

- 38 Council of the European Union, 'Joint Action of 29 June 1998', *Official Journal of the European Communities*, L 191/8-9, 7 July 1998.
- 39 Amato and Batt, *Final Report of the Reflection Group*, p. 62.
- 40 For the full set of progress reports, see Commission of the European Communities, COM(1998) 700-11 final, 17 December 1998; COM(1999) 500-14 final, 13 October 1999.
- 41 *The Treaty of Accession 2003*, Article 39.

2 Organized Crime in the New EU States of East Central Europe

Miroslav Nožina

Introduction

The new EU member states in Central Europe have a crucial geographical position in Europe, for as transit countries from East to West and vice versa, they have a strategic role in combating cross-border crime. Since the 'iron curtain' fell in 1989, many criminals have begun using their territories for illegal activities such as illicit trading in drugs, stolen vehicles, alcohol, cigarettes, weapons, explosives and nuclear materials, and aliens, as well as counterfeiting, professional theft, extortion, racketeering, financial frauds and money laundering. The local underworlds in Poland, Hungary, Slovakia and the Czech Republic meet with criminal groupings from the former Soviet Union, the Balkans, Italy and Western Europe, Asia, Latin America, Middle East and Sub-Saharan Africa to create a new and much more developed crime industry. Organized crime also has a tendency to 'buy' members of parliament and bribe government officials, thus securing immunity from investigation and prosecution and creating a parallel economy of crime. Although regional differences exist, the basic mechanisms of organized crime activities and the building up of new security systems in the new EU states of Central Europe have in many aspects been identical. Consequently, this chapter will focus on these common trends.

The phenomenon of organized crime

'Socialist style' organized crime

In the former Czechoslovakia, Hungary and Poland, the communist economic and political models of administration and the totalitarian police state were hidden behind almost impenetrable borders and this led to the creation of a specific 'socialist' criminal underworld that was in many respects different to the criminal underworlds of West European countries. Under strong police and social control, the 'classical' activities of organized crime were highly restricted. Trafficking of drugs, trafficking in arms, car theft, kidnapping, racketeering and trafficking in human beings were too risky, and also not very profitable because of the very limited local markets for illegal services and goods and the lack of foreign currency. Hermetically sealed borders efficiently blocked major imports of drugs, illegal migration and the export of stolen cars and goods. In Czechoslovakia and Hungary, for example, there was no black market for drugs in the classical sense. Drugs were peddled mainly in closed circles in which everyone knew each other, and the producers were also consumers. Imports of foreign drugs such as heroin or cocaine, and addiction to them, were very limited.¹ Up until the end of the 1980s, there was only one registered cocaine addict in the former Czechoslovakia.² The situation was slightly different in Poland, where more open borders allowed imports of drugs on a small scale even before the political changes of the 1980s.

Nevertheless, dangerous 'hard' drugs did appear under communism. They were produced from various medicines, and their effects were commensurate with heroin or cocaine. In Czechoslovakia, these were mainly what was called *pervitin*, as well as metamphetamine, a classic stimulant, and also *braun* (that is, brown), which was codeine, an opium derivative. *Pervitin* was produced from ephedrine stolen from pharmacological factories and medicines such as *Solutan* that were distributed free of charge in the communist health care system. The main way of obtaining *braun* was from the readily available *Alnagon* medicine, mostly in fluid form. Other medicines were widely abused as well.³ The abuse of medicines was also prevalent in Poland and Hungary. In Poland, 'Polish compote' – a heroin-type drug made from the poppy – was widely produced domestically, mainly by the addicts themselves.

In contrast to the situation in Western countries, drugs, illegal migration and prostitution never became the vehicle of 'communist' organized crime. Contract killing or racketeering were virtually unknown. Its main domain was economic crime. The long-term crisis of the socialist system had created a situation where the chronic lack of certain goods and services was covered from semi-legal and illegal sources. Some criminal groups with varying levels of organization successfully operated in this sphere. Their members were engaged in a wide spectrum of economic criminal activities including the import and distribution of goods in short supply, illegal currency exchange, exports of works of art, theft and sale of goods.⁴ These groupings lasted for years, although in most cases they were not strongly hierarchically or vertically organized, and their members were tied together only on the basis of mutual advantage.⁵ Vast corruption networks were formed, which penetrated deep into the spheres of the state economy and bureaucracy. A new stratum of 'socialist *nouveaux riches*' emerged in communist societies – grey entrepreneurs and people who exploited their position in the state apparatus and Party *nomenklatura*. These people have continued to cooperate even after fall of communism, frequently outside the limits of the law.⁶

Democratic changes in the 1980s and 1990s

At the end of 1980s, the communist states of Central Europe embarked upon a process of fundamental political, social and economic transformation. As the borders and the economy opened up, the East Central European (ECE) states became part of global processes. More people and goods arrived, and there was more transit across their territory. Far-reaching economic transformation was combined with extensive transfers of property, and the rapid creation of markets and capital. The changes were often accompanied by major economic and social problems, including rising unemployment and falling living standards. Deep-rooted truths as well as personal everyday experiences and routine rules of practical activity ceased to apply. New patterns and criteria of social success were established, norms of social behaviour became relative, social regulation and control were undermined – and all this in a situation where the legal and ethical awareness of society had already been warped by developments over the long years of communism. The existing state of social awareness contained risk factors that paved the way for anti-social behaviour:

In the new model of social success, material gain was placed at the forefront, frequently with no regard for where it came from. Ethical standards had been weakened by the moral devastation and unfulfilled consumer aspirations of the previous era.

