

per Concordiam

Journal of European Security and Defense Issues

■ **GLOBAL CORRUPTION**

Building good governance

■ **KOSOVO COMBATS CRIME**

EU laws aid the Balkan nation

■ **MEDITERRANEAN SMUGGLING**

Refugee crisis feeds illegality

■ **PROTECTING REFUGEES**

Greece and Italy cope with migration

PLUS

Fighting terror with intelligence

Guarding against WMD

NATO's Russia strategy

Shutting Down Transnational Organized Crime



Table of Contents

features

ON THE COVER



Transnational organized crime — including smuggling weapons, narcotics and people — is both a symptom and a cause of governmental instability. Interagency cooperation at the national level and international cooperation at the regional and global levels are the best ways to fight the problem. *PER CONCORDIAM ILLUSTRATION*



10



10 **Corruption and Government Effectiveness**

By Dr. Valbona Zeneli, Marshall Center

Corruption has far-reaching effects on international security.

18 **Joint Investigation Teams**

By Roxana Bulancea

Multinational joint investigation teams cooperate to solve crimes.

24 **Mobility and Border Controls**

By Susana de Sousa Ferreira and Dr. Andrés de Castro

Effectively managing borders can reduce security threats.

30 **Refugees, Smugglers and Terrorists**

By Vasileios Koutsoliakos and Anastasios Flintisis

A dangerous smuggling enterprise has formed from Europe's refugee crisis.

36 **Fighting Organized Crime in Kosovo**

By Lt. Col. Fatos Haziri

Crime groups impede Southeast European progress.



in every issue

- 4 DIRECTOR'S LETTER
- 5 CONTRIBUTORS
- 7 VIEWPOINT
- 64 BOOK REVIEW
- 66 CALENDAR

42 **Managing Mixed Migration
Flows to Europe**

By Lt. Cmdr. Ioannis Argyriou and
Military Judge Christos Tsiachris

Greece and Italy need cooperation from the rest
of Europe to control immigrant flows.

46 **Building Trust to Fight Cyber Crime**

By Steven Jones-Chaljub,
Escuela Superior de Guerra, Colombia

Online reputation and trust can help fight
cyber crime.

COOPERATION

50 **The Marshall Center's
Seminar for Regional
Security**

By the Marshall Center

The Marshall Center's seminar
focuses on peaceful conflict
resolution.

SECURITY

52 **Wielding Intelligence
as a Weapon**

By Col. (Ret.) József Kis-Benedek,
Ph.D., professor, National University
of Public Service, Hungary

Collecting information on the
enemy is vital to its defeat.

56 **Stopping the Spread
of WMD**

By Bakyt T. Kakchekeev

The U.S. and the Kyrgyz
Republic collaborate to prevent
WMD proliferation.

POLICY

60 **A New Russia
Strategy**

By Capt. Evan Kerrane, U.S. Army

NATO needs to reassert its
role in protecting Europe from
Russian aggression.



GEORGE C. MARSHALL
EUROPEAN CENTER FOR SECURITY STUDIES

Welcome to the 27th issue of *per Concordiam*. Countering transnational organized crime (CTOC) addresses whole-of-government approaches to dealing with an insidious and wide-ranging group of threats. Comprehensively, CTOC includes military and law enforcement support, national and regional strategies, reducing corruption, and integrating civil society and nongovernmental organizations into CTOC efforts. This issue examines major methods by which transnational criminal and terrorist organizations engage in illegal trafficking and other criminal activities.

Transnational organized crime presents more than a significant national security threat; it also weakens regional and global security. There is a growing recognition that transnational organized crime is flourishing in a time of rapid globalization. Improvements in communication, transportation and international commerce permit criminal networks to prosper in ways that can outpace any single nation's capacity to counteract them. Criminal networks can leverage commercially available information technology to communicate, take advantage of improved transportation networks, and exploit open borders between countries. The threats posed by criminal networks are increased when considering their linkages to corruption and terrorist networks. Therefore, regional, transnational and collaborative approaches to combating these threats must be adopted and refined over time.

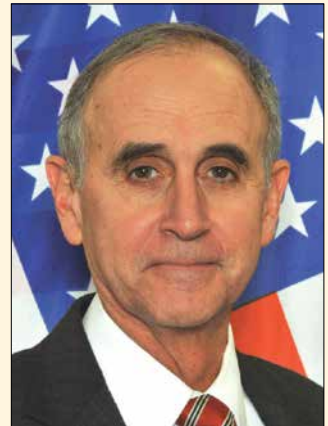
Several Marshall Center alumni have contributed their expertise and regional perspectives to this issue. Roxana Bulancea, a Marshall Center graduate, and Dr. Valbona Zeneli, a faculty member, discuss Joint Investigative Teams and the role of corruption in facilitating these organized criminal networks. Vasileios Koutsoliakos and Anastasios Filntisis examine smuggling networks and organized crime. Additionally, Lt. Cmdr. Ioannis Argyriou, Judge Christos Tsiachris, Susana de Sousa Ferreira and Andrés de Castro look at the current international migratory crisis, where criminal networks are increasingly adapting to provide facilitation services to refugees and migrants, taking advantage of their desperation and vulnerability. Lt. Col. Fatos Haziri shares how organized crime is affecting the fragile Balkan nation of Kosovo. Finally, Steven Jones-Chaljub looks at criminal activity in the cyber domain.

The Marshall Center's objective is to share effective methods, learn from each other and discuss emerging trends related to transnational crime and illicit trafficking. In addition to helping participants understand the threat, our goal is to provide a forum for military and law enforcement leaders and policymakers to explore ways to counter transnational organized crime (TOC) through the development of new policies and strategies. Improving cooperation between agencies at the national level and striving for whole-of-government approaches to counter illicit trafficking can lead to improved international cooperation. As international cooperation increases, we anticipate better investigative coordination and increasing prosecution rates for transnational criminal networks. Working together as nations and organizations, we can reduce the level of TOC throughout Europe, Asia and the world.

I hope this issue increases dialogue on this complicated but important topic. As always, we at the Marshall Center welcome your comments and perspectives on these topics and will include your responses in future editions. Please feel free to contact us at editor@perconcordiam.org

Sincerely,

Keith W. Dayton
Director



Keith W. Dayton

Director, George C. Marshall European Center for Security Studies

Keith W. Dayton retired as a Lieutenant General from the U.S. Army in late 2010 after more than 40 years of service. His last assignment on active duty was as U.S. Security Coordinator to Israel and the Palestinian Authority in Jerusalem. An artillery officer by training, he also has served as politico-military staff officer for the Army in Washington, D.C., and U.S. defense attaché in Russia. He worked as director of the Iraqi Survey Group for Operation Iraqi Freedom in Iraq. He earned a Senior Service College Fellowship to Harvard University and served as the Senior Army Fellow on the Council on Foreign Relations in New York. Gen. Dayton has a bachelor's degree in history from the College of William and Mary, a master's degree in history from Cambridge University and another in international relations from the University of Southern California.



Lt. Cmdr. Ioannis Argyriou is a staff officer of the education and training directorate at the NATO Maritime Interdiction Operational Training Center. He leads International Maritime Organization training events and helps train groups from NATO member states and affiliated countries. During his career, he has coordinated operations dealing with refugee trafficking, drug smuggling, search and rescue, and maritime pollution.



Roxana Balancea is a judicial police officer within the Counter Organized Crime Directorate of the Romanian Police. She has investigated organized crime cases and worked as an international police cooperation liaison officer in France. She holds a master's and a bachelor's degree in law from the Romanian Police Academy-School of Law.



Steven Jones-Chaljub is a national security and defense advisor for the Colombian government, and a professor at the armed forces institute of higher learning, Escuela Superior de Guerra. He holds master's degrees in international security and strategic studies.



Dr. Andrés de Castro is an associate professor and researcher at the National Academy of Political and Strategic Studies in Chile. His expertise includes international security, transnational threats, border management and drug trafficking. He received his Ph.D. in international security from the Instituto Universitario General Gutiérrez Mellado and a law degree from the University of Salamanca, both in Spain.



Susana de Sousa Ferreira is a doctoral candidate studying international relations at Universidade Nova de Lisboa in Portugal. She is a visiting scholar and student at the Instituto Universitario General Gutiérrez Mellado in Spain, where she is studying international security. Her fields of research include migration, border management, international security and the Mediterranean Sea.



Anastasios Filntisis serves on the Hellenic Counterterrorism Unit. He graduated from the Hellenic Police Academy in 2006, earned a bachelor's degree in political science and international relations from the University of Peloponnese and a master's degree in European and international studies from University of Athens. Currently, he is a Ph.D. candidate in the fields of history and politics.



Lt. Col. Fatos Haziri works for the Kosovo Police, where he has held positions that include director against organized crime and director for strategic planning and legal issues. He lectures on criminology at University College FAMA in Pristina. His research focus is preventing and combating money laundering, terrorism and organized crime.



Vasileios Koutsoliakos is an intelligence officer in the counterterrorism unit of the Hellenic National Police. He is an expert in international terrorism and radicalization. He graduated from the Hellenic Police Academy and earned a bachelor's degree in international, European and regional studies. He has a master's degree in international relations and strategic studies from Panteion University and another in crisis, mass disaster and emergency management from the University of Athens.



Jürgen Storbeck is a German law enforcement officer. From 1992 to 2004, he was the first director of Europol. Before that he led the organized crime department at Germany's Federal Criminal Police Office and was director of homeland security for the State of Brandenburg. His teaching and research interests include law enforcement, security policies and strategies, and evaluating best practices related to governments, agencies and international organizations.



Christos Tsiachris is a military judge at the Military Court of Chania in Greece. Previously, he served as an attorney for the Judicial Corps of the Hellenic Armed Forces. He has lectured at the Hellenic Army Non-Commissioned Officers Academy, the Hellenic Police Academy, the Hellenic Multinational Peace Support Operations Training Center and the NATO Maritime Interdiction Operational Training Center.

**Transnational
Organized Crime**

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The George C. Marshall European Center for Security Studies is a German-American partnership founded in 1993. The center promotes dialogue and understanding between European, Eurasian, North American and other nations. The theme of its resident courses and outreach events: Most 21st century security challenges require international, interagency and interdisciplinary response and cooperation.

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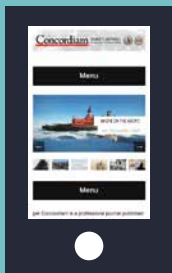
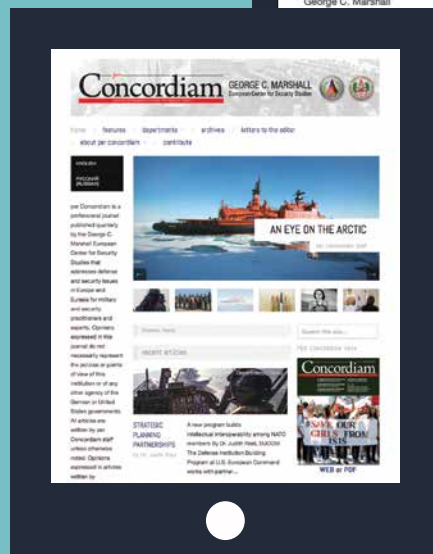
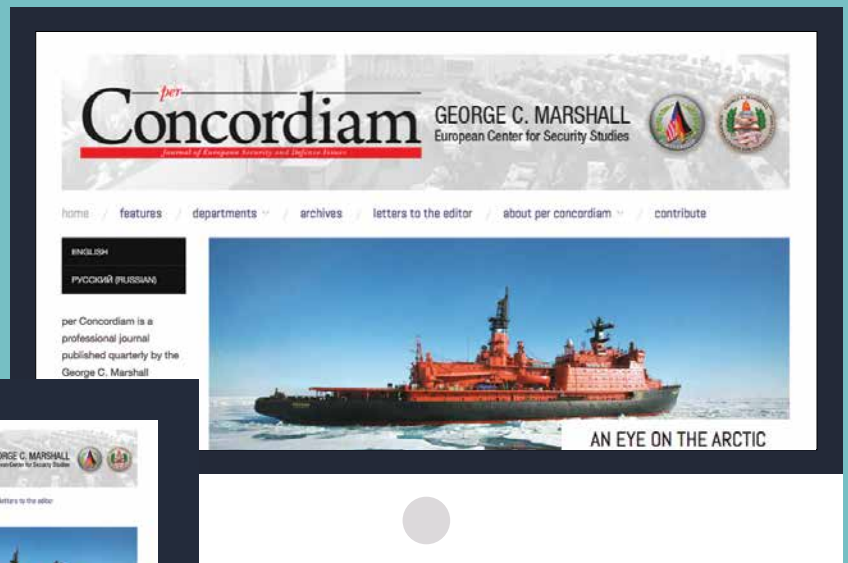
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OPPOSING ORGANIZED CRIME

Law enforcement must stop counterfeiting, smuggling and other crimes that finance terrorism

By **JÜRGEN STORBECK**, founding director of Europol

It is important that the George C. Marshall European Center for Security Studies is dedicating an entire issue of *per Concordiam* to the changing face of organized crime. I am pleased to have been invited to elaborate on the challenge this threat poses to the international community and to outline two ideas that have recently enriched the debate about how to improve the fight against transnational organized crime networks.

What is at stake?

Consider an operation with revenue of \$11.4 billion per year and more than 10,000 employees. What sound like the financial figures of a successful medium-size company are actually the operating numbers of one of the largest transnational criminal groups. According to reports from the United Nations Office on Drugs and Crime, organized crime generates global annual revenues of \$870 billion. That is 1.5 times larger than the United States' defense budget.

Organized crime has different facets, is both service- and market-oriented, and encompasses more than drug, arms and human trafficking. A good example is counterfeit pharmaceuticals, which alone kill almost a million people every year. Organized crime is able to make exorbitant profits in this area because there is little pressure from law enforcement or other politically relevant actors.

Let us also turn to recent events that have attracted the world's attention: There is evidence that the Paris and Brussels terrorist attacks were financed with money that organized gangs made from petty crime. It is too dangerous for terrorists to sell drugs because of the risk of being caught. Instead, they sell counterfeit stimulants, smuggled cigarettes or stolen sneakers — goods that are generally undetected by police and security services — because there are enormous gaps in

interagency information flows at the national and international levels.

The concept of our criminal and security laws, as well as the strategies and methodology of our law enforcement and security agencies, are reactive and based almost exclusively on years of experience. Hence, governments



Medhane Yehdego Mered, center, a 35-year-old Eritrean who was arrested in Sudan, arrives in Rome in June 2016 to face charges for allegedly organizing a people-smuggling route through Africa that has moved tens of thousands of migrants to Europe. THE ASSOCIATED PRESS



Police departments from Italy, Spain and Poland announce in October 2015 the dismantling of a cyber criminal network that specialized in “phishing.”
AFP/GETTY IMAGES

are often slow to adapt to new trends such as the increasing convergence between terrorism and organized crime.

What needs to be done?

A rough understanding that governments need to improve the exchange of data, establish joint investigation centers, and coordinate approaches to security and combating crime dates back to the mid-1990s. Political discussions led to the establishment of Europol. Today it is essential to formulate a new and comprehensive European approach; interconnectedness must go beyond the mere exchange of data, the pooling of information and the analysis of case studies. Some successful new initiatives, such as the European Multidisciplinary Platform against Criminal Threats (EMPACT) and the European Union’s security agenda, are steps in the right direction.

We need to start thinking of security as a joint endeavor, as a mix of analysis, enforcement and working within networks. Therefore, we need to establish a high-level body tasked with threat analysis — based on information from law enforcement agencies and intelligence services — to properly conduct risk assessments,

choose appropriate countermeasures, and present viable courses of action to governments and other authorities.

Such an organization might help to overcome the gridlock of national interests, as well as different police and security systems, incompatible databases and different administrative systems. All security agencies should act on the basis of a joint political and strategic agenda. We need a format that allows all representatives at the executive level to cooperate on equal footing. This could be a council of security and policy experts, something that does not yet exist within the structure of the European Council. To fight this new phenomenon — the convergence of terrorism and organized crime — stronger cooperation is needed between the public and the private sectors.

Counterfeit Viagra, smuggled luxury products or stolen tennis shoes are crimes that are often overlooked by the authorities responsible for fighting terrorism. At first glance, this kind of petty crime does not appear important and takes place under the radar of agencies tasked with fighting crime and terrorism. We have recently discovered, however, that there is a connection between selling counterfeit goods in the suburbs of Paris and the



Rob Wainwright, left, director of Europol, and Dimitris Avramopoulos, European Union commissioner for migration, home affairs and citizenship, meet at Europol headquarters in The Hague in February 2016. They discussed EU efforts to counter migrant smuggling by organized crime groups.

AFP/GETTY IMAGES

ability to buy weapons in Slovakia or Brussels. Trade and industry could help disclose these links.

The technical means by which private businesses trace smuggled products and detect illicit goods are becoming more and more sophisticated — as are the perpetrators.

The concept of our criminal and security laws, as well as the strategies and methodology of our law enforcement and security agencies, are reactive and based almost exclusively on years of experience. Hence, governments are often slow to adapt to new trends such as the increasing convergence between terrorism and organized crime.

Today, it is possible to use a simple app to determine whether a product is actually from the advertised, legitimate producers or from shady sources. Public-private crime-fighting partnerships should become key aspects of our security strategies because revenues generated by illicit trade may be used for aims that are much more evil than

the seemingly harmless sale of faked products suggests. If manufacturers, credit card agencies, social networks, the pharmaceutical industry and other business interests could pool their data and share them with security agencies — under strict adherence to rule of law — that would vastly improve security.

Our American partners have worked long and hard to improve the fight against organized crime. The U.S. has a national strategy that integrates information, intelligence, and the competences of law enforcement and security services. It has also established a coordinating body at the federal level while improving lines of communication between the public and the private sectors. I am convinced that such an approach could pay off for Europe and advocate that we investigate which of those

instruments would be adaptable to our region.

Dear readers, \$870 billion in the hands of organized criminals is a highly dangerous weapon. This vast amount of money can undermine our way of life. May this edition of *per Concordiam* contribute to the overall momentum needed to formulate firm responses to this threat. □

CORRUPTION

..... AND

GOVERNMENT EFFECTIVENESS

The influence of transnational organized crime

By Dr. Valbona Zeneli, Marshall Center



PER CONCORDIAM ILLUSTRATION

Corruption is a global security issue. It has been a problem for a very long time and has finally been recognized as a first-tier international security challenge. Many view corruption as a “victimless” crime and bribery only as a different way of doing business, but today there is wide acknowledgement that corruption infringes on the fundamental human right to equal treatment. Major corruption cases are making news around the world. Current studies yield important insights on the nexus of transnational organized crime (TOC) and corruption as major threats to political stability, human security, democracy and economic development. United States Secretary of State John F. Kerry, in a speech to the World Economic Forum in Davos, Switzerland, called the negative consequences of corruption a social danger, a radicalizer and an opportunity destroyer.

Corruption takes many forms and shapes. Bribery, embezzlement, fraud, extortion, nepotism, cronyism and monopoly are among its manifestations. Examples of corruption include a multinational company, with suspected ties to criminal organizations, paying bribes to win a public contract; a politician redirecting public investment to his clients; a public official embezzling funds allocated for a new school to build his private mansion or pay a kickback to a questionable construction firm; a manager recruiting an ill-suited friend for an executive position; political parties hiding the sources of electoral financing; or a local policeman demanding bribes from ordinary citizens.

There is no single universally accepted definition of corruption, but there is wide agreement with the international, nongovernmental organization Transparency International’s definition of “the abuse of entrusted power for private benefits.” Other definitions capture multiple perspectives of disciplines such as law and criminology, sociology, economics or international development. The term itself is broad. Corruption can be incidental, systematic or endemic. There are two main groups: grand corruption, involving the highest levels of government, and petty corruption, the exchange of small amounts of money for minor favors.

Economist Robert Klitgaard explains that corruption usually occurs in certain contexts in which a monopoly of power is combined with discretion and absence of accountability. First, someone has to have some sort of discretionary power over the allocation of resources, both public and private. Second, there are economic rents associated with this power, in which higher incentives result in higher rents. Third,

for corruption to flourish, the value of derived income must be sufficient to offset the penalties associated with such acts. At the end of the day, corruption is a crime of opportunity that individuals and criminal organizations are eager to exploit. The incidence of corruption depends upon opportunities available and the effectiveness of measures designed to deter malfeasance.

Theories suggest that high levels of corruption and the absence of accountability and transparency are primarily consequences of governance failures and weak rule of law. In the globalized world, bad governance becomes a liability. Areas with poor governance create vacuums of power that are easily exploited by traffickers, criminals, insurgents and terrorists.

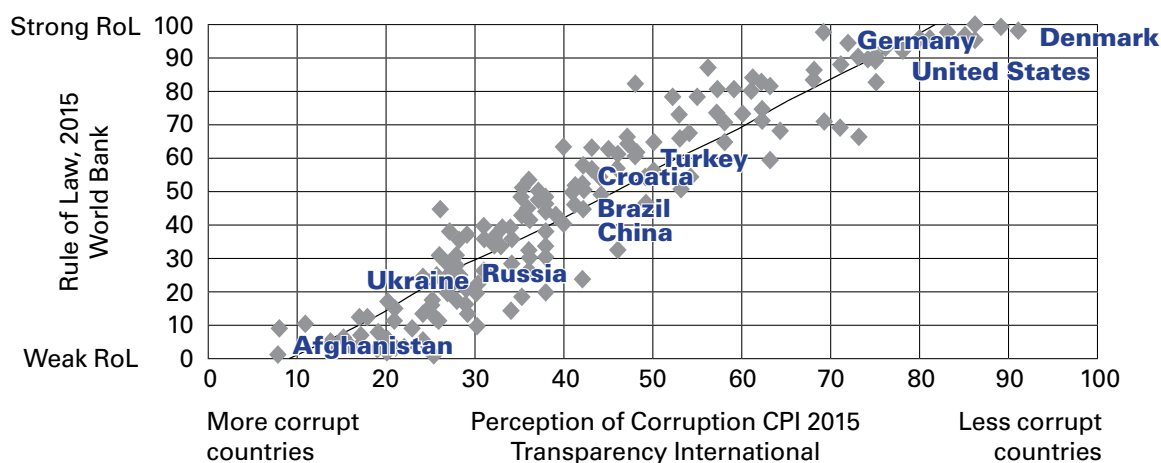
Corruption is mainly a rule of law and governance issue (see figures 1 and 2). Indices tracking corruption on one hand, such as Transparency International’s Corruption Perception Index 2015, and rule of law and government effectiveness on the other hand, measured by the World Bank’s Worldwide Governance Indicators such as the Rule of Law index and the Government Effectiveness index, reveal a visible correlation: Countries with severe corruption suffer weak rule of law and poor government effectiveness.

While these simple correlations are alarming, the graphics do not reveal the cause-effect relationship. Does more corruption cause weak rule of law and poor governance effectiveness or vice versa? Highly corrupt countries run the risk of getting trapped in a vicious downward spiral that leads to the institutionalization and acceptance of corruption. By corroding the public trust, undermining the rule of law and delegitimizing the state, corruption creates a deficit of trust in interpersonal relations. Longstanding acceptance of corruption, fatalism and resistance to change become a “justification game,” which perpetuates bottlenecks in institutions, stalling reform. When people notice that corrupt behavior is not sanctioned, it becomes morally acceptable, creating a crisis of values among society and institutions.

Fighting corruption is not easy. One of the biggest challenges is that corruption is seen only as a symptom, a sign of failure of governing systems. Instead, in places where corruption is endemic, it is the system. In such cases, governments have been repurposed to enrich the ruling elites and serve their personal objectives at the risk of the population.

Corruption costs everyone, but is taking a much heavier toll in poorer countries. According to the World Bank, corruption costs the global economy more than \$1 trillion a year. Other international institutions estimate even higher financial costs, although

Figure 1. Corruption and Rule of Law (RoL)



actual costs are hard to measure because of the illicit nature of the crime. However, rampant corruption in some parts of the world is robbing the poorest people of up to three-quarters of their economic potential while benefiting the privileged — thus the moniker the “Robin Hood-in-reverse tax.”

Today, corruption is viewed as being responsible for political instability, economic deprivation, low efficiency and poor governance around the world. It destroys economic value, thwarts development, victimizes ethical people and businesses, perverts policies and undermines democracy. Scholars and policymakers are increasingly finding corruption to be entangled with other security challenges, from organized crime to violent extremism and terrorism. It is important to examine the multivector consequences of corruption — democratic, economic and geopolitical.

