



The Globalization of Organized Crime and Trafficking in Human Beings

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In 2001, the European Commission claimed: ... *traditional hierarchical structures are being replaced by loose networks of criminals...*

In 2006 Organized Crime Threat Assessment Europol notes: *organized crime groups are also becoming increasingly heterogeneous and dynamically organized in structural terms, moving towards loose networks rather than pyramidal monoliths.*

Criminal groups have wasted no time in embracing today's globalized economy and the sophisticated technology that goes with it. But our efforts to combat them have remained up to now very fragmented and our weapons almost obsolete. The intention of this presentation is simply to recognize that the world we live in, and the country we live in, has changed in the time since these cross border first started less than 10 years ago. We may live in the country, but that's as far as it goes in how detached we are from the global threat of organized crime. The presentation identifies some of the issues facing decent society in Lithuania and the issues it undoubtedly create for law enforcement in the years ahead.

Organised crime is changing and becoming increasingly diversified in its methods, group structures and impact on society. This represents a remarkable development across a range of highly disparate activities, from elephant poaching in Central Africa to child pornography rings in Eastern Europe. A new criminal landscape is emerging, marked by mobile and flexible groups operating in multiple jurisdictions and criminal sectors, aided by the widespread illicit use of the internet.

In November 2000 the Palermo Agreement was signed. Formally referred to as the United Nations Convention against Transnational Organized Crime it committed the signatories to a series of requirement. This was the first ever worldwide commitment to tackle organized crime at a pan-national level in November 2000. By 2004 it had been by 147 countries. In his opening remarks Kofi Annan stated that "the international community demonstrated the political will to answer a global challenge with a global response."

So what is impact of such changes in the world of organized crime and what issues may arise for the law enforcement community? I suggest that there may be 3 changes because of the influence of globalization: new Technologies, new Crimes and New Organized Crime Gangs.

New Technologies, The Internet, Smart Phones, Communications (Skype and similar Voice over the Internet (VOIP)), Skimming Devices. Internet technology has now emerged as a key facilitator for the vast majority of offline organized crime activity. In addition to the high-tech crimes of cybercrime, payment card fraud, the distribution of child abuse material, and audio visual piracy, extensive use of the Internet now underpins illicit drug synthesis, extraction and distribution, the recruitment and marketing of victims of trafficking in human beings, the facilitation of illegal immigration, the supply of counterfeit commodities, trafficking in endangered species, and many other criminal activities. It is also widely used as a secure

communication and money laundering tool by criminal groups

New Crimes The new forms and dimensions of transnational organized crime. Cybercrime. The involvement of transnational organized criminal groups is increasingly evident in a range of forms of cybercrime, including the operation of global botnets, which are designed to fraudulently obtain credit card and banking information, and the production and distribution of child pornography over the Internet.

Europol identified the internet as creating a rich environment for organized crime groups to operate in the form of: A communication tool, an information source, a marketplace, a recruiting ground and a financial service.

Europol has suggested that the internet is a facilitator for crimes such as: Money Laundering, Virtual Payment Websites, Illicit drug extraction, synthesis and trafficking, Trafficking in human beings, Illegal immigration, Mass Marketing Fraud (MMF), MTIC (Missing Trader Fraud), Intellectual Property Crime, Sexual abuse of children and the trade in prohibited firearms.

The new forms and dimensions of transnational organized crime: 1. Maritime piracy; 2. Environmental crime; 3. trafficking in cultural property; 4. trafficking in organs; 5. fraudulent medicines.

New Organized Crime Gangs. More and more often, the members of criminal world are looking for the possibilities on the implementation of criminal activity in European Union countries. A lot of members of criminal groups are leaving the country to continue criminal activities abroad. Organized crime poses a large problem and is the focus of several Lithuanian law enforcement entities. Lithuanian organized crime groups are typically involved in traditional businesses of gambling, smuggling, and nightclubs/bars and in newer businesses like cybercrimes and financial schemes. Due to its membership in the Schengen Area and location between Belarus and Kaliningrad, which are significant sources of criminal activity, Lithuania is a transit state for smuggling activity. The State Border Guard Service has registered an increase in smuggling activity consisting primarily of cigarettes, alcohol, and petrol on the Kaliningrad-Lithuania border.