Legislation also underwent fundamental changes. This was a gradual process accompanied by many difficulties, and often considerable delays, before legislation could establish the legal provisions for a more effective struggle against crime. The judiciary, the police and the administrative apparatus had adapted well to the conditions of 'socialist style crime', but had almost no experience in investigating the new forms of crime that were now coming from abroad.⁷

In Poland, the number of crimes registered by the police increased from 547,580 in 1989 to 883,346 in 1990 and 1,404,229 in 2002.⁸ The situation in Czechoslovakia was similar: in the Czech part of the country the number of crimes committed more than tripled from 120,769 in 1989 to 398,505 in 1993 and 426,626 in 1999. However, Czech police statistics then report a decrease in the number of detected crimes to 372,341 in 2002.⁹ Slovakia also faced a stormy time in the 1989–93 period, when the number of crimes grew by 350 per cent. As in the Czech Republic, the situation then stabilized.¹⁰ In 2001, only 93,053 crimes were committed in Slovakia.¹¹ Hungary also reports a decrease in registered crime at the end of the 1990s, with a decline of 15 per cent in 1999.¹²

With the exception of Poland, after the dramatic transition period in the early 1990s criminality began to stagnate throughout East Central Europe (ECE) at the end of the decade. According to Interpol sources, the volume of crime per 1000 inhabitants was as follows: Hungary: 41.4 (2002); Czech Republic: 36.3 (2002); Poland: 35.9 (2001); Slovakia: 16.9 (2001). By comparison, Sweden reported 78.9 (2002); the United Kingdom (England and Wales): 99.3 (2001); the UK (Scotland): 82.2 (2001); the UK (Northern Ireland): 23.8 (2001); the Netherlands: 78.1 (1998); Austria: 72.7 (2002); France: 69.3 (2002); Italy 37.5 (2001); Spain: 23.6 (2001).¹³

These data have only orientational value owing to the different systems of statistical analysis, the varying definitions of criminal offences and legislation, divergent levels of confidence in the police and so on in individual countries. Nevertheless, all ECE states experienced a dramatic increase in crime after the democratic changes, but only by 'local standards'. During the communist regimes crime

rates were very low, and far below the levels of crime in Western countries. The rise in crime is only spectacular when compared with the previously low level of criminality.

The main problem is not the 'quantity' of criminal offences, but the 'quality', with frequent links to organized crime. Because of this, many criminal offences considered to be petty crimes during the communist regime, such as illegal trade in drugs, people, weapons, cars, and crimes of violence, have become highly professionalized and are now carried out much more widely. The social and economic losses due to crime are higher than ever before.¹⁴

Organized crime structures in East Central Europe

After the fall of communism, the ECE states were societies in transition with permissive laws, unprotected frontiers, an advantageous geographic proximity to the European Union, and police forces inexperienced in the investigation of organized crime. The political changes and social turmoil produced many people eager to make easy money regardless of the law. All this created numerous opportunities for criminal operations.

The *status quo* on the criminal scene changed dramatically. The restructuring of organized crime started very quickly, at the beginning of the 1990s. The underworld was generally formed in two ways in the ECE states: from local sources and from abroad. Traditional local criminal underworlds became progressively better organized after they were joined by members of former communist *nomenklatura*, former 'grey' businessmen, state security service members and, increasingly, corrupt public officials. They created a new criminal subculture able to control local underworlds and to penetrate and influence the newly created state administrative structures. However, they were not the main bearers of the new modern methods of criminal 'business'. Generally, these came to post-communist Central Europe from abroad. The main motor of criminal activity was international organized crime. For rapacious criminal groups operating with highly professional methods, the local underworld represented but trivial competition. By skilfully using gaps in immigration and business laws, most particularly the lax approach to setting up companies, as well as 'dirty' money from abroad and the services of local people, practically all the main transnational criminal groupings established themselves in East Central Europe in the early years of

the democratic transition. The participation of foreign nationals in criminal acts has been on the rise. This applies in particular to citizens of former Soviet republics.

According to expert estimates, there are currently approximately 75–100 organized crime groups operating in the Czech Republic with 2000–2500 members. The number of 'external assistants' is likely to be approximately the same. More than a third of the organizations are highly developed. Former Soviet citizens, most particularly from Russia and Ukraine, form the largest foreign element in organized crime, followed by citizens of the former Yugoslavia, Bulgarians, Albanians, Vietnamese and Chinese. The presence of groups from elsewhere in the Balkans (Turkey, Romania, Greece), Italy, the Middle East, Sub-Saharan Africa and Latin America together with groups from other ECE states has been also registered. The largest groups identified in the Czech Republic are three of Russian origin, each with about 100–200 members. Russian and Ukrainian groups of a smaller size, with about 50 members, have been observed in some parts of the country. Half of the groups have mixed Czech/foreign composition, including more exotic nationalities such as Chinese and Vietnamese, while slightly more than a quarter are composed exclusively of foreigners. This indicates that there is cross-border activity involving all neighbouring countries, as well as some outside Europe.

Operations often involve Czech territory as a transit area from east to west, where target countries are primarily those nearby, such as Hungary, Italy, Spain and France. Additional traffic from the Far East and Africa is routed via the Czech Republic to the USA and the Caribbean. Illegal migrants are often gathered in Ukraine and other countries of the former Soviet Union, Asia and the Middle East and then smuggled across Slovakia, Hungary and Poland to the Czech Republic, and from there to Western countries. The strongest contingents of Czechs engaged in organized crime have been registered in France, Italy, Bulgaria, Croatia and Romania.¹⁵

Slovakia also reports well-organized hierarchical structures of organized criminal groups. In 1998, the Slovak police had information on 52 groups active on Slovak territory that comprised 600 members.¹⁶ In 2002, the Slovak Police registered 33 groups, of which seven were eliminated during the course of the year. They also cooperate with foreign criminal groups, in particular where drug-related activities are concerned. Group leaders are typically Slovak nationals, though

groups involved in drugs offences have foreign leaders, usually from Albania or Kosovo, or from former Soviet republics. Groups sizes range from five to 50 members, with an average of 15 members per group.