Although most corruption in developing countries is local, it is exacerbated by international purveyors of corruption. The unprecedented speed of globalization has both exposed and accelerated large-scale corruption and diminished the authority of governments through the expansion of free trade, open borders, free movement and new technologies. The push for globalization and liberalization at the beginning of the 1990s opened a new mechanism for bureaucrats in former communist countries to exploit regulations and gain illicitly from the privatization process. Additionally, the rapid expansion of offshore financial centers within the global banking system, as shown by the recent “Panama Papers” scandal, has made it easier to move money internationally and made the fight against corruption very difficult. These secrecy jurisdictions, or tax havens, refer to financial and fiscal domains that are subject to little or no effective jurisdiction or transparency. According to a 2010 report by Global Financial

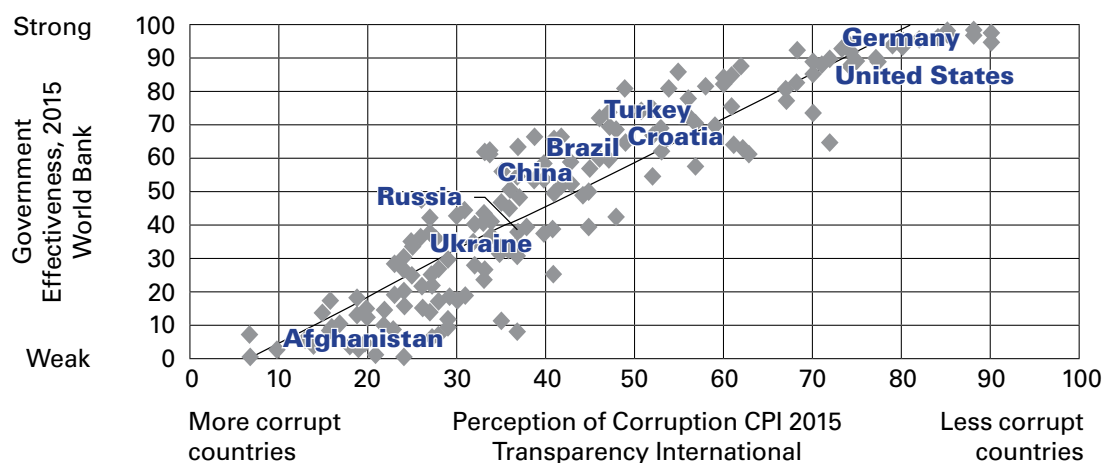
Integrity, a U.S.-based nonprofit working to counter illicit financial flows, the total amount of offshore deposits was nearly \$10 trillion.

The objectives of corruption are wealth and power, whereby corrupt governments seek to capture a country’s revenue streams for the personal profit of corrupt elites. Identifying and assessing such revenue streams is crucial in a comprehensive fight against corruption. The streams of illicit profits vary from country to country, depending on geography, history, natural resources, regional context, political systems, and economic and social development. Natural resources present one of the most common revenue streams, which is referred to in economic literature as the “resource curse.” This mainly describes countries rich in natural resources that are misused and exploited by the few kleptocrats, hindering present and future development. Some African countries, rich in natural resources, are perfect examples of places where corrupt elites fight over political and economic control of resources.

TOC enterprises such as narcotics, human smuggling, and trafficking in arms or wildlife products, are revenue sources for corrupt elites. These activities are prevalent in drug producing countries such as Afghanistan or Colombia. Geography also plays a critical role, especially for transit countries such as those in West Africa, Latin America, Central Asia or the Balkans. External financial assistance is another revenue stream that has been monopolized by corrupt networks. Petty bribery can also represent a significant revenue stream. In Afghanistan, the annual sum of daily shake-downs was estimated at \$4 billion in 2014.

Previously, international discussions about corruption focused on the more visible petty or bureaucratic corruption. “Petty” is a misnomer because of the large economic and human costs, but it is also a symptom

Figure 2. Corruption and Government Effectiveness



of a larger disease: grand corruption or kleptocracy. Lawrence Cockcroft, in his book *Global Corruption: Money, Power, Ethics in the Modern World*, explains that the drivers of petty corruption vary from survival — compelled by low official salaries and lack of opportunities — to greed, which may emerge from the efficacy of survival corruption. Corruption can also be orchestrated from above or traced to sociological factors and systems of social reciprocity, where public officials do favors for family members or others with strong personal ties.

Grand corruption is pervasive political corruption and generally refers to the exploitation of power by political elites to direct and distort economic policies. By turning the institutions of public service into tools for public exploitation, this type of corruption causes large economic and social tolls. It undermines financial accountability, discourages investment and stifles economic performance. It feeds instability by eroding trust between people and government, and destroys the social fabric. This type of corruption drove protesters into the streets to upend the political order in Tunisia, Egypt, Ukraine, Moldova and elsewhere.

Among the drivers of grand corruption, the most problematic is illicit funding of political parties. It raises money to sustain regimes in power or invests in politics as a way of securing business objectives for politicians, criminal organizations and their clans.

Multinational companies have been another driver of corruption, with some seeing foreign bribery as a normal part of market development. This perception was challenged for the first time in 1977 by the U.S. Foreign Corrupt Practices Act (FCPA), which criminalized the payment of bribes by U.S. companies to foreign government officials. Until the early 2000s, the FCPA was rarely enforced, but this has changed, accompanied by the adoption of other important international conventions.

Transfer pricing and illegally traded products are also considered drivers of corruption since more than half of global commerce is accounted for by sales between subsidiaries within the same corporation.

The Corruption and Organized Crime Nexus

Research shows a very strong nexus between corruption and organized crime. This situation is common in post-communist and post-conflict countries where power vacuums and weak rule of law have created opportunities for criminal organizations. Any comprehensive analysis of the growing threat of TOC must consider the role of corruption in its role as an enabler for these activities. The relationship between organized crime and corruption creates a nexus that, once established, is very difficult to break.

Today, TOC networks are much more sophisticated and challenging to fight. New TOC groups are constantly diversifying their methods and structures, and, enabled by the forces of globalization such as technology and innovation, have increased their impact on society. By adapting new technologies and methodologies, organized criminal networks have dramatically increased their reach into the lives and affairs of ordinary people, governments and private companies. The internet — as a key facilitator of electronic communication — and the rise of international transfer firms have played crucial roles in assisting the growth of the worldwide illicit economy through money laundering tools and facilitating new types of criminal activity such as cyber crime.

To better understand TOC, it is important to look at the TOC enterprise theory. Jay Albanese, a criminology expert, argues that a TOC network is “a continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand.

Its continued existence is maintained through the use of force, threats, monopoly control and/or the corruption of public officials.” Based on this theory, organized crime groups exist because legitimate markets leave many customers unsatisfied. Criminal groups could be considered to be as rational as multinational companies, seeking economic profit through the evaluation of risks, benefits and market analysis for a particular country.

With global expansion, the international dimension is key to understanding cooperation among different organized crime groups transcending national, ethnic and business differences. It is striking that TOC groups are not involved exclusively in illicit activities, but venture into legitimate businesses and the regular economy, creating blurred boundaries between legal and illegal and making them less visible and harder to target.

The proceeds of illicit trade, largely rooted in organized crime — whether it is human trafficking, drugs, arms trafficking, illegal wildlife, counterfeiting or money laundering — fuel the black-market economy. These activities proliferate in regions where there is lack of governance and high levels of corruption. The World Economic Forum’s Global Agenda Council on Illicit Trade estimates the illicit “shadow economy” to be as much as \$2 trillion a year. The ties between TOC groups and grand corruption are rising as a security threat. Louise Shelley, author of *Dirty Entanglements: Corruption, Crime and Terrorism*, has documented the scale of the organized crime-corruption threat.

Push and pull factors are stressed in analyzing the spread of criminal enterprises. Pull factors represent opportunities offered by unregulated markets, the absence of a well-functioning state, weak rule of law, lack of judicial and enforcement tools and widespread corruption, leading to an environment conducive to successful criminal activities. Existing vacuums in regulation and enforcement can be easily filled by TOC, undermining the legitimacy of the state. Other more immediate challenges such as poverty, unemployment, corruption, political instability, weak governance and interethnic disputes create the perfect environment for exploitation by TOCs.

Weak governance, corruption and poverty create a vicious cycle that destroys opportunities and development. Institutional weaknesses and fragmentation, socio-economic inequalities, uneven development and openness to corruption encourage organized crime to flourish. Organized crime has a real impact on institutional and judicial corruption in some countries because bribes and kickbacks are significantly higher than public administration salaries, within the framework of a highly politicized and unprofessional civil service.

These problems are reflected in many countries, from Asia to Africa, to the Black Sea, the Balkans and

Latin America. Significant long-term power vacuums were created in post-dictatorial, post-colonial and post-communist countries, caused by revolutions, wars, ethnic disputes, extremism and major political changes. In addition, the strategic geographic location of some of these countries created unique opportunities for illicit profiteering, which helped develop complex patterns of interdependent organized crime and corruption.

Decreased incomes and increased unemployment, caused by the recent economic recession, made individuals and organizations in the private and public sectors more vulnerable, consequently presenting greater opportunities for criminal activities and making the fight against organized crime more challenging. Increased social tolerance toward criminal activities could be the highest risk for society.

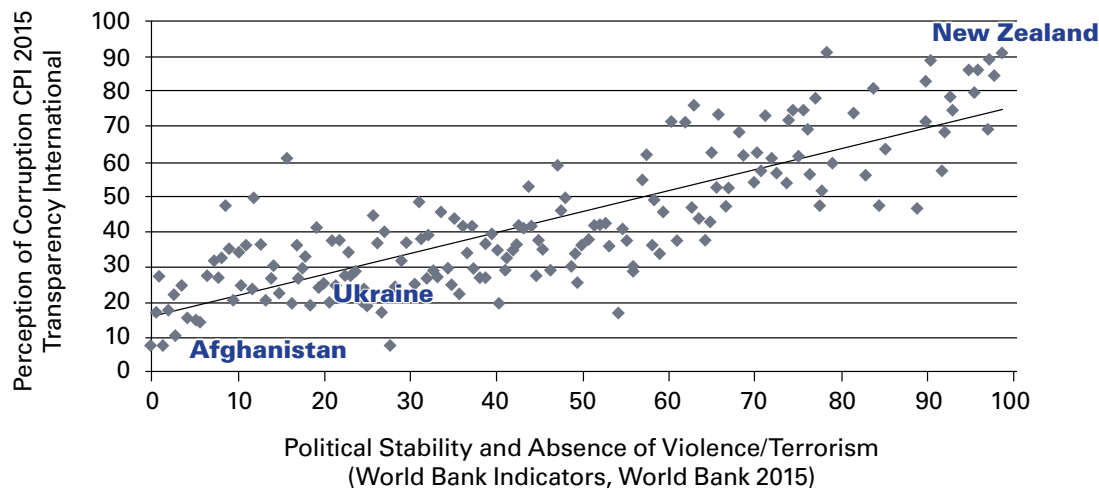
For example, according to sources such as Europol and the United Nations Office on Drugs and Crime, Southeastern Europe has seen the greatest organized crime expansion in the last decade, gaining a dominant position with an annual market value of \$20 billion and contributing to the formation of a Balkan axis for trafficking a wide variety of illicit commodities to the European Union. The Global Financial Integrity report states that dirty money from crime, corruption and tax evasion cost the Balkan countries an astounding \$111.6 billion over 10 years (2001-2010); Serbia ranked the worst with about \$5 billion annually. Previous conflicts and political instability have, over time, distracted Balkan governments from implementing real economic and political reforms, resulting in fragile democratic institutions and undermining effective law enforcement across the region.

Corruption Hurts National and International Security

The impact of corruption on international security has been overlooked for a long time. Today, there is a heightened international focus on anti-corruption efforts. Of course, corruption happens anywhere, even in the most developed countries, but when a country is hampered by endemic corruption that pervades the political system and state institutions are captured for the interests of a few elites, it poses a significant threat not only to the security of that country, but it also poses a real risk to the international order. From this perspective, corruption is an international social danger and radicalizer that feeds organized crime, extremism and terrorism, and destroys people’s faith in legitimate authority.

A recent study by the Carnegie Endowment for International Peace found a visible correlation between indices of violence, instability and corruption, showing that countries characterized by rampant corruption tend to suffer conflict and state failure. In fact,

Figure 3. Corruption and Political Stability



12 of the 15 lowest ranked countries in Transparency International's Corruption Perception Index 2013 suffered from some sort of violent extremism, terrorism, insurgency or other similar threat to international security. Countries such as Libya, Syria, Afghanistan, Sudan, Iraq and Yemen fall into this category.

Pervasive levels of corruption create fragile states by limiting effective democratic governance. The rule of law is damaged when rules and regulations are circumvented by bribes, public management is undermined by illicit money, and free media is silenced through political control. A highly corrupt country runs the risk of getting trapped in a vicious downward spiral, leading to the "institutionalization" of corruption. Social and economic inequality cause a loss of confidence in public institutions, creating turmoil and increasing social instability.

These implications played out very clearly in North Africa and the Middle East, where popular outrage against kleptocratic regimes sparked the Arab Spring in 2011. The international community overlooked the endemic corruption that had plagued these African countries for many decades until it became the only reference for a system of governance. Today, the negative consequences are also felt inside the EU, which is facing the largest refugee and migrant crisis since World War II. More than 1.5 million irregular migrants crossed European borders in 2015 alone. While hundreds of thousands of people are fleeing war and terrorism, the large majority are escaping poverty, unemployment and lack of opportunities. This current migration crisis has also focused new attention on the migration-corruption nexus. Recent studies show that countries where corruption is perceived to be widespread are primarily countries of emigration, and countries where corruption is perceived to be a minor issue are recipients of immigration.

The consequences of corruption also played out very clearly in Ukraine, where popular outrage against of the kleptocratic regime of President Viktor Yanukovich sparked the Maidan protests in 2013 and the Revolution of Dignity. Yanukovich's decision not to sign the Stabilization Association Agreement with the EU was the trigger of popular unrest, the tipping point of a crisis that stemmed from more than 20 years of weak governance, rampant corruption and a lopsided economy dominated by oligarchs. In 2013, Ukraine ranked 144 of 175 countries in the Transparency International Corruption Perception Index. At the beginning of the 1990s, Ukraine and Central European states such as Poland and the Czech Republic stood on similar economic footing, with similar incomes and standards of living. While the Central European states reformed quickly to free-market economies, Ukraine succumbed to slow economic development. Today, Ukraine is among the poorest countries in Europe, with less than \$4,000 per capita average income.

Through infiltration of the official economy and the political sphere, organized crime and corruption have profound economic and political consequences, in addition to the obvious social and psychological costs. These phenomena increase risk and uncertainty in the business sector, hindering the accumulation and distribution processes, hurting economic growth and negatively impacting the country's competitiveness.

Countering Corruption Internationally

The fight against corruption has become a high priority worldwide, but there is no magic bullet. Any realistic anti-corruption effort should start with recognizing that both supply and demand need to be addressed. According to Vito Tanzi, former director of the International Monetary Fund Fiscal Affairs



Ukrainian Interior Ministry officers block activists demanding the resignation of law enforcement officials, whom they say were involved in corruption and other criminal violations, in Kyiv in April 2016. REUTERS

Department, four main issues need to be tackled to successfully counter corruption:

- Honest and visible commitment to fighting corruption by leadership;
- Policy changes that reduce the demand for corruption by scaling down bureaucratic regulations and increasing economic transparency;
- Reforms that reduce the supply of corruption by increasing public sector salaries, increasing incentives toward honest behavior, and instituting effective controls and penalties;
- Electoral reforms that increase transparency in the financing of political parties.

Addressing corruption requires a broad and bold approach. The gravity of the problem calls for radical measures, strong political will and a comprehensive response. Tackling corruption is also the first step in fighting transnational organized crime. Attempts to dislodge organized crime and eradicate corruption are unlikely to be successful unless the forces that create power vacuums in the most affected countries are addressed. Since corruption and organized crime create and are fed by poverty, underdevelopment and weak institutions, efforts should focus on economic development.

For successful strategies, a balance is needed between law enforcement responses to punish corrupt people and broader reforms to strengthen corruption prevention efforts by fostering economic and social development. There are three main scholarly approaches to fighting corruption: the lawyer, the economist and the businessman approaches.

The lawyer approach corresponds to tougher, more

effective laws to increase the risks and costs of engaging in corruption. Legislation is an essential instrument to combating corruption and organized crime; however, it frequently is reactive regulation, which often results in an unwise response to these types of crime. Strong regulations to curb corruption and organized crime often fail to address the roots of the criminality. There is a need for strong implementation of legislation and harmonized regulation regionally and internationally, rather than just increased national legislation. In countries affected by endemic corruption, there are huge gaps between formally adopted laws and the inability of institutions to enforce them. Strong criminal laws against corruption are a necessary condition, but insufficient alone. Regulations need to be accompanied by well-staffed and funded institutions able to implement these laws. Strong institutional capacities are therefore crucial to effectively address organized crime syndicates and their corrupt enablers. A society could deter crime by making illegitimate activities costlier, increasing the probability of crime detection and the severity of punishments.

The economist approach advocates increasing the level of economic competition so that reforms can generate a more open market economy and honest competition, thereby reducing opportunities for corruption. This approach includes streamlined and transparent government processes in the market economy to reduce opportunities for graft. Countries should invest in strengthening institutions, and increasing transparency and accountability with the aim of creating a favorable business environment to attract quality foreign investors that would benefit long-term, sustainable development and have positive spillover effects, improving the domestic economy and increasing competitiveness.

The businessman approach contends that the government should pay higher wages to civil servants to reduce their need to engage in corrupt activities. Pay reform is important, but insufficient alone. It needs to be combined with monitoring, transparency and accountability, and merit-based recruitment and promotion mechanisms.

A combination of these three approaches can be a recipe for success. Georgia provides an excellent example, showing that the vicious cycle of endemic corruption can be broken with appropriate and decisive reforms. Georgia took and applied the best experiences of other countries, such as Hong Kong and Singapore. In 2003, corruption permeated nearly every aspect of Georgian life. Since the Rose Revolution at the end of 2003, the government's "zero-tolerance" policy drastically reduced corruption in the public services. After instituting a number of economic reforms to liberalize its markets and improve efficiency, Georgia dramatically improved its position, not only in Transparency

International's Perception of Corruption Index, but also in the World Bank's Doing Business rankings. It moved from 112th in 2006, to 8th in 2014. Georgia's top-ten ranking enhanced its ability to attract large inflows of foreign direct investment (FDI), which became a driving factor for economic success. The total stock of FDI in Georgia increased more than sixfold, from \$423 per capita in 2004, to \$2,833 per capita in 2014. The FDI increase correlates with a threefold increase in Georgia's per capita income, which rose from \$1,135 in 2004 to \$3,699 in 2014.

The best way to fight corruption is through strong regulation and building effective institutions. Strong institutions are key. Fighting and preventing corruption requires the participation and commitment of all of society. Well-functioning public management systems, an independent judicial system and vigilant civil society are at the core of any anti-corruption strategy. These are objectives that cannot be achieved overnight. Increasing transparency must be the first serious step in this process. In fact, transparency is becoming an important tool in efforts to reduce corruption worldwide. If the work of the government is transparent to the public, citizens can hold officials accountable. The experience of Scandinavian countries shows that open and transparent societies are the best remedy against corruption.

Civil society, private businesses, and free and independent media can also play key roles in dispelling the black clouds of corruption and organized crime. Cooperation and effective partnerships with these institutions would provide sustainability in the long term, assisted by information and communication technology. Civil society and the media should play the role of watchdogs of public-sector integrity. Promoting public awareness, transparency, accountability and integrity in public institutions and civil society aids the fight against corruption. Fortunately, the 2011 Open Government Partnership initiative offers an enduring platform of these principles for reformers committed to making their governments more open, transparent and accountable to citizens. The initiative started with only six countries, but has grown to 69 countries where government, civil society and businesses are working together to develop important open-government reforms.

Fighting corruption internationally is not only central to the work of law enforcement agencies, it is also a new priority for diplomacy. In January 2016, in his speech at the World Economic Forum, John Kerry raised the fight against corruption to a new level by asking everyone to make it a national security priority.

Fighting public corruption on an international level started with the U.S. FCPA in 1977, the first



Brazilians demonstrate against former president Luiz Inacio Lula da Silva, who faced corruption allegations, in March 2016. Tolerance for official corruption is declining worldwide. REUTERS

legislation ever to outlaw a bribe paid in another country. Unfortunately, other developed countries did not embrace such measures and foreign graft from multinational companies continued to be tax deductible for another two decades. A big step was taken internationally in 1997 when The Organisation for Economic Co-operation and Development passed the Convention on Combatting Bribery of Foreign Public Officials in international business transactions. This legally binding anti-bribery convention was signed by 34 members and five nonmember countries and entered into force two years later. The 2003 United Nations Convention against Corruption, which came into force in 2005, is the lodestar of anticorruption initiatives. It includes very important acts which combat foreign bribery, facilitate the extradition of corrupt officials, encourage mutual legal assistance, and assist in the recovery and return of stolen assets.

Globally, institutions such as the EU, the Council of Europe, the Organization of American States, Transparency International, the World Bank and the G-20, the group of countries accounting for 85 percent of the world economy, have recognized corruption as a global problem and are engaging to produce solutions.

Global anti-corruption policies are only as strong as the political will to enforce them. The good news is that citizens worldwide are increasingly willing to hold their governments accountable. Technology, investigative journalism, social media and international efforts have played key roles in raising awareness about the scourge of corruption. Leaders worldwide can no longer afford to ignore the call for good governance. □




J O I N T

INVESTIGATION

TEAMS

The future requires international cooperation in
combating transnational organized crime

B Y R O X A N A B U L A N C E A



In an increasingly globalized world, transnational organized crime (TOC) represents a serious threat to individual states, as well as regional and international security. Reports suggest it is getting worse every year. According to a 2013 U.S. Congressional Research Service report on terrorism and transnational crime, “criminal syndicates appear to be growing in size, scope and ambition” and “the potential confluence of criminal and terrorist actors, skills, resources, and violent tactics” concerns not only the United States, but the international security community. According to Europol’s 2013 Serious and Organised Crime Threat Assessment, TOC is becoming a greater challenge year by year as many groups become increasingly networked and more heterogeneous and no longer defined by nationality or ethnicity.

TOC gained international attention when the long arm of Mafia-type organizations began impacting countries other than their own. In the past two decades, transnational crimes have diversified beyond Mafia syndicates, and while the world economy has globalized at a fast pace, so have illicit activities. Poised to make a profit and exploit every legal loophole, TOC groups spot opportunities — like the migrant crisis or technological developments and vulnerabilities in cyberspace — and use them to their advantage.

Even though there is no official legal definition for TOC, the 2000 United Nations Convention against Transnational Organized Crime (UNTOC) provided a concept by combining three definitions: “organized

criminal group,” “serious crime” and “transnational in nature.” The resulting concept is broad and covers all possible profit-motivated serious criminal activities with international implications. The broad wording in the UNTOC resulted when delegations were unable to agree on a definition of organized crime. Some parties wanted to describe specific patterns and typical activities of organized criminals. This would have left us confined to a limited enumeration of illegal behaviors, whereas the concept the parties compromised on covers a wider variety of transnational crimes. The UNTOC is a pioneer in international cooperation in criminal matters and remains important because it is widely ratified throughout the world — in 187 states. It is the first international convention to frame mutual legal assistance (Article 18) and address joint investigations (Article 19), which opened the door for stronger provisions of this kind in the future such as EU law on mutual legal assistance, and joint investigation tools and teams.

Unfortunately, 16 years into the UNTOC, member states still have not integrated some of its provisions into domestic legislation, and it is still underused legally in international mutual assistance. Reasons for this include: the lack of universally accepted definitions for specific crimes, lack of uniform implementation of its provisions in different countries, and the preference for regional or bilateral mutual legal assistance treaties, which can offer more value in terms of what can be achieved or exchanged via mutual legal assistance.



THE GROWING NEED FOR COOPERATION

When it comes to countering TOC, international cooperation ranges from informal to judicial. For the purposes of criminal investigations, states can exchange information informally through liaison officers, police networks, financial intelligence units, borders and customs networks, or they can exchange evidence formally by means of mutual legal assistance requests, on the basis of bilateral or multilateral treaties such as EU conventions or the UNTOC.

Many mechanisms have been put in place to help states exchange information that could serve in national investigations, but much of this cooperation is geared to the financial dimension of crime — the seizure of proceeds. Other dimensions are still not sufficiently served, such as the prosecution and conviction of criminals across borders or the facilitation of information for prevention and intelligence-led policing.

States themselves remain sovereign when conducting investigations and prosecutions through their national authorities and are reluctant to pass on information, much less engage in real-time joint investigations internationally. Generally, when nations share a perception that a serious transnational crime is mutually threatening, they are more willing to share or relinquish control over certain criminal matters. If two additional conditions are also met — mutual trust and legality — then the path for successful international cooperation is paved.

The European Union, lately faced with a number of transnational organized threats, is creating legal instruments and mechanisms to foster cooperation within a unified legal framework. The EU also has the advantage that its initiatives are legally binding for member states, which is not the case for other regional initiatives.

The European Mutual Legal Assistance (MLA) Convention from 2000, widely used throughout the EU, brought direct cooperation between judicial authorities and provided useful provisions on the spontaneous exchange of information, the use of special investigation techniques, joint investigation teams, interrogation hearings by videoconference and the temporary transfer for interrogation of people held in custody. Additionally, the convention is being progressively replaced in Europe by an even more modern tool: the Mutual Recognition of Judicial Decisions, the process by which a legal instrument, such as a European Arrest Warrant or a European Investigation order issued by a judicial authority in one country, has the same legal value across all EU states and is mandatory and enforceable in any EU country.

Mutual Recognition is a new step in extraterritorial jurisdiction, helping to overcome the difficulties stemming from the diversity of judicial systems in EU countries in fighting crime that crosses borders and jurisdictions. This practice should be emulated, if possible, by countries outside the EU since not all international cooperation tools are as prompt. For example, Interpol's Red notice does not have the mandatory force of the European Arrest Warrant. If the authorities in one country find the wanted person and are willing to enforce the notice and notify the requesting country through Interpol, only then can a formal request for extradition be advanced.

LESSONS LEARNED AND FUTURE DEVELOPMENTS

Southeast European Law Enforcement Center (SELEC)

SELEC is a regional law enforcement cooperation center designed to assist member states at the operational level by exchanging information and intelligence, as well as by facilitating regional operations in transborder cases. SELEC brings together 12 EU and non-EU countries from Southeast Europe to prevent and combat serious transnational and organized crime.