The geographical location of Lithuania is favourable for the international activity of Organized Criminal Groups. Lithuania is the crossroads of illicit commodity carriage routes both in internal and external EU directions. The locality of Organized Criminal Groups preconditioned their specialization in the control of separate external EU borderland. Some of them make use of their influence at the Belorussian border others do it at the Russian border. Closer international relations in neighbouring countries are also characteristic of local Organized Criminal Groups at the internal EU borderlands with Latvia and Poland.

The Challenges? Intelligence collection (Language & Culture). So, the area of Organized Crime has changed and the world is a smaller place now. Technology is making new crimes easier to commit and harder to detect. The sophisticated OCGs are likely to move into more complex crimes which are higher yield and lower risk using the internet. We will face new crimes and new crime gangs in the future. And the future is not that far away. Intelligence collection will be increasingly difficult as we face new crime gangs with languages we are not accustomed too and cultures that may be uncommon to us. Can we use the same covert tactics as easily against such gangs if we don't speak the same language?

The Challenges? Complexity of investigations. Investigations will become more complex and reach across the world. A recent OC investigation involved West Africans, started in Brazil, moved to Germany then England and Lithuania. Three continents, four countries, three legal systems, four languages. There are now thumb drives now that have a terabyte of memory – that is 1000 gigabytes. And it has been estimated that 1 gigabyte produces 84000 pages if printed. A terabyte is therefore 8.4 million pages on something that fits in your pocket. What are the challenges for law enforcement if and when Organized Crime starts using such devices to conceal evidence of their crimes? How long would our e-crime units take to examine a couple of those?

Criminal organizations do not hesitate to exploit any opportunity to profit from their illicit activities, quickly identifying and adapting advances in technology, and seeking out and exploiting weaknesses in systems and regimes. Given the comparative wealth of powerful criminal groups, many States find themselves lacking the capacity to respond in the most effective way.

Global strategies are needed for global problems. Treating transnational organized crime markets will require two parallel sets of measures. First, there is a need to strengthen global resistance to transnational organized crime by building both the national and international capacity to track and respond to the problem. This is something like strengthening the immune system, and represents a long-term collective project. Second, there is a need to create global strategies to collectively address transnational organized crime problems that have become so acute that they require special intervention. This is more like a response to a particular infection, and would involve international strategic planning. In either case, the intervention must occur systemically, involving the whole organism. Both supply side and demand side measures must be coordinated, and the problem must be approached at a global level.

A legal framework facilitating fight against organised crime has been drafted and is quite efficiently applied now. It complies with the strategic goals of combating organised crime and is aimed at creating a network of preventive measures and undermining the economic strength of organised criminal groups. Therefore, prevention and control of organised crime is considered one of the most important priority directions.

Organized Crime Control Law. The law prescribes the application of preventive measures in respect of a person who by his actions may restrict the rights and freedoms of other persons, creates conditions for the emergence and development of social and economic preconditions of organized crime, and poses a threat to public security. The following preventive measures may be applied: Official warning and Court injunctions.

Under this law court may obligate the person under suspicion of participation in organized crime activity with some restrictions. Court can oblige the person under suspicion not to maintain any contact with the persons specifically named, directly, through other persons by technical or other means; To live at the permanent place of residence indicated by the person and to remain at the place of residence at the appointed time; No to frequent the places indicated.

The Consequences of non Implementation of Court Injunctions. A person, who has violated the injunctions established by the court, shall be held liable in accordance with the procedure established by laws.

The Supreme Court of Lithuania is the only court of cassation instance for reviewing effective judgments and decisions of the courts of general jurisdiction. The judgments and decisions of the Supreme Court are the most significant legal precedents and source for developing of a uniform court practice. As a judge of a Criminal Division of the Supreme Court of Lithuania I participate in hearing of criminal cases and making decision in them.

The problems of the forms of complicity in Lithuanian criminal law. **Group of accomplices** is deemed to be where two or more persons, at any stage of the commission of a criminal act, unite with a purpose to commit, continue or complete a criminal act. **Organized group** is deemed to be where two or more persons, at any stage of the commission of a criminal act, unite with a purpose to commit several crimes or one serious or very serious crime, and each member of a group has his own task or different role. **Criminal association** is deemed to be where three or more persons unite with a purpose of criminal activities – to commit one or several serious or very serious crimes, and there are constant relationship between the accomplices as well as distribution of tasks and roles among them.