The entire territory of Slovakia, and the biggest cities in particular, are divided up between organized crime groups. Slovaks also collaborate with foreign groups elsewhere in and outside Europe. All neighbouring countries generally rank as partner countries. Cooperation with organized criminal groups in other European countries varies according to the commodity. Romania is used for stolen cars; Germany, Italy, Spain and Netherlands are partners for the trafficking of women; other EU states are used for people-smuggling; and contacts with Scandinavia, the Netherlands, Germany, Turkey, Albania, Bulgaria and Romania are used for drug trafficking. Non-European countries include drug producers such as Colombia and other Latin American countries, and Asian countries.¹⁷

According to a European Committee on Crime Problems report, in 1999 Hungary had 76 active organized crime groups, with a total of 1982 individuals suspected of involvement – an average of 26 persons per group. Six massive groups were observed, each with 100–300 members, the largest ones operating in the Budapest metropolitan area. Nearly half (34 groups) had between five and ten members, and 28 groups had between 11 and 30 members. The structure of groups is typically hierarchical in nature. Many groups operating independently of the larger ones also have a hierarchical structure. Of 62 hierarchical groups observed, 38 had one leader, eight were ruled by two or more individuals, and 16 hierarchical groups had a multi-layered management structure.

More than half the organized crime groups consisted of Hungarian citizens only. One-third had mixed membership and seven groups consisted exclusively of foreign nationals. The largest group of foreigners participating in the organized crime scene was formed by persons from former Yugoslavia (in 11 groups). Citizens of Slovakia (seven groups) and Ukraine (seven groups) were also numerous. Arabs, Turks, Germans, Russians, Sub-Saharan Africans, Albanians and Romanians were also observed. Isolated instances of organized crime groups involving citizens of other European countries were also found, as well as groups containing Armenians, Georgians, Chinese and Australians.

The majority of groups operate in a large geographical area spanning several counties within Hungary. The metropolitan area of Budapest

and the northern counties are the most important. Eleven groups were found to operate beyond the borders of Hungary. The connections mainly encompass Slovakia and Ukraine. However, the Netherlands, Germany, Italy, Romania and Austria also play a role. It has been noted that links to Slovak organized crime groups often involve violent crimes, and Slovak groups are also very active in trading large volumes of arms and explosives.¹⁸

In 2002, Poland's Bureau for Fighting Organized Crime registered 522 organized criminal groups with 6134 members. A total of 417 groups were Polish and 86 groups were mixed. Criminal groups included 381 foreign citizens. Taken as a whole, the organized crime scene in Poland is composed of foreign nationals from over 30 countries, with a preponderance of Ukrainians and Belarusians (25 per cent; nine registered groups were homogeneous, with nationals of Russia, Belarus and Ukraine). The other major nationalities are German, Turkish, Russian, Lithuanian, Italian and Vietnamese.¹⁹

Groups with more complicated structure, for example a cell-based one, are not very common, but do exist, mainly among internationally based groups engaging in theft, the legalizing and smuggling of motor vehicles, the production, smuggling and trafficking of drugs and the transfer of people across borders. However, the prevailing structure is hierarchical, with two or three different levels. Every group has a single leader and a few other members belonging to some sort of collective leadership. Other members, so-called soldiers, are usually not full-time members. They are hired to do a specific job. Therefore groups are usually not stable apart from the leadership, and constantly change according to the prevailing needs and opportunities.²⁰

As a whole, the size, composition and spheres of organized crime in the countries of East Central Europe have become very similar to the situation in the rest of the European Union. Criminal organizations are directly linked to foreign countries, and their activities copy the trends of international organized crime.²¹

Organized crime in the economy and society of East Central Europe

The lack of reliable empirical data makes it very difficult to determine to what extent organized crime is a real threat to the economy and society of the ECE states. Even sources within the police and judiciary do not have a common view on the seriousness of these

problems: whereas the police states that they are really serious, the judiciary usually claims that the police exaggerates the situation.

Expert answers to a questionnaire of the EU/Council of Europe Octopus project on corruption and organized crime²² suggest some negative trends in the overall structure of crime in ECE. In particular, the danger of falling victim to crime against life and health has increased, and the same applies to offences against property where aggression, violence and brutality are used against victims. Criminals use military equipment such as automatic rifles, home-made booby traps, grenades and remotely controlled explosive charges. Crimes linked to the settling of scores between criminal groups have also been on the rise, including murder, robbery, assault and criminal terrorism. A new category of serious crime has also appeared: contract killings that are often committed by professional hitmen. The professionalization of crime and the participation of foreign nationals in criminal acts have increased. The sharp rise of some illegal activities, especially those with an international dimension such as the illegal drugs trade, the exploitation of prostitution, racketeering, and the smuggling of people, vehicles, works of art and weapons is directly linked to organized crime.

Organized crime is not only connected to traditional illegal activities but also to white-collar and corporate crime, or at least to the purchase of real estate within the framework of the privatization process. According to the Corporate Governance Risk Survey, the business environment in East Central Europe is not perceived as violent or dominated by organized crime, yet respondents expressed concern about the opaqueness of public tenders and the prevalence of corruption.²³ In this milieu, criminal organizations continually try to maximize their legal activities, mainly through purchasing as much real estate and land as possible, penetrating legal companies and commercial structures, and employing special financial and legal advisers.

In the sphere of international organized crime, several very dangerous tendencies have been registered. Nearly all international groupings have created a stable base in the region of East Central Europe. They had two main interests in the region: easy access to Western Europe, exploiting the fact that people could travel through the EU with few restrictions on a Czech, Hungarian, Polish or Slovak passport even before EU enlargement; and the region's own criminal business potential.