The SELEC network is composed of liaison officers from the police and customs authorities of member states. They are posted at SELEC headquarters in Bucharest, Romania, and are in permanent contact with 12 national focal points established in each member state. SELEC provides information exchanges, organizes meetings and facilitates joint operations within the framework of eight task forces addressing TOC and terrorism. Even though states can be reluctant to share sensitive information from their investigations, they recognize the best way to build trust and coordinate efforts is to bring investigators together informally. SELEC organizes meetings in TOC cases that often lead to successful joint investigations and operations, conducted not as formal joint teams but rather as parties that lead parallel or mirror investigations in their respective countries. Criminals are to be prosecuted and tried at the national level following the respective investigations, or subject to extradition to face trial or sentencing in the other state.

EU Joint Investigation Teams (JIT) and legal frameworks

A European JIT is a formal instrument of international cooperation in criminal matters that takes cooperation within the EU beyond traditional mutual legal assistance. As mentioned earlier, the forerunner for the current JIT legal framework was the UNTOC. However, while the UNTOC description is considered weak, the EU JIT is much more clearly defined. It is an international team of judges, prosecutors or law enforcement authorities established for a fixed period and for a specific purpose by way of a written agreement between the states involved, to carry out criminal investigations in one or more of those states.

The legal framework for setting up JITs between EU member states can be found in two legally binding documents: the 2000 Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union-2000 MLA Convention (Article 13) and the Framework Decision on Joint Investigation Teams from 2002. The second legal basis was adopted because of slow progress toward ratifying the MLA Convention, which has created problems when choosing a basis for setting up a JIT. While the provisions of a convention can be applied directly in member states, states are asked to create a domestic legal basis for the establishment of JITs. The situation was clarified once a sufficient number of states ratified the convention and it entered into force in 2005, but this did not mean that JITs became a popular tool quickly. It took years and a number of efforts and incentives to prompt the establishment of JITs, such as providing states with the possibility of organizing operational meetings at Europol, applying for funding from Eurojust, offering certain useful tools online such as a Guide to EU Member States' Legislation on JITs, a manual



Eurojust President Michele Coninx attends a news conference during an international meeting of anti-terror magistrates in Paris in April 2015. Eurojust finances Joint Investigative Teams.

An Interpol “Red Notice,” such as this one for the arrest of a British national accused of terrorism, is an international arrest warrant used to aid in the extradition of criminals. GETTY IMAGES

on setting up a JIT, a Model Agreement for Setting up a JIT, a secure email network and annual meetings for the informal Network of National Experts on JITs where they can discuss best practices and ways forward.

Since 2011, the JIT Network has had its own secretariat at Eurojust that provides support and funding to states setting up JITs. In 2013, Eurojust managed two funding projects based on European Commission grants under the Prevention of and Fight Against Crime Program-ISEC. After 2013, Eurojust continued to finance the activities of joint investigation teams from its regular budget. In 2014, 650,000 euros were budgeted for JITs, and this budget slot has increased since, reaching a million euros. Since January 2014, costs incurred by third states can also be covered.

JITs are typically set up between EU member states, but they can also be set up with third states — meaning countries outside of the EU — provided that a legal basis exists in the form of: an international legal instrument such as a bilateral agreement (e.g., Agreement on Mutual Legal Assistance between the European Union and the United States of America), a multilateral agreement (e.g., UNTOC, the Naples II Convention, Police Cooperation Convention for Southeast Europe, Council of Europe Conventions), or national legislation (e.g., Code of Criminal Procedure).

ESTABLISHING A JIT

Requests to establish a JIT often come from a member state for an investigation on a transnational case, but Eurojust and Eurojust can also support national judicial and law enforcement authorities in preliminary discussions and encourage the establishment of a JIT when these two agencies realize that two or more states are working on the same targets/crimes. Eurojust often assists member states in transnational investigations through its Analysis Work

Files (AWFs) on counterterrorism and serious organized crime and their respective Focal Points focusing on specific crimes. AWFs are part of the information processing system for factual information (hard data) and intelligence (soft data), and they often help find missing links in cross-border EU investigations. By collecting, cross-checking and analyzing the information, Eurojust can establish whether another member state has relevant information or even an ongoing investigation on the same targets. In such a case, Eurojust will most likely propose that the member states form a JIT.

More often, states themselves initiate setting up a JIT when they identify a transnational dimension in their investigations without even calling for support from Eurojust or Eurojust. For some member states, the path to forming a JIT is slower because the initial request must be sent to another state in the form of a letter rogatory, and only then, depending on the willingness of the authorities in the other state to expand their investigations, can discussions on forming a JIT begin. Unfortunately, waiting for another state to respond can take months.

For other states, forming a JIT is a rapid and easy process because they will have the agreement signed electronically in days. This is sometimes a matter of excellent bilateral or multilateral relations, which are also mirrored in their cooperation in criminal matters.

As opposed to letters rogatory/mutual legal assistance requests — in which the requesting state must have an ongoing investigation, but the requested state does not and is only required to execute the requests — JITs can only be established if both states conduct activities contributing to the international joint investigation. If, initially, one of the states does not have an ongoing investigation, the purpose of a JIT is to initiate one. According to the JIT manual, “it is recommended that these authorities meet to discuss the matter at the earliest opportunity before a formal proposal and agreement is made.” This is the best way to jointly plan and decide on the way forward.

HOW A JIT WORKS

According to the MLA Convention, Article 13, EU member states will, by means of an agreement, appoint investigators and magistrates to act as JIT members, as well as a leader. The team is set up in the member state in which investigations are expected to be predominantly carried out, and the JIT leader will be from that state. Members of the JIT that are from member states other than the state in which the team operates are “seconded” to the team.

The provisions of the MLA Convention, therefore, enable officials from different jurisdictions to operate together, either in the same location or at a distance, but communication must be in real time. There is no requirement that members of a JIT must work outside their home countries, even if the JIT is permanently based in another country. It is sometimes better to have team members conducting the investigation on their own territory, but they must share all information and evidence with all parties. That is one of the greatest advantages of a JIT: All parties have access to useful information and know where the investigation is headed.

The parties should agree from the beginning on an operational action plan. This is a flexible document, either included in the agreement or written in an annex, that establishes a practical approach on how to achieve the JIT’s purpose. The parties also discuss who will prosecute and try offenders.

The proposed period during which the JIT is operational is recorded in the agreement and can be extended by mutual consent.

ADVANTAGES OF USING A JIT

JITs enable direct gathering and exchange of information and evidence between parties. They also allow parties to exchange requests for investigative measures or coercive measures on the spot, without needing to resort to traditional mutual legal assistance.

According to Article 13 of the MLA Convention, JIT seconded members are entitled to be present when investigative measures such as house searches, interviews or computer searches are conducted in the member state in which the team operates. Furthermore, seconded members may be entrusted by the team leader to take certain investigative measures themselves, if approved by the competent authorities of both states and these do not conflict with national procedures.

JITs make it possible for members to use special investigative techniques such as undercover investigations or the interception of telecommunications outside national jurisdictions. According to Article 14 of the MLA Convention, officers from member states can assist one another in covert investigations. Article 18 allows JITs to funnel requests between states for the interception and immediate transmission of telecommunications, or the interception, recording and subsequent transmission of recordings of telecommunications.

JITs can also be set up with countries from outside the EU. States can request financing from Eurojust for travel and accommodation, interpretation and translation. Eurojust can loan equipment such as mobile phones, laptops, mobile printers and scanners.

The length of time for a JIT varies. The time agreed upon in the beginning can be extended, which is often necessary in long, complex investigations such as those related to TOC.

Parties will agree on which state will conduct the prosecution and trial for those specific crimes, which prevents competition of parallel/mirror investigations regarding who convicts the criminals and requests extradition.

To address problems uniformly, some member states have developed bilateral model agreements to be used with frequent JIT partners. The French Ministry of Justice, for instance, has signed bilateral agreements with Spain, Germany, Slovenia, Romania, the Netherlands, Belgium, Bulgaria and Cyprus. States are using this tool more frequently on the basis of trust and good bilateral interstate relations, without reporting it or requesting assistance at a central EU level.

ENHANCING THE USE OF JITS

According to the "Conclusions of the Eleventh Annual Meeting of National Experts on JITs 2015," JITs have been used increasingly during the past few years to address TOC, but there is room for improvement.

During this meeting, the Bureau for Euroregional Cooperation, a multinational structure established in Maastricht to support judicial cooperation in the border area of the Netherlands, Germany and Belgium, suggested the creation of a logbook to record evidence exchanged via JITs and the working methods used, which triggered debates on whether permanent JITs should be established to combat crime in border areas.

Considering the transnational threats the EU is facing at its borders, perhaps it should consider setting up fusion centers with JIT-like functions not only in border areas, but wherever necessary to tackle specific transnational crimes and terrorism.

Another long awaited improvement would be finding a way to incentivize member states to report back to Eurojust on when and how they resorted to a JIT. The JIT Secretariat has developed an evaluation form that practitioners can download online, complete and return to Eurojust, which would enable it to assess the performance of the JIT, legal issues or practical difficulties. This type of feedback would be analyzed by the JIT Secretariat for statistics and provide a basis for suggestions on development of these tools. However, it is not mandatory that states report to Eurojust on every JIT, and often they do not fill in this form, providing no feedback on the efficiency of this tool.

Grants for JITs should be more heavily promoted, and Eurojust should find ways to simplify procedures for states to access funding. Currently, there are several calls for funding each year, and states can request money, up to 50,000 euros per application. JIT members must complete considerable paperwork following many formal requirements. They must provide in advance from which specific entity they need financial support. This requirement is discouraging because it is difficult for JIT members to predict precisely the course of an investigation. Easier access to grants would enhance the use of JITs by member states and even nonmember states. Financial constraints should not hinder the operational needs of a JIT.

According to Eurojust’s Annual Report 2015, issued

April 4, 2016, judicial cooperation within the EU has indeed intensified. Eurojust supported 120 JITs in 2015, 46 of which were new, and provided financial support to 68 more. The first JIT with the European Anti-Fraud Office was formed, and an increase in the involvement of third states was noted. In total, 11 JITs involving third states were supported by Eurojust, seven of which were established in 2015.

However, we should remember that the need for multilateral cooperation between EU states and between the EU and third-party states is more necessary now than ever. Some transnational threats the EU faces right now, such as migrant smuggling, cyber attacks and terrorism, require international cooperation. There must be intensified multilateral cooperation and willingness to share information and evidence, such as that typical of the JIT working model. It should be noted that France was the first European country that willingly shared all its relevant information and intelligence with Europol in the wake of the Paris attacks. Unfortunately, this happened after — not before — this tragedy took place. Afterward, France received support from Europol through the Taskforce Fraternelle, comprising up to 60 dedicated support officers. Acknowledging the need to counter terrorism, as of January 2016, Europol has pooled resources and pre-existing tools to establish a dedicated European Counter Terrorism Center.

This should be only the beginning. Given the universality of terrorism and the links between terrorism and organized crime, we cannot neglect sharing information internationally and cannot afford to make little use of the tools, such as JITs, that allow us to investigate together in real time.

THE WAY FORWARD

Considering the developments and convergence of transnational crimes, including terrorism, it is necessary to strengthen the means by which these crimes are punished. Criminals will always try to take advantage of differences in legal systems or lack of coordination and cooperation between states; therefore, states must overcome concerns about sovereignty, put aside their differences and work together.

Prerequisites of trust, legality and willingness to cooperate are not always met. Given numerous differences in legal traditions, it is recommended that a legal framework and mechanisms for cooperation in criminal matters be put in place to provide common ground. Keep in mind, however, that no matter how useful the international tools, cooperation can't exist without common interests and goals.

Conducting parallel investigations in two countries, under the coordination of an international center such as SELEC or Europol, is already a step forward from traditional mutual assistance, because national authorities can communicate and agree on how to conduct the investigations and in which direction they are headed. However, authorities will still prosecute and try the cases in their respective countries, which sometimes raises concerns of overlap and *ne bis in idem*, which is the right not to be tried or punished twice in criminal proceedings for the same offense, as provided by the Charter of Fundamental Rights of the EU (2000/C 364/01). If a person is prosecuted and then acquitted or convicted in one state, that person cannot be tried or punished again for the same crime within the EU.

A JIT helps avoid conducting two or more investigations in parallel in different states and is therefore less resource consuming. It expedites judicial procedures between states that may not have the same legal culture. However, sometimes national authorities are reluctant to engage in a JIT if there is no prospect that their country will be able to prosecute and try the case, for fear of wasting time and resources. That is the reason behind establishing a European Public Prosecutor's Office and a European Court to prosecute and try transnational crimes that affect several European states or even third states. This would incentivise states to contribute to joint investigations. The European Commission launched a proposal establishing a European Public Prosecutor's Office as an independent body, but discussions have been ongoing for years and progress is slow. Besides, the proposal would mandate EU-wide jurisdiction and authority for investigating and prosecuting only cases involving fraud against the EU budget, so there is no prospect of EU jurisdiction over other types of transnational crimes.

A JIT will provide a framework to decide who will prosecute and try joint cases on the basis of the initial agreement, without the need for additional mutual assistance requests. Advantages include collecting intelligence and evidence from all states involved, conducting joint investigative measures and smoothly transferring proceedings.

JITs have proven to be flexible and effective and are used increasingly within the EU each year, but gaining the involvement of non-EU states is a greater challenge. According to the 2014 JITs network conclusions, "practical experience in JITs involving non-EU states remains limited." Most JITs with non-EU states have so far been with Balkan states, but given the current transnational threats such as migrant smuggling and terrorism-related crimes, it is recommended that the EU strive to involve its neighbors to the south and southeast. Eurojust could provide assistance in drafting mutual legal assistance treaties between the EU and these states. Such treaties would provide a legal basis for EU countries to engage in JITs with such third states, but there also has to be will and interest for all sides involved. International cooperation teams and networks are needed to defeat criminal groups and networks.

Europol can also play a greater role in fostering cooperation between states that can lead to establishing JITs by negotiating operational agreements with countries from Europe's neighborhood, which would expedite intelligence and information exchanges, including personal data.

Europol's dedicated centers and task forces, designed to focus on emerging criminal threats or geographical criminal hot spots, have the potential to trigger intelligence action and international coordination, providing states with the information, common ground, motivation and support to establish JITs. They are the European Counter Terrorism Center, the European Migrant Smuggling Center, the Joint Operational Team targeting organized crime groups involved in migrant smuggling by boat across the Mediterranean Sea, the European Cyber Crime Center and the Joint Cybercrime Action Taskforce.

To reiterate, all EU efforts must be corroborated with measures taken by its neighbors to counter threats that stem from those countries. □

Mobility and Border **CONTROLS**

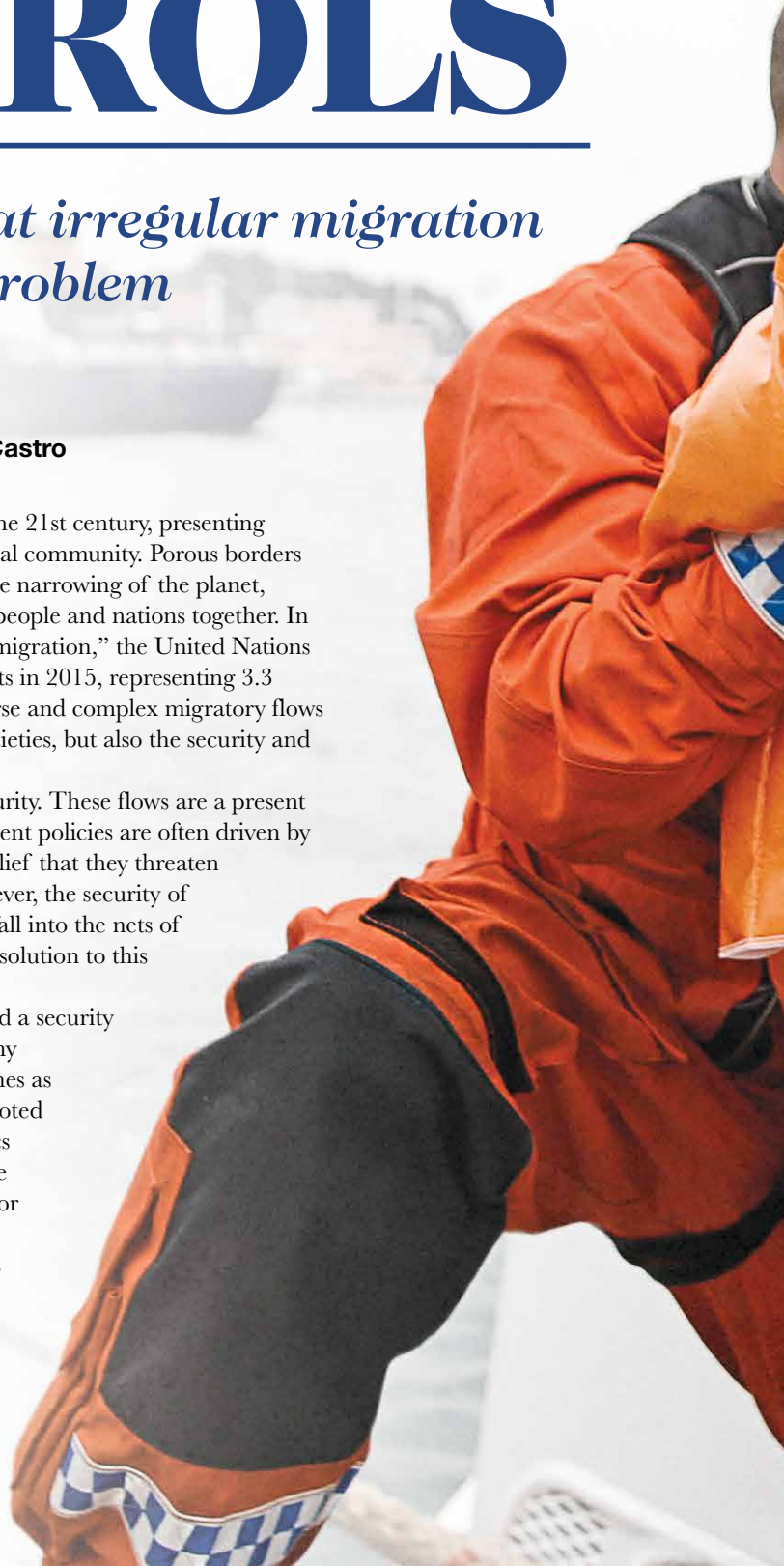
The EU and the U.S. treat irregular migration as a national security problem

By **Susana de Sousa Ferreira** and **Dr. Andrés de Castro**

Human mobility is one of the main features of the 21st century, presenting challenges and opportunities to the international community. Porous borders and constant technological evolution lead to the narrowing of the planet, breaking down physical barriers and bringing people and nations together. In turn, borders assume a prominent role. In today's "age of migration," the United Nations estimated that there were 244 million international migrants in 2015, representing 3.3 percent of the world population. Today's increasingly diverse and complex migratory flows not only raise questions about the security of states and societies, but also the security and safety of the migrants themselves.

Irregular migration is often perceived in terms of insecurity. These flows are a present reality and a future trend. Irregular immigration management policies are often driven by misperceptions about large flows of immigrants and the belief that they threaten the state and the state's sovereignty, as well as society. However, the security of these immigrants is often endangered, because they easily fall into the nets of organized crime or human trafficking networks. The main solution to this human drama remains restriction of entry.

International migration has not traditionally represented a security threat to Western society, despite its recent inclusion in many theoretical, academic and practical governmental approaches as a coexistent category with terrorism, Yannis A. Stivachtis noted in her 2008 article "International Migration and the Politics of Identity and Security." It is within this framework, where discourses and practices connect migrations and terrorism or where migrants are portrayed as a threat, that states have increasingly adopted deterrence strategies to keep migrants away as part of border management policies. But how far are states willing to go in the name of border security? With this question in mind, we will analyze border management in the European Union and the United States to assess how it is increasingly used to manage irregular migrations.





A child refugee rescued at sea is helped off a Frontex patrol vessel at the Port of Mytilene, Greece, in March 2016. REUTERS



AFP/GETTY IMAGES

Irregular migration and smuggling networks

Over the past few decades, irregular migration has emerged as a distinctive element of international migratory flows. This complex phenomenon is a chief dilemma in today's world. Furthermore, trafficking and smuggling networks encourage a substantial proportion of irregular flows, threatening migrants' security, rights and dignity.

The existence of few safe channels for people to reach a host country and a higher state capacity for border management has made crossing borders more difficult and has led to a black market that provides unscrupulous services to irregular migrants, offering a broad range of facilitation services, including transportation, accommodation and fraudulent documents. These activities are highly profitable and often involve third parties that assist irregular immigrants in exchange for money. Mexican "coyotes" are an example of human smugglers.

On the other hand, human trafficking involves labor exploitation, including sexual exploitation and other kinds of human rights violations.

In both cases, migrants who are smuggled or trafficked are vulnerable to abuse. Even those who are smuggled — and aware of their contract with an organized crime network — are often raped, deprived of food and water, and abandoned.

This practice is demonstrated during the current international migratory crisis. Criminal

networks are increasingly adapting their facilitation services to the needs of refugees and migrants, taking advantage of their desperation and vulnerability. According to Europol, 90 percent of migrants traveling to the EU in 2015 resorted to smuggling networks. The EU responded by starting the European Union Naval Force Mediterranean (EUNAVFOR MED) to dismantle these networks in Libya.

Nevertheless, migrants have tried to bypass these expensive services by creating their own social media networks and feeding them with updated information on routes, transportation and accommodations. Such sharing of information has always been present on irregular migratory routes, although technology has made it more global since physical presence is no longer needed to have access to information from people we do not know. However, irregular immigrant social media networks are often discovered by security services, exposing routes and other information and making the choice of a human smuggler less risky than coordinating travel through sharing of information.

Yet, if the EU does not open new safe channels for legal migration and safe asylum-seeking procedures, migrants and asylum seekers in search of a better life will continue to risk their lives at the hands of smugglers. Thus, joint action within the framework of the EU is needed, specifically on the modification of the

Macedonian police protect themselves from stones thrown by migrants and refugees during clashes at the Greek-Macedonian border in April 2016. The border crossing is a flashpoint where more than 11,200 people have been stranded after Balkan states closed off the migrant route in mid-February.

Dublin Rules on Asylum procedures and the creation of new and improved common structures.

Mobility management in a borderless world

Borders have undergone significant changes over the past few decades, namely moving from a geographic framework to a more fluid one. It is within this dynamic concept that states design and adopt border management strategies.

The concept of sovereignty is extremely important in border management. Delimitation of territory and control of borders allow for the construction of the state itself, thus establishing its sovereignty. Today, with increasing transborder processes that present challenges, border management has become an essential feature of state security.

Security is at the core of a state's approach to border management. Today's borders are increasingly a social construct resulting from a state's own perceptions of security threats, in which immigration and terrorism are often inter-linked or where irregular migration is portrayed as a threat to national security.

Migration experts Randall Hansen and Demetrios Papademetriou co-authored a book in 2013 that identified the main challenges to border security and the primary transnational threats that an appropriate border management strategy should address, which are: terrorism, asylum, human trafficking and smuggling, irregular migration, and drug trafficking. These threats are often interlinked, making it difficult to assess each separately.

David Newman, in a 2006 article published in *Progress for Human Geography*, describes the "bordering process" in today's border management activities that take place beyond state lines. Through an externalization of the border, in which the border security of one state is intimately related to that of other states, nations aim to better safeguard their own borders. Furthermore, externalization of borders suggests the need to find integrated management strategies within regions.

Effective border management must take into account legitimate trade and mobility of goods, capital and people, while addressing illicit transnational movements. On one hand, it has to ensure that whatever or whoever crosses the border complies with the country's laws and regulations; on the other hand, it must detect illegal movements. Modern border management is based on the rules of "exception" and "deterrence" through the application of exceptional measures of "characterization and contention." This is clearly the case when dealing with human mobility through the use of databases, risk profiling and visa policy, among others, as instruments of characterization and contention.

It is interesting to recognize that human mobility, particularly irregular migration, is one of the main dimensions of today's border management strategies, while, at the same time, border management has become one of the main dimensions of Western states' immigration policies. It is this interplay between border management and immigration policies that defines policies on both sides of the Atlantic.

Management policies in Europe and the U.S.

Irregular flows along the southern border of the EU are a concern for governments, particularly those in Mediterranean countries that have become major gateways into the bloc. Flows from North Africa, mostly originating in Sub-Saharan Africa but increasingly in the Middle East — as a consequence of the political and social instability of these regions — are mainly due to the growing imbalances between the two shores of the Mediterranean and instability in this region and nearby areas. The short distance between the opposing coastlines fuels migrant flows and contributes to making political, social and economic differences even more visible.



A female passenger scans her fingerprints as part of the Smart Border management system implemented at the airport in Frankfurt/Main, Germany, in June 2015. The EU Commission has launched a pilot project for checking non-EU citizens at the Frankfurt airport to help expedite border checks. EPA

The more a border needs to be secured, the more it projects the differences between the two countries it divides. Take the example of Morocco and Spain, the first with \$3,092 per capita gross domestic product (GDP) and the second with \$29,863 per capita GDP. The sea and land border separates drastically different realities.

Given that fact, surveillance and border control instruments play an increasingly vital role in preventing irregular migrants from crossing the border. This is one of the vectors of European immigration policy in which these instruments have played an important role by detecting and identifying citizens. Among the solutions to these new transnational challenges, we would like to highlight international cooperation with organizations such as Frontex (the EU's border control agency), Europol (the European police office), Eurojust (the EU agency that deals with judicial cooperation in criminal matters) and the United Nations Office on Drugs and Crime.

At first glance, the rationalization of efforts regarding maritime surveillance and control of the EU's external borders involves several internal security bodies, in their various specialties. Strengthening the role of European agencies, such as Frontex or Europol, provides a comprehensive

approach to irregular immigration, both internally and externally. The complexity of political and juridical factors that interact between the EU and its member states must be analyzed and developed to guarantee a more effective system and the protection of rights for all citizens.