Organized group=Organized Crime? Some scientists link this notion with organized crime and raise very strict requirements to this notion. The others say that organized crime and organized group are quite different things, and that the notion of organized group is known in the criminal law from the old times when the organized crime did not exist. Recently the Supreme Court presented his version on this issue.

The Supreme Court explained that the organized group is a constant strongly united group of minimum two persons. The main feature of such a group is the high level of consolidation, which may indicate such signs as stability of group, intensity and duration of criminal act, distribution of functions, and agreement with other groups about division of territories of operation and so on. So, the court taking into account the existence or not existence of these signs decides if the group is organized.

So, the notion of criminal association as if has to reflect the phenomenon of organized crime, nevertheless it doesn't reflect it. What do we see in the definition? *Criminal association* is deemed to be where three or more persons unite with a purpose of criminal activities – to commit one or several serious or very serious crimes, and there are constant relationship between the accomplices as well as distribution of tasks and roles among them.

Formally, the criminal association has the following features: 1. 3 or more persons; 2. an agreement to commit serious or very serious crimes; 3. Consistent relations between accomplices; 4. the distribution of roles and tasks among them.

Very problematical remains the definition of criminal association, because legislator once again saved up the legal signs of the criminal association and once again left too much free of interpretation. The disproportion between definition and phenomenon is still evident. Such a law leaves possibility that a group, which has nothing to do with organized crime, will be recognized as criminal association and its members will be strongly punished. That not accords with the aims and principles of criminal law. This situation was called in literature as evident disproportion between definition and phenomenon this definition must reflect. This disproportion of course has left much free of interpretation, discussion and court practice.

In trial, when persons are charged with the participation in criminal association, courts want the additional evidence to compare with the legal definition of criminal association. Courts want the evidence that such a group has some hierarchical structure and leader, that they operated as some kind of economical unit and had their criminal business or controlled certain territory, that they had treasure of the group, which they used or were always ready to use violence in their activities, that they were armed and so on.

This disproportion in some aspects contradicts with the principle of legality in Criminal law. You now that the principle of legality means that there is no crime without law. So the requirement is that all the definitions of crime must be informative and precise. Having such a definition of criminal association we always are in risk that norm will be used against criminals who are not members of organized crime. That would be very advice able to politicians, who may say: "he, look how we fight against organized crime". Nevertheless, that would be far from reality.

That is why the formal definition of criminal association cannot be the only criterion of recognition of the criminal unit to be criminal association. Both in theory and practice of justice are generally recognized that the incrimination of criminal association must be grounded not only with formal signs of legal definition, but also with the aims of the law. These aims, as you know, are fighting with phenomenon of organized crime, which suppose the activities of groups of highest organizational level.

This can be proved by establishing of such circumstances like hierarchy, structure, leadership, planning of the activities, profitability of the activities, joint financial fund of group, ways of disciplining the members, the use of telecommunication equipment, and resort of physical and mental violence in the activities, possession of arms and so on. The recognition of the criminal units to be criminal association is not often in practice of justice, and this is not bad. It only shows that courts do not abuse the using of the article on criminal association. Generally courts often rule out the charges on criminal association due to natural difficulties in proving the existence of Mafiosi type of gang.

It should be mentioned that globalization have a huge impact to criminological situation in all countries. In Lithuania increase of international crimes could be seen. Since the issue of organized crime is complex, there is a need for complex solutions. Awareness on the part of political actors and the general public is necessary for the social mobilization which is necessary to combat this problem. All levels of society should be mobilized, from parents and school teachers to social workers, politicians, police and customs. The creation of far-reaching action plans against organized criminals and their activities.

It is very difficult to prognoses' trends in developments of organized crime. Up to year 1993 threat of organized crime was very real in Lithuania. We even raised the question who will take up the control over the situation in the country- criminal justice or organized crime. However, later due to new laws directed to fight organized crime, due to strengthening criminal justice system positions, few successful trials and convictions in court took place and weakened position and influence of organized crime in Lithuania. However, position of organized crime in some fields of their activity remains strong enough. But I think there are enough grounds to take organized crime under control.

These words exposed in solidarity with Giovanni Falcone and Paolo Borsellino: "You did not kill them: their ideas walk on our legs".

Thank you for your attention!