Russian-speaking groups represent the major threat in this sphere. 'Russians' have a lot of funds, which are mainly being invested in real estate in the region. Due to their constant infiltration of the state structures in the CIS countries, their influence and power is broadening. According to Czech Security Intelligence Service findings, a gradual transition from openly criminal activities to legal business operations is typical. They arrive in the ECE countries with capital from crimes already committed elsewhere, and then utilize the capital to establish legal trading companies.

The number of casinos, restaurants and business companies owned by Russians, or with Russian participation, is growing steadily in the Czech Republic. There are more than 200 Czech-Russian joint ventures in Prague, a considerable number of which act as a respectable front for criminal activities. Russians invest in hotels, casinos, restaurants and other real estate in Prague and the well-known spa towns of Karlovy Vary and Mariánské Lázně.²⁴ Hungarian territory is also frequently used by Russian-speaking organizations. The participation of such organizations in the privatization of two Hungarian arms-producing companies was especially alarming.²⁵ Information gathered by Poland's Bureau for State Protection also indicates that significant numbers of Russian organized crime groups operating in the USA are trying to take over criminal groups in order to stabilize their position in Poland.

After taking up residence, the tendency is for organized crime bosses to penetrate economic and political life. Especially in the last few years, the police have also registered attempts by Russian-speaking criminals to penetrate and corrupt the state administration, and to place their members or collaborators in governmental bodies and political parties. They often try to involve company employees as well as high-ranking state officials, members of parliament and celebrities in illegal activities by offering them profitable posts in business, or by sponsoring political parties. A confidential report by the Czech Interior Ministry stated that the goal of organized crime was to gain control over the trade in strategic raw materials and banking, and to gain real power in the state by means of investment companies and funds, and contacts within the sphere of government.²⁶ At a lower level, East Central Europe faces the danger of economic and social penetration by Italian, Balkan and ethnic Asian international crime organizations.

There have been suspicions in recent years that Hungarian organized crime has been connected with the highest level of politics, and that top politicians are involved in activities of the so-called black and grey economy. Similarly, some Slovak official sources suggest that Slovakia's major problem in suppressing organized crime may be corruption, and the links of organized crime representatives with state structures.²⁷

Responses to organized crime

General remarks

Policies against organized crime in the states of East Central Europe can in the long run only be successful within the wider context of a prosperous and open society. Governments also have to ensure an appropriate (re-)distribution of goods and services; otherwise black and grey economies will emerge, and together with them organized criminal groups able to deliver them. If governments do not take measures to prevent part of the population from becoming economically, socially and culturally marginalized, some elements within the stigmatized groups – such as the Roma of East Central Europe – may organize their survival in an illegal way. Furthermore, governments need to develop a pragmatic policy on moral issues in order to contain problems such as prostitution or corruption. Policies must be directed at the containment of problems, and not at seeking radical solutions. If this is not done, the result will be either symbolic moral crusades, or else black and grey markets, organized crime and corruption scandals.

Compliance with the standards of good governance is also a general prerequisite for a successful policy against corruption and organized crime. A dishonest administration is not only easy prey for organized criminal groups, but will also actively facilitate organized crime for its own ends. Unfortunately, the level of corruption is still uncomfortably high in the ECE region.²⁸ Widely publicized 'Clean Hands' programmes have all, without exception, ended in failure.

Finally, it is essential to establish and to maintain good relationships with the governments of neighbouring and more distant countries. Otherwise, it is almost impossible to establish and sustain effective mechanisms for mutual legal assistance and police cooperation, without which no policy against organized crime can be successful in view of its increasing internationalization.²⁹

The reconstruction of legal systems

As mentioned above, crimes such as bombing, kidnappings and hostage taking were almost totally unknown before 1989, while business crimes such as racketeering and extortion did not even exist in the communist penal code. The spread of organized crime after the fall of communism called for a fundamental reshaping of legislation. As well as this, the political interests of the Central European countries in adapting their legislation and security structures to EU standards as part of the process of preparing for being part of the AFSJ played an important role in this reconstruction. In many spheres, the reconstruction would be much slower and less effective without EU pressure and assistance. As the result, a lot of legislation and structural changes mirror the West European patterns.

There was a serial codification and re-codification of laws that peaked throughout the region in the second half of the 1990s. National legislatures had to deal with several common problems in their attempts to adapt the law to the new conditions on the criminal scene. Apart from establishing sanctions against new kinds of crime, they needed to establish definitions for organized crime groups and for the crimes committed by such groups, and for the crime of participation in a criminal conspiracy. They also needed to legislate for the impunity of undercover agents, 'controlled purchases', and the secret surveillance of the movement, storage and trafficking of objects derived from crime, since this is one of the most effective means of fighting organized trafficking in weapons, nuclear materials and drugs. Provision also had to be made for the immunity of witnesses, and for witnesses to give evidence incognito.

In general, the legal systems of East Central Europe, which were used to copying Soviet models, and had adapted to the conditions prevalent in communist states, all needed to make more or less the same corrections and amendments to their legislation in order to cope with the new situation in which they found themselves. Initial legislative changes began soon after the fall of communism. They usually dealt first with the removal of politically motivated communist principles from criminal codes, and only later with the need to adapt legislation to the new circumstances created by changes in the patterns of criminal activity.

The Czech Criminal Code was amended several times in the first half of the 1990s as a reaction to the threat of organized crime,

introducing more restrictive penal sanctions for crimes committed in organized groups, and implementing new definitions of crime, for example participation in committing crimes, the illegal production and possession of nuclear materials, trafficking in children and illegal border crossing. Substantial changes in the Criminal Code, the Criminal Procedure Code and the Police Law were then adopted in 1995 by law No. 152/1995, with some further subsequent amendments.