Every year thousands of people risk their lives crossing the Strait of Gibraltar, the Ionian Sea and the waters near Sicily attempting to enter Europe. News reports portray the Mediterranean as the main gateway of irregular migration, but airports actually are the chief entryways for “overstays.” This term refers to people who decide to stay after their visas have expired. Inequality is also present in both types of irregular migration. Those holding a passport that allows either an automatic or a nonautomatic tourist visa have the easier option of entering the Schengen Area by landing at airports. Others clearly do not have such an option due to the administrative decision that denies certain nationalities a visa of any kind, for legal entry, to avoid the “risk” of irregular stay.

Over the past few decades, the Mediterranean has become a graveyard for many who have sought a safe haven in Europe or simply a better life. Nevertheless, the phenomenon reached its highest level in 2015. According to the International Organization for Migration, 3,771 people lost their lives in 2015 crossing the Mediterranean, making it the most dangerous route into Europe. To deal with these migrants, the EU is focusing on border security.

The image of “Fortress Europe” is meant to describe a policy that limits entry into Europe by strengthening controls at its external borders. The new European Border Surveillance System allows real-time monitoring of the EU’s external borders through radar, optical sensors and other technological capacities and intensifies cooperation between the European authorities responsible for border control. Furthermore, European databases, such as the Schengen Information System, Visa Information System and the EU’s fingerprint database, Eurodac, read biometric indicators by creating different categories of individuals who are more or less controlled, depending on their profile. However, the unregulated use of these tools can turn them into mechanisms of exclusion and create the image of a Europe that controls immigrants to exclude them from its territory.

The EU and the U.S. differ in their approaches. On one hand, the U.S. has traditionally been more concerned about the protection of individual rights, protecting visitors from harm by the state. Thus, critics say that the biometric technology applied at borders focuses on ensuring noninvasiveness, which is represented by the use of machines that do not, allegedly, intrude upon privacy. The U.S. and Canadian systems’ focus on individual rights leads to the use of machines instead of people to check entry into those countries. Hence, the U.S. has implemented the use of full body scanners by the Transportation Security Administration.

On the other hand, EU discussions tend to take a wider approach focused on the collective rights of the citizenry, following Europe’s legal and political traditions. Even though Europe considers the right to private life under Article 7 of the EU Charter of Fundamental Rights, the focus is on the

challenge of large-scale databases and their global impact. This raises the question of who is targeted by the Justice and Home Affairs databases and how they can affect the most vulnerable travelers, such as undocumented immigrants, asylum seekers and many others, a 2012 study published by the Center for European Policy Studies stated. In that sense, protection from discrimination is focused on the individual as he relates to a wider community.

Main approaches to border management

The land border between the U.S. and Mexico is what many deem a war zone. Over 18,500 agents patrol the U.S. southern border. Their priority mission is “preventing terrorists and terrorists’ weapons, including weapons of mass destruction, from entering the United States,” according to the U.S. Customs and Border Protection website. This mission highlights the increasing association between immigration and terrorism. Their strategy of “prevention through deterrence” uses the most innovative security and surveillance technologies: cameras, sensors and drones, among others. Also, those who choose to venture into the unfenced sections have to cross deserts also known in some places as “death row.”

Under the administration of President Bill Clinton, the U.S. launched several border security operations to increase the level of control at the Mexican border: Operation Blockade between El Paso, Texas, and Ciudad Juárez, Chihuahua; one year later, Operation Gatekeeper between Tijuana, Baja California, and the suburbs of San Diego, California, (construction of the first border wall between the two cities); in the same year, Operation Safeguard, between the two Nogales, in Sonora and Arizona; and in 1997, Operation Rio Grande between Laredo, Texas, and Nuevo Laredo, Tamaulipas.

After 9/11, the U.S. viewed technology as a solution to block transnational threats from entering the country. It was then that the U.S. began requiring a biometric passport for entry. Soon after that, fingerprinting became a regular practice for foreigners carrying a nondiplomatic passport while entering the country.

In recent years, Smart Border technology was put into service for U.S. citizens, Canadians and citizens of countries under the Visa Waiver Program who have entered the country at least once since they complied with Electronic System for Travel Authorization regulations.

In Europe’s case, the Maastricht Treaty and the Schengen Agreement were reinforced by the creation in 2004 of Frontex — the agency that coordinates border security among all EU members regardless of their adherence to Schengen.

Strengthening of the fences protecting the Spanish cities of Ceuta and Melilla in North Africa sparked concern related to the fortification of the border that divides two very different societies. A picture of Sub-Saharan immigrants entangled in the fence while golfers enjoyed their sport is a perfect example of this difference.

In 2015, efforts by EU member states proved inadequate to face developing security risks to the EU, migrants and refugees. Thus, the EUNAVFOR MED operation was launched



EPA

within the framework of the Common Security and Defence Policy (CSDP). As a result, we are witnessing several layers of border management in Europe:

- Regular airport document checks
- Border patrols in the context of the European External Border Surveillance System
- Frontex missions: Triton and Poseidon
- CSDP missions: EUNAVFOR MED
- Cooperation agreements

Interestingly enough, the EU talks mostly about an “externalization” of the border through increasing cooperation with third-party countries and deterrence in countries of origin or transit, while the U.S. advocates both a “deterritorialization” of the border and extending the border to inland regions for those who have succeeded in entering the U.S., as well as an externalization in partnership with neighboring countries.

Conclusion

In short, border controls have generally been strengthened on both sides of the Atlantic. In the U.S. case, it consists of externalizing borders, intended to guarantee security by maintaining preclearance facilities in some of its allies’ territories. Aruba, the Bahamas, Bermuda, Canada and Ireland (an EU member) have allowed the U.S. to establish what amounts to security outposts that include U.S. Customs and Border Protection agents checking documents and goods in foreign airports. This is an exception to the territorial

principle of Public International Law, in which borders and legal jurisdictions remained inseparable. Conversely, there are numerous agreements signed by Mexico and the U.S. that include detailed cooperation to prevent various threats from entering each country.

The EU’s case certainly reflects deep internal differences, although it also tends to externalize borders. This is already happening through various cooperation programs with third-party countries and recently, in a closer connection with asylum and migration, with the construction of an EU-funded project in Morocco and Tunisia. Jordan is also participating because of its role as a transit country for migrants, mainly from neighboring Syria.

All of the above is taking place in response to the intensification of irregular migration flows. In both cases, the strategy of deterring irregular immigration is essentially based on new international agreements and the use of new technologies to reinforce surveillance and control of external borders.

In a globalized world where distances are narrowing and the exchange of goods, services and people is intensifying, social inequalities and economic disparities are aggravated, endangering the security and livelihood of people. While we speak of human rights and dignity, many territories, including the EU and the U.S., reinforce their borders and create systems of exclusion to deal with this so-called threat. Is the security argument strong enough to justify countless violations of basic human rights? □

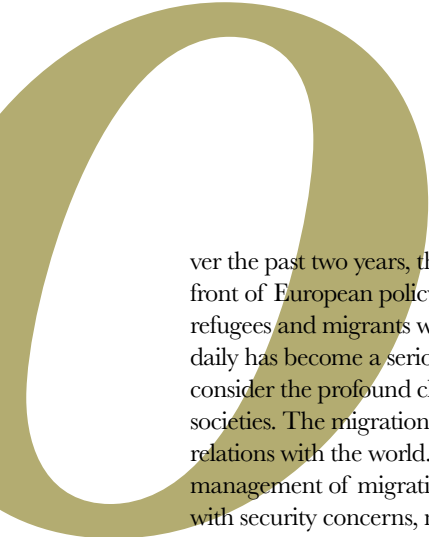
Italian Rear Adm. Enrico Credendino, left, commander of the European Union Naval Force Mediterranean, and Gen. Mikhail Kostarakos, chief of general staff of the Greek Armed Forces, brief the media in Brussels in December 2015 about combating trafficking and smuggling of migrants in the Mediterranean Sea.

REFUGEES. SMUGGLERS AND TERRORISTS



Migration fuels human smuggling in the Mediterranean region

BY VASILEIOS KOUTSOLIAKOS AND ANASTASIOS FILNTISIS



ver the past two years, the refugee crisis has risen to the forefront of European policy agendas. The increasing number of refugees and migrants who cross European Union borders daily has become a serious challenge — especially if we consider the profound changes it will cause to European societies. The migration has become a major facet of EU relations with the world. Taking into account that the management of migration is defined as a strategic priority with security concerns, member state governments need to establish coordination and cooperation models to address the phenomenon and counter organized crime networks that profit from it. The problem has two aspects that are connected and opposed to each other simultaneously: humanitarian crisis and security concerns.

Criminal organizations have adapted their activities to take advantage of refugee and migration flows. Human smuggling has become a lucrative industry. Therefore, EU governments and security authorities have to care for and accommodate refugees and at the same time handle security issues connected with the crisis. Arresting smugglers and defending against the possibility that terrorists may exploit migration routes to penetrate EU borders are the main security priorities. The EU approach to migration must be based on multilateralism and security governance.

GEOPOLITICAL CONTEXT OF THE REFUGEE WAVE

The current immigration influx and refugee wave — the biggest in Europe since the end of World War II — has produced an unprecedented level of security and humanitarian concerns. The phenomenon is directly related to

changes taking place in the geopolitical and geostrategic environment of the Middle East and North Africa (MENA) region following the Arab Spring — the 2010-11 uprisings in several countries that failed to meet the people's aspirations. On the contrary,

they either brought chaos and destruction to state institutions, such as Libya becoming a failed state, or resulted in the restoration of the previous regime, as in Egypt.

In Syria, the first demonstrations in January 2011 were influenced by similar rebellions in nearby countries.

The protesters asked for the restoration of their civil rights and an end to an emergency law in place since 1963. The uprising against President Bashar Assad's regime escalated in March 2011 with the biggest demonstrations in decades taking place in the capital, Damascus. Assad's unwillingness to abdicate his authority — and reduce the influence of the Alawite sect to which he belonged — plunged the country into a bloody civil war that led to a massive exodus of the population, the majority of which found safe haven in the neighboring countries of Turkey, Jordan and Lebanon. They had hoped for a quick end to the conflict and to return home.

The continuance of the Syrian civil war, the withdrawal of U.S. military forces from Iraq and the resignation of Iraqi Prime Minister Nouri al-Maliki all led to the instability of the Iraqi government and expansion of jihadists in Iraq. Despite expectations, the Syrian conflict has converted into a proxy war, in which international and regional players are involved, attempting to affect the outcome based on various geopolitical, political, economic and religious interests. A difficult situation was made worse by the emergence of ISIS. Its elevation into the Islamic State by its leader Abu Bakr al-Baghdadi had the effect of provoking airstrikes from the U.S. and its allies. ISIS instituted a policy of extreme violence and brutal suppression of religious minorities, resulting in an increasing number of refugees and immigrants seeking safety. The current situation leaves little hope for a quick end to the civil war. Additionally, Russian armed forces involvement in Syria in support of the Assad regime, with airstrikes against terrorist organizations and anti-regime groups, have further complicated the choices of international players.

Until the Syrian war is resolved, more and more Syrians can be expected to give up the prospect of returning home and try to build a new life in Europe. The control and subjection of large parts of Iraq and Syria by the Islamic State complicates potential solutions despite efforts in Geneva to reach agreement on a gradual de-escalation. Furthermore, in Afghanistan, the withdrawal of most NATO forces and the government's failure to take control of the state have led to a perpetual state of instability, with the Taliban attempting to restore control over the region. Therefore, unsurprisingly, Afghans, Iraqis and Syrians are the three main constituents of the refugee and migrant wave. The magnitude of the refugee crisis and immigration issue has created serious friction among EU member states.

Syrian migrants cross from Serbia into Hungary in August 2015. Hungary reinforced its southern border with helicopters, mounted police and dogs as record numbers of migrants, many of them Syrian refugees, passed through coils of razor wire into Europe. REUTERS

SMUGGLING NETWORKS AND ORGANIZED CRIME

After the collapse of the Soviet Union and its communist satellites in Eastern Europe, organized crime flourished, according to Misha Glenny, who wrote in *The New York Times* in September 2015 about the connection between organized crime and the refugee crisis. Organized crime networks and groups took advantage of globalization and relaxed law enforcement in the Balkan Peninsula to control drugs, weapons and human trafficking. Similarly, the failure of uprisings in Arab countries — the fiasco of the Arab Spring and the persistent instability in Syria, Iraq and Libya — has provided fertile ground for illegality. Organized crime networks and facilitators exploited the crisis in the Middle East and Africa and turned their operational capabilities to smuggling, which has been highly lucrative. According to the Organisation for Economic Co-operation and Development, the refugee crisis is seen as a great opportunity by organized crime groups to profit from smuggling; human smuggling and trafficking have become one of their most lucrative activities, second only to the drug trade.

MIGRANT ARRIVALS IN EUROPE

YEAR	NUMBER of SEA ARRIVALS
2011	70,402
2012	22,439
2013	59,421
2014	216,054
2015	1,015,078
2016	284,473 <i>(as of September 1, 2016)</i>

Source: UNHCR

These groups have helped transport thousands of economic migrants from underdeveloped countries who desired to enter EU territory illegally. The breakout of insurrections in the MENA region in 2010-11 gave smugglers the opportunity to exploit those trying to avoid conflict zones. Since then, there has been a substantial change in the number of entrants and in their status as refugees or immigrants. At the same time, smugglers continue their illegal migration activities, moving people from the MENA region and other undeveloped countries who try to enter Europe as refugees, maximizing the flows.

The “big march” has pressured EU Mediterranean countries and central and northern EU member states that are destination countries for most of the immigrants and refugees.

In previous years, major smuggling routes were from Libya to Italy and from Turkey to Greece, in connection with the conflicts in Libya and Syria.

The year 2015 was a watershed for two reasons: Greece and the Balkans corridor became the main route for refugees, and there was a substantial increase in the number of refugees who tried to enter the EU, a figure officially estimated at 1 million. These numbers have risen for a number of reasons: First, the EU sought to ease pressure from the Libyan coast with the establishment of Operation Sophia; second, since 2011 Syria remains the primary battlefield in the Mediterranean basin and, according to the United Nations High Commissioner for Refugees (UNHCR), about 4.5 million Syrians have become refugees from the civil war, not counting internally displaced people; and third, Germany, which is the main destination for refugees, adopted a policy of open borders (*Willkommenpolitik*) in 2015 against the wishes of most citizens.

INTERNATIONAL AND EUROPEAN COOPERATION

The U.N. response to organized crime’s smuggling was the Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime. Its provisions set the general framework to deal with the phenomenon, but the current European case needs more specific and urgent measures. There is a common belief and realization at the EU level that no member state can combat transnational organized crime — let alone smuggling or terrorist-related activities — without coordination and cooperation at a strategic and operational level.

The president of the European Commission mentioned the need for security coordination in his Political Guidelines in July 2014, and the EU Commission adopted in April 2015 the European Agenda on Security for 2015-2020, in which two of the three main priorities focus on combating terrorism and organized crime. In May 2015, EU ministers decided to take action against the smugglers who operate from the coasts of Libya with the establishment of the European Union Naval Force-Mediterranean (EUNAVFOR MED), a military operation under the Common Security and Defense Policy framework. The mission of EUNAVFOR MED is being developed in three phases: 1) gathering and sharing intelligence on irregular migration networks and tracking vessels used or suspected of being used by traffickers; 2) boarding, search, seizure and diversion on the high seas of suspected vessels, as well as in the territorial and internal waters of the coastal state if there is a U.N. Security Council resolution and/or the consent of the state; and 3) EUNAVFOR MED forces would be allowed to take all necessary measures against suspected vessels, including disposing of them or rendering them inoperable, if there is a security council resolution and/or the consent of the state. In October 2015, the U.N. supported the EU operation (renamed “Sophia” and later changed to “Phase 2”) with Security Council Resolution 2240/2015, which “authorized its members to act nationally or through regional organizations for the seizure of vessels that are confirmed as



Police inspect automobiles at a checkpoint near the German-Austrian border town of Kirchdorf am Inn, Bavaria, in May 2016. Despite the official closing of the Balkan route, migrants continued to slip into Germany. EPA

being used for migrant smuggling or human trafficking from Libya.” On June 20, 2016, the Council extended the operation’s mandate — until July 27, 2017 — because of increased flows from Libya since the implementation of the EU-Turkey agreement and the closing of the Balkan route. At the same time, the operation was reinforced with two supporting tasks: training the Libyan coastguard and navy to support the operation and contribute to the UN arms embargo on the high seas off the coast of Libya because of the civil war in the country.

The EU Commission’s proposed “Regulation on the European Border and Coast Guard” can contribute to more integrated border management. According to the proposal, border management “will be based on the four-tier access model, which comprises measures in third countries, such as under the common visa policy, measures with neighboring third countries, border control measures at the external border itself as well as risk analysis, and measures within the area of free movement, including return.”

Taking mixed migratory flows into account, a revision of the EU return system can help confront smuggling networks, which exploit the fact that relatively few return decisions are enforced and, as a result, irregular migrants have a clear incentive to use illegal migration routes to enter the EU. A more realistic and assertive policy in that field can have a major impact on illegal migration flows and will raise the stakes for

those willing to enter the EU illegally, simultaneously causing economic damage to smugglers and facilitators. According to the European Agenda on Migration provisions, the EU has set a goal of resettling 20,000 migrants per year by the year 2020. The policy is a move in the right direction because the resettlement of people from third countries reduces the role of smugglers and secures a safe entry method for refugees in the EU.

At the same time, the proposals for improved intelligence sharing and financial support coordination in third countries, in which a large number of refugees have already been concentrated in camps, can contribute to containing refugee/migrant flows. Although the EU proposals have been a step in the right direction, adoption and implementation delays have caused friction among EU member states. As a consequence, several member states are attempting to confront the refugee crisis at a national or regional level with stricter measures, including the construction of border fences. It is doubtful whether such efforts will bear fruit because they do not offer a solution to the smuggling problem. Smugglers are resilient; they change their routes and then raise fees to account for the increased difficulty of the “new” route. A more constructive approach would promote a more ambitious resettlement plan via cooperation with third countries and the establishment of “hot spots” in their territory to accept, check and host, at least temporarily, victims of war.

Despite these measures to control and confront the phenomenon, EU member states need more coordinated efforts to alleviate pressure from these unprecedented migrant flows. With more than a million migrants having reached Europe in 2015, and a 16-fold increase in the number of refugees/immigrants arriving on EU territory in the first 40 days of 2016 (compared to the same period in 2015), NATO began to take a role in the crisis.

NATO defense ministers decided to introduce a naval operation in the Aegean Sea in February 2016. The proposal for NATO intervention was raised for the first time only two days before the NATO meeting, after talks between German chancellor Angela Merkel — whose country is the main destination for migrants — and Turkish President Recep Tayyip Erdogan, who was confronting a new wave of refugees from Syria because of the siege of Aleppo by Assad's forces. NATO

agreement comes with several advantages, such as:

1. It reflects a clear commitment to counter organized smuggling networks. As U.S. Secretary of Defense Ashton Carter said: “There is now a criminal syndicate that is exploiting these poor people, and this is an organized smuggling operation.”
2. NATO involvement is expected to improve information and surveillance cooperation, thanks to its operational and technical capabilities.
3. NATO has a proven track record of search-and-rescue and antipiracy efforts.
4. NATO's prestige may have a positive effect on the fight against smuggling.
5. NATO patrols, unlike the EU's maritime mission off the Italian coast, will return migrants to Turkey — a fact that may lead to a decrease in the flows.
6. NATO ships will operate on both sides of the maritime boundary separating Greece and Turkey, unlike the two countries' own coastal vessels that only operate in their respective waters.

Although it seems too early to make positive or negative conclusions on whether NATO's involvement will deter human trafficking, this operation could be a game changer. Furthermore, whether NATO will enhance its surveillance of Turkish-Syrian borders, monitor the movement of refugees/migrants and especially the activities of smugglers, is still being discussed.

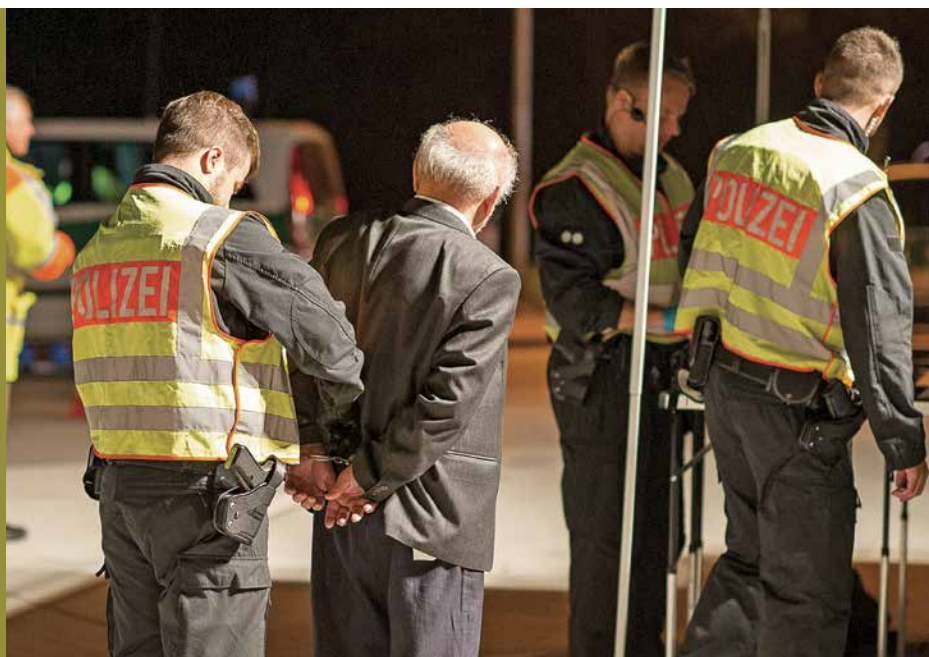
The European Commission welcomed the plan but said it will create an effective EU border and coast guard system to fulfill the same operational function.

During the last few months, NATO operations, the closing of the Balkan corridor and especially

the EU-Turkey agreement had the effect of controlling quite effectively irregular migration flows. Since March 20, there is a staggering decrease in the number of refugee who entered EU territory. Despite the positive outcome, there are serious concerns that the agreement will not last long because of frictions between the EU and Turkey about specific aspects of the agreement.

POTENTIAL TERRORISM IMPLICATIONS

Apart from the humanitarian and social dimensions of the refugee crisis, security remains an important concern. As mentioned, organized crime groups are profiting from the refugee/immigration problem. Articles like Anton Troianovski's and Marcus Walker's “Paris Terror Attacks Transform Debate Over Europe's Migration Crisis” in *The Wall Street Journal* have



Bavarian State Police arrest a man near Passau on suspicion of smuggling migrants from Austria into Germany in 2015. GETTY IMAGES

Secretary-General Jens Stoltenberg stated that “the goal is to participate in the international efforts to stem the illegal trafficking and illegal migration in the Aegean.”

Additionally, NATO will establish a direct link with the EU's border management agency, Frontex. The swiftness of the decision reflects the urgency of the situation; details about the tasks and the level of engagement of the mission are yet to be determined. However, as the secretary-general of NATO stressed, this mission is “not about stopping or pushing back refugee boats,” but about contributing “critical information and surveillance to help counter human trafficking and criminal networks.” Taking all this into account, a crucial question emerges: Would NATO's operational involvement have a practical effect on limiting and improving control of refugee flows? Despite doubts about the efficacy of the operation, the

raised questions about the connection between the migrant/refugee problem and terrorist-related activities. Before the Paris terrorist attacks in November 2015, security officials were hesitant to speak about any interaction or connection between the refugee wave and terrorism. The fact that two of the perpetrators had been registered in Greece and other European countries before their arrival in Paris to execute their mission brought to light the possibility that al-Qaida, ISIS and other affiliated groups could exploit refugee flows to penetrate EU borders and conduct attacks. At the same time, the propaganda campaigns of terrorist groups, along with direct threats against European countries by jihadists via the internet, have raised security awareness and instilled fear in our societies.

The aforementioned discussion among EU member states puts into question the Schengen open border policy and has led European countries to adopt stricter policies nationally or regionally. After the Paris attacks, leaders from several countries withdrew from the obligation to receive refugees from Greece and Italy as part of the relocation program, as their governments yielded to pressure from populist and far-right parties to follow intransigent policies by closing borders. It is understandable that the matter raises concerns, not only for security reasons but for the social impacts. Conversely, it is also true that the probability of terrorists posing as refugees is exaggerated. Taking into account that only a handful of people, from almost 1 million refugees and migrants who entered the EU the previous year, are connected to terrorist attack, the percentage is statistically negligible. Europol, in a January 2016 report, *Changes in Modus Operandi of Islamic State Terrorist Attacks*, states: “There is no concrete evidence that terrorist travelers systematically use the flow of refugees to enter Europe unnoticed.” On the contrary, Europol and security experts from EU member states focus on the return of foreign fighters — mainly religiously motivated individuals who left their countries of citizenship to train or fight in combat zones. These people, mainly unpaid, pose a potential threat to Western countries on return because they have increased capability and intent. Returnees can act as Islamic extremist recruiters and target Syrian refugees who enter Europe.

The European Agenda on Security makes no reference to a connection between the refugee crisis and terrorism. On the contrary, in the “Tackling terrorism” section, the focus is on foreign fighters. The attack at the Brussels Jewish Museum in May 2014 is considered to be the first completed terrorist attack by a Syrian returnee in Europe (not to mention a number of similar plots that have been disrupted by EU law enforcement agencies). The example underlines the threat posed by Syrian fighters returning home to EU countries.

WHAT MUST BE DONE?

