the standard of living in these states and their populaces; 3) ability to find solution to the problems that cannot be solved by individual states or smaller unions of states; 4) opportunity to avoid not only open confrontation, local and large-scale conflicts, but also the so-called “cold war.” With this integration come skills, international and inter-state compromise, and other forms of conflict resolution.

However, there are certain negative characteristics of this integration, not the least serious of which is that crime within these states is also tending toward integration. This point is exemplified by the following two key issues: 1) the international economy and inter-state integration possess criminogenic qualities: they provoke crime, and in fact give rise to it in forms that human kind has not witnessed, or at least on such a scale; 2) crime undeniably favors integrative processes, as it is a phenomenon that is particular to all states and is affected by those changes which occur on an international level.

Criminality of the international economy and inter-state integration is inevitable due to the deep contradictions that are inherent to any positive process. The fundamental qualities and characteristics inherent to the criminality of the integrative processes include: 1) conflicts of interest—primarily economic—of the states party to these processes; 2) lack of well-established legislation to govern the development of international economy and other integrative processes; 3) differences in laws and norms that regulate tax, fiscal, customs and other legal affairs in the states party to the integration processes; 4) differences in criminalization and penalization in the states party to the integration processes.

4. The criminogenic qualities vary depending on the type of crime. The degree of criminality can be reflected in the following Risk Scale: 1. crimes against individuals—minimal risk; 2. environmental crimes—a certain degree of risk; 3. crimes for political reasons—the risk lies with the rise in new political opportunities; 4. corruption—high risk; 5. economic crimes, criminal business, terrorism—the highest degree of risk. Inasmuch as these are organized crimes, the degree of criminalization should be considered when preparing legislation that will regulate the international economy and integrative processes, as well as when preparing and implementing programs aimed at combating organized crime.

The criminogenic characteristics of the international economy and integrative processes must be curtailed. However, this can only be effective if done on the inter-state and international levels; it will not be effective on the national level.

One of the most effective ways to decrease criminality in the international economy and integration is the creation of a new world governance system that will absorb certain governing functions from the states. The model used by international organizations nowadays can serve as a prototype for a future model of the world governance system; it is as yet imperfect since there are many examples of member states violating UN norms. Such a system should absorb a number of state functions, including governing the world economy, protecting the environment, combating organized crime and others. This is a task for the near future, for which preparation must be made now.

Ways of minimizing the criminality of the international economy and integration include: 1) overcoming the incompatibility of the states' legal systems; 2) improving coordination among various state agencies; 3) rethinking the role of international law through creating both overarching international legal acts and the system of international justice.