The Slovak Republic took over the Czechoslovak Penal Code of 1990 when it became an independent state in 1993. The first important re-codification was enacted in 1994 and aimed primarily to increase police efficiency in combating crime. Amendments dealt with the due process of law, rules for police action such as search warrants and other procedural matters, and also with some new kinds of crime. In 1996–97, the government coalition of Vladimír Mečiar then in power failed to amend the Penal Code as the president, a strong opponent of the government, twice vetoed the bill because of politically motivated paragraphs outlawing 'subversion of the republic' and 'damaging the interests of the Republic while abroad', which was reminiscent of communist-era language. The paragraphs became the object of sharp political battles which resulted in failure to amend the Penal Code, including the paragraphs on organized crime.

The first amendment to the Penal Code was finally enacted in January 1999, after parliamentary elections in 1998 led to a change in government, and introduced the concept of witness protection in the fight against organized crime. In July 1999, the Slovak parliament passed a more wide-ranging amendment to the Penal Code designed primarily to help the police and judiciary crack down on economic and organized crime. The amendment also defined new crimes such as offering a bribe (previously, only accepting a bribe was considered a crime) and possessing child pornography. The European Commission felt that there was still a need to amend the definition of some crimes, but basically the Slovak Penal Code after its large re-codification in 1999 provided a solid legal base for fighting crime.³⁰

According to Article 166 of the Polish Criminal Code of 1932, it was a crime to be a member of an association whose main goal was to commit crime (a 'criminal association'). The Polish Criminal Code of 1969 also defines criminal and armed associations. New penal legislation effective from September 1998, which includes the Criminal

Code, the Code of Criminal Procedure and the Code of Execution of Punishments, introduced several new measures to counter organized crime that were similar to those elsewhere in East Central Europe. Some of them became subject to major disputes among experts about their compatibility with the Polish Constitution.

The promise of determined action against crime played a significant role in the victory of the Fidesz-MPP Party in the Hungarian parliamentary elections of 1998. Consequently, a new bill on the 'regulation of countermeasures against organized crime and connected phenomena', better known as the 'mafia bill', was tabled in the autumn of 1998. The original bill contained various passages which would have entailed modifications to numerous laws, including laws on the police and the handling of personal data handling, and so on. Some regulations failed to come into force due to the resistance of the liberal and socialist opposition, who claimed the bill would be acceptable only in a state of emergency because of its rigour. Eventually, parts of the original bill were passed as law No. LXXV in 1999, and came into force on 1 September of the same year. The law dealt with numerous problems such as prostitution, people-smuggling, witness protection, undercover detectives and drug abuse. Additionally, in February 2002, Hungary adopted a substantial package of amendments to the Penal Code in order to align with the EU *acquis* and the UN Convention on Transnational Organized Crime. These amendments came into force in April 2002, and included a new definition of an organized criminal group; the shift of the burden of proof in cases of forfeiture of assets; the criminalization of the obstruction of justice, of bribery, and of participation in an organized criminal group; stricter provisions on trafficking in persons; and an extension of the criminal liability of foreign public officials for passive bribery.³¹

Security forces

The security forces were also organized on the Soviet model in the all ECE countries before 1989. Although they operated within local jurisdictions, they were centrally organized and controlled by the Ministry of Interior under strong Communist Party supervision. The Czechoslovak press indicated in 1982 that 75 per cent of police force members were either members or candidate members of the Communist Party.³² In the former Czechoslovakia, the National

Security Corps (*Sbor národní bezpečnosti*) comprised Public Security (*Veřejná bezpečnost*) and State Security (*Státní Bezpečnost*), complemented by numerous volunteers in the Public Security Auxiliary Guards (*Pomocná stráž Veřejné bezpečnosti*).³³ Similarly, in Poland until 1990 the internal security forces of the Ministry of Internal Affairs included the regular police, called Citizens' Militia (*Milicja Obywatelska*), the Security Service (*Sluzba Bezpieczenstwa*), and a large Citizens' Militia Voluntary Reserve (*Ochotnicza Rezerwa Milicji Obywatelskiej*). The Hungarian security system was also divided into the regular National Police (*Rendőrség*), the Security Police and auxiliary guards. These forces, together with customs corps, border troops, prison and judicial corps, military police, voluntary armed militia units and state security informers, created a repressive network with strong and effective powers of surveillance that reached every village, every workplace and every social group in society.³⁴ After 1989, the system was destroyed. A radical reconstruction had to be carried out in a situation in which the police were confronting strong waves of organized crime sweeping across the states of East Central Europe.

The first thing it was necessary to do was to depoliticize the security forces. The second problem was to make them adapt to the new conditions. This led to a high turnover of staff as many experienced police officers too closely connected to old regimes were dismissed, and young inexperienced people were recruited in their place. Like many other reforms in the transition period, practical changes took place slowly because of resistance from incumbent officials. During the first half of the 1990s in particular, action against organized crime was weakly coordinated, with various old and new agencies and security offices duplicating each others' activities and internal 'policemen's wars' eroding the fight against crime. For example, in the Czech Republic, the National Drug Information Service developed the same analytical activities as the National Anti-Drug Headquarters of the Czech Criminal Police Service.³⁵ The most important change was made in 2001, when, in connection with the extensive reconstruction of criminal procedure, the previously autonomous police investigation offices merged with the criminal police in a new Criminal Police and Investigation Department conducting detection and investigation of crimes. Several special services focusing on organized crime have been included in this department: the Department for the Detection of Organized Crime, the National Anti-Drug Headquarters,

the Financial Crime and State Protection Office and the Department for Detection of Corruption and Serious Economic Crime.³⁶