Dealing with the rising wave of refugees/migrants is undoubtedly becoming one of the most serious security challenges for European societies. The EU needs to act concretely to confront the problem without hurting the common European establishment.

First, Greece and Italy should implement all the necessary

measures for registering and mapping refugees and migrants who enter EU territory. The two countries, and especially Greece, which carries the main burden, have to establish “hot spots” at entrance points to register, check and interview individuals.

Second, the remaining member states should implement the agreement for the relocation of 160,000 refugees from Greece and Italy without delay, as this will be the first coordinated step to tackle the refugee crisis. At the same time, the EU needs to establish an innovative and comprehensive system to achieve a more efficient return program and manage people who are not characterized as refugees, i.e., economic migrants. According to June 2016 statistics, there was a substantial decrease in the daily number of refugees entering EU territory through Greece’s sea borders. In particular, after the EU-Turkey agreement in March 2016, the total number of inflows was about 8,500 (March-June 2016), in contrast to the previous year when 1,000-1,500 migrants entered Greece every day during the same period.

Third, the NATO operation and the rapid establishment of a new European Border and Coast Guard agency can deliver a decisive blow to smuggling networks that exploit the refugee crisis. One vital prerequisite for the success of this mission is Turkey’s cooperation as a third partner of consensus. In this framework, Europol announced in February 2016 that the function of the European Migrant and Smuggling Center will be to support EU member states in dismantling criminal networks involved in organized migrant smuggling.

In addition to the aforementioned initiatives and measures, the EU must build effective partnerships with third-party countries in the MENA region, Sub-Saharan Africa and Southeast Asia for more efficient management of refugee/migration flows through bilateral or multilateral agreements with countries of origin or transit.

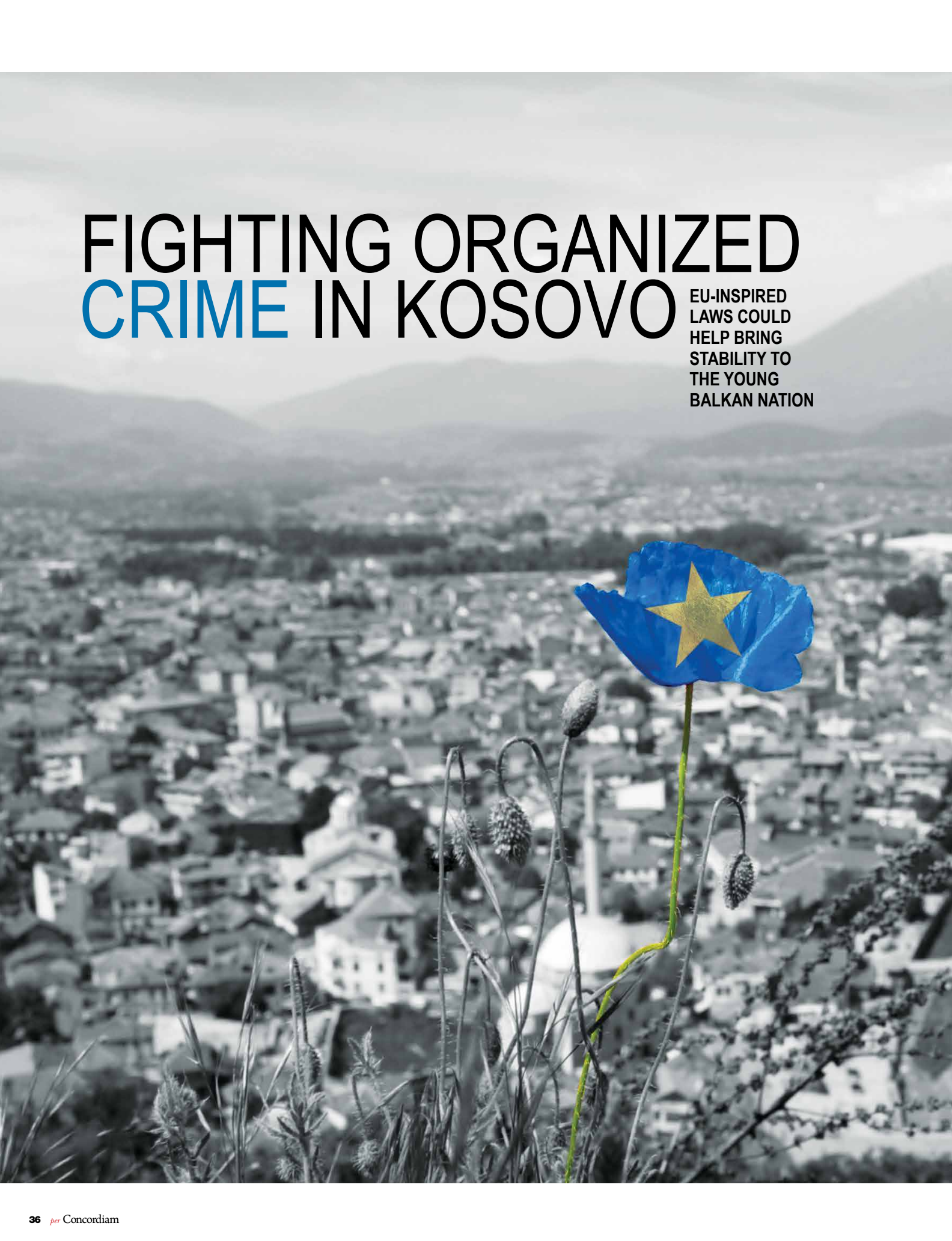
Finally, the EU needs to intensify diplomatic efforts globally to create a permanent cease-fire in Syria and a political solution, together with a mission to confront ISIS and other terror groups.

Regarding terrorism, official reports state that there is no concrete evidence linking terrorism to refugee/migrant flows. Although we cannot exclude such a potential threat, the foremost danger comes from homegrown terrorists. According to Europol’s latest *EU Terrorism Situation and Trend Report*, the radicalization phenomenon is growing. The threat posed by homegrown terrorists, radicalized lone attackers, “frustrated” terrorist travelers and foreign fighters is genuine and should not be underestimated, with the understanding that numerous attacks have been disrupted by security services in the EU and other Western countries (e.g., the U.S., Canada and Australia) over the past 12 months.

Another concern is potential radicalization of newly arriving refugees/immigrants in detention areas. Personal disillusionment and religious vulnerability during the “big march” can create a fertile ground for violent extremism. The EU should coordinate its policies for the integration of refugees into European communities and oppose exclusion and the creation of parallel communities. First contact is important, and a total effort to tackle social isolation is a key factor in countering this type of radicalization. □

FIGHTING ORGANIZED CRIME IN KOSOVO

EU-INSPIRED
LAWS COULD
HELP BRING
STABILITY TO
THE YOUNG
BALKAN NATION





By Lt. Col. Fatos Haziri

Organized crime can endanger the security of any country, but particularly those with fragile democracies that lack experience effectively managing it. Such crime is a considerable threat to the security of every country in the Balkans, to the region in general and specifically to Kosovo.

Events in the former Yugoslavia in 1990-1999 created great difficulties not only for the new states that emerged, but also for their integration and development. The region is known as an “organized crime haven.” While this epithet may be an exaggeration, the truth is that for the last 20 years, while various industries have failed, the organized crime “industry” has been thriving, working day and night at full capacity.

Since 1999, Kosovo has gone through three phases of institutional transition: the United Nations Mission in Kosovo (UNMIK) period in 1999-2008; the declaration of independence on February 17, 2008; and the arrival of new European Union Rule of Law (EULEX) mission in 2009 that was established to facilitate the integration process with the EU. Nonetheless, the international community still considers the region to be fragile and challenging. This has caused a major shift in the geostrategic assessment of the Balkans’ importance. The region is now seen not for its natural or military advantages, but for the risks that it can export. Predominant among them is the phenomenon of organized crime.

For this reason, international contributions are vital to strengthening institutions in the region, which is a basic condition these governments must achieve to realize the aspiration of EU and NATO integration. An assessment of the threats and risks that result from organized crime in Southeast Europe indicates that it remains a major obstacle to progress, particularly for Kosovo.

Organized crime is among the foremost threats to public order and safety and has a direct impact on the rule of law. As an illegal activity motivated by profit, organized crime challenges the legal and economic foundations of the state. With its focus on economic and financial crime, it has become the fastest growing economic component in the world, with a global profit estimated at \$1.8 trillion per year. In Southeast European countries, there are thousands of companies and banks managed by organized crime groups. The Balkan countries, except Croatia, lose 20 to 30 percent of annual revenue to organized crime. This empowerment of criminal groups is dangerous because they are a threat to the state and peace and are potential partners for international terrorism.

BACKGROUND OF ORGANIZED CRIME IN KOSOVO

In the last century, organized crime was common in the Balkans and Kosovo. But how is it possible that within 15 years, Balkan organized crime grew at such a dizzying speed that it can now compete with even the most notorious of the world's mafias? There are different reasons, but expert analysis refers to the following factors:

Prolonged transition: With the end of the Cold War, social structures and law enforcement were destroyed. Chaos allowed organized crime to emerge.

Lack of tradition and democratic experience: The Balkan region in the 1990s was comparable to Europe in the 1950s, with one crucial difference — the Balkans lacked the political traditions and cultural foundations necessary to build a stable democracy.

Economic development: The privatization of public assets and transition to a free market economy was accompanied by abusive practices, greater unemployment and extreme poverty. At the same time, the creation of a European single market reduced trade barriers, facilitating unlawful activities as well as legal transactions.

Human smuggling: During the 1990s, Balkan countries, and Kosovo in particular, experienced the largest out-migration since 1955-1966. Approximately 30 percent of the total population, comprising 45 percent of the workforce, emigrated from Kosovo. Today 700,000 Kosovar emigrants are mainly in Germany (250,000), Switzerland (150,000), Austria (50,000), the United Kingdom (50,000), the Scandinavian countries (50,000), the Benelux countries (50,000), Italy (more than 20,000), Slovenia and Croatia (more than 20,000), and more in other EU countries, Australia, Canada, New Zealand and the United States. The West was not prepared for how far people long deprived of freedom, with unmet vital needs, were willing to venture on hopes and dreams.

Geographical position: Geographically, the Balkans have been a corridor connecting the continents of Europe, Asia and Africa. Historically, it has been an increasingly troubled boundary between freedom and oppression, backwardness and development, wealth and poverty.

The advantage of action: Organized crime has progressed rapidly in Kosovo by taking advantage of the situation, benefiting from difficulties with strategies and cooperation among newly created state institutions. Regional cooperation between law enforcement agencies is extremely slow, but there are signs of optimism based on funding and regional projects.

DEFINING CRIME

The 2000 U.N. Convention against Transnational Organized Crime defined "organized criminal group" as "a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit."

A key feature of organized crime is illegal financial gain; pursuing profit drives the decisions and actions of most

criminal organizations. Other features are organization, discipline and member loyalty, corruption of elected and unelected government officials, respect for hierarchy and a diversity of criminal activities. Organizational survival is another significant feature of organized criminal groups. Ties among members, who are often relatives or from the same tribe or ethnic group, are established such that the organization should survive individual misfortune to continue operations and succeed.

TYPES OF ORGANIZED CRIME IN KOSOVO

Criminal organizations cannot forgo the goals of quick profits and predominance in economic and public life. They are involved in many types of criminal activity, including drug trafficking, human trafficking, goods trafficking (weapons, stolen cars, cigarettes, etc.), as well as financial crimes such as fraud, counterfeiting and money laundering.

Drug trafficking and human smuggling: For criminal groups in Kosovo, this field is a "paradise" for criminal profits. It also undermines society and rattles political, economic and social stability. Besides weak structures and a lack of experience at state bodies and law enforcement agencies, Kosovo is especially affected by this phenomenon because of its geographical location on the main thoroughfare linking drug manufacturers in the East with customers in the West, not to mention the contributions of the Kosovo diaspora.

The so-called Arab Spring has greatly contributed to the human smuggling business. This is especially true of the Syrian conflict, where criminal groups find themselves in cooperation, dividing spheres of geostrategic interest.

Besides illegal immigration, human trafficking also includes exploitation for profit, mostly of women and children. After the drug industry, prostitution is the second-largest illicit industry in the world, with a global annual profit of \$7 billion to \$10 billion. According to a 2006 U.N. report, nearly every country of the world is affected: 127 countries of origin and 137 countries of destination were identified. Kosovo ranked high on both the origin and destination lists and also as a transit country. Victims are mostly women, girls and children — "goods" of the prostitution and trafficking industry.

In the Balkans, an entire criminal infrastructure controls the human trafficking process, as if it were a production chain, from recruitment in source countries to delivery at assorted destinations. Albanian criminal groups are quite advanced in this field and have built networks across Western Europe. Traffickers are known to use violence and deceit to coerce victims, including the use of female associates, or even offer fake marriages. In her 2007 paper, "Human Trafficking in South Eastern Europe," Lucia Ovidia Vreja shows that out of 700,000 annual trafficking victims in the world, 200,000 are transported from the Balkans. Seventy percent of women working in the so-called massage centers and 80 percent of London's prostitutes are from the Balkans and Baltic countries. Annual profits from this traffic reach 950 million euros (about U.S. \$1 billion).

Financial crimes: Money laundering is the basic mechanism for recycling monetary returns from various



Members of the Kosovo Security Forces march in Pristina in February 2016, celebrating the eighth anniversary of Kosovo's declaration of independence from Serbia.

kinds of organized crime to disguise the criminal nature of the profits and increase revenue to fund criminal activities in new areas. Like the laundries of the Al Capone era, criminal gangs run legitimate businesses as a facade. Organized crime bosses cannot resist the temptation to maintain a luxurious lifestyle, demonstrate power and occupy key positions in the social hierarchy.

A reporter from *The Wall Street Journal* noted that, when you are in the center of Pristina, it's difficult to believe that you are in the poorest country in Europe. On the one hand, the streets teem with frowning faces, stress and poverty; on the other hand, one notices the luxury shops and villas and teens driving expensive BMWs and Mercedes. This ostentatious wealth comes from organized crime.

That informal economy is flourishing in Kosovo, especially in the north, where criminal groups have exploited political problems and the absence of rule of law to turn the area into an oasis and refuge for criminal activity. There is little or no banking activity, and all criminal activity seems to involve money laundering. Financial crime and money laundering are often the main tools of corruption in public institutions, as well as in private activity.

When criminal profit becomes "clean money," it not only conceals the original crime but also opens the way for new crimes. When criminals appear as gentlemen with white collars and, with the help of ill-gotten gains, aim for positions at the top of the social hierarchy, the normal course of societal development is distorted and the social equilibrium shaken. Also, profits from sophisticated financial crimes and money laundering increasingly risk being used to finance terrorism.

Because money laundering is a basic link to organized crime, for state law enforcement the fight against this phenomenon is key to winning the battle. It begins with a simple

question at the bank counter or in the form of a property declaration: "Where was this money earned?" This battle has already started, but I think it will be painful and have consequences for Kosovo.

COVERT AND TECHNICAL INVESTIGATION MEASURES

A major change in the Code of Criminal Procedure, regarding data protection and exploitation, has come late in the legislative process at the request of EU experts. Articles 84 to 100 regulate the use of covert and technical measures of investigation. They can be applied before or after authorization of criminal investigations, whether the name of the suspect is known or not. However, to meet EU standards, all should be based on a court order. These intrusive measures include:

- Covert observation with photography or video
- Covert monitoring of conversations in public places
- Control of mail shipments
- Undercover investigations
- Recording of phone calls
- Photo or video observation in private places
- Covert monitoring of conversations in private places
- Interception of telecommunications, including text messages and other electronic messages
- Interception of communications via computer network
- Controlled delivery of mail shipments
- The use of tools for monitoring location
- Simulated purchase of an item
- Simulation of corruption
- Disclosure of financial data

EU practices allow the state prosecutor to issue a temporary order for any of these measures in emergencies when delays would jeopardize the investigation or the safety and

ORGANIZED CRIME LEGISLATION IN KOSOVO

The Criminal Code of Kosovo has laid out penalties to stop organized crime:

1. Conviction for one or more criminal offenses otherwise punishable by at least four years imprisonment, as part of an organized criminal group, is punishable by a fine of up to 250,000 euros and at least seven years imprisonment.
2. Organizing, establishing, supervising, managing or directing the activities of an organized criminal group is punishable by a fine of up to 500,000 euros and at least 10 years imprisonment.
3. When organized crime activities result in death, the perpetrator shall be punished by a fine of up to 500,000 euros and imprisonment of 10 years to life.
4. The court may reduce the punishment if, before the organized criminal group has committed a criminal offense, the offender reports to law enforcement information on the group in sufficient detail to allow for the arrest and/or prosecution of the group.

Organized crime groups from Kosovo have the following features:

- Are homogeneous, ready to communicate and cooperate with other criminal organizations to open new criminal enterprises.
- Specialize in drug trafficking, human trafficking and human smuggling.
- Act less sophisticated and less cautious than other regional crime groups but with a greater tendency to use violence, and are willing to use firearms to overcome obstacles.
- Are less territorial. Organizations do not claim an exclusive territory of operations. Several organizations operate in a single territory with mutual respect, avoiding conflicts, under the principle that “there is room for everyone.”
- Have little vertical integration or managing oversight. Each group operates independently.
- Often change bosses, passing from one group to another.
- In the West, often organize on the basis of the towns in Kosovo that members come from.
- Prefer cash to formal banking channels for money circulation.
- Are typically not careful to use aliases or nicknames during telephone conversations, sometimes leading to their exposure.

life of the victim, witness, informant or their family members, which must be confirmed by the court within a reasonably short time. There is a lower standard for investigations of money laundering, organized crime or corruption. In such cases, the disclosure of financial data, for example, may require quick turnaround for many banks with the purpose of searching or freezing of assets. The court may confirm the interim order within three days to determine the legality, *ex officio*. The order must be supported by sound probability, whereas in the previous criminal code, intrusive measures could be supported with suspicion alone.

However, evidence collected under the authority of a provisional order from the prosecutor, but not confirmed by the court, would be unacceptable if the order or its implementation were unlawful. The defense attorney can challenge the acceptability of such evidence after the indictment, and a judge will decide whether the evidence should be excluded.

Measures for the protection of data require greater notification. If a secret or technical measure was executed, the people and facilities affected should be notified as soon as possible without endangering the investigation, life, physical integrity or personal liberty of another or significant assets. Those affected may challenge the order through the court of appeals.

Data protection measures are not optional. Only after affected parties have received notice of covert measures can the decisions and documents relating to these measures be added to the case file. A concern is whether documents arising from these measures are admissible — if they can be used to seek court orders during the investigation, or if the limitation should be more narrow. It is also not clear how this will impact an ongoing investigation if a person is willing to plead guilty and cooperate.

Practitioners should take into account the definitions in Article 19. Most investigative actions should be based on reasonable suspicion, and have grounded cause of sound probability. To meet reasonable suspicion criteria, for example, Article 19 states that the prosecutor must have “knowledge of information that would convince an objective observer that a criminal offence has occurred, is occurring, or there is a substantial likelihood that one will occur and the person concerned is substantially likely to have committed the offence.”

The standard of “objective observer” requires the prosecutor to look past whether he or she is convinced by the information and determine whether most people would be convinced. It does not require possession of admissible evidence, only that the prosecutor have knowledge of the information. Definitions for grounded suspicion and grounded cause require the prosecutor to possess “articulable evidence,” which means being able to describe the supporting evidence. These three standards: reasonable doubt, grounded suspicion and grounded cause require that the prosecutor have supporting information — not necessarily admissible evidence.

The standard of “sound probability” is higher, but justifying intrusion into a person’s privacy, such as a medical check or examination, still does not require the prosecutor to have admissible evidence. However, the standard of “well-grounded suspicion” necessary for the prosecutor to file an indictment requires “admissible evidence that would convince an objective

observer that an offense has occurred and that it is committed by the defendant.”

For example, a prosecutor issued a provisional order to intercept telephone messages, and one message revealed that drugs are to be sold in a bar in the city of Gjilan in a week. But after three days, the court refused to confirm the prosecutor’s provisional order and confirmed the order ex-officio as a lawful order. If the prosecutor asked the court issuing the order to simulate the drug purchase at the bar in Gjilan, his request would be based on inadmissible evidence (the telephone message). Under Article 19, this would not be sufficient for sound probability, but would be for grounded suspicion. However, under Article 92, an order for covert and technical

measures should be based on sound probability, meaning that the prosecutor should have admissible evidence. Therefore, the court should not accept the request for simulated purchase unless the prosecutor possesses other admissible evidence supporting that claim.

INVESTIGATION PHASE

If during the initial stages of an investigation it becomes clear that an offense has occurred and the perpetrator is identified or there is a need for covert and technical measures, the state prosecutor will take over the investigation. Articles 73-83 require the police, public entities or individuals to present criminal charges to the state prosecutor, who either dismisses them, requires more information or begins a criminal investigation.

If the state prosecutor has sufficient evidence from the police, the injured party or any other source to support the well-grounded suspicion that a criminal offense occurred, Article 101 allows him to immediately file an indictment. The defendant can challenge an indictment if it is not based on well-grounded suspicion. Therefore, if there is reasonable suspicion only for the criminal offense but still insufficient for an indictment, the state prosecutor can initiate an investigation. At any stage, the defendant may plead guilty.

CONCLUSIONS

Organized crime is a fundamental problem in Kosovo and seriously impedes national security. Its harm is felt in all fields: political, economic, social and technological.

1. Politically, organized crime groups can manipulate the political system to “buy” power in elected and nonelected power structures, as well as in law enforcement. This results in disrespect for laws accepted in democratic systems, lack of stability and loss of confidence in state institutions.
2. Economically, organized crime degrades business systems and legal practices. Illicit income laundered by organized crime groups severely compromises legitimate businesses through which the funds are laundered.
3. Organized crime causes fear in the population, which has a serious negative social impact and destroys trust in the political system and law enforcement.
4. Prospects and challenges: Success in the fight against organized crime is achieved by improving relevant legislation; increasing and strengthening the organized crime fighting structures, including adding personnel with enhanced professional skills; strengthening cooperation with internal and external agencies, institutions and other law enforcement organizations; and increasing public awareness. □

A Macedonian police officer examines cocaine seized from a truck at a border crossing with Kosovo.



AFP/GETTY IMAGES

MANAGING MIXED MIGRATION FLOWS TO EUROPE



Greece and Italy are the main points of entry, but not the ultimate destinations of migrants

By Lt. Cmdr. Ioannis Argyriou and Military Judge Christos Tsiachris

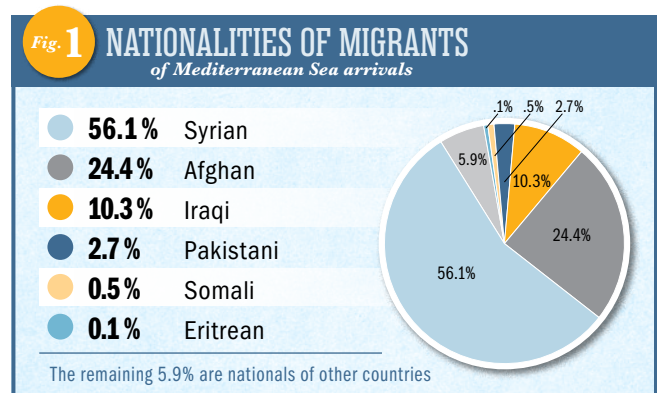
Migration is one of the global challenges of the 21st century. It cannot be defined in its totality because its causes and parameters are influenced and changing based on the conditions prevailing at the time. In general, migration is the movement of a person from one area of residence to another. In many cases, migration involves the movement of large numbers of people, earning it the term “mass migration.” Migration in general, particularly mass migration, has geopolitical, humanitarian, social, political and economic dimensions.

Recently, Europe — especially Greece and Italy as gateways to Europe from the Middle East and North Africa (MENA) region — has been placed at the heart of this global issue because of its exposure to mixed migration (immigrants and refugees). However, due to the width and volume of mixed migration and the fact that the final destinations of immigrants and refugees are the countries of Central and Northern Europe, the phenomenon has taken on a pan-European dimension.

Definitions

To discuss migration, one should first distinguish people who move from one area of residence to another, mainly according to the motivation of their movement. By adopting internationally accepted legal standards and definitions, these people can be categorized into refugees, internally displaced people (IDPs) or immigrants (legal/documented or illegal/undocumented), as following:

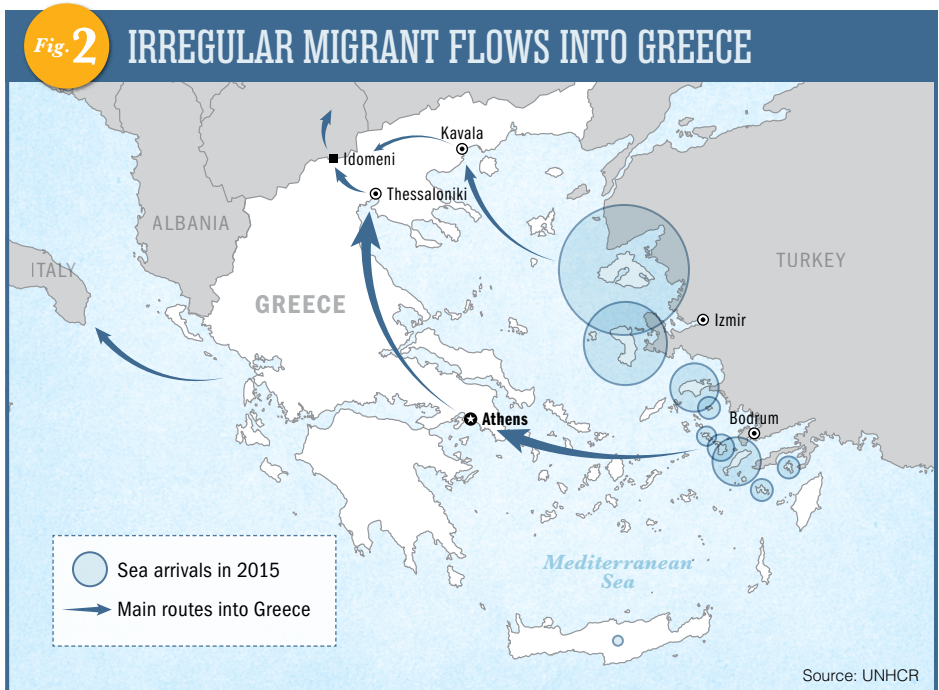
Refugees: According to Article 1(A)2 of the 1951 Refugee Convention, the term “refugee” shall apply to any person, who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a



nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” In this light, according to the Geneva Academy, refugees are defined by three basic characteristics: (1) they are outside their country of origin or outside



Members of the Italian Navy rush to rescue migrants on a boat in the Mediterranean Sea in September 2015. EPA



of being persecuted; and (3) the persecution feared is based on at least one of five grounds: race, religion, nationality, membership of a particular social group, or political opinion.