In Poland, the Bureau for Fighting Organized Crime and the Bureau for Fighting Drug-Related Crimes both dealt with drug crime and used the same special legal measures and investigation methods. There were cases where each had its own secret agents in the same organized crime group without even knowing. In February 2000, after ten years of discussion, a decision was finally made to set up the Central Investigative Bureau. This new agency is composed of both the earlier bureaux for dealing with organized crime and drug crime. A General Inspectorate for Financial Intelligence investigating financial crime was also set up in December 2000 and is currently at the early stage of development.³⁷

In Slovakia, similarly, special units (drugs unit, financial unit, office for the fight against organized crime) were integrated in an office of Criminal Police, and in April 2001 Hungary also established a body responsible for coordinating the fight against organized crime under the supervision of the Minister of the Interior. Its brief is to collect, analyse and process information about organized crime, to coordinate investigations, and to prevent duplication between the various departments involved. The OECD Financial Action Task Force finally removed Hungary from its list of non-cooperative countries in 2002 after a new law containing provisions for combating money laundering entered into force that allowed the Hungarian Financial Supervisory Authority to investigate money-laundering cases more efficiently.³⁸ Furthermore, throughout East Central Europe, the fight against serious organized crime also became part of the secret services' programmes.

Although the structures of security organizations are stabilizing, the 'policemen's wars' are still not over, and many difficulties remain. Because of lack of funding, there is insufficient momentum behind moves to replace and update equipment, and special tasks and development programmes adopted by the police forces are being implemented too slowly. One of the main problems is the continually high turnover the staff. A successful campaign against organized crime needs educated and dedicated police officers, and they have to be well paid. There is still a gross disproportion between the salaries of Czech police officers and their Western colleagues. Consequently, many experienced policemen retire or enter the private sector, which

means that younger replacements have to be recruited and trained. Although the ECE states have more or less succeeded in building up special organized crime police units, there are still difficulties, especially at lower levels in their police forces. Corruption remains one of the most serious problems, particularly in police departments responsible for granting licences or other official documents.

The judiciary

The efficiency of the judiciary is one of the key factors in combating crime. Unfortunately, the level of law enforcement is far from satisfactory in East Central Europe. The legal process is still too slow, and lacks cost-efficiency. The Corporate Governance Risk Survey³⁹ found that 98 per cent of respondents in the Czech Republic agreed that the legal process is not speedy enough, and only 16 per cent perceived it as cost-efficient. According to the World Bank, it takes between one and three years to obtain a judgment. Law enforcement agencies are also inefficient and not highly respected. A total of 88 per cent of respondents were convinced that there is not an effective system for reaching legal decisions, and 75 per cent thought it was not difficult to evade judgments. In Slovakia, virtually all respondents (99 per cent) agreed that legal processes are too slow, and that it takes several years to process a judgment. The same view was held by 94 per cent of respondents in Hungary, and in Poland 95 per cent of respondents reported that the legal process was too slow, and 81 per cent thought that even when decisions were taken, they were not respected and implemented.

A major problem is that the judiciary is understaffed and the courts are overloaded. For example, in Slovakia the average case load is around 120–130 cases per year for every judge.⁴⁰ New law graduates usually prefer to work in the private sector, where salaries are higher and the security risks lower. The courts are not experienced in dealing with organized crime, and often look at offences as individual crimes – thefts, burglaries, killings and so on – rather than as part of a larger criminal operation. In the Czech Republic, by the end of 2000, only one single offender had been sentenced under the new law covering participation in a criminal group; by the end of 2002, three offenders had been sentenced and 229 persons accused.⁴¹ Reform of the judiciary aimed at increasing its efficiency is one of the most urgent tasks that all the governments of East Central Europe need to tackle.

International cooperation

The battle against organized crime cannot be won unless there is close cooperation between the security forces throughout Europe. There is a strong link between the reshaping of domestic legislation and international collaboration, since it is often implemented only because of the pressure of international agreements that have already been signed. The Pre-accession Pact on Organized Crime between the member states of the European Union and the applicant countries of Central and Eastern Europe was signed in Brussels on 19 May 1998. A wide range of conventions and international agreements such as the UN Convention against Transnational Organized Crime, the European Convention on the Suppression of Terrorism, the European Convention on Mutual Assistance in Criminal Matters and the European Convention on Extradition have been signed, ratified or are in the process of ratification. The total harmonization will take some time, but a positive process has been started.⁴²

In the sphere of police cooperation, Hungary signed an agreement with Europol in October 2001, and in April 2002, liaison officers were seconded to Europol. From the same month, the Centre for International Cooperation between Police Forces has been providing support for police cooperation at international level and implementation of the agreement with Europol.⁴³

According to the European Commission's 2002 progress reports on the candidate states, remarkable progress has been achieved in police cooperation and the fight against organized crime that will permit the Czech Republic to participate in the Europol convention. In the same year, the agreement on collaboration in fighting serious transnational crime was signed by the Minister of the Interior of the Czech Republic and director of the European Police Office. A 'Europol' group was established within the Czech Police, and charged with regular communication with Europol through a first liaison officer. An office for international police coordination exists within the Czech Police Presidium.

Internal affairs ministers from Poland and Belgium and the chief of Europol signed an association agreement in October 2001.⁴⁴ Poland's Central Investigation Bureau is responsible for the exchange of information and cooperation with foreign law enforcement agencies as well as with Interpol and Europol. Slovakia signed an agreement with

Europol in June 2003. The coordinating National Office of Europol was established in Bratislava in same year.⁴⁵

These changes in the legal and security systems of the ECE countries established a framework for the detection, investigation and prosecution of organized crime that is more or less comparable with the legislation of the majority of other European countries, and thereby created the conditions for international cooperation in the field of justice and home affairs. The ECE states will also be able to meet European Union standards involving central national agencies dealing with organized crime. They are continuing to develop police cooperation with both neighbouring countries and old EU member states. An important framework for international cooperation has also been built up within Council of Europe/EU projects Octopus and Octopus II.

Since 1999, ministers of the interior from the Czech Republic, Hungary, Poland, Austria and the Slovak Republic have been meeting regularly to coordinate activities in the sphere of migration, border defence and organized crime. Regional expert groups have been created.⁴⁶ All the EU member and candidate states agreed that judicial cooperation must continue in order to ensure the implementation of Community instruments in the area of judicial cooperation in civil matters, most particularly the mutual recognition and enforcement of judicial decisions.

Although visible progress has been made, effective cooperation across national borders in the areas of law enforcement and the judiciary is still developing very slowly in comparison with the explosion of organized crime that has been witnessed, aided by the many legislative and technical obstacles in East Central Europe. The weakness of the links between police forces that can be observed in the West becomes even more pronounced when they collaborate with the security forces of former communist countries, which are still frequently suspected of lacking respect for the rule of law. Unless this prejudice is overcome, and unless the police of the West and East unite their efforts to combat organized crime, the criminals will continue to win.

Conclusions

Organized crime represents a serious threat for the countries of East Central Europe. Criminal groups with a high degree of organization,

and frequently with strong international links, are steadily expanding the scope of their operations there. Many of these groups have already passed through the stage of gaining a foothold and stabilizing their position in the underworld, and also in the economic and social structures, of the ECE states, and now aim for more elevated forms of activity, including efforts to dominate these structures. This does not bode well for the future. Far from being simply a domestic issue, the expansion of organized crime represents a direct threat to the security and stability of the EU's new member states and, in its international dimension, for the whole of Europe.

All post-communist countries joining the EU will probably be able to fulfil their obligations to the Union when it comes to restructuring their legal systems. The problem is that they still lack sufficient power to make the new legal systems work effectively in practice. One of the weakest spots of the ECE countries' resistance to organized criminal activities (apart from an unstable economic and social situation, marked by widespread corruption and weakening of ethical standards) is their limited ability to extricate themselves from narrowly regional approaches and to grasp the international dimension of the problem. Frequently repeated political proclamations about the need to preserve 'state sovereignty' are a historical anachronism in a situation when the significance of state borders is in fact being undermined. In the EU-ECE context, it is necessary to build 'sieves' instead of erecting impenetrable barriers. In other words, security systems must be created that are capable of letting through all the positive events the world brings along while at the same trapping and eliminating negative phenomena. This is not possible without close cooperation between the security authorities of all the countries involved. However, as has been shown, this cooperation is still hampered by a whole series of legislative and operational problems.

Notes

- 1 Imported drugs began to appear sporadically on Czechoslovak and Hungarian territory in more considerable amounts in the second half of the 1980s because the communist regimes' systems of control were being eroded, and more use was made of the central and northern wings of the 'Balkan drug route' from Southwest Asia and the Balkans to Western Europe. The central wing includes Turkey, Bulgaria, Yugoslavia, Austria, the Czech Republic and Germany, while the northern wing runs through

- Turkey, Bulgaria, Romania, Czechoslovakia (that is, Slovakia and the Czech Republic) and Germany.
- 2 M. Nožina, *Svět drog v Čechách* (Prague: Koniasch Latin Press, 1997), pp. 99–100.
- 3 Ibid., p. 326.
- 4 M. Nožina, 'Czech Republic: An intersection of International Crime', *Perspectives*, 12 (1999), 57–64.
- 5 See M. Nožina, *Mezinárodní organizovaný zločin v České republice* (Prague: Themis, 2003).
- 6 Nožina, 'An intersection of International Crime', p. 59.
- 7 Ibid., p. 60.
- 8 Komenda Główna Policji, *Report statystyczny*, <http://www.kgp.gov.pl>.
- 9 Ministry of the Interior of the Czech Republic, <http://www.mvcr.cz/statistiky/krim.stat/2000>; Interpol, *International Crime Statistics*, <http://www.interpol.int/Public/Statistics/ICS/2002.pdf>.
- 10 A. Michálek, 'Vývoj a regionálna distribúcia kriminality na Slovensku', *Kriminalistika*, 33/4 (2000), 1–7, http://www.mvcr.cz/casopisy/kriminalistika/2000/00_04/michalek.html.
- 11 Interpol, *International Crime Statistics*, <http://www.interpol.int/Public/Statistics/ICS/downloadList.asp>.
- 12 Ministry of the Interior of the Czech Republic, *Zpráva o situaci v oblasti veřejného pořádku a vnitřní bezpečnosti na území České republiky v roce 1999*, http://www.mvcr.cz/dokumenty/bezp_si99/priloha1.html.
- 13 Interpol, *International Crime Statistics*.
- 14 See Nožina, *Mezinárodní organizovaný zločin v České republice*.
- 15 See *ibid.*; M. Scheinost, 'Názory pracovníků orgánů činných v trestním řízení a dalších odborníků na organizovanou trestnou činnost páchanou obcany ČR', *Kriminalistika*, 32/2 (1999), <http://www.mvcr.cz/casopisy/kriminalistika/1999/9902/scheinost.htm>; M. Cejp, 'Trendy ve vývoji některých ukazatelů o struktuře skupin a charakteru činnosti organizovaného zločinu', *Kriminalistika*, 33/4 (2000), http://www.mvcr.cz/casopisy/kriminalistika/2000/00_04/cejp.html; M. Cejp, 'Výsledky osmé expertizy o základních charakteristikách organizovaného zločinu', *Kriminalistika*, 34/3 (2001), http://www.mvcr.cz/casopisy/kriminalistika/2001/01_03/cejp.html; European Committee on Crime Problems (CDPC), *Report on the Organized Crime situation in Council of Europe Member States – 1999*, Strasbourg, December 2000, pp. 16–17, http://www.coe.int/T/E/Legal_affairs/Legal_co_operation/Combating_economic_crime_Organized_crime/Documents/Report1999E.pdf; Ministry of the Interior of the Czech Republic, Security Policy Section, *Information on Organized Crime Status in the Czech Republic in 2000*, 2. *Organized Crime in the Czech Republic*, <http://www.mvcr.cz/english.html>.
- 16 A. Duleba, 'Criminality, organized crime and corruption in the Slovak Republic: Development trends and governmental policies', PROGRES Project, University of Groningen, Netherlands – Theme 4: Security in Europe: (New) Threats on the Agenda, Kiev, Ukraine, 24–25 March 2000 (unpublished paper).