IDPs: Unlike refugees, IDPs do not cross an international border to find sanctuary but remain inside their home countries. Even if they fled for similar reasons as refugees (armed conflict, generalized violence, human rights violations), IDPs legally remain under the protection of their own government, even though that government might be the cause of their flight. As citizens, they retain all of their rights and protections under both human rights and international humanitarian law, the Office of the United Nations High Commissioner for Refugees (UNHCR) states.

Immigrants: Immigration is governed primarily by the domestic laws of each state and secondarily by relevant international, regional and bilateral treaties, international and regional resolutions, declarations and other instruments. The term “immigrant” applies to people who immigrate legally, while those who immigrate illegally are considered trespassers of borders. In other words, people who immigrate following the immigration laws of a state are considered legal/documented immigrants, while people who cross the land or sea borders of a state without being refugees and without following its immigration laws are considered illegal/undocumented immigrants.

Special reference should be made to mixed migration flows. “Mixed flows” are defined by the International Organization

for Migration as “complex population movements including refugees, asylum-seekers, economic migrants and other migrants.” In essence, mixed flows concern irregular movements frequently involving transit migration, where people move without the requisite documentation, crossing borders and arriving at a destination without authorization. This is the case that Europe currently faces: mixed migration flows consisting of refugees and illegal/undocumented immigrants.

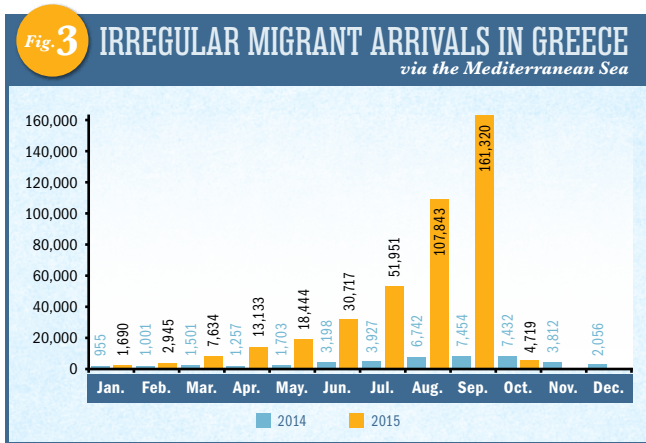
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Mixed migration flows to Europe

Greece According to data collected by the UNHCR, refugee and immigrant flows into Greece in 2015 sharply increased over previous years. The total number of refugees and immigrants who arrived in Greece in 2015 rose to 851,319. It is equally important to examine their countries of origin. The nationality of the refugees and immigrants who arrived in Greece in 2015, according to the Hellenic Coast Guard and the Hellenic Police, are shown in Figure 1.

Regarding the gender and age of immigrants and refugees, the UNHCR reports 66 percent are men, 13 percent are women and 21 percent are children. Additionally, Figure 3 shows the number of arrivals per month for 2014 and 2015, highlighting the rapid increase in 2015, which peaked in September 2015 with 161,320 migrants arriving in Greece across the Mediterranean, an increase of 8,557 percent compared to the same month in 2014. Another important factor to consider is that these figures do not include arrivals across Greek land borders.

To understand the magnitude of the influx, the overall flow of immigrants and refugees should be compared to the population of the Greek islands of the eastern Aegean Sea, which totals about 400,000. These islands are the entry points for thousands of refugees and immigrants to Europe.



Data refers to the first nine months of 2015

Source: UNHCR

Italy According to data collected by the UNHCR, the flows of refugees and immigrants into Italy increased sharply from 2014 to 2016. Mixed migration flows continue to grow. The number of refugees and immigrants who entered Italy by sea rose from 2,171 in January 2014 to 3,528 in January 2015 and 5,273 in January 2016.

The nationalities of refugees and immigrants who arrived in Italy in 2015 and 2016 are different from Greece. In January 2015, the majority of refugees and immigrants were Syrians, while in January 2016 the majority were Africans. In January 2016, people originating from 40 different countries arrived in Italy, and nearly half of these arrivals came from just four countries: The Gambia, Guinea, Nigeria and Senegal. Remarkably, only six Syrians arrived in Italy by sea in January 2016.

Comparing Greece and Italy

As depicted in Figure 4, refugee and immigrant arrivals across the Mediterranean into Europe reached 533,824, constituting an increase of 147 percent compared to 2014. According to the data, 75 percent (400,387) arrived in Greece, 24.5 percent (131,000) in Italy and only 0.5 percent (2,338) in Spain. The vast majority of refugees and immigrants who enter Greece and Italy depart from Turkey and Libya, respectively.

In 2015, mixed migration flows in the Mediterranean shifted largely from Italy to Greece. This shift was accompanied, in parallel, with a great increase in migration and with fewer deaths and missing persons compared to 2014, according to UNHCR data.

Causes of mixed migration flows

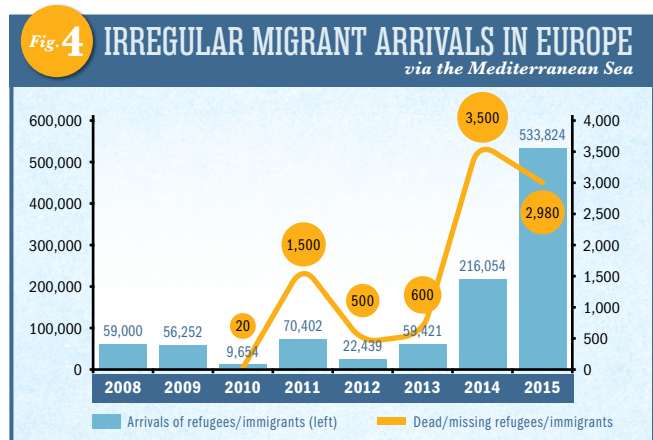
There are several causes for the mixed migration phenomenon, but two are most important:

- First, the discrepancy in living standards between the poorer African and Asian countries of most immigrants' and refugees' origin and that of richer European destination countries. The failure of some countries to provide the basics of life, such as food, water, lodging, education and health services, is the main factor pushing a large part of their populations to emigrate. Additionally, the pursuit of better jobs and money is a main motivator.

- Second, state instability, authoritarian regimes, internal strife and armed conflicts prevailing in many countries force more and more individuals and groups to seek safer countries. For example, thousands of migrants come from Syria, where the war has forced a large part of the population to move within or outside the country.

Consequences of mixed migration

Migration flows seem to affect destination countries directly by stressing economies (including the unemployment rate), education, health services, and political and cultural conditions. Many fear that migrant populations will alter the religious and cultural mores of European nations by changing their demographic balance. Concerns have also been expressed about security issues caused by migration. Along with the nationwide dimensions, the impacts on local communities are also significant. Vast migration greatly affects the smooth functioning of trade and production. Indeed, the impact of migration on economic activity is highly visible in the tourism industry, which shows significant losses in areas where refugees/immigrants arrive in mass.



Data refers to the first nine months of 2015

Source: UNHCR

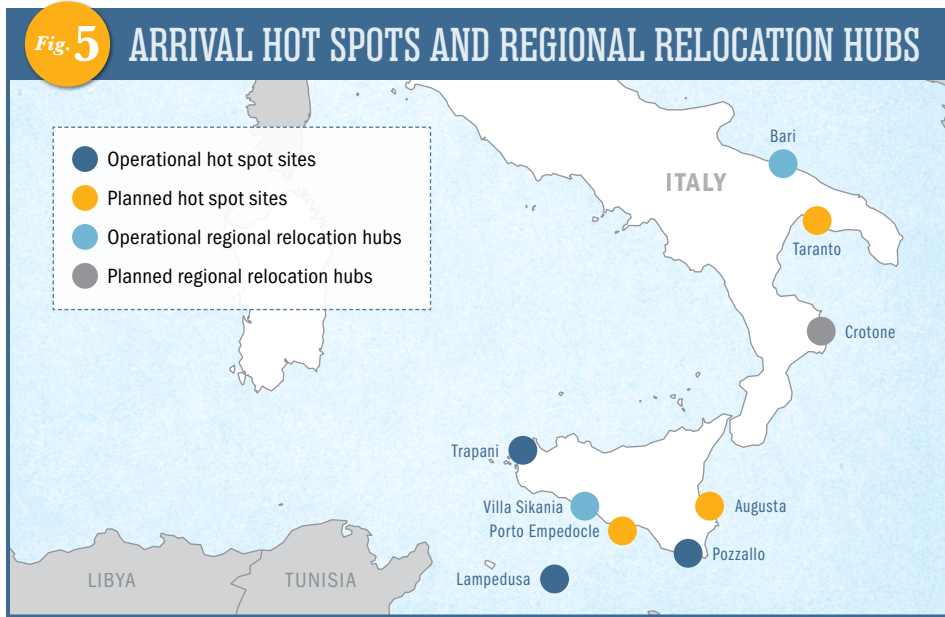
Managing mixed migration to Europe

The management of increased mixed migration flows — in parallel with humanitarian, social and geopolitical dimensions — has an important budgetary dimension. There are three main phases of managing this phenomenon:

- In the first phase, the country acting as the first point of reception manages arrivals and provides temporary accommodation and care.
- In the second phase, the country acting as a temporary place of establishment, manages the (temporary) accommodation of arriving migrants and creates safe conditions until their status of hosting is clarified (e.g., applications by asylum seekers).
- In the third phase, the country acting as a permanent place of establishment manages the integration of immigrants and refugees according to its migration policy.

Fig. 5

ARRIVAL HOT SPOTS AND REGIONAL RELOCATION HUBS



Source: UNHCR

Greece

Greece is in the first management phase of increased mixed migrations flows, during which the country is regarded by arriving immigrants and refugees as a place of first reception on their journey to final destinations in Central and Northern Europe. Management of this phenomenon is handled by the competent agencies of the central administration, such as the Hellenic Coast Guard, the Hellenic Police, regional and municipal services, hospitals and other health infrastructure, the Hellenic Armed Forces, several information operations, nongovernmental organizations, civil protection voluntary organizations and citizens' initiatives.

In the first phase, the main actions, benefits and management procedures are codified as following:

1. Search and rescue of immigrants and refugees conducted mainly by the Hellenic Coast Guard, the Hellenic Police and volunteer lifeguards.
2. Registration and identification of immigrants and refugees conducted by the Hellenic Police and provision of first reception services by the agencies of competent ministries in the so-called hot spots.
3. Creation and maintenance of (new) reception (hot spots) and hosting sites (relocation camps) for immigrants and refugees through relevant supplies and connections to networks.
4. Safeguarding of public order by the Hellenic Police.
5. Provision of health services by hospitals, primary health structures and voluntary organizations.
6. Provision of basic necessities (food, clothing, hygiene items, etc.).
7. Maintenance of living conditions (chemical toilets, waste bins, etc.) in temporary lodging called relocation camps.
8. Transfer of immigrants and refugees both within the islands and in/to mainland Greece.
9. Provision of large-scale services (cleaning,

administration, infrastructure maintenance, etc.) by the regional and municipal agencies and their administrative and technical staff.

Italy

Italy, like Greece, is in the first management phase of mixed migration flows and follows more or less the same strategy. Although some refugees and immigrants wish to stay permanently in Italy, most regard Italy as a place of first reception. Their aim, too, is to head farther north.

In response to increased mixed migration flows, the

Italian government launched Operation Mare Nostrum on October 18, 2013. It lasted until October 31, 2014, when it was superseded by Frontex's Operation Triton. Frontex operates under the command of the Italian Ministry of Interior, in cooperation with the Guardia di Finanza and Italian Coast Guard. The mission of both operations was the search and rescue of refugees and immigrants and border security, including the arrest of smugglers. The Italian government has established the National Coordination Group and engages the Ministry of Interior, the Navy, the Coast Guard and other governmental services in the management of mixed migration flows. It is also assisted by Europol, Eurojust, European Asylum Support Office and UNHCR. According to UNHCR, in January 2016, Italy ran hot spot sites in Lampedusa, Trapani and Pozzallo, and relocation hubs in Villa Sikania and Bari, while planning to run more in the near future, as seen in Figure 5.

Conclusion

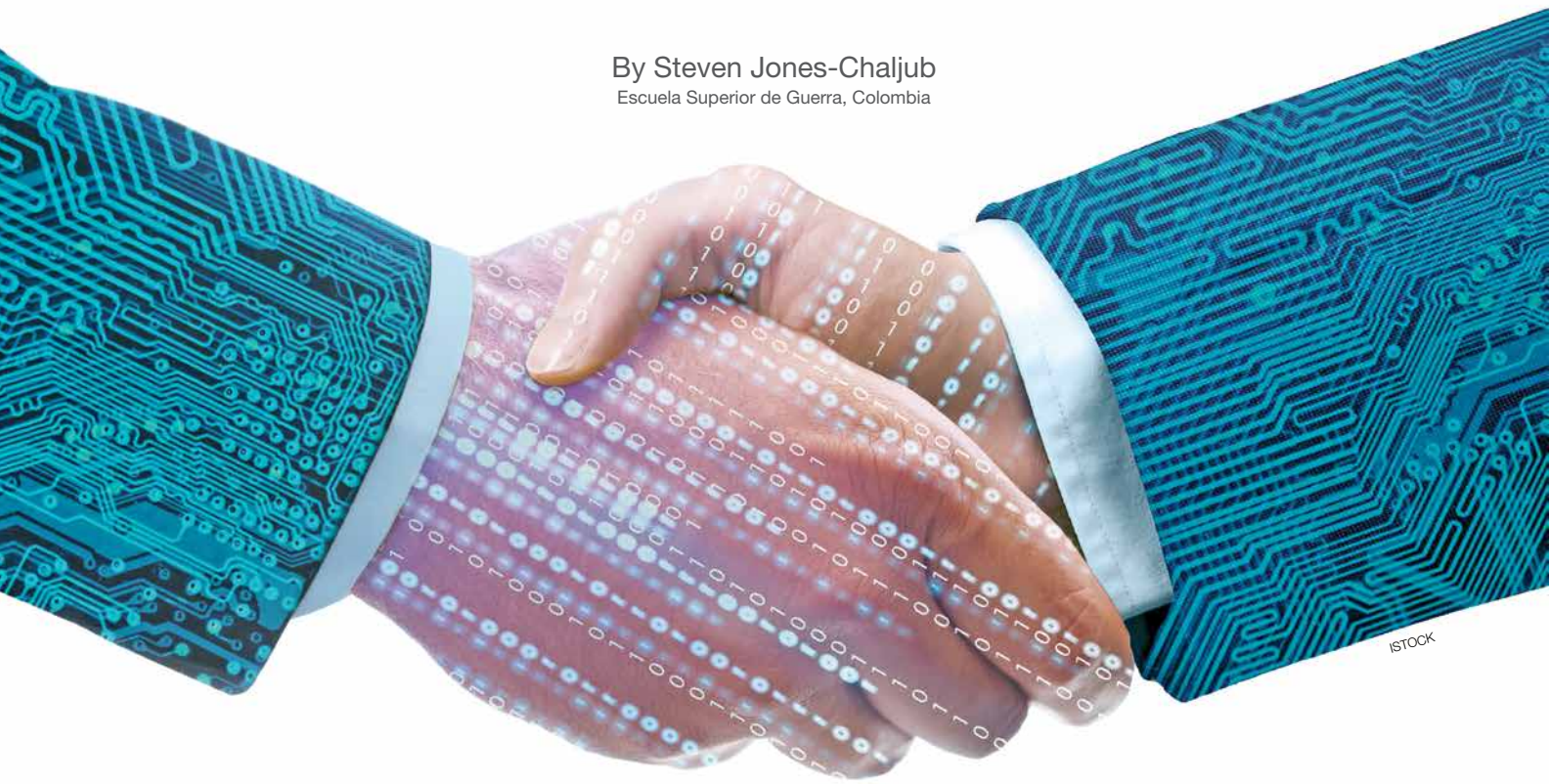
Managing mixed migration flows is a great challenge for European countries, especially for Greece and Italy, the first points of reception for the majority of refugees and immigrants. The extent and volume of the aforementioned flows makes it impossible for Greece and Italy to afford the costs on their own. Assistance from the remaining European Union member states is a must in order to achieve: 1) high standards of immigrant integration, if integration is the final aim of EU member states, and 2) the protection of refugees, which is a duty deriving from international law.

Moreover, the European legal system demands that human rights be protected, irrespective of people's status as refugees or illegal/undocumented immigrants. Nevertheless, refugees should be distinguished from illegal immigrants so that they can enjoy the full scope of rights allotted to them under international refugee law. □

BUILDING TRUST TO FIGHT CYBER CRIME

— RELIABLE REPUTATION ONLINE IMPEDES CYBER CRIMINALS —

By Steven Jones-Chaljub
Escuela Superior de Guerra, Colombia



ISTOCK

Cyberspace is a dynamic domain that attracts attention from academics and policymakers. It represents the present and future of our societies. Cyberspace has hundreds of definitions and most include a human component that cannot be ignored. People shape cyberspace, demanding and creating more ways to interact with each other in “virtual communities.” Within virtual communities, the sociological variables required for community building are present: rules, rights, duties, membership, authority and trust.

Trust is especially important for cyberspace to work; however, the anonymity characteristic of this domain creates important challenges. To build trust, virtual communities have relied heavily on reputation, under the premise that a better reputation equals more trust and, therefore, greater interaction.

Cyberspace is not entirely safe; it challenges the security of people and systems. Cyber crime, in most of its modalities, requires the victim’s voluntary or tacit cooperation to work. Cyber crime exploits the trust that individuals have in the system, other people, or both. Cyber crime has a psychological *modus operandi* and requires the same type of response.

THE IMPORTANCE OF TRUST

The decisions people make shape cyberspace in size and nature, giving constant birth to opportunities and threats. This ever-changing domain lets

users interact despite great distances and without previous relationships.

Cyberspace has given birth to unexpected social phenomena; for instance, it has blurred the line between real and cyber life. Aristotle once said that humans are social animals. Thousands of years later, this is still true. Users have created communities in cyberspace for every purpose. Scholars of social sciences are now studying these “virtual communities” to better understand online social interactions. These studies indicate that, although there is no consensus on governing cyberspace as a whole, its virtual communities are not entirely anarchical.

Virtual communities are full of rules and hierarchies that, through membership, grant benefits and impose duties. Membership is discriminatory, as stated by Phillip Cole, in his 2012 article, “Taking Moral Equality Seriously: Egalitarianism and Immigration Controls,” and Michael Walzer, in his book, *Spheres of Justice: A Defense of Pluralism and Equality*. It creates a distinction between insiders and outsiders, in which insiders are perceived as those driven by the desire for a common idea of life, and outsiders as a disruptive force. Therefore, virtual communities cannot exist without membership, and people have the right to impose limits on it to protect their “common ideal.” Walzer describes membership as a good distributed by the community because it is perceived to have certain value; for instance, it grants trustworthiness to insiders.

As there are benefits of membership, there are also rules to protect the community, which require an authority that exercises control. Virtual communities have control mechanisms tailored to their needs. Online vigilantes, administrators and system providers enforce the rules and penalize deviant behavior with prescribed punishments, such as suspension, account deactivation or law enforcement reporting.

Virtual communities have a unique characteristic: becoming a member does not require social scrutiny. In traditional human interaction, individuals wishing to become part of a community have had prior contact with established members; however, in virtual communities this is the exception. An individual can become a member of a virtual community simply by joining, a process that may only require creating a profile and authenticating identity. For example, by creating an account on eBay or Amazon, individuals are members and can interact with each other. This exerts pressure on the relationship between membership and trustworthiness, because the first is no guarantee of the latter. Thus, members of virtual communities must consider two questions: Is the other a true member? And, if so, can they be trusted?

Trust is everything in cyberspace because it keeps relationships between individuals and different systems running smoothly. Nonetheless, building trust is a challenge, given anonymity and lack of physical contact. To

satisfy this deficiency, virtual communities rely heavily on “reputation.” Reputation becomes the most valuable asset for individuals seeking to access the benefits granted by a virtual community. For instance, buyers and providers in e-commerce (e.g., eBay, Amazon, Craigslist), service platforms (e.g., Uber, Airbnb, Booking) and online games (e.g., Second Life, World of Warcraft, League of Legends) constantly evaluate each other’s reputations. The higher your profile’s reputation, the more trustworthy you will be perceived, making it easier to have successful interactions and access to more information. It has reached the point where specific scams are created just to build reputation within a virtual community (e.g., Amazon reputation scam).

Trust through reputation can be earned by different means. Complying with the rules, being recognized as competent, having members of high reputation that can guarantee your own and achieving positive feedback all build the perception of trustworthiness within virtual communities. However, persistence and patience are necessary to avoid the appearance of opportunism. For example, within blogs, only those individuals with a good reputation are trusted with the highest roles (i.e., administrator, editor) that grant important privileges that, if used incorrectly, could jeopardize the entire community.

In cyberspace, trust is required not only of individuals within virtual communities, but also of the systems that support those communities. A reliable system must be able to successfully support social interactions, without greater setbacks in accessibility and governability. Trust in the system affects members’ “stickiness,” that is, their willingness to stay and use the platform. Thus, stickiness has a correlation with revenue realized by the system’s owner. Fewer people using the system equates to less traffic, fewer transactions and, therefore, less money and less influence on the internet.

TRUST AS A DENIAL MECHANISM

Cyber crime has a characteristic that is hard to find elsewhere: the victim’s voluntary or tacit cooperation. Tactics such as phishing, smishing, credit card farming, key-logging, bot-net building and identity stealing require, at their early stages, action from the victim to work. Cyber victims are not compelled to act, yet do so because — ignorant of the others’ intentions — they trust the concealed cyber criminal, the system, or both. Cyber criminals exploit such trust and ignorance and trick their victims into making the required “click,” plugging in infected hardware, making advance payments or disclosing personal information. They also rely on the private information that their future victims recklessly disclose in virtual communities perceived as safe (e.g., travel documents and forms of identification posted in social networks).

Trust pushes people to implicitly cooperate with cyber criminals, and that cooperation is mandatory in the early stages of most cyber tactics. Examples are the Nigerian letter scam and Stuxnet. In the letter scam, an email depicting a reliable source (e.g., the United Kingdom lottery, the FBI, the U.S. Marine Corps, Microsoft) requests private information or payments. According to the Australian government platform ScamWatch, in 2015 this scam affected at least 980 people,

resulting in financial losses of AUD \$4.5 million in Australia alone. Email was the delivery method in 56.3 percent of instances. Stuxnet, on the other hand, a highly elaborate malware intended to affect Supervisory Control and Data Acquisition systems, infected an Iranian uranium enrichment plant in a classic social engineering attack via USB sticks.

The relationship between membership and trust in virtual communities, and the fact that such communities are not anarchical, indicates that reputation can be enhanced as a tool to deny cyber criminals’ access to potential victims. Because reputation is mandatory for trust-building in cyberspace, a lack of trust means it is unlikely that individuals would cooperate with their cyber victimizers. Therefore, without reputation there is less interaction and collaboration, and without the victim’s cooperation, many cyber crime tactics are useless.

There is evidence that trust built through reputation effectively hinders cyber criminals and cyber scammers. Posts in various virtual communities — ranging from E-Trade to online gaming sites — associate scammers with members who have poor or no feedback and suggest a minimal reputation threshold as a criterion of trustworthiness and eligibility to participate in the community. While such mechanisms are not foolproof, they impose obstacles.

Reputation is an obstacle for cyber criminals because it limits interaction with potential victims and its effect cannot be overcome. Achieving trust through reputation requires time, and it is unlikely that criminals will invest much for a limited

SAMPLE BLOG POSTS ILLUSTRATE THE IMPORTANCE OF REPUTATION IN BUILDING TRUST ONLINE.

Blog: Amazon Daily Forum
Date: Jul 2, 2012 9:38:41 AM PDT
User: J_Onyx
Message: “As a rule, I don’t buy from Marketplace Sellers. When I have no other reasonable alternative, I check out the seller. If I do not like what I find (too high a risk), I consider the amount of money involved. For instance, under no circumstances will I order anything that costs more than \$10 from a ‘new’ seller.”

Blog: Ebay’s Community
Date: August 11, 2009
User: baby_keanu_vintage
Message: “Listen to me, when I say: ‘Do not sell to “zero” feedback bidders!’ Why? Ebay is a shark tank. Competitors will open phantom accounts and bid way over the market price to steer traffic to their own listings! It’s a complete waste of your time if the bidder doesn’t pay! You will have to wait one week to file a claim and wait another week to get the FVC (final value credit). When all is said and done...the market price may have dropped by the time you finally do sell it. What to do? Sell only to bidders with at least three verifiable feedbacks.”