- 17 Slovensko: Základné problémy na úseku bezpečnosti, stav v roku 2001, momentálna situácia, <http://www.minv.sk/dokum/bezpsit2001PZ.html>; European Committee on Crime Problems (CDPC), *Report on the Organized Crime Situation in Council of Europe Member States*, pp. 16–17.
- 18 Ibid.
- 19 See Komenda Główna Policji, *Zwalczanie przestępczości zorganizowanej i narkotykowej w Polsce 2002 r.* (Warsaw: 2003), p. 2.
- 20 European Committee on Crime Problems (CDPC), *Report on the Organized Crime Situation in Council of Europe Member States*, pp. 16–17.
- 21 See '2000 EU Organised Crime Situation Report', The Hague, 31 October 2001, File number: 2530-68rev3, pp. 4–6.
- 22 *Corruption and Organized Crime in States in Transition*, Octopus project 1996–98 (joint project between the Commission of the European Communities and the Council of Europe), http://www.coe.int/T/E/Legal_affair/Legal_co-operation/Combating_economic_crime/.
- 23 Corporate Government Risk Surveys measure and compare the corporate governance risk in the countries of Central Europe. The opinion surveys were conducted among 200 managers of foreign-owned companies in the Czech Republic, Hungary, Poland and Slovakia. Merit Research Working Papers, <http://www.merit-research.cz/public.htm>.
- 24 M. Nožina, 'Das Netzwerk des internationalen organisierten Verbrechens in der Tschechischen Republik', in R.C. Meier-Walser, G. Hirscher, K. Lange and E. Palumbo (eds), *Organisierte Kriminalität: Bestandsaufnahme, transnationale Dimension, Wege der Bekämpfung* (Munich: Hanns-Seidel-Stiftung eV, 1999), p. 228.
- 25 Ibid., p. 226.
- 26 See Ministry of the Interior of the Czech Republic, *Actualized Concept of Fight Against Organized Crime*, Prague, November 2000.
- 27 Ibid.
- 28 According to the Transparency International corruption investigation programme, Hungary gained 40th position (index 4.8), the Czech Republic 54th position (index 3.9), Slovakia 59th position (index 3.7) and Poland 64th position (index 3.6) among the 130 countries of the world. *Lidové noviny*, Prague, 8 October 2003. The World Bank reports that 70 per cent of Slovak firms admitted paying bribes, which on average consumed 3.5 per cent of their annual revenues. See *Corporate Governance Risk Survey in Central Europe: Slovak Republic*, <http://merit-research.cz/files/esslk.pdf>.
- 29 See Octopus (1998) 14 – Slovakia. *Final Recommendations and Guidelines for action addressed to the government of Slovakia*, Report prepared by Professor Dr C. Fijnaut, Strasbourg, 13 March 1998 (public as from February 1999, http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/).
- 30 Duleba, *Criminality, organized crime and corruption in the Slovak Republic: development trends and governmental policies*.
- 31 European Commission, 'Regular Report on Hungary's progress towards accession to the European Union, November 2002', Chapter 24: cooperation in the field of justice and home affairs, COM(2002) 700 final – SEC(2002) 1404, 9 October 2002.
- 32 *1Up Info – Country Study & Country Guide – Czechoslovakia*, <http://www.1upinfo.com/country-guide-study/czechoslovakia/czechoslovakia141.html>.
- 33 There were 27,000 members organized in 3372 units in Slovakia alone in the mid-1980s.
- 34 *1Up Info – Country Study & Country Guide*, <http://www.1upinfo.com/country-guide-study/>.
- 35 Nožina, *Svět drog v Čechách*, pp. 285–6.
- 36 The Czech Police web page, <http://www.mvcr.cz/policie/index.html>.
- 37 Komenda Główna Policji, <http://www.kgp.gov.pl>.
- 38 Activities of the European Union. Summaries of Legislation. Hungary – Adoption of the Community Acquis: <http://europa.eu.int/scadplus/leg/en/lvb/e22103.htm>.
- 39 Corporate Government Risk Survey.
- 40 Duleba, *Criminality, organized crime and corruption in the Slovak Republic*.
- 41 Nožina, *Mezinárodní organizovaný zločin v České republice*.
- 42 See: Justice and home affairs in the EU enlargement process: http://europa.eu.int/comm/justice_home/doc_centre/enlargement/doc_enlarge_intro_en.htm.
- 43 Activities of the European Union. Summaries of Legislation. Hungary – Adoption of the Community Acquis: <http://europa.eu.int/scadplus/leg/en/lvb/e22103.htm>.
- 44 *The Warsaw Voice*, 14 October 2001, No. 41 (677): <http://www.warsawvoice.pl/old/v677/News03.html>.
- 45 Bratislava ba.mesto.sk. See http://mesto.sk/prispevky_velke/bratislava/slovenskopodpisalo1055499960.phtml.
- 46 Nožina, *Mezinárodní organizovaný zločin v České republice*.