Blog: Steam User’s Forum
Date: 03-04-2015, 06:34 PM
User: Smegmadeus
Message: “Surely something can be done to stop these scammers? It’s been going on long enough. How about adding a bit of protection to steam accounts to stop this happening. It wouldn’t be too difficult to add some account options: e.g. don’t accept invites from players with private profiles and, don’t accept invites from zero rank players.”



An employee at the elite Bretagne-Sud cyber security center in Vannes, France, simulates a cyber attack. AFP/GETTY IMAGES

number of attacks. Consistent deviant behavior leads to isolation from the community and ultimately to profile blacklisting or suspension. Instead, most cyber criminals prefer targets of opportunity and “fishing-net” logic: Hit as many small victims as possible in a short time and without any distinction. This partly explains why a single scammer often has multiple accounts within a virtual community.

System providers also use trust as a denial mechanism to protect their clients, members of the communities hosted on their platforms, because cyber criminals negatively affect user stickiness and thus revenues. Jyh-Jeng Wu and Alex S. L. Tsang, in their article “Factors Affecting Members’ Trust Belief and Behavior Intention in Virtual Communities,” (2008), describe measures used by providers, in addition to establishing a reputation system, to build trust: clearly stating and effectively enforcing rules and regulations; monitoring members’ behavior; and providing conflict resolution mechanisms.

The cases of eBay and Blizzard Entertainment show how these trust-building mechanisms are used. eBay created a Trust and Safety Team whose responsibility is to keep its virtual marketplace safe by fostering “trust between members through the development and enforcement of rules and policies, the creation of reputation-building programs, and the prevention of fraud, [and proactively working] with law enforcement and government agencies throughout the world.” On the other hand, Blizzard Entertainment, a top online gaming company, has a series of guidelines and rules that explain how members are expected to behave within its forums. Essentially, access to the forum is a privilege, not a right, and as such they reserve the right to suspend it for deviant behavior.

By stating rules and regulations, system providers establish a code of conduct under which members assess each other. And, by enforcing the rules and providing resolution mechanisms, they are ensuring that there is control instead of anarchy. In addition, monitoring members’ behavior allows providers to take preventive actions against cyber crime and minimize the impact of any attack to the community. System providers work together with their users, internet service providers and law enforcement to create a deterrence coalition against cyber criminals.

CONCLUSION

Cyberspace has a veil of anonymity, making reputation the most precious asset in virtual communities. Cyberspace

is a reflection of humanity. Individuals behave the same way when operating in cyberspace as they do in the physical realm.

People create virtual communities that are far from anarchical, with rules, duties and benefits, and their members are subject to a strong hierarchy. The systems that host virtual communities also require trust and seek to build reputation. For system providers, the relationship between reputation and reliability is exactly the same as it is for individuals. A reliable system allows access when required, clearly states the rules and effectively enforces them, monitors members’ behavior and provides conflict resolution mechanisms.

Trust, through reputation building, has the potential to be widely used as a denial mechanism against cyber crime. Moreover, providers are constantly evolving to deter cyber criminals and this evolution requires active relationships with virtual community members and law enforcement. □

The Marshall Center's Seminar for Regional Security

The program makes a successful contribution to regional conflict management

By the Marshall Center

“Let me remind you of the situation in Ukraine ... the fight against international terrorism, and all those people fleeing war and persecution and seeking refuge in Germany. No country will be able to manage the consequences of global refugee movements, forced displacements and their root causes on its own. And no country will be able to secure prosperity and peace on its own. In the 21st century, national isolation is no longer a reasonable option.”

— German Chancellor Angela Merkel in a government statement on December 16, 2015

Anyone following world news will hear about the “Minsk Protocol,” “Vienna Talks,” “Normandy Format” or “Geneva II,” and when trying to learn what they are will discover negotiation forums like the “International Contact Group for Libya,” the “International Syria Support Group,” the “Minsk Group” or the “Trilateral Contact Group on Ukraine.”

Even some scholars might not know the location of those places or the context in which to place those forums. Diverse and complex as these forums are, they have all been created to solve the world's protracted conflicts and crises.

The causes and consequences of conflicts, as well as the mechanisms of conflict management, are subjects of great concern to the international public. Conflict and crises, in even the remotest corner of the world, may have a direct impact on our lives. On the internet and on TV, we are confronted with pictures from Idomeni, Lampedusa, Lesbos and Aleppo. We experience the consequences of conflicts and the attempts to solve them whenever we meet refugees from civil wars in the pedestrian zones of our capital cities. With each terrorist attack, we become victims of crises; we change travel plans and find our personal freedom of movement restricted.

Due to rapid spillover, local conflicts escalate quickly, often posing a threat to the very existence of states and impacting entire regions with far-reaching, destabilizing consequences. Of particular relevance are the conflicts in Ukraine, Syria, Iraq and Libya, of which Europe has felt the consequences. After the end of the Cold War in 1989, Europe was under the illusion that improving conditions would lead to an environment of security and order. Today, our politicians struggle to find a common approach to the erosion of political stability in Eurasia, North Africa and the Middle East, and to the global refugee crisis.

So, why are these local conflicts erupting now, and what are their regional impacts? What possible approaches could contribute to solving these conflicts? These questions are the focus of the Marshall Center's Seminar for Regional Security (SRS).

The urgent need for such approaches was expressed by

Keith Dayton, the director of the Marshall Center, in his welcoming address to the SRS 2016 participants: “Local conflicts don't stay local. ... Don't fool yourselves into thinking that it won't get worse, because it will. You will learn that the military doesn't solve regional conflicts. They are solved by people like you in this room.”

The SRS was created to help participants understand the nature of conflicts in their regional contexts, and to learn about the mechanisms and timelines of effective conflict management, particularly the abilities and limitations of international organizations and nation-state actors. Every year, around 50 participants from different nations are invited to delve into this set of problems.

The seminar begins by developing a common understanding of the nature of security, crisis and conflict, and conflict management. The second module focuses on a systematic analysis of past and ongoing regional conflicts. Participants then move to a third phase, an extended exercise on “international peace negotiations,” which is based on a genuine regional crisis.

SRS participants do not enter these negotiation exercises unprepared. Before the start of the peace conference, negotiation strategies and skills are taught and practiced. High-level experts provide background information on all local, regional and even international parties to the conflict.

The participants form conference delegations, develop a negotiation strategy, and then enter a tough bargaining process trying to convince others of their position. Ideally, the outcome will be an agreement in the form of a joint communiqué, the “Garmisch-Partenkirchen Accord,” which states how the parties intend to solve the conflict.

Throughout the SRS, Marshall Center professors offer support to participants. High-ranking experts and speakers lecture on topics relevant to understanding and managing conflicts, and finally, the simulation peace conference takes place under the guidance of an internationally experienced chief negotiator.



Participants gather at the commencement of the 2016 Seminar for Regional Security at the Marshall Center.

KARLENNZ MEDHORN

In 2015 and 2016, the SRS was run in two iterations and discussed solutions to the current conflict in eastern Ukraine. Because the SRS approach focuses on analyzing conflict management from a regional, real-world perspective, the position of almost every party to the Ukraine conflict was represented by a high-ranking guest speaker.

In 2016, Oksana Syroyid, vice speaker of the Ukrainian parliament, and Ihor Dolhov, Ukrainian deputy minister of defense, represented their nation's point of view in addressing course participants. The Russian viewpoint was presented by a highly qualified representative of a peace institute in Moscow. Geoffrey Pyatt, then U.S. ambassador to Kyiv, spoke from the U.S. perspective. And finally, Dr. Antonio Missiroli, head of the European Union Institute for Security Studies, explained the EU's view of the conflict. Concluding remarks were made by the German defense attaché to Kyiv and a German representative of the Organization for Security and Co-operation in Europe (OSCE) delegation, who spoke about the intended course of action under the German OSCE chairmanship.

In addition to high-ranking experts explaining various national interests relating to the conflict, it is important to include experienced mediators for a conference to be successful. In 2015, Przemyslaw Grudzinski, the Polish ambassador to Helsinki and former head of the Polish OSCE delegation to Vienna, served as mediator. When the exercise concluded, he offered the following assessment of the seminar in a follow-up interview with the George C. Marshall Center (GCMC):

"The GCMC has opted for a highly interesting and very ambitious exercise to make participants from 28 countries which are very different in nature discuss the most urgent problems of European security. ... The Marshall Center and its creative team try to address security problems in Europe before things get really ugly. We cannot simply say, 'Ok, so the dream of Euro-Atlantic security is over. Time for a new confrontation.' I think we need to maintain our vision of stability, security and peace on the continent. And the Marshall Center is the very place to think through different options and elaborate ideas. The GCMC has an excellent reputation as a platform for the free exchange of ideas and forward-looking thinking for the benefit of everyone with an interest in European security."

In 2016, the Marshall Center enlisted the support

of another mediator with vast experience in peace negotiations: Marian Staszewski, special representative of the OSCE chairperson-in-office for peace talks on the conflict in Ukraine. At its conclusion, he praised the seminar's high degree of professionalism and was particularly impressed with the opening statements made by the four negotiating parties' heads of delegation. "The negotiations and discussions here in Garmisch are much more rational and much less emotional than the usual talks of the Minsk process. Some people say that the difference between Minsk and Garmisch lies in the fact that here the power of arguments is stronger than the arguments of power."

Seminar participants were very pleased with the seminar's success and, most important, with their new insights into conflict management. They told the Marshall Center that experiencing what it means to be a member of a national delegation and to actively negotiate in a peace conference exercise offered valuable insight into the process of conflict management. Here are some post-seminar comments from participants:

"The fact that we — the seminar participants from many very different nations, including countries that are at war at the moment — can get together in this place helps us develop an understanding of the positions and the motives of all parties concerned. ... To know somebody also means to understand them better."

"We are all running the risk of looking at conflicts from our usual point of view. ... We never really think that the solutions offered by the parties directly involved in the conflict are often the ones that can actually put an end to the conflict."

One participant emphasized how important seminar discussions and the in-depth examination of regional conflicts are:

"The Marshall Center is our melting pot, the place where we make friends from all over the world and ... where we [can start] becoming experts in security policy."

SRS organizers are proud of these excellent ratings and hope that, after three intense weeks, SRS participants returned to their jobs in ministries, general staffs or government agencies full of energy to contribute to the mitigation of conflicts. We hope that they will continue to build this network of like-minded security professionals in an effort to bring peaceful solutions to conflicts and crises. □

WIELDING INTELLIGENCE AS A WEAPON



Defeating the Islamic State requires a patient commitment to building multinational spy networks

By Col. (Ret.) József Kis-Benedek, Ph.D.

Professor, National University of Public Service, Hungary

The Islamic State (IS) is much more than a terrorist organization; it is a terrorist state containing almost all governing elements. Over the past three years, since the beginning of the civil war in Syria, the IS developed from an extremist fringe and marginal faction participating in the civil war to become the strongest, most ferocious, best-financed and best-armed militia in the religious and ethnic wars waged today in Syria and Iraq. Many experts suggest this organization is neither Islamic nor a state. I consider it a guerrilla organization using mainly terrorist methods.

The Middle East, as outlined by the World War I-era Sykes-Picot agreement, has begun to disintegrate, and the IS does not seem like a passing phase. The structures being established indicate that, even if the actual leaders of the IS are killed, the organization has created a succession procedure that will allow it to survive, just as al-Qaida managed to outlast the death of leader Osama bin Laden. Killing the leadership of the IS is not the best method because there are many replacements, and the organization is embedded in the Sunni population. Uprooting the IS will be long and arduous. Without creating a chasm between the IS and the local population, and without reaching a long and lasting political solution that will put an end to Sunni-Shiite rivalries in Iraq and to the conflict in Syria, the chances of success will remain negligible.

As Henley-Putnam University noted in a May 2015 article titled “Intelligence and the Islamic State”: “The success of the Islamic State in conquering large parts of Syria and Iraq demonstrates the fragile nature of the countries in the Middle East and the volatility of the security problems in the region. The Islamic State is a relative newcomer to the plethora of Middle East terror

and Islamic extremist groups that arose over the past 50 years. Its forerunner was ‘al Qaeda in Iraq’ (AQI), a group formed in 2006 by Abu Musab al-Zarqawi. AQI was so violent and extreme that Osama bin Laden dissociated al Qaeda from AQI. At the same time, Iraqi Sunni tribes formed the Awakening Movement (Sahwa) to combat AQI. Zarqawi was killed later in 2006 by a U.S. air strike. AQI was weakened by the Sahwa and did not resurface as a significant force until 2011 when the group, now under the name Islamic State of Iraq, joined the fighting in the Syrian civil war. The change of name (ISIS/ISIL) and leadership with al-Baghdadi did not diminish the group’s propensity for extreme violence. ISIS originally affiliated with Jabhat al Nusra, a group associated with al Qaeda, but soon split to display a willingness to fight any and all in the Syrian conflict.”

That propensity among the IS to threaten loyalist and rebel forces in Syria has awakened a common reaction among those formerly hostile parties. As the geopolitical intelligence firm Stratfor indicated in its 2015 story “How Islamic State Victories Shape the Syrian Civil War,” the Assad regime and its armed opponents realize that weakly held territory has become a target for the IS and that population centers such as Aleppo, Homs and Damascus — once largely untroubled by the IS — could fall to the group’s assaults.

Said Stratfor: “Though the Islamic State certainly faces some critical threats of its own, including rebel and coalition efforts to cut off its supply lines through Turkey, the group is still able to maintain its momentum in a number of areas. Each new base, town or supply depot that it secures only boosts its foothold in Syria’s civil war, which in turn translates into gains across the border in Iraq. The Syrian government and disparate rebel forces must now dedicate more of their attention to the Islamic

State threat as it becomes an increasingly important factor in their battle plans and objectives.”

Concerning the future, it is probable that:

- The IS will focus on defending core supply lines used to provide equipment and soldiers.
- The IS will continue to show flexibility in conducting military offenses.
- The Assad government and rebels alike will have to devote more attention and resources to fighting the IS at the expense of battling each other.

The threat to Europe

Evidence is accumulating that IS members are planning to conduct major terrorist attacks against targets in the United States and Europe. Some of that would occur through the use of sleeper cells that give it a foothold outside of Iraq and Syria. Intelligence agencies report that the group has recruited foreign fighters to carry out terror attacks in Europe, and recent arrests on the continent indicate that the IS has a

in Iraq and Syria, overwhelming European security services. Hundreds of European battle-hardened jihadists return home every month, many ready to commit violence and recruit new terrorists. For countries such as France, the number of citizens waging war in Syria and Iraq, mostly for the IS, is unprecedented. Earlier jihadist campaigns in Bosnia in the 1990s or in Iraq a decade ago might have attracted a few dozen French nationals, but the fighting today in the Middle East has drawn upwards of 1,000 French citizens — 942 in Syria over the last two years, according to French intelligence.

French counterterrorism magistrate Marc Trévidic opines that French intelligence, police and judiciary have “disarmed” themselves in this new world of domestic extremism emanating from the Middle East. Here’s an excerpt from a recent interview he gave to a French magazine:

“Everything is different these days! Before, would-be jihadists had a smattering of instruction. There is no religious background now; it is the image that wins them over. The appeal is to their feelings, not to their intellect. The explosion

is due to the Internet. The youngsters we have to deal with are overexcited, not intellectually radicalized. ... The profiles are completely disparate. Some are impossible to check out. Never before have we come up against women and minors! Before long, the only age group missing will be the very old. ... We can no longer sift them or monitor them as before to find out what their intentions are. We are forced to arrest them as soon as they set foot in the country. We need to know what they have been through. On the whole, they have been through horrendous experiences. We lack the evidence needed to probe them properly. However, some of them are potentially dangerous, all the more so in that they are forced into waging an individual jihad in the attempt to escape detection.”

German authorities estimate that 450 radical German Muslims have traveled in the direction of Syria. An official from German intelligence noted the difficulty in tracking German Islamists leaving Germany for Syria because they do not need a visa to enter Turkey. Southern Turkey provides a main point of entry into Syria for fighters aiming to combat

Assad’s regime for the “caliphate.” Several hundred of those radicalized Germans have returned home, despite the Federal Republic’s ban on IS activities. It is unclear if German authorities view these returning radicals as terrorists worthy of increased scrutiny.

The IS demonstrates another tendency as it assumes control of territory, reflected by the split in Iraq. Evidence



German police detain a suspect in the Kreuzberg district of Berlin in February 2016, part of a series of raids to hunt for four men suspected of plotting attacks in Germany in the name of the Islamic State.

more profound influence than al-Qaida did. As U.S. Deputy Secretary of State Brett McGurk stated, the IS is “better equipped, better manned, better resourced and better trained than the al-Qaida in Iraq that our forces faced.” McGurk dubbed it a globally expansionist jihadist organization swollen with obedient foreign fighters and suicide bombers.

Huge numbers of Westerners have joined the movement

comes from a June 2015 declaration from a group of old sheikhs and community leaders in Anbar province living and operating under IS control. They published a statement with the following principals:

1. These leaders and their tribes and communities have given their allegiance to the IS leader and recognize him as the leader where they live.
2. They call for all tribes and communities that fled Anbar to come back home with guarantees of safety and to live with dignity instead of being under Iranian government control that has treated Sunni refugees inhumanely.
3. They call for Sunnis everywhere to return home to help rebuild the IS as their new nation, free of Iranian influenced government.
4. They do not recognize any sheikh who is not on the ground or who is not returning to Anbar to be part of this new nation.
5. They vow to fight the Iranian-backed government and coalition forces who are supporting Iranian-backed militias and “popular mobilization forces.”
6. They do not recognize the Iraqi Army or security forces as nationally representative because they have a relationship with the Iranian military.

The appearance and the function of the IS show very clearly that the decision of the U.S. administration to dismantle the former Iraqi armed forces following the Iraq war was a strategic mistake.

The nature of the fight

A good summation of the fight we face comes from the article “Clash for Civilization” written by Anthony Cordesman

and published by the Center for Strategic and International Studies in 2015. Cordesman views Islamic extremist violence as the biggest threat to Muslim states and the international community. “It may be politically correct to keep referring to a “war on terrorism” in general terms, but the fact remains that the struggle is essentially a war for the future of Islam and one in which the struggle for power is centered on religion,” Cordesman wrote. “It is also clear that the strategic center of gravity in violent Islamic extremism is the Middle East, North Africa, and in South Asia states like Afghanistan and Pakistan, although Central Asia, Sub-Saharan Africa, and parts of East Asia and the Pacific also face such threats.”

In Cordesman’s view, effective counterterrorism must come with the recognition that violent jihadist extremism can only be defeated by strengthening partnerships between Western and Islamic nations. These agreements must overcome religious and cultural divisions to deal with a violent minority that threatens all partners. It’s a mistake for the U.S., Europe and other non-Muslim states to limit counterterrorism within their own borders.

Many experts call for a re-evaluation of security policies and terrorism studies in light of the rise of the IS. According to the previously cited article published by Henley-Putnam University: “Terrorism studies needs to take into account both the new regional threat from the IS and the inevitable return of religious extremists to their home countries. Yet intelligence analysts are expected to use the past as a baseline, understand and accurately report the meaning of present events, and provide a cogent assessment of future threats. The reality is that intelligence analysts are part of the front-line fight to protect their nations from terrorism and other security threats.”



Iraqi pro-government forces advance during their successful operation to recapture the Islamic State-held city of Fallujah in 2016. AFP/GETTY IMAGES

The U.S.'s main strategy is to combat the IS using intelligence services, advisors and special forces, but few conventional American ground troops. Many experts in the U.S. disagree with this approach. Here's Stratfor's take: "The U.S. has sought the support and assistance of international partners to lessen the military and political burden of the operation. In this strategy, the first contradiction lies in the combination of attacking IS targets by air while selectively arming and training Syrian rebels on the ground, not to mention that the U.S. will be working with Iranian proxies in Iraq and pro-Saudi actors in Syria."

Intelligence shortcomings

The basic problem is how to use intelligence capabilities against the IS. Penetrating terrorist organizations is difficult. After the withdrawal of foreign troops from Iraq, the U.S. lost most of its human intelligence (HUMINT) capabilities there. The use of superior intelligence-gathering capabilities and satellite technology to collect information on the activities of the IS in Iraq and share it with allied governments is critical, but HUMINT is still lacking. Few intelligence officers are on the ground identifying, recruiting and directing agents against terrorists.

Native assets with the appropriate appearance and linguistic and cultural understanding can penetrate deep into the enemy's heart. As Tom Rogan noted in a 2014 story in *National Review*, these eyes and ears are the apex of intelligence work. Today, the Jordanian intelligence service leads in the HUMINT effort, but it desperately needs more support. Further complicating matters is that the IS has learned from its predecessors. Whereas al-Qaida in Iraq relied on cellphones and other such communications platforms, leaving a trail that U.S. special forces exploited, the IS is justifiably paranoid about its exposure. Rogan said that wherever possible, its leaders "stay off the grid" and if the IS isn't using a cellphone, the vast signals-intelligence mainframe computers "generate nothing but heat."

As Rogan stated in his article: "The U.S. military is extraordinarily capable, but, just as an inexperienced fisherman cannot fish without knowing where to cast his nets, a military devoid of tools and intelligence can only 'cast' sporadic fire in the strategic darkness."

Bugs not bombs

No one can precisely predict the shape of the IS challenge in the future. The geostrategic situation has been transformed in the past five years. The Arab Spring unexpectedly destroyed the stability provided by the old political order. Islamic extremists thrived in the resulting power vacuum. An added dimension to the threat came from the IS. Strategic security policies and terrorism studies must be re-evaluated in response.

In his article "Defeating the Islamic State: A How-To Guide," U.S. blogger and security expert John Schindler noted: "The military defeat of the Islamic State by Western airpower and commandos, aided by local proxies, will set the stage for the strategic defeat of their movement. What must follow is a version of what I term Special War, tailored for counterterrorism, combining offensive counterintelligence, denial and deception, and long-term manipulation of the jihadists leading to their collapse and self-immolation."

Schindler noted that assassination is legitimate to use against "virulent terrorists," but remains a technique that must be used carefully and sparingly. "There is considerable false morality at work if we are willing to use drones to kill thousands of terrorists — and along with them hundreds of innocents from "collateral damage" — not to mention occupying countries for years with awful humanitarian consequences, but we are unwilling to wage Special War, which is far less expensive in blood, treasure, and morality," Schindler wrote.

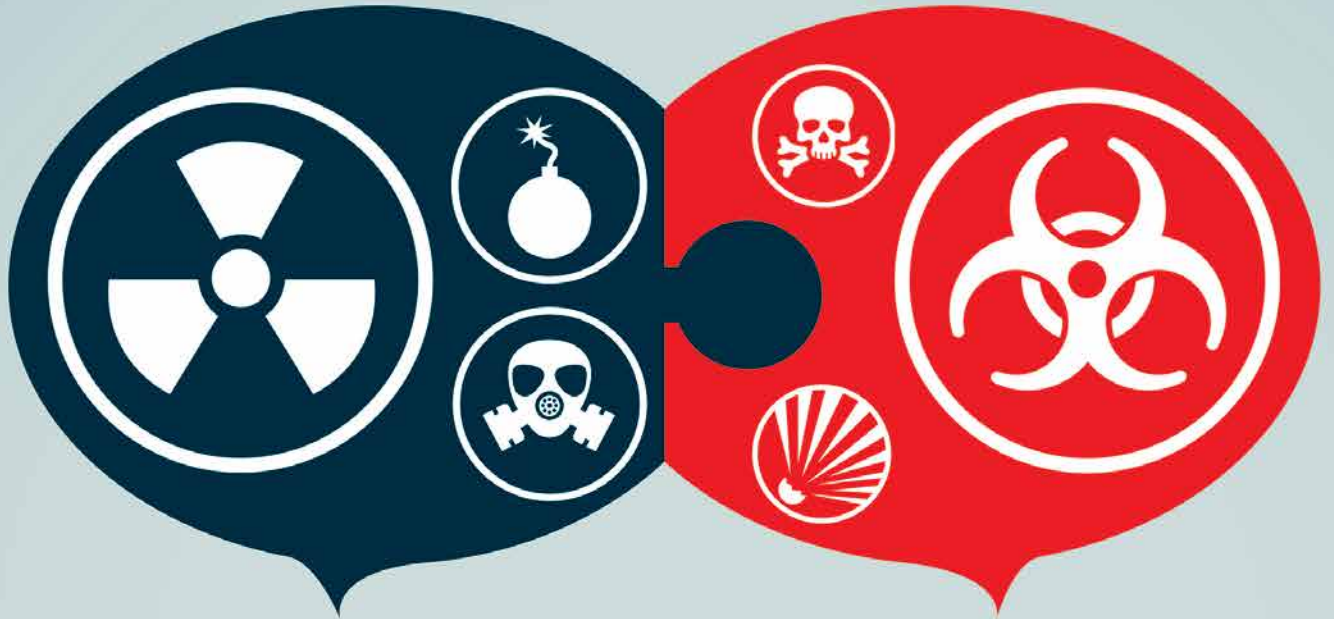
Columnist David Ignatius of *The Washington Post* added his thoughts: "The CIA must work with partners to build spy networks inside the Islamic State. Recruiting jihadists is not 'Mission: Impossible.' The Islamic State is toxic and has made enemies wherever it operates. But to work this terrain, the agency will have to alter its practices — taking more operational risks and reducing its lopsided emphasis on drone strikes and other covert tools."

From this point of view, U.S.-Russian cooperation is important. However deep the divisions over the crisis in Ukraine, increased intelligence sharing between Moscow and Washington on IS militants, focusing on this common enemy, is a necessity.

The fight against the IS is creating what once would have been awkward pairings, such as the U.S. and Iran. Paris-based security analyst Rachel Marsden suggests that the two countries have reached some sort of agreement that leaves the U.S. to conduct airstrikes and Iran to collect intelligence on the ground to aid ground operations.

Wrote Marsden: "Iran has the military power and the intelligence capabilities to wipe out the Islamic State. And Iran has been quietly playing footsie under the table with the U.S. for longer than many Americans are probably aware — much to the frustration of the French, who consider it to be two-faced behavior by their ally."

To conclude, the IS does not seem to be a passing phenomenon. It will appear in many countries, particularly those with weak governments, and embed itself in the Sunni population. Intelligence services must work closely with partners and use all types of intelligence methods in the field. If we're facing a proxy war, we should also speak of proxy intelligence. Based on the West's reluctance to commit all of its military capabilities to the fight on the ground, the war will likely be lasting. But that doesn't mean intelligence should be lacking. □



STOPPING THE SPREAD OF WMD

The U.S. Department of Energy works with the Kyrgyz Republic to fight proliferation

By Bakyt T. Kakchekeev

The Kyrgyz Republic is committed to the peaceful development of all countries, supports the peaceful resolution of conflicts and opposes the use of force in international relations. One of the main aspects of international security is nonproliferation of weapons of mass destruction (WMD) and related dual-use technologies.

U.S. Department of Energy (DOE) programs were initiated in 2008 in the Kyrgyz Republic, within the framework of bilateral relations, to help fight the proliferation of WMD. The program's goals are to establish a system of detection and prevention of nuclear weapons and technology transfers. The programs include training to recognize weapons technology and dual-use materials; identify and interdict WMD smuggling at state borders; utilize modern methods of investigation and interdiction of WMD; and create a system to prevent "intangible" transfers.

Since 2000, the U.S. government has promoted the Cooperative Threat Reduction (CTR) program, also known as Nunn-Lugar, in the non-nuclear states of the

former Soviet Union. Before 2000, the CTR successfully operated in the Russian Federation, Belarus, Kazakhstan and Ukraine, but was expanded to prevent horizontal proliferation of WMD and dual-use technologies.

The Kyrgyz Republic and the U.S. signed a number of key policy documents in this area:

- The memorandum on joining the Proliferation Security Initiative in the fight against the proliferation of weapons of mass destruction, PSI-2005 WMD.
- The memorandum on implementation of the system of export licensing "Trekker" in 2006.
- The program to combat illicit trafficking in nuclear materials in 2007.
- The memorandum on the prevention of illicit trafficking of nuclear and other radioactive materials in 2008.

These documents were designed to reduce the risks of intrusion and unauthorized circulation of WMD and dual-use components through the Kyrgyz Republic. To create the basic legislation, several U.S. government



Kyrgyz Special Forces conduct an anti-terrorist operation in Bishkek in October 2015. The U.S. Department of Energy funds programs in the Kyrgyz Republic to help keep nuclear materials out of the hands of terrorists.

EPA

agencies, including the Defense Threat Reduction Agency (DTRA) of the U.S. Department of Defense, the U.S. Department of Commerce and the U.S. Department of State assisted in the adoption and promotion of the law on export controls in the Kyrgyz Republic in 2003. The basis of the bill was developed by DTRA's experts for Russia in 1995 and was adopted with minor modifications by the Parliamentary Assembly of the Commonwealth of Independent States as model legislation.

In addition to the DTRA, a number of other U.S. government agencies actively worked to reduce the WMD threat in the Kyrgyz Republic, including the U.S. DOE's National Nuclear Security Agency (NNSA), which worked jointly with the U.S. Department of Defense and the State Department. Among the most interesting programs are the Second Line of Defense (SLD) and the Global Threat Reduction Initiative (GTRI)/Defense Nuclear Nonproliferation and Radiological Security programs. These programs are similar to a program to control the sources of radiation, the Radiation Sources Regulatory Partnership (RSRP) — a program of the U.S. Nuclear Regulatory Commission, which has just begun.

SECOND LINE OF DEFENSE

The goal of SLD is to strengthen export controls and prevent WMD smuggling. The program establishes a system of radiation portal monitors (RPM) at Kyrgyz border crossings. Under the SLD program, RPMs were installed at nine customs checkpoints by 2011 and six more in 2015, including at the Manas and Osh international

airports, the Kaindy, Shamaldy Sai and Kara Suu railway entry points and the Kyrgyz Customs Center for Training and Retraining.

The U.S. DOE trains Kyrgyz border officers on the operation of the RPMs, how to detect nuclear smuggling and standard operating procedures. The SLD operates under the framework of the 2008 Memorandum on the Prevention of Illicit Trafficking of Nuclear and Other Radioactive Materials. Through the SLD program, the Kyrgyz Republic's State Customs Service receives annual funding estimated at \$1.5 million to \$2.5 million. AECOM Technology Corp. and Orion Group International Inc. have managed the program under contract with the U.S. DOE since 2008. Locations of future project sites are determined by the NNSA and the leadership of Kyrgyz Customs.

DEFENSE NUCLEAR NONPROLIFERATION RADIOLOGICAL SECURITY PROGRAM

Known as the Global Threat Reduction Initiative (GTRI) until 2015, the program operated under the framework of the memorandum of understanding on the prevention of illicit trafficking of nuclear and other radioactive materials of 2008, administered in the Kyrgyz Republic by the Ministry of Health and managed by the Battelle Memorial Institute, an American company.

The program aims to reduce the risk of proliferation of nuclear and radiological materials, including highly enriched civilian material. It establishes a system of physical protection and control over the use or storage of nuclear and radiological materials. Under GTRI, physical control of nuclear materials was established in 2011-2013 in some parts of the Kara Balta mining-metallurgy complex and at the Republican Oncology Centre in Bishkek. In 2014, the system for physical control of radiological materials had to be reworked at the oncology center, due to the failure of the previous system, and a new system was also established at the Kyrzhilkomunsoyuz hazmat waste storage site.

The program initially seemed to have weak project management organization, indicated by the fact that some of the 2011-2013 projects had to be redone by Batelle, and there was a new tender for the Kyrgyz part of the project in 2014.

CONCLUSION

Reducing the threat of the use of nuclear weapons and WMD, regardless of type — classical, improvised or radiological — is essential for peace and the survival of humanity. Any new use



of nuclear weapons will lead to a change of attitude toward this most dangerous means of destruction and increase the chances of even more use. Controlling the direct use of materials, preventing horizontal proliferation and strengthening international nonproliferation regimes are as important as ever, as is cooperation between the Kyrgyz Republic and the U.S. in this field.

Progress in cooperation is supported by a number of political documents between the parties. However, implementation of U.S.-sponsored programs, in particular by the U.S. DOE, are controversial. In addition to budgetary waste, the programs suffered shortsightedness and lack of understanding of the local context and of the program goals and objectives. U.S. DOE program funding

in the Kyrgyz Republic could decrease due to the U.S. budget deficit and changes in U.S. foreign policy priorities. Even efficient programs will suffer.

The level of self-sufficiency to operate and further self-support and develop existing systems will not be achieved by the government of the Kyrgyz Republic. Constant changes in which government bodies are responsible for nuclear safety in the Kyrgyz Republic won't bring clarity and efficiency to the DOE program. However, the July 2015 denunciation of the 1993 Treaty on the Promotion of Cooperation between Kyrgyzstan and the United States will not complicate the work of the DOE programs because there is a sufficient legal framework for further cooperation on WMD export control. □

U.S. Secretary of State John Kerry, left, and Kyrgyz Foreign Minister Erlan Abdyldaev listen to questions at a news conference in Bishkek in October 2015. REUTERS

A soldier in camouflage gear, including a black beanie and a tactical vest, stands in profile on the right side of the frame. He is holding a rifle. The background shows a severely damaged multi-story brick building with a partially collapsed roof and debris scattered around. The scene is desolate and appears to be a war-torn urban area.

A NEW RUSSIA STRATEGY

International relations theory requires
NATO to reassess its strategy toward Russia



By **Capt. Evan Kerrane**, U.S. Army

Theories can bring structure to a chaotic world and, although sometimes viewed as impractical, they shed light on the perceived irrationality of actors. International relations theories can help explain Russian actions in the recent crisis in Ukraine.

While the narrative of Vladimir Putin as a power hungry authoritarian seeking to deny the democratic will of the Ukrainian people appeals to the sensibilities of the West, it is not necessarily the truth and will by no means return stability to Ukraine. NATO and Western powers have pursued a policy based on liberal theories of a democratic peace while denying their approach is anti-Russian. Moscow views this policy differently, as Western influences continue to creep closer to vital geostrategic locations such as Ukraine. It is time for NATO and the West to return to realist theories of power balancing and realpolitik approaches to maintain stability in Europe.

According to Stanley Sloan in his book, *Permanent Alliance? NATO and the Transatlantic Bargain from Truman to Obama*, as an international institution, NATO benefits from keeping its specific military strategy vague. The NATO charter does not list common enemies or objectives and, for this reason, the Alliance lacks strategic focus and instead agreed to the United States' policy objectives of democratic expansion into the former Soviet and communist European states, leading many policymakers and academics to believe a unified, liberal democratic Europe was possible. Stemming from liberal theories that argue war is an abnormality in the world and the aggressive instincts of the authoritarian regimes are the root cause of international conflicts,

Ukrainian soldiers patrol near a war-damaged building in the village of Pisky near Donetsk in October 2015. The battle with Russian-backed separatists has caused great loss of life and property. AFP/GETTY IMAGES

as Michael Doyle writes in his book, *Ways of War and Peace*, NATO's new objective became not simply collective security, but the promotion of a new liberal world order.

According to Zoltan Barany in a 2009 *Journal of Democracy* article, the Alliance is viewed as a means for transitioning states to achieve their true objective — admission into the European Union. Policy — in lieu of strategic objectives — places the future of the Alliance in jeopardy as more states with little commitment or contribution to collective security achieve membership.

Liberal theory, and more specifically Adam Smith’s liberal pacifism, is based on the belief that the natural state of the world is peace; war is the abnormality.

To the traditional European powers, Russia is no longer viewed as the authoritarian menace of Europe, but as an ally in the European, and world, liberal redesign. Stockholm International Peace Research Institute data indicates that Moscow has increased its military spending by approximately 78 percent annually since 1994. Although Russian spending is dwarfed by that of the U.S., Russia still outspends the rest of Europe. European defense spending continues to decrease with austerity measures: France decreased it from 3.3 percent of gross domestic product between 1990 and 1994 to 1.9 percent in 2013, the United Kingdom from 3.6 to 2.4 percent, and Germany from 2.1 to 1.3 percent during the same period, according to NATO, signaling a corresponding decrease in perceived national security threats. On the other hand, Estonia and the other Baltic states — sharing common borders with Russia — still view Moscow as the primary national security threat. Estonia has increased defense spending from 1.6 percent when it joined the Alliance to 2 percent in 2013. While the shadow of Moscow no longer stretches to Berlin, it still looms over Baku, Kyiv, Minsk, Riga, Tallinn and Tbilisi.

NATO’s 1995 *Study on NATO Enlargement* touted the importance of Russia as a partner in the stability and security of Europe. However, this optimistic and noble viewpoint by Western Europe and the U.S. set the conditions for today’s instability in Eastern Europe. In February 2015, NATO Secretary-General Jens Stoltenberg encouraged a sovereign Ukraine to continue to choose its own path toward democracy. “Because if they are more stable, we are more secure,” he said. However, Stoltenberg fails to recognize that this push for Ukraine to move under the liberal West’s umbrella is a fundamental cause of Russian

interference in Ukraine and, in turn, promotes instability in the eastern portion of the country.

Liberal theory, and more specifically Adam Smith’s liberal pacifism, is based on the belief that the natural state of the world is peace; war is the abnormality. Essentially, under liberal theory, as Kenneth Waltz criticizes in his book, *Man, the State, and War*, internal aspects of the state influence its external agendas; since merchants are primarily concerned with profit or gain, so too should be the state, eliminating conquest as a legitimate state objective. Ergo, democracies

built on free-market capitalism are peaceful states whose regimes are held in check by the merchant class. Therein lies the liberal theorist’s notion of “good,” or democratic, and “bad,” or authoritarian, states in international relations. When it comes to relations with authoritarian states, Western powers enjoy feelings of superiority, claiming they seek peace and stability while the “bad” states cause chaos within the system.

Belief that democratic regimes do not go to war with each other, and therefore create a peaceful system — dogma in the

West — has been used in the formation of the Alliance’s enlargement policy. According to Barany, promoting democracy through a state’s political identity became a more important criterion for enlargement than the strategic objectives of collective security, as many states seeking NATO membership face no military-security threats. This is not to dismiss NATO enlargement policy in its totality. In fact, following the Cold War, the strategy served its purpose of bringing important allies into the Alliance while the Russian state was too fragile to resist.

Liberal rhetoric played a key role in promoting the strategy, but the policy hedged NATO concerns about a future Russian resurgence, according to Sloan, as the accession of



NATO Secretary-General Jens Stoltenberg, seated left, and Ukrainian Foreign Minister Pavlo Klimkin, seated right, sign bilateral agreements in Kyiv in September 2015, while Ukrainian President Petro Poroshenko, center, looks on. THE ASSOCIATED PRESS



U.S. Air Force F-22 Raptors taxi at Mihail Kogalniceanu Air Base near Constanta, Romania, in April 2016 as part of Operation Atlantic Resolve to demonstrate NATO commitment to collective security and dedication to maintaining peace and stability in the region.

AFP/GETTY IMAGES

the Baltic States, strategically important to Russia since the days of Czar Peter the Great, placed them clearly under Western allegiances. Questions of credibility grow, however, as reactions by NATO powers have not corresponded to

a rising Russian threat in the Baltics and Eastern Europe. NATO's disjointed expansion policy succeeded against a weak and internally focused Russia; however, recent events in Ukraine show enlargement has led to instability in Eastern Europe, as the Alliance looks to assert its influence over

yet another state that is strategically important to a more powerful and assertive Moscow that has been emboldened by NATO inaction in Georgia and the Baltics.

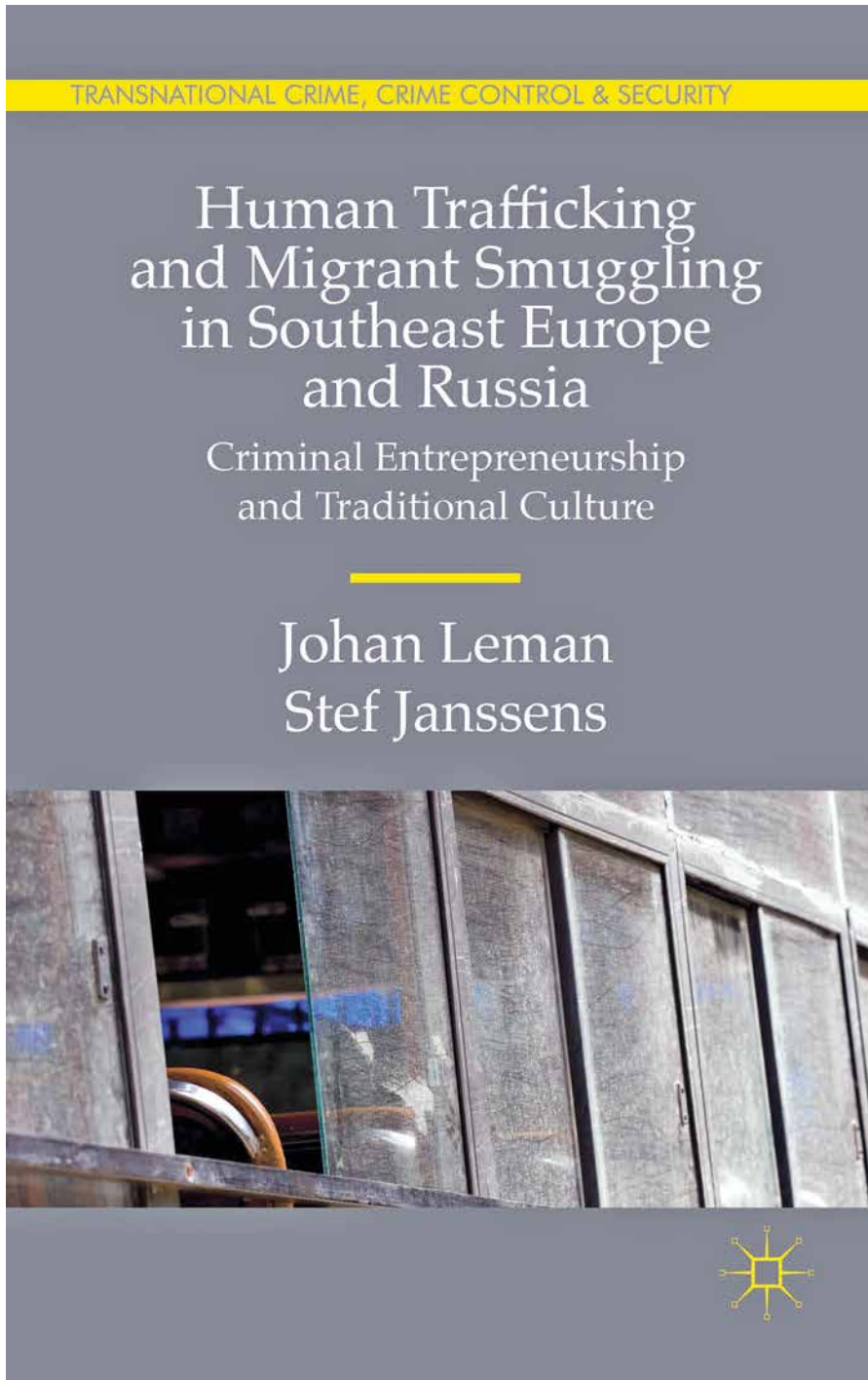
Waltz points out that, unlike liberal theories, realism offers the alternative view that powers are influenced by external factors and fundamentally seek only survival. At the 2008 Bucharest Summit, NATO foreign ministers agreed to support the membership aspirations of both Ukraine and Georgia, maintaining that NATO's expansion policy is not strategically aimed at Russian containment but toward promoting peace and democratic reform. Intentions aside, this Alliance objective did not go unnoticed in Moscow: President Vladimir Putin is reported to have warned U.S. President George W. Bush that if Ukraine achieved membership status it will "cease to exist." Putin's threat, which by no means appears idle, surfaces from a vital Russian national security concern regarding Ukraine, as well as a growing sense of Russian nationalism.

Throughout Russian history, the geographic distance between Moscow and the "Great European Powers" was

always one of its greatest strengths; the farther European invaders marched into Russia, the more difficult their campaigns became. The flat, expansive Ukraine served as the launching point for three great invasions of Russia; by Napoleonic France, imperial Germany and Nazi Germany. Today, NATO is much closer, physically and in capability, to Moscow and its strategically important southern flank. Liberal theory argues that Russian actions in Ukraine are the actions of an authoritarian state, but this perception fails to recognize that Russia is protecting its vital security interests by denying to a perceived enemy strategically important territory within its sphere of influence. Although NATO leaders continue to emphasize that Ukraine is destined to achieve membership in the Alliance, Russia's continued interference in the East shows the political realities of Europe, according to John Mearsheimer, along with the naiveté of Western leaders who believed the Russians would allow such a strategically important border state to become a Western satellite.

A strategy of clandestine operations in Eastern Europe remains the only strategic option for the Russians, because any direct confrontation with the West will end in defeat. Additionally, this strategy causes internal instability in Ukraine and Georgia, diminishing their suitability as NATO member states. Moscow views Ukraine as a battle for Russian survival. This requires a corresponding realist strategy from the West. More importantly, if the Alliance seeks to maintain credibility in Eastern Europe and the Baltics, the European powers must show more than indifference to Russian aggression. NATO must regain its status as the premier organization of collective European security for all members and refrain from merely being the stepping stone for transitioning European states seeking EU membership. □

HUMAN TRAFFICKING CASES OFFER INSIGHT INTO CRIMINAL NETWORKS



AUTHORS:

Johan Leman and Stef Janssens,
published by Palgrave Macmillan, 2015

REVIEWED BY:

Sabrina A. Laursen
Marshall Center intern

Human Trafficking and Migrant Smuggling in Southeast Europe and Russia provides an in-depth look into the dark world of international crime networks by examining human trafficking and migrant smuggling from and via Southeast Europe and Russia to Belgium. Since the end of the Cold War, a fundamental change in the nature of national borders has also affected international movement in the age of globalization. With the implementation of the European Single Market, internal borders and barriers were abolished to enhance the free movement of goods, capital, services and people, with the intention of stimulating trade, increasing competition and specialization, and improving production efficiency. However, the abolition of internal borders and controls has also benefited organized crime tremendously. Each year, a growing number of men, women and children fall into the hands of human traffickers and smugglers. Today, trafficking affects almost every

country — as a point of origin, transit or destination for victims.

Belgium is a particularly interesting country for human trafficking and migrant smuggling, given its geographical position in Europe — with France, Germany and the United Kingdom as neighbors — and its status within the European Union. To provide a comprehensive exploration of organized crime, the authors use interdisciplinary perspectives by presenting highly varied and thorough judicial files of Belgian court cases, as well as case studies

within Europe. The authors also address trafficking at the level of the victims and customers, providing a detailed understanding of the recruitment processes, control and possible exploitation modalities employed in committing these crimes. Finally, the writers explore the question of whether and how the victims are able to retain some form of control and authority over their own situations.

The most fundamental insight presented is that criminal networks are learning organizations that quickly adapt to government efforts to defeat

THIS BOOK EXAMINES HOW CRIMINAL NETWORKS, WHICH ARE MOSTLY MOTIVATED BY ECONOMIC PAYOFFS, ARRANGE MUTUAL AGREEMENTS AND COLLABORATION ACROSS BORDERS.

and police reports. Numerous distinct patterns of behavior are identified among the groups engaged in human trade in Belgium. The significant number of cases investigated and prosecuted provides compelling insight into the mechanisms of these criminal networks.

This book examines how criminal networks, which are mostly motivated by economic payoffs, arrange mutual agreements and collaboration across borders. The book also investigates the structures and trust patterns involved in these networks and addresses whether criminal networks opt for greater internationalization, or more specialization in a niche market, to further develop their business strategies. Operational methods, the influence of traditional cultural practices, the uses and disposition of the funds generated and details of the brutal lives of the victims are revealed. The analysis allows us to understand the cross-national networks behind trafficking and smuggling, as well as the extent to which their success is highly dependent on the capacity to organize logistics. This occurs not only in terms of the already well-established routes used to transport people around Europe for sexual exploitation, but also the traffickers' need to obtain false documentation, create false marriages and exploit their customers to keep their victims

them. Governments are bound by regulation, which requires debate and legislation, making government action a long-term process, while criminals operate much faster and adjust to evolving circumstances. Human traffickers and migrant smugglers in Southeast Europe and Russia have demonstrated a willingness to learn at the highest organizational level and draw upon past mistakes to further evolve; and such constant adaptation is essentially what keeps their businesses running.

It is not surprising that human traffickers and smugglers have exploited the abolition of borders, which has resulted in greater ease of transporting victims and illicit goods within Europe, adding to the already complex nature of international criminal networks. Therefore, the authors call for a multifaceted response to counter such illegal activities by addressing the victims and facilitators of human trafficking, following the money during criminal investigations, and — perhaps most important — working collaboratively on an international scale to address activities stretching far beyond national borders. This book provides a very comprehensive exploration of human trafficking and migrant smuggling in Eastern Europe and Russia and will be of great interest to criminologists and anthropologists studying international organized crime. □

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PROGRAM ON APPLIED SECURITY STUDIES (PASS)

The Marshall Center's flagship resident program, an eight-week course, provides graduate-level education in security policy, defense affairs, international relations and related topics such as international law and counterterrorism. A theme addressed throughout the program is the need for international, interagency and interdisciplinary cooperation.

PASS 16-15

Sept. 22 -
Nov. 17, 2016

September							October							November							
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PROGRAM ON COUNTERING TRANSNATIONAL ORGANIZED CRIME (CTOC)

This two-week resident program focuses on the national security threats posed by illicit trafficking and other criminal activities. The course is designed for government and state officials and practitioners who are engaged in policy development, law enforcement, intelligence and interdiction activities.

CTOC 17-01

Nov. 30 -
Dec. 15, 2016

November							December							May											
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PROGRAM ON TERRORISM AND SECURITY STUDIES (PTSS)

This four-week program is designed for government officials and military officers employed in midlevel and upper-level management of counterterrorism organizations and will provide instruction on both the nature and magnitude of today's terrorism threat. The program improves participants' ability to counter terrorism's regional implications by providing a common framework of knowledge and understanding that will enable national security officials to cooperate at an international level.

PTSS 17-05

Mar. 2 - 30, 2017

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PTSS 17-13

July 6 -
Aug. 3, 2017

PROGRAM ON CYBER SECURITY STUDIES (PCSS)

The PCSS focuses on ways to address challenges in the cyber environment while adhering to fundamental values of democratic society. This nontechnical program helps participants appreciate the nature of today's threats.

PCSS 17-04

Jan. 31 -
Feb. 16, 2017

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SEMINAR ON REGIONAL SECURITY (SRS)

The three-week seminar aims at systematically analyzing the character of the selected crises, the impact of regional actors, as well as the effects of international assistance measures.

SRS 17-07

Apr. 4 - 27, 2017

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SENIOR EXECUTIVE SEMINAR (SES)

This intensive five-day seminar focuses on new topics of key global interest that will generate new perspectives, ideas and cooperative discussions and possible solutions. Participants include general officers, senior diplomats, ambassadors, ministers, deputy ministers and parliamentarians. The SES includes formal presentations by senior officials and recognized experts followed by in-depth discussions in seminar groups.

SES 16-9

Sept. 12 - 16, 2016

September						
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SES 17-